

ORDINANCE NO. O-19-008

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 5, ANIMAL AND FOWL, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS PROVIDING FOR THE REGULATION OF ANIMALS AND FOWL WITHIN THE CITY LIMITS; PROVIDING FOR THE REGULATION OF LIVESTOCK; PROVIDING FOR THE REGULATION OF BIRDS AND FOWL; PROVIDING FOR THE REGULATION OF THE KEEPING OF DOMESTIC BEES; PROVIDING FOR THE REGULATION OF DOGS AND CATS; PROVIDING FOR THE REGULATION OF RABIES ENFORCEMENT; PROVIDING FOR THE REGULATION OF IMPOUNDMENT AND DISPOSITION; PROVIDING FOR THE REGULATION OF DANGEROUS DOGS; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, the City Council of the City of Brenham is authorized to adopt animal control regulations pursuant to Chapter 826 of the Texas Health and Safety Code, and is authorized to define and abate nuisances pursuant to Chapter 217 of the Texas Local Government Code; and

WHEREAS, in order to enhance, promote and protect the health, safety and general welfare of the citizens of Brenham, Texas the City Council must from time to time amend and/or adopt new regulations; and

WHEREAS, the City Council finds the following regulations to be reasonable and beneficial to the general health, safety and welfare of the citizens of Brenham; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT:

SECTION 1.

Chapter 11, Article VI, Keeping of Domestic Bees, of the Code of Ordinances of the City of Brenham, Texas, is hereby repealed and rescinded in its entirety.

SECTION 2.

Chapter 5, Animal and Fowl, of the Code of Ordinances of the City of Brenham, Texas, is hereby repealed and rescinded in its entirety.

SECTION 3.

Chapter 5, Animals and Fowl, of the Code of Ordinances of the City of Brenham, Texas, shall read as follows:

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

For the purpose of this chapter, the following terms are defined as follows:

Abandonment: To desert or leave without care.

Africanized bees: "Wild" bees that are overly aggressive and are more likely to sting in greater numbers.

Animal: Any living creature, except human, being classified as a member of the Kingdom Animalia and including, but not limited to, mammals, birds, reptiles and fish.

Animal Control Authority: Any employee or contractor appointed by the City Manager for the purpose of the enforcement of this Chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals. These individuals are given the authority to issue citations for any violation of this Chapter.

Animal establishment: Any facility or business that has custody or control of any animal within the city, including, but not limited to, pet shops, grooming and boarding facilities, animal auction facilities or kennels. This term does not include veterinary or medical facilities, research or other facilities licensed by government agencies.

Animal shelter: Facility operated by the City of Brenham for the temporary confinement, safekeeping and control of animals that come into the custody of the City of Brenham.

Apiary: A place where one (1) or more bee colonies are kept.

At large: Means an animal that meets at least one (1) of the following criteria:

- (1) An animal that is not confined to the premises of the owner by substantial physical means of restraint of sufficient height, strength, and/or manner of construction to preclude the animal from leaving the premises of the owner or being able to come within six (6) feet of any public area;
- (2) An animal that is not under direct physical control of a person by means of a restraint of sufficient strength and of a length of not more than six (6) feet.

Bee: Any stage of the common domestic honey bee, *Apis Mellifera* species.

Beekeeper: A person who owns or has charge of one (1) or more colonies of bees.

Cat: Any member of the family *Felis domestica*.

City: The City of Brenham, Texas, an incorporated municipality located in Washington County, Texas.

Colony: A hive and its equipment and appurtenances, including bees, comb, honey, pollen and brood.

Community cat: A feral cat that has been ear-tipped, vaccinated and sterilized through trap-neuter-return.

Community cat caregiver: A person who participates in trap-neuter-return and/or provides care, including food, shelter, and/or medical care to community cats. A community cat caregiver shall not be considered the owner, caretaker, custodian, harbor, or keeper of a community cat.

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

Currently vaccinated: An animal that is considered to have a current anti-rabies vaccination according to the Texas State Rabies Control Act, as amended, and the minimum standards established by the appropriate state agency or rule-making board.

Dangerous animal means:

- (1) An animal that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than the enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
- (2) An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person; or
- (3) An animal that commits an unprovoked attack on human being that causes serious bodily injury or death and occurs in an enclosure for which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own unless the person who was attacked was trespassing or otherwise violating the law by being within the enclosure; or
- (4) An animal that is at large and commits an unprovoked attack on a domestic animal that causes the death of the attacked animal; or
- (5) An animal that is at large and commits an unprovoked attack on a domestic animal that causes serious bodily injury to the attacked animal and the attacking animal has already committed at least one (1) unprovoked attack on a previous occasion against a human being or domestic animal.

The term dangerous animal does not include an animal that commits an unprovoked attack on a human being in an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure where the person who was attacked was trespassing or otherwise violating the law by entering the enclosure.

Dog: Any member of the family *Canis familiaris*.

Domestic animal: Any animal whose physiology has been determined or manipulated through selective breeding and which does not occur naturally in the wild and which may be vaccinated against rabies with an approved rabies vaccine and which has an established rabies quarantine observation period.

Ear-tipping: The removal of the 3/8 inch tip of a cat's ear, performed by a licensed veterinarian 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 shall mean pens, hutches, cages or some other physical means of sufficient height, strength, length, or manner of construction to preclude an animal from escaping. Such enclosure shall be securely enclosed and designed with secure sides, top and bottom.

Exotic animal shall mean the same as a wild animal.

Feral cat: Any member of the species *felis domestica* that is undomesticated, wild, homeless, untamed, or otherwise unaccustomed to human interaction. Other common names include stray cat or barn cat.

Fowl or birds: All animals belonging to the class of Avies, including all game birds such as, but not limited to: doves, quail, ducks, geese, pigeons, cardinals, blue jays, sparrows, crows.

Guard dog: Any dog which: 1) has been trained as security or guard dog by a certified canine training professional; and 2) is kept for the protection of persons and/or property, whether residential, commercial or personal.

Hive: A structure intended for the housing of a bee colony. Tract means a contiguous parcel of land under common ownership.

Horse: Any member of the family *Equidae domestica*.

Humane manner: Care of an animal to include, but not be limited to, ventilation and sanitary shelter, wholesome food and water, consistent veterinarian care, and normal feeding habit in relation to the animal's size, species and breed.

Inhumane treatment of animals: Includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, veterinarian care, shelter, cruelly confined, or caused to fight with another animal.

Impound(ing) shall mean the placing of an animal in the city's animal shelter, or, the taking into custody of any animal for the purposes of transporting to the city's animal shelter.

Kennel: An establishment where a person, partnership, or corporation keeps dogs and/or cats for the purposes of breeding, buying, selling, trading, showing, training or boarding such animals for profit.

Local rabies control authority: The person designated by the Texas Department of Health as the official in charge of rabies control investigations and enforcement for the City of Brenham.

Licensing authority: The agency or department of the City of Brenham or any designated representative, charged with administering the issuance and/or revocation of permits and licenses under the provisions of this chapter as designated by the city manager.

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

Multi-animal permit: License required to house, own, harbor, control, or have custody of four (4) dogs and/or cats over the age of four (4) months.

Neutered: Permanently incapable of reproduction.

Owner: Any person or persons, association, or entity, including any member of owner's immediate family, employee or agent, having the right of property, care, custody, or control of an animal, who possesses, harbors, or maintains an animal, or who knowingly permits an animal to remain on or about any premises occupied by such person or persons, firm, association, or corporation for a period of three (3) days or more.

Pedestrian: A person who is walking on a street, alley, sidewalk, or other developed area.

Person: Any individual, corporation, partnership, organization, or any institute commonly recognized by law as a legally accountable unit.

Public nuisance shall mean the conduct of any owner in allowing an animal to:

- (1) Engage in conduct which establishes such animal as a "dangerous animal";
- (2) Damage, soil, defile or defecate on private property other than the owner's or on public property unless such waste is immediately removed and properly disposed of by the owner of the animal;
- (3) Be "at large";
- (4) Cause a disturbance by excessive barking or noise making, near the private residence of another or to the extent that the barking or noise disturbs the peace or quiet of any neighborhood or can be heard from within the neighboring residence of another;
- (5) Produce odors or unclean conditions sufficient to offend a person of normal sensibilities or which creates a condition conducive to the breeding of flies or other pests;

- (6) Chase vehicles or molest, attack or interfere with other animals or persons, or is at large on public or private property; or
- (7) Create a condition that is dangerous to human life or health, renders the ground, the water, the air or food a hazard or injurious to human life or health or that is offensive to the senses or that is detrimental to public health.

Restrain shall mean to control an animal by means of a chain, rope, tether, leash, cable, or other device that attaches an animal to a stationary object or trolley system.

Sanitary conditions: Space free from health hazards including excessive animal waste, overcrowding or animals, or other conditions that endanger the animal's health.

Service Animal: Any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

Severe weather event: Weather conditions in which (a) the actual or effective outdoor temperature is below 32 degrees Fahrenheit; (b) a heat advisory has been issued by a local or state authority or jurisdiction; or (c) a hurricane, tropical storm or tornado warning has been issued for Washington County by the National Weather Service.

Shelter: A Structure that is capable of adequately providing cover and protection from heat, cold, and other environmental conditions. At minimum, a shelter must have three (3) sides, a top, and a bottom and be adequately ventilated. It must have bedding material. It must be large enough so that the animal can enter, stand, turn around, and lie down but small enough to prevent the loss of body heat during cold weather.

Sterilized: Animal is rendered incapable of reproduction.

Structure: Any man-made object having a stationary location on or in land, whether or not affixed to the land, including, but not limited to: residential buildings, detached garages, temporary/out buildings, workshops, gazebos, pergolas, and swimming pools.

Trap-neuter-return: A nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, ear-tipped, and then returned to the location where they were originally trapped or to another community cat colony.

Undeveloped property: Any land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school, or governmental facilities or other structures or improvements intended for human use [or] occupancy and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

Vaccination: 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 by a state-licensed veterinarian for the purpose of immunizing the animal against rabies.

Veterinary hospital: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries in animals.

Wild animals: Any animal not normally considered domesticated which, because of its size, vicious nature or other natural characteristics would constitute a dangerous threat to human life, property or domestic animals including but not limited to:

- (a) reptiles venomous reptiles, crocodile or alligator;
- (b) birds, eagles, owl or any species illegal to own under federal or state law;
- (c) mammals including ocelots, lions, tigers, jaguars, leopards, cougars, wolves, dingoes, coyotes, jackals, weasels, martins, minks, badgers, raccoons, pandas, bears, kangaroos, opossums, sloth, anteaters, armadillos, monkeys, chimpanzee, gorillas, orangutans, porcupines, antelope, deer, bison and camels.

Sec. 5-2. Interference.

It shall be unlawful for any person to interfere with, hinder, or molest the City's animal control authority in the performance of any duty delegated under this chapter, or seek to release any animal taken and held in custody under the provisions of this chapter. Additionally, it shall be unlawful to tamper with or release an animal from any trap or device set by the animal control authority or a police officer.

Sec. 5-3. Fees.

All fees required under this Chapter shall be set by the City Council. A schedule of fees shall be kept on file for public inspection in the City Secretary's office and the office of the animal control authority.

Sec. 5-4. Relation to land development and zoning.

The keeping of any animal in accordance with this Chapter shall not be construed to authorize the keeping of the animal in violation of any rules or restrictions set forth in the City's land development or zoning ordinances.

Sec. 5-5. Running at large prohibited.

A person commits an offense if he allows or permits an animal owned by him, other than a cat, to run at large. Animals, other than cats, running at large are subject to impoundment by the animal control authority. It shall be the duty of the city's animal control authority to apprehend any animal found running at large and make every attempt to return said animal to its owner. If the owner cannot be located, the animal shall be impounded at the city's animal shelter.

Sec. 5-6. Restraining of animals.

It shall be unlawful for any person to restrain, tie or tether any animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal, unreasonably limit the animal's movement or create a potentially dangerous situation for a pedestrian as determined by the animal control authority. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to the following:

1. To restrain any animal in such a manner as to permit the animal access upon any public right-of-way;
2. To restrain any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food or water;
3. To restrain any animal in such a manner as to permit the animal to leave the owner's property;
4. To restrain any animal between the hours of 10:00 p.m. and 6:00 a.m. CST (Central Standard Time)
5. To restrain any animal within five hundred (500) feet of the premises of a school;
6. To restrain any animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
7. To restrain any animal with a rope, chain or leash that is shorter than the greater of ten (10) feet or five (5) times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail;
8. To restrain any animal with a rope, chain or leash that is not equipped with swivel ends;
9. To restrain any animal in such a manner that does not prevent the animal from becoming entangled with any object, from partially or totally jumping any fence, or from leaving any part of its owner's property;
10. To fail to remove waste, on a daily bases, from the area in which an animal is restrained;
11. To restrain any animal without using a properly fitted collar or harness;
12. To use choke-type collars to restrain any animal;
13. To use a restraint that weighs more than one-fifth (1/5) of the animal's total body weight;
or
14. To allow an animal to remain restrained during a extreme weather conditions in which:
 - a. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - b. A heat advisory has been issued by a local or state authority or jurisdiction; or
 - c. A hurricane, tropical storm or tornado warning has been issued for the jurisdiction by the National Weather Service.

Sec. 5-7. Special exemptions for youth projects.

Animals which are part of a youth project, such as FFA, 4-H or the Washington County Fair, may be considered an exception to the provisions listed in this chapter, as approved by and under the direction of the animal control authority.

Sec. 5-8. Unabated nuisances.

- (a) A “continuing public nuisance” is defined as a public nuisance that, after notice as described in subsection (c) to the owner of an animal(s) or person in control of an animal(s), continues unabated as determined by the animal control authority.
- (b) The animal control authority may determine that a public nuisance exists through an investigation of any reported or perceived public nuisance, and may interview witnesses or conduct such hearings as he may determine are necessary, formally or informally. He shall make a determination based on the necessity to preserve the public health, safety and welfare of the community.
- (c) Upon such determination, the animal control authority shall notify the animal owner or the person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to appeal. The notice shall set forth the noncompliance and order the owner to abate the public nuisance described in such notice within seven (7) days. Notice of a public nuisance shall include, but not be limited to, written notice of the existence of a public nuisance delivered by personal service, certified mail, return receipt requested, or left at the entrance to the premises where the animal(s) is harbored. A notice that is mailed is deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.
- (d) If such owner fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication the animal control authority may order the abatement of the public nuisance by one of the following means:
 - (1) Impoundment of the animal(s) that is the source of the continuing public nuisance and the adoption of the animal(s) as provided in this chapter, except that the owner, his agents or representatives, or family members may not adopt the animal(s) adjudged a continuing public nuisance;
 - (2) Impoundment and humane destruction of the animal(s) that is the source of the continuing public nuisance: or
 - (3) Exclusion from the city limits of any animal(s) determined to be a continuing public nuisance.
- (e) An owner or person in control of the animal(s), not later than seven (7) days after the date such person is notified that an animal is a continuing public nuisance, may appeal the determination of the animal control authority to the city’s municipal court. Upon receiving an appeal, the municipal court shall hold a hearing. Based upon the record evidence of such hearing, the court shall make a final finding.
- (f) The owner or person in control of the animal(s) determined to be a continuing public nuisance shall remove such animal(s) from the city within forty-eight (48) hours of an unsuccessful appeal. The failure to remove such animal(s) shall be an offense and each day thereafter that such person fails to remove such animal(s) shall constitute a separate offense. If the owner or person in control of such animal(s) fails to remove such animal(s) as provided for by order of the municipal court, such animal(s) may, as outlined in this Chapter, be impounded, put up for adoption, or humanely destroyed.

- (g) The owner or person in control of such animal(s) must report the disposition and exact address or relocation of such animal(s) to the animal control authority in writing within ten (10) days after the expiration date for removal of such animal(s) from the city. Failure to report the disposition and address of such animal is an offense, and each day thereafter that such information is not provided shall constitute a separate offense.
- (h) The animal control authority shall be authorized, after due process, to obtain a search and seizure warrant for the purposes of enforcing this section.

Sec. 5-9. Animals in hot vehicle or trailer.

It shall be unlawful for a person to confine 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 due to heat, lack of food or water, or other such circumstances that may cause injury or death to the animal. It is presumed that an animal's health, safety or welfare is endangered when the animal is confined in a parked or standing vehicle or enclosed trailer for a period of five (5) minutes when the ambient outside air temperature measures at or above seventy (70) degrees Fahrenheit or below thirty-two (32) degrees Fahrenheit.

The city's animal control authority or any licensed peace officer, finding an animal being held in violation of this provision may cite the owner for violating this chapter, obtain a search warrant pursuant to state or federal law, or use reasonable force to remove an animal from a vehicle whenever it appears the animal's health or safety is, or soon will be, endangered. Said neglected or endangered animal shall be impounded. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the animal control authority or peace officer.

Sec. 5-10. Transporting animals in open bed trucks or trailers.

It shall be unlawful for a person to transport an animal on a public street or highway while the animal occupies the open bed of a truck, the open bed of a flatbed truck, or an open flatbed trailer unless the animal is: 1) secured in a kennel or other secured, vented enclosure; 2) restrained by a harness manufactured for the purpose of restraining animals; or 3) 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 on a single leash.

Sec. 5-11. Inhumane treatment of animals.

Animals shall be cared for, treated, maintained, and transported in a humane manner and not in violation of any provisions of law, including federal and state.

If the city's animal control authority has reason to believe that an animal has been, or is being cruelly treated, the animal control authority may apply to a justice court or magistrate in Washington County or to the City of Brenham Municipal Court for a warrant to seize the animal, pending a hearing before any justice of the peace or municipal court judge of the City of Brenham Municipal Court on the issue of cruelty and disposition of the animal.

A person commits an offense if with reckless intent:

1. A person, other than a licensed veterinarian, docks an animal's tail, removes the dew claws of a puppy, or crops an animal's ears;
2. A person physically removes from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, rabbit less than six (6) weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
3. A person dyes or colors chicks, ducks or rabbits;
4. A person sells, gives away, delivers, trades or barter, chickens, ducks or rabbits within two weeks prior to Christmas or Easter;
5. A person abandons or dumps any animal, or leaves an animal in a dwelling that has had no running water or electricity for a period of 24 hours or more;
6. A person overdrives, overloads, drives when overloaded, or overworks any animal;
7. A person tortures, cruelly beats, mutilates, clubs, shoots or attempts to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means needlessly kills or injures any animal, wild or owned, within the city limits;
8. A person forces, allows or permits any animal to remain in its own filth;
9. A person keeps, shelters or harbors any animal having a potentially life threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
10. A person causes an animal to fight another animal or person;
11. A person fails to provide at all times, their animal with adequate food and potable water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;
12. A person raises and kills a doe or cat for the skin or fur;
13. A person mutilates any animal, whether such animal is dead or alive (medical or veterinary medical research, medical or veterinary medical necropsy, and biology class use of animals shall not be considered mutilation);
14. A person attaches a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin; or
15. A person engages or allows another to engage in any sexual act with an animal;

This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this chapter.

Sec. 5-12. Private animal sales.

It shall be a violation for any person to offer, sell, trade, barter, lease, rent, or give away any live animal, on any roadside, public right-of-way, or commercial parking lot. This provision does not prohibit the sale or purchase of animals from inside a person's private residence.

Sec. 5-13. Prohibited animals.

Prohibited animals in the city limits shall include any animal not normally born and raised in captivity, including but not limited to the following:

1. Class Reptilia: Family Helodermatidae (venomous lizards) and Family Hydrophiidae (venomous marine snakes); Family Viperidae (rattlesnakes, pit vipers and true vipers); Family Elapidae (coral snakes, cobras, and mambas); Family Colubridae-Dispholidus Typus (boomslang); Bioga Dendrophilia (mangrove snake) and Kirklandii (twig snake only); and Order Crocodylia (such as crocodiles and alligators);
2. Class Mammalia: Order Carnivores.
 - a. Family Felidae (such as lions, tigers, bobcats, jaguars, leopards and cougars), except commonly domesticated cats;
 - b. Family Canidae (such as wolves, dingos, coyotes, foxes and jackals), and any hybrid of an animal listed in this section except commonly domesticated dogs;
 - c. Family Mustelida (such as weasels, skunks, martins, minks, badgers and otters);
 - d. Family Procyonidae (such as raccoons and coati);
 - e. Family Ursidae (such as bears);
 - f. Marsupialia (such as kangaroos, opossums, koala bears, wallabies, bandicoots, and wombats);
 - g. Chiroptera (bats);
 - h. Edentata (such as sloths, anteaters, and armadillo);
 - i. Proboscidea (elephant);
 - j. Primata (such as monkeys, chimpanzees, orangutans, baboons, and gorillas)
 - k. Rodentia (such as beavers and porcupines)
3. Class Amphibi: Poisonous frogs. Does not include non-poisonous reptiles or non-poisonous snakes.

Sec. 5-14. Animals Prohibited in City Facilities.

It shall be unlawful for any person to bring an animal, of any kind, into a city owned or operated facility other than the animal shelter. The only other exception to this section is an animal designated as a service animal in accordance with the Americans with Disabilities Act (ADA). If admitting a service animal would fundamentally alter the nature of the service or program at a city owned or operated facility then the service animal may be prohibited.

A service animal must be harnessed, leashed, or tethered while in a city owned or operated facility unless these devices interfere with the service animal's work or the handler's disability prevents use of these devices. In that case, the handler must use voice, signal, or other effective means to maintain control of the animal. A service animal that is not housebroken or that is out of control and whose handler does not take effective action to control it may be excluded from a city owned or operated facility and staff may request that the animal be removed from the premises.

Sec. 5-15. Penalty.

Any person, firm or corporation violating any of the provisions of this chapter that do not provide for a penalty shall be deemed guilty of a misdemeanor, and each said person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation or any of the provisions of this chapter is committed, continued or permitted, and upon conviction of any such violation such person punished by a fine of not less than one dollar (\$1.00) and not more than two thousand dollars (\$2,000.00).

Sec. 5-15 – 5-19. RESERVED.

ARTICLE II. LIVESTOCK

Sec. 5-20. Number of head per acre.

It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any livestock, except sheep and/or goats, as provided herein upon any premise or property within the city, unless such premise allows for at least one (1) acre of land for grazing. The maximum heads of livestock, except for sheep and/or goats, to be kept upon any such premise inside the city shall not exceed one (1) head or one (1) animal per one and one-half (1½) acres of land.

It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any sheep or goat upon any premise or property within the city, unless such premise allows for at least one (1) acre for grazing. The number of sheep and/or goats to be kept upon any such premise inside the city shall not exceed two (2) sheep and/or goats per one and one-half (1½) acres of land.

Land which has been designated as agricultural use by the Washington County Appraisal District shall be exempt from the requirements of this section.

Sec. 5-21. Proximity to church, school or public building.

It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any livestock, including rabbits, within a distance of two hundred (200) feet from any church, school, or public building. The measurement of the distance between the livestock and any church, school, or public building shall be from the point of the livestock enclosure closest to the church, school, or public building to the property line of the church, school, or public building closest to the livestock enclosure.

Sec. 5-22. Cleanliness of enclosures.

It shall be unlawful for any person who may own or control any premises, lots, yards, stables, barn or pens where any livestock are kept, to maintain, keep or conduct such premises or cause or permit the same to be maintained or kept in such an unclean and unsanitary condition as to be a public nuisance. If upon inspection or examination by the animal control authority or the city's code enforcement officer any such premises are found to be in such an unclean and unsanitary condition as to be a public nuisance, written notice shall be given to the property owner, lessee or any other person in charge or control of such premises to cause such premise to be cleaned and placed in a sanitary condition and abate such nuisance within a three (3) business days from the date of said notice. A failure to do so shall be unlawful and in violation of this chapter.

Sec. 5-23. Impounding livestock at large.

It shall be the duty of the animal control authority and or any licensed peace officer to impound any livestock found to be running at large.

If any livestock are found upon private property, the owner or occupant of said private property shall have the right to confine such animal until the city's animal control authority can be notified and said animal is impounded as outlined in this chapter.

Sec. 5-24. Notice of sale of impounded livestock.

It shall be the duty of the animal control authority, upon the impoundment, care and control of any livestock, to post written notice, within seventy-two (72) hours, at three (3) public places in the city; one of which shall be City Hall. Notice shall describe said livestock and state that if it is not claimed within ten (10) business days it will become the property of the city and will be disposed of as provided for in this chapter.

Sec. 5-25. Reclaim of impounded livestock.

The owner of any impounded livestock may reclaim the livestock by showing proof of ownership and paying all fees associated with the impounding and boarding of the livestock.

Sec. 5-26. Sale or disposition of livestock if not reclaimed.

If the owner of the impounded livestock in the care and control of the city's animal control authority does not claim said livestock within ten (10) business days of posting notice, the livestock shall become the property of the city. The city's animal control authority may sell, place for adoption, donate or humanely destroy the livestock.

Sec. 5-27. Local restriction for rabbits.

It shall be unlawful for any person to keep, possess or maintain in the city more than four (4) rabbits. It shall also be unlawful for any pens, enclosure, hutches, cages or other structure in which any such rabbits are kept, possessed or maintained to be within fifty (50) feet of any neighboring structure. The residence of the owner or person possessing such rabbits is exempt from this section.

The owner or person possessing such rabbits shall:

- (a) Keep all pens, enclosures, hutches, cages and other structures where rabbits are kept in a clean and sanitary condition at all times.
- (b) Collect all litter and droppings daily and stored in a fly-tight container and hauled away at intervals not to exceed ten (10) days.

Sec. 5-28. Hogs prohibited.

It shall be unlawful for any person to have, keep, raise, breed, feed or maintain upon any premise situated within the city, any hog, pig or swine of any kind, including pot-bellied pigs.

An exception to this section shall be animal shelters, veterinary establishments, government agencies, exhibitions at county facilities, or other animal establishments located on property zoned for those purposes. However, such establishments must meet sanitation requirements and all hogs, pigs, or swine must be kept in secure cages or pens.

Sec. 5-29 – 5-34. RESERVED.

ARTICLE III. BIRDS AND FOWL

Sec. 5-35. Running at large.

It shall be the duty of the person owning or having within his management or control any chickens, roosters, turkeys, geese, ducks, or other domestic fowl to maintain upon his own property an enclosure that prohibits the same from going upon the public streets, highways, alleys or parkways of the city or upon the private property of others.

Sec. 5-36. Limitation of number to be kept.

It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed, or stabled in the city more than ten (10) chickens, roosters, turkeys, geese, ducks, or any combination of such or other fowl. It shall be unlawful for any enclosures in which chickens, roosters, turkeys, geese, ducks or other fowl are kept, maintained, fed, housed, or stabled to be within fifty (50) feet of any neighboring structure. The residence of the keeper, possessor or owner of such fowl shall be exempt from this provision.

Sec. 5-37. Proximity to church, school or public building.

It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any chickens, roosters, turkeys, geese, ducks, or any combination of such or other fowl, within a distance of two hundred (200) feet from any church, school or public building.

Sec. 5-38. Maintenance of premises where kept.

The owner or keeper of such chickens, roosters, turkeys, geese, ducks, or any combination of such or other fowl shall:

- (a) Keep all pens, enclosures, hutches, cages, houses or any structure in which said fowl are kept in a clean and sanitary condition at all times.
- (b) Clean and disinfect all pens, enclosures, hutches, cages, houses and other structures every two (2) days.
- (c) All litter and droppings must be collected daily and stored in a fly-tight container and hauled away at intervals not to exceed ten (10) days.

Sec. 5-39 – 5-45. RESERVED.

ARTICLE IV. KEEPING OF DOMESTIC BEES

Sec. 5-46. Certain conduct declared unlawful.

- (a) The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.
- (b) In addition to the requirements set forth in this article, all beekeepers shall maintain their bee colonies in a manner that complies with the provisions of state law codified in the Texas Agriculture Code, Title 6, Subtitle A, Chapter 131 - Bees and Honey.
- (c) Notwithstanding compliance with the various requirements of this article, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

Sec. 5-47. Hives.

All bee colonies shall be kept in Langstroth-type hives with removable frames, which shall be kept in sound and usable condition.

Sec. 5-48. Fencing of flyways.

In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height, consisting of a solid wall, fence, dense vegetation, or combination thereof, that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in vicinity of the apiary. It is a defense to prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least twenty-five (25) feet from the property line of the apiary tract.

Sec. 5-49. Water.

Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths, or other water sources where they may cause human, bird or domestic pet contact.

Sec. 5-50. General maintenance.

Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed from the hive and all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

Sec. 5-51. Queens.

Each beekeeper must re-queen a colony at least once every two (2) years; however, a beekeeper must immediately re-queen a colony in any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition towards swarming. Queens shall be clipped and marked so they are unable to swarm and can be easily located by a state beekeeping inspector upon inspection, and each beekeeper shall retain a record of the purchase of queen bees.

Sec. 5-52. Colony densities.

- (a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:
- (1) One-quarter ($\frac{1}{4}$) acre or less tract size—Two (2) colonies;
 - (2) More than one-quarter ($\frac{1}{4}$) acre but less than one-half ($\frac{1}{2}$) acre tract size—Four (4) colonies;
 - (3) More than one-half ($\frac{1}{2}$) acre but less than one (1) acre tract size—Six (6) colonies;
 - (4) One (1) acre or larger tract size—Eight (8) colonies;
 - (5) Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies;
 - (6) Regardless of tract size, so long as all property other than the tract upon which the hives are situated, that is within a radius of at least two hundred (200) feet from any hive remains undeveloped property there shall be no limit to the number of colonies.
- (b) For each two (2) colonies authorized under the colony densities set out above, there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths ($9 \frac{5}{8}$) inch-deep ten-frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

Sec. 5-53. Marking hives; presumption of beekeeping.

- (a) In each apiary the name and telephone number of the beekeeper shall be branded, painted or otherwise clearly marked upon the structure of at least two (2) hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper.
- (b) Unless marked in accordance with subsection (a), it shall be presumed for purposes of this article that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract, setting forth the name, address and telephone number of the other person who is acting as the beekeeper.

Sec. 5-54. Authorization and right of entry of state beekeeping inspector; violation of article.

- (a) For the purpose of enforcing the provisions of this article, the city health officer may at all reasonable times enter in and upon any premises within his jurisdiction. The director of public works is hereby authorized to designate a state beekeeping inspector to exercise the powers and duties of the city health officer to enforce the provisions of this article and to investigate the condition of the bees and/or hives and, if necessary, collect samples of bees to determine if the bees are diseased and/or Africanized. All expenses of the state beekeeping inspector's services will be charged to the owner of the property on which the hives are located and a copy of the inspection report will be retained by the city.
- (b) Any person or persons charged with any of the duties imposed by this article failing within the time designated by this article or within the time stated in the notice of the health officer, as the case may be, to perform such duties, or to carry out the necessary measures to the satisfaction of the health officer, shall be deemed guilty of a misdemeanor and upon conviction in the municipal court of the city shall be subject to a fine of not less than one dollar (\$1.00) and not to exceed one thousand dollars (\$1,000.00) for each offense, and each and every day a violation continues, it shall constitute a separate offense.

Sec. 5-55 – 5-59. RESERVED.

ARTICLE V. DOGS AND CATS

Sec. 5-60. Animal licensing.

It shall be unlawful for any person, firm or corporation to own, have, keep maintain, feed, house, stable or permit to be kept, maintained, fed, housed or stabled any dog or cat, over four (4) months of age, within the city limits unless such animal is licensed by the city's animal control authority.

The following shall apply to the licensing of dogs and cats within the city limits:

- a) All dogs and cats over four (4) months of age must be licensed;
- b) Licenses issued shall be of durable material and must be attached to the collar of the animal and must be worn at all times.
- c) All city animal licenses are valid for one (1) year and shall expire on the same date as the animals' rabies vaccination.
- d) City animal licenses are not transferrable.

The city shall offer two (2) licenses for dogs and cats:

- 1) **Unaltered Pet License:** If said animal has not been spayed or neutered, this license must be renewed annually. This license can be obtained: (1) from a state licensed veterinarian, doing business within the city, upon the animal being vaccinated for rabies; or (2) by providing proof of rabies vaccination to the City's animal shelter director. All fees associated with this license must be paid annually at time of renewal.
- 2) **Altered Pet License:** If said animal has been spayed or neutered, this license must be renewed annually. This license can be obtained: (1) from a state licensed veterinarian, doing business within the city, upon the animal being vaccinated for rabies; or (2) by providing proof of rabies vaccination to the City's animal shelter director. All fees associated with this license shall be paid upon the initial issuance of the license; renewals of this license will be free of charge.

Sec. 5-61. Exceptions

The following are exempt from the licensing provisions of this article:

- a) Licensed animal research facilities or shelters;
- b) An animal residing in the city for no longer than fourteen (14) days. New residents must apply for a license within thirty (30) days of establishing residency in the city;
- c) A feral cat;
- d) An animal being housed in the city temporarily following a severe weather event or man-made disaster occurring at the animal's permanent home. This exception is in effect for up to six (6) months, at which time the animal becomes a permanent resident of the city and is subject to the licensing provisions of this chapter; or
- e) Any registered service animal or animal kept, maintained, fed, housed or stabled by any state or federal law enforcement agency.

Sec. 5-62. Multi-Animal permit.

(1) Limits.

It shall be unlawful for any person to own, have, keep, maintain, feed, or house more than four (4) dogs and cats, or any combination thereof, over the age of four (4) months old.

It shall be unlawful for any person to own, have, keep, maintain, feed, or house more than fifteen (15) dogs and cats, or any combination thereof, under the age of four (4) months old.

(2) Permit.

In addition to meeting all other requirements of this chapter, a person who wants to own, have, keep, maintain, feed, or house more dogs and cats than is lawful under subsection (1) must apply for and be granted a multiple-animal permit from the city's animal control authority as set forth herein.

a. Multi-Animal Permit Application.

The application for a multiple-animal permit must be made on a form prescribed by the City and shall include, but not be limited to, the following information:

- i. The name, telephone number, and physical address of the applicant;
- ii. The total number of animals sought to be included under the permit and the species, breed, gender, and age of each animal;
- iii. The current City license number for each animal listed in the application;
- iv. A statement affirming that the applicant is familiar with the provisions of this chapter and a promise to maintain all animals in accordance with applicable legal requirements; and
- v. Any other information the City reasonably determines is necessary to issue a multi-animal permit.

b. Fee.

The City may require payment of a multi-animal fee when submitting an application under this section.

c. Consideration of multi-animal permit application.

A multi-animal permit shall be granted upon meeting the following criteria:

- i. Submittal of a complete and accurate application, including payment of any fees, and submittal of any required documentation;
- ii. Applicant has not been convicted of one (1) or more violations of this chapter or of any law relating to the care and humane treatment of animals nor has failed to appear in court in response to such a charge within the past twelve (12) months from date of application;
- iii. Applicant has not had a multi-animal permit under this section previously revoked within the past twelve (12) months from date of application; and
- iv. The address to which the multi-animal permit relates is not the same as one (1) for which a multi-animal permit has been revoked within the past twelve (12) months.

- d. Revocation of a multi-animal permit.
A multi-animal permit may be revoked in the event one (1) or more of the following occur:
 - i. The permit holder is convicted, receives deferred adjudication, or pleads guilty or no contest with respect to one (1) or more sections of this chapter or any law relating to the care and humane treatment of animals or fails to appear in court to respond to such a charge; or
 - ii. The animal control authority determines that specific circumstances exist indicating that it is in the best interests of the animals or for the health and safety of the public to revoke the multi-animal permit.

- e. Revocation process.
The process for revoking a multi-animal permit granted under this section is as follows:
 - i. The animal control authority shall send written notice by certified mail to the current mailing address provided by the multi-animal permit holder in its application identifying the reason for revocation; and
 - ii. The multi-animal permit holder shall have thirty (30) days to appeal such determination in writing to the municipal court judge. A hearing shall be held before the judge. If the judge determines that the multi-animal permit holder meets the criteria for revocation the judge shall order the revocation. The decision by the municipal court judge shall be in writing and shall be final.

Sec. 5-63. Guard dogs.

The following requirements shall apply to guard dogs located in the city:

- (1) Posting sign.
It shall be unlawful for any person to leave a guard dog unattended in any place in or out of a building unless a clearly visible warning sign is placed advising others of the presence of a guard dog before entering the place to which the dog has access.
- (2) Unattended guard dog.
No guard dog shall be left unattended in any place except inside a building or other structure that will not allow the dog to exit such building on its own volition.
- (3) Required fencing.
No guard dog shall be let out of doors unless it is in a fenced yard with a fence adequate to prevent the dog from leaving the premises.

Sec. 5-64 – 5-69. RESERVED.

ARTICLE VI. RABIES ENFORCEMENT

Sec. 5-70. State regulations adopted.

The City hereby adopts by reference the Texas State Rabies Control Act, as amended, and the standards established by the appropriate state agency or rule-making board as minimum standards for rabies control and quarantine provisions within the City.

Sec. 5-71. Designation of local rabies control authority.

The Animal Services Supervisor is hereby designated as the local rabies control authority as authorized under Chapter 826 of the Texas Health and Safety Code.

Sec. 5-72. Vaccinations.

- (a) Every dog, cat or domestic ferret over four (4) months of age must be vaccinated once every twelve (12) months against rabies by a state licensed veterinarian and wear evidence of said vaccination.
- (b) A person commits an offense if he intentionally or knowingly owns or possesses a dog, cat or ferret older than four (4) months, that has not been vaccinated for rabies.
- (c) It shall be a defense to any prosecution under this section if the person accused of the offense presents a certificate of vaccination, issued by a state licensed veterinarian, with a date of not more than twelve (12) months prior to date of the offense.
- (e) It shall be an affirmative defense to any prosecution under this section if:
 - (1) The animal was less than four (4) months old on the date of the offense; or
 - (2) The animal is of a species not susceptible to rabies.

Sec. 5-73. Report of bite cases.

It shall be the duty of every person, physician or other practitioner to report to the local rabies control authority the names and addresses of any persons treated for bites or scratches inflicted by animals. Any other information that may help in locating the victim or the animal shall also be reported.

Sec. 5-74. Report of rabies.

It shall be the duty of every licensed veterinarian to report to the local rabies control authority his diagnosis of rabies or of any animal observed by him as a rabies suspect.

Sec. 5-75. Quarantine of animals.

Any animal believed or reported to be rabid, may have been exposed to rabies or has bitten, clawed or scratched a person shall be quarantined for two hundred forty (240) hours at a state licensed animal hospital or veterinarian office for medical evaluation and rabies testing. The owner of such animal shall immediately notify the city's animal control authority and fully cooperate with all required precautionary procedures.

A person commits an offense if the person fails or refuses to present for quarantine or testing, an animal that is suspected of rabies as defined in this article. A person may be issued a citation for non-compliance for violating this provision. The animal control authority shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this article are violated.

Sec. 5-76. Release or disposition of quarantined animals.

Any animal, after the required two hundred forty (240) hour quarantine period, deemed free of rabies by a state licensed veterinarian may be reclaimed by the owner upon payment of all applicable fees related to the period of the quarantine and the appropriate animal licensing requirements have been met. If the owner does not reclaim the animal within four (4) days of notification, the veterinarian or local rabies control authority may sell the animal and retain the proceeds.

When an animal under quarantine is diagnosed by a state licensed veterinarian as being rabid, the veterinarian or the local rabies control authority shall humanely destroy the animal, at the owner's expense.

If an animal dies while under quarantine, the animal control authority shall send the head of such animal to the nearest state health department laboratory for testing. Any costs associated with such testing shall be at the owner's expense.

Sec. 5-77 – 5-79. RESERVED.

ARTICLE VII. IMPOUNDMENT AND DISPOSITION

Sec. 5-80. Impoundment.

The City shall maintain an animal shelter to house impounded or surrendered animals. The City Manager, or his designee, shall be designated as the caretaker of every impounded or surrendered animal immediately upon their intake at the animal shelter. The designated caretaker is authorized to provide protective vaccinations, by a state licensed veterinarian or by a person under the veterinarian's supervision, and any other medical care needed to help prevent the spread of disease in the shelter.

Upon impounding an animal, the animal control authority shall make a reasonable effort to notify the owner and inform that person of the conditions whereby custody of the animal may be regained pursuant to this article.

If an impounded unlicensed animal is not claimed by the owners within three (3) business days after notification of impoundment by the animal control authority the animal shall be subject to disposal by adoption, transfer, or humane euthanasia. The City may deviate from this timeframe when dealing with a sick, injured, diseased, dangerous, and/or feral animal or when acting pursuant to a mutual agreement between the city's animal control authority and owner of the impounded animal.

Impounded licensed animals not claimed by the owners within five (5) business days from the date notification was provided, shall be subject to disposal by adoption, transfer, or humane euthanasia. The City may deviate from this timeframe when dealing with a sick, injured, diseased, dangerous, and/or feral animal and when acting pursuant to a mutual agreement between the city's animal control authority and said owner of impounded animal.

If an animal has been impounded and has an identification tag, a microchip or other identification the animal control authority shall notify the owner by posting written notice at the address of the registered location of the animal, by telephone, by email, by regular mail or by whatever reasonable method is determined appropriate by the animal control authority. Notice shall be deemed sufficient if it is given pursuant to the information provided to the city for said license or as indicated on the identifying tag or microchip.

If an impounded animal has no identification tag, microchip or other identification the animal control authority may dispose of the animal by adoption, transfer, or humane euthanasia after three (3) business days.

Community cats may be held longer, as space is available. Community cats that bite or scratch a person shall undergo rabies observation or testing and be euthanized. Community cats that are impounded for biting or scratching a person may not be released to a community cat caregiver, returned to their original location or relocated to another community cat colony.

If at any time during impoundment, the animal control authority determines an animal is in a state of disease, malnutrition, pain, suffering, or the like, the animal control authority may choose to euthanize such animal or have such animal assessed by a state licensed veterinarian. When having the animal assessed by a veterinarian, the animal control authority may make a determination as to the disposition of the animal after consideration of whether the owner of the animal can be located, the cost of medical treatment, whether the owner is willing or able to pay for such medical treatment, and whether euthanasia should be recommended to prevent further suffering by the animal.

Sec. 5-81. Redemption of impounded animals.

As outlined in this article, any impounded animal may be redeemed by the registered owner. Prior to redemption of any animal the owner shall pay all applicable fees as determined by the animal control authority and sign any citations which are to be issued. Payment of outstanding shelter fees are not considered to be in lieu of a fine, penalty, or city license fees.

No animal may be redeemed until such animal is properly licensed and vaccinated, pursuant to this chapter.

Sec. 5-82. Responsibility of animal's owner.

Disposal or redemption of an animal by any method specified herein does not relieve the animal's owner of liability for violations and/or any accrued charges.

Sec. 5-83. Disposition of animals.

The animal control authority may dispose of impounded animals after the expiration of any required impoundment and notification period by any of the following methods:

(1) Adoption:

- a. The animal control authority shall place for adoption dogs or cats impounded by the city under the following conditions:
 - (i) The animal control authority shall determine whether a dog or cat is healthy enough for adoption and if its health and age are adequate for the required rabies vaccination.
 - (ii) There will be an adoption fee for all dogs and cats at an amount set by the City Council. The fee shall include, but not be limited to, the cost of sterilization, rabies vaccination, microchip and city licensing.
 - (iii) All animals adopted from the city's animal shelter shall be vaccinated against rabies, and sterilized within thirty (30) days of adoption. If, in the opinion of a state licensed veterinarian, there is a legitimate health risk justifying the delay of the sterilization, the adopter shall immediately notify the animal control authority so that another sterilization date can be selected. An adopter commits an offense if he fails to have the animal sterilized. For the purposes of this section, a legitimate health risk cannot be based solely on the animal's age.
- b. If an adopted animal dies on or before the sterilization completion date, the adopter must notify the animal control authority that the animal is deceased.
- c. If an adopted animal is lost or stolen, before sterilization, the adopter must notify the animal control authority. If the adopted animal is believed to be stolen, the adopter must provide documentation that a report was filed with the appropriate law enforcement agency. This documentation must be delivered not later than seven (7) days after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the date of disappearance.
- d. Adopted animals cannot be given away, sold or exchanged without prior permission of the animal control authority. If for any reason, the adopter cannot keep the adopted animal, it must be returned to the animal shelter.
- e. The animal control authority may reclaim an adopted animal if confirmation of the sterilization is not received.

(2) The animal control authority may offer the animal to an animal welfare group provided that the group sterilizes and microchips the animal prior to placing it into an adoptive home; and

(3) The animal control authority may humanely euthanize the animal by methods approved by the American Veterinary Medical Association or the Texas Department of State Health Services.

(b) The choice of which of these options to use shall be made at the sole discretion of the animal control authority unless otherwise mandated by a court order.

- (c) Any impounded, licensed or unlicensed, animal which appears to be suffering from serious injury or disease and which is in immediate pain and suffering and probably will not recover or which appears to have an infectious disease which is a danger to humans or to other animals in the opinion of the animal control authority or which, due to its extremely violent nature, poses a substantial risk of bodily harm to the safety of the animal control authority, may be humanely euthanized at any time during its holding period by the animal control authority. In the event such an animal is wearing an identification tag on its collar or harness, the animal control authority shall attempt to notify the owner by telephone before taking any action.
- (d) It shall be an affirmative defense to prosecution of the owner if he or she can show that, at the time of its impoundment, the animal that was at large due to a major natural disaster, fire, criminal or negligent acts of a third party who was not residing at the animal owner's residence.

In such event, the owner shall be subject only to the provisions of this chapter that require a current rabies vaccination and city license. An owner's claim of a fire or the criminal or negligent acts of a third party must be proven in one or more of the following manners:

- (1) A certified copy of a city police or fire report verifying the incident: or
 - (2) The affidavit of city police or fire personnel with direct knowledge of the incident.
- (e) It shall be unlawful for a person to fail or refuse to deliver an unlicensed or unvaccinated animal to the city animal control authority or police officer upon demand for impounding.

Sec. 5-84 – 5-89. RESERVED.

ARTICLE VIII. DANGEROUS DOGS

Sec. 5-90. Nuisance declared.

- (a) It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains a dangerous dog in the City unless the owner complies with the requirements of this article.
- (b) It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, maintains in the City, or brings to the City, a dog that has been declared dangerous outside of the City under one or more of the following:
 - (1) Chapter 822 of the Texas Health and Safety Code;
 - (2) A local law or ordinance adopted in accordance with Chapter 822; or
 - (3) A statute or ordinance that is substantially similar to Chapter 822 and that was adopted by another political subdivision outside of the City.

Sec. 5-91. Dangerous dog.

A 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 the 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; or
- (3) commits an unprovoked attack on a person that causes serious bodily injury or death and occurs in an enclosure for which the dog was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own unless the person who was attacked was trespassing or otherwise violating the law by being within the enclosure; or
- (4) is at large and commits an unprovoked attack on a domestic animal that causes the death of the attacked animal; or
- (5) is at large and commits an unprovoked attack on a domestic animal that causes serious bodily injury to the attacked animal and the dog has already committed at least one unprovoked attack on a previous occasion against a human being or domestic animal.

Sec. 5-92. Dangerous dog determination.

- (a) The Animal Services Supervisor (“supervisor”) or his or her designee may investigate all reports of incidents as described in the definition of a dangerous dog in Sec. 5-92. The supervisor may accept sworn statements from all victims and witnesses to the attack. If the supervisor determines that the dog is a dangerous dog, the supervisor shall notify the owner in writing of the determination.
- (b) Notwithstanding any other ordinance, an owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the supervisor to municipal court.
- (c) To file an appeal under subsection (b), the owner must:
 - (1) File a notice of appeal of the supervisor's dangerous dog determination with the municipal court;
 - (2) Attach a copy of the determination from the supervisor; and
 - (3) Serve a copy of the notice of appeal on the supervisor by mailing the notice through the United States Postal Service.
- (d) An owner may appeal the decision of the municipal court under subsection (c) in the manner described by Texas Health & Safety Code § 822.0424.

Sec. 5-93. Requirements for owners of dangerous dog.

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

- (1) Register the dangerous dog with the animal control authority and pay an annual registration fee as determined by the City Council.
 - (2) Obtain and maintain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority.
 - (3) Implant and maintain a microchip on the dangerous dog.
 - (4) Restrain the dangerous dog on a leash and collar to ensure the overall safety of the general public.
 - (5) Be in physical control of the dangerous dog when restrained on a leash and the person in physical control of the leash must be at least eighteen (18) years of age.
 - (6) When the dangerous dog is not restrained, as outlined in this section, it shall be in a secure enclosure. The enclosure shall be posted with signs on all sides in four-inch letters warning of the presence of a dangerous dog and shall include a symbol of dangerous dogs understandable by young children.
 - (7) Surgically spay or neuter the dangerous dog and show proof of such to the animal control authority.
 - (8) Maintain current rabies vaccinations and proper licenses on the dangerous dog.
 - (9) Notify any boarding facility, caretaker, veterinary clinic or animal trainer that the dog is a dangerous dog prior to going to such location. Notify the owner of the property upon which the dangerous dog's enclosure is located that the dog is a dangerous dog if the owner of the dangerous dog is leasing the property.
- (b) If the supervisor determines that the owner of a dangerous dog has not complied with subsection (a) within the required time after learning that he or she is the owner of a dangerous dog, the supervisor shall provide written notice of such determination to the owner. Said owner shall, within 15 days of notice, deliver the dog to the animal control authority which shall refer the case to the municipal court for notice and hearing.
- (c) The animal control authority may request the owner of a dangerous dog to show proof of compliance with subsection (a) above. If proof is requested, after the expiration of three days, if the animal control authority determines that the owner of a dangerous dog has not sufficiently presented proof that he or she is in compliance with subsection (a) above, the supervisor shall provide written notice of such determination to the owner. Said owner shall, within 15 days of notice, deliver the dog to the animal control authority which shall refer the case to the municipal court for notice and hearing.
- (d) If, after notice and hearing as provided by Sec. 5-95, the court finds that the owner of a dangerous dog has failed to comply with the requirements of subsection (a) above, the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

Sec. 5-94. Compliance hearing.

- (a) The court, on appeal of the animal control authority's dangerous dog determination under Sec. 5-93(a) or application by any person, including the animal control authority, and upon finding that the owner of a dangerous dog has failed to comply with Sec. 5-94(a), shall set a time for a hearing. The hearing must be held not later than the tenth day after the date on which the dog is seized or delivered.
- (b) The court shall give written notice of the time and place of the hearing to:
 - (1) The owner of the dog or the person from whom the dog was seized; and
 - (2) The person who made the complaint.
- (c) Any interested party, including the county or city attorney, is entitled to present evidence at the hearing.
- (d) The court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs. An owner or person filing the action may appeal the decision of the municipal court in the manner described by Texas Health & Safety Code § 822.0424.
- (e) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with Sec. 5-94(a) before the 11th day after the date on which the dog is seized or delivered to the animal control authority, except that, notwithstanding any other law or local regulation, the court may not order the destruction of a dog during the pendency of an appeal under Texas Health & Safety Code § 822.0424. If, based on the recommendation of the animal control authority, the court determines, either after a hearing or without a hearing, that the owner has complied with Sec. 5-94(a) before the 11th day after the date on which the dog is seized or delivered to the animal control authority, the court shall order the animal control authority to return the dog to the owner.
- (f) An owner or person filing the action may appeal the decision of the municipal court in the manner described by Texas Health & Safety Code § 822.0424. During the appeal period, the dog shall remain in the custody, care and control of the animal control authority. If the appeal is ultimately unsuccessful, the owner of the dog shall be responsible for the dog's impoundment fees during the period the case was being appealed.
- (g) The owner shall pay all costs and or fees assessed by the City related to the seizure and impoundment of the dog, including, but not limited to, boarding fees, microchip procedure and rabies vaccination, and the cost of euthanasia of the dog if ordered by the court.

Sec. 5-95. Dangerous dog registration.

- (a) The owner of a dangerous dog shall notify the animal control authority within 24 hours if the dangerous dog is at large, unconfined, has attacked a human being or another animal, has died or has been sold or given away.

- (b) If an owner of a registered dangerous dog sells or moves the dog to a new address, that owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. Upon selling or moving the registered dangerous dog, that owner must notify the new owner or person who has care and control of the dog that he or she is keeping or taking ownership of a dog that has been declared dangerous.
- (c) The owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people or other animals.

Sec. 5-96. Defenses.

- (a) It is a defense to prosecution under this article that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or 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 dog; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.
- (b) It is a defense to prosecution under this article that the person is an employee of the institutional division of the Texas Department of Criminal Justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.
- (c) It is a defense to prosecution under this article that the dog at issue is a trained guard dog in the performance of official duties while confined or under the control of its handler.

Sec. 5-97. Violations.

- (a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with any section of this article.
- (b) It shall be a separate violation of this article for any person to refuse or fail to surrender a dog subject to this article, or harbor, hide or secret, transport or secure the transport of a dog subject to this article, for the purpose of preventing its impoundment.
- (c) An offense under this section is punishable by a fine not to exceed \$2,000.

Sec. 5-98 – 5-99. RESERVED.

ARTICLE IX. COMMUNITY CAT COLONIES

Sec. 5-100. Establishment of Community Cat Colony.

- (a) A community cat colony may be established within the city limits of Brenham provided that the citizen wishing to establish the colony agrees to become the community cat colony caregiver and obtains a no cost permit each year from the animal control supervisor.

- (b) Community cat colonies within the city limits of Brenham must meet the following requirements:
 - (1) No community cat colony can be established on public or private property without first obtaining written permission from the property owner; and
 - (2) No feral cats shall be brought into a community cat colony from outside the city limits of Brenham.

Sec. 5-101. Requirements for feral cats.

- (a) The community cat colony caregiver is responsible for ensuring that every cat within the community cat colony participates in the City's trap, neuter, and return program and meets each of the following requirements:
 - (1) Sterilization by a licensed veterinarian resulting in a tipped ear for recognition purposes; and
 - (2) Vaccination by a licensed veterinarian against communicable diseases, particularly rabies, in accordance with best practice for feral cats.

Sec. 5-102. Record Keeping.

- (a) The community cat colony caregiver must maintain accurate records of the community cat colonies trap, neuter, and return program. The records must include:
 - (1) The location and size of each community cat colony;
 - (2) The date and veterinary clinic location for each feral cat's spay/neuter; and
 - (3) The date of rabies vaccination for each feral cat.
- (b) The animal control authority may request copies of the records at any time. Failure to provide the records may result in revocation of the community cat colony caregiver's permit to operate a community cat colony.

Sec. 5-103. Enforcement.

- (a) Any community cat impounded by animal control shall be identified by its left ear tip and released to the appropriate community cat colony unless one of the following exceptions is made:
 - (1) The animal control authority has determined the community cat requires immediate veterinary care. If the community cat is to receive care and be released, the community cat colony caregiver is responsible for paying all accrued medical expenses prior to the community cat being released.
 - (2) The community cat has bitten any human and the cat is required to be immediately quarantined for rabies observation. If the community cat is to be released, the community cat colony caregiver is responsible for paying all quarantine expenses prior to the community cat being released.

- (b) If a community cat colony is the source for a substantial number of nuisance complaints from multiple sources, the community cat colony must be relocated, or the cats claimed by owners and re-homed. A substantial number of nuisance complaints means three (3) or more complaints within the past twelve (12) months. Multiple sources mean that there are two (2) or more reporting parties that do not reside at the same address.
- (c) The City reserves the right to immediately seize and remove any and all community cats from a community cat colony if:
 - (1) A community cat colony violates and section contained in this Article;
 - (2) The community cat colony poses a risk to public health or safety due to a suspected exposure to the rabies virus or any other zoonotic or epizootic diseases;
 - (3) A community cat colony is declared a nuisance under subsection (b) of this section and the cats are not relocated or rehomed; or
 - (4) If the animal control supervisor, in his or her sole discretion, determines it is in the best interest of the City to remove the cats.

Sec. 5-104 – 5-109. RESERVED.

SECTION 4.
SAVINGS CLAUSE

All provisions of any ordinance, resolution or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 5.
SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional 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, sentences and clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION 6.
REPEALER

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 7.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 8.
PROPER NOTICE AND MEETINGS

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

PASSED and APPROVED on its first reading this the 7th day of February 2019.

PASSED and APPROVED on its second reading this the 21st day of February 2019.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary