

ORDINANCE NO. 004-02

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS, AMENDING ORDINANCE NUMBER 002-96, ARTICLE SEVEN -SCHEDULE OF FEES, LICENSE AND PERMITS, OF THE CODE OF ORDINANCES OF THE CITY PROVIDING COMPREHENSIVE REQUIREMENTS FOR THE KEEPING AND CARE OF ANIMALS AND FOWLS, PROVIDING FOR THE CONTROL, REGULATION, FEES, LICENSING, PERMITTING AND VACCINATION OF DOGS AND CATS, REGULATIONS AND REQUIREMENTS FOR OTHER ANIMALS, FOWL, LIVESTOCK AND WILD AND EXOTIC ANIMALS; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FINES AND PENALTIES; MAKING FINDING OF FACT, PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR C E R T A I N R E L A T E D M A T T E R S .

Whereas, the rules, regulations and requirements and established by ordinance may not be inconsistent with State law;

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

Article One- Findings, Definitions and penalties.

Section 1.01 Finding of Fact.

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as finding of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 1.02 Definitions.

When used in this ordinance, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

Animal means any or all animals listed or defined, but not limited to, all animals in this title.

Animal Control Officer means any person designated by the City as the primary enforcement officer of the City for the enforcement of the ordinances regulating animals and owners of animals and for the enforcement of sections of the Texas Statutes pertaining to the care and control of animals, or absent such designation, any peace officer.

Animal shelter means any facility designated and/or operated by the City for the purpose of impounding animals held under the authority of this title.

City means the City of De Leon, Texas.

Dangerous Animal means any warm blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the Texas Department of Health; any hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; and any venomous or carnivorous fish or reptile that grows over six feet in length.

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

Estray means any stray horse, stallion, mare, gelding, filly, colt, mule, jenny, jack, jennet, hog, sheep, goat, confined and domesticated hares and rabbits, or any species of cattle.

Exotic Species means any animal or reptile, fish or bird, born or whose natural habitat is considered outside the continental United States, including nonvenomous reptiles and fish.

Harboring means the act of keeping and caring for an animal or providing a premise to which the animal returns for food, shelter or care for a period of three days or longer.

Non-registerable Dangerous Dog means any dog which:

1: When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or

2: Has been deemed non-registerable by the animal control officer and upheld and unchallenged in the court of jurisdiction.

Nuisance means 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 (excluding house cats);

4: Cause a disturbance by excessive barking or other noise made near the private residence of another;

5: Produce odors or unclean conditions sufficient to annoy persons living in the vicinity; or

6: Chase vehicles or molest, attack or interfere with other animals or persons on public property. Owner means any person who has right of property in an animal and/or is harboring an animal.

Owner means any person who has right of property in an animal and/or is harboring or allows to be harbored an animal.

Pet Animal means dogs, cats, rabbits, rodents, commercially bred ferrets, birds, nonpoisonous reptiles, and other species of animals which are sold or retained as a household pet, "Pet animal" shall not include skunks, ferrets from natural habitats, nonhuman primates, and any other species of wild, exotic or carnivorous animal that are susceptible, but not an animal that may be vaccinated for rabies, and that may be further restricted in this title.

Poultry means all domesticated fowl and all game birds which are legally kept in captivity.

Prohibited Animals means any or all animals, but not limited to venomous reptiles, nonvenomous reptiles over six feet in length, alligators, crocodiles, elephants, rhinoceroses, skunks, raccoons, foxes, coyotes, bats, wolves, tigers, lions, and panthers, or any hybrid of these animals.

Proper Enclosure means a house or a building, or in the case of a fence or structure/pen, the fence or structure/pen must be at least four feet in height. The structure/pen must also have minimum dimensions of five feet by ten feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times and have secure sides to prevent a dangerous animal or registered dangerous dog from escaping from the enclosure. The structure/pen shall provide protection from the elements for the animal. The Animal Control Officer may require a fence higher than four feet or require a secure top and/or a secure bottom to the structure/pen if the need is demonstrated.

Quarantine means a period of ten days used for observation of a domestic or pet animal to determine the health status of that animal in relation to the rabies virus.

Quarantine by Owner means an animal owner who quarantine with Animal Control permission under the following conditions:

1. Animal must have current rabies vaccination and be registered with Animal Services;

2. Animal must be inside an enclosed structure, i.e., house or garage, and must remain there for ten days;

3. If maintained outside, animal must be behind a fence from which it cannot escape and on a chain from which it cannot break loose or inside a covered pen or kennel from which it cannot escape. The length of the chain must prevent the animal from making contact with the fence in which it is kept;

4. Animal must be kept away from other animals and people except those in the immediate household;

5. Animal may not be removed from corporate City limits of De Leon while under quarantine;

6. Owner shall notify Animal Control Officer immediately if animal becomes sick or displays any behavioral changes;

7. Owner shall not subject the animal to any medical procedure, without first notifying the Animal Control Officer. This includes any vaccination;

8. Animal must be examined by a licensed veterinarian by the first day of home quarantine and again on the final day of quarantine. Owner shall be responsible for producing proof of the veterinarian examinations;

9. No animal that is at large or unleashed at the time of exposure may be quarantined by owner;

10. Owner must allow Animal Control, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.

Rabies Vaccination means the vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the Texas Department of Health and administered by a veterinarian licensed by the State of Texas.

Registered Dangerous Dog means any dog registered with the City in compliance with Chapter 822, Texas Health and Safety Code, Subchapter D, and with the section of this title addressing registered dangerous dogs.

Restricted Animals means any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong,

ostriches, emus, miniature pigs, apes or such other non-domestic species of animal not common to this area.

Running at Large (animals at large)

A. Off-premises:

1. Any animal, except pet cats, which is not restrained by means of a leash, chain, verbal command or other physical apparatus of sufficient strength and length to control the actions of such animal while off-premises;

B. On-premises:

1. Any animal, except pet cats, not confined to premises of owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a chain or leash sufficient in strength to prevent the animal from escaping from premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length;

2. An animal intruding upon the property of another person other than the owner's shall be at large.

3. Any animal within a vehicle in a manner that would prevent that animal's escape or contact with other persons or animals shall not be deemed at large.

Serious Injury means bodily injury resulting from severe attack or severe bite from an animal which produces severe pain, trauma, loss of blood or tissue, and which requires medical treatment of wounds inflicted by the animal.

Severe Attack means an attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.

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

Stray Animal (including estray) means any animal, of which there is no identifiable owner or harbinger, which is found to be at large within the corporate limits of the City.

Theatrical Exhibition means any exhibition or act featuring performing animals. Such exhibitions shall not include resident or nonresident dog and cat shows which are sponsored and/or sanctioned by the American Kennel Club, the United States Kennel Club, the Cat Fanciers Association, American Cat Fanciers Association, the

International Cat Fanciers Association or any affiliate thereof nor shall it include any primary horse show or livestock show.

Unprovoked Attack means that the animal was not hit, kicked, teased, molested or struck by a person with an object or part of a person's body, nor was any part of the animal's body pulled, pinched or squeezed by a person.

Veterinarian means any practitioner of veterinary medicine licensed by the State of Texas to practice such in Texas.

Wildlife means any animal which occurs naturally in a wild state. This includes any animal which is part wildlife.

Section 1.03. Penalties.

Any person who violates any of the provisions of this ordinance shall be guilty of misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$500.00. Each day of violation, each separate animal and each incident of violation of this title shall constitute a separate offense.

Article Two - Licenses, Permits and Vaccinations.

Section 2.01. Vaccination.

Every owner of a dog or cat over three months of age shall have such animal vaccinated against rabies. All such dogs or cats shall be re-vaccinated at one-year intervals thereafter. Any person establishing residence within the City shall comply with this title within ten days of establishing such residency. If an un-vaccinated dog or cat inflicts a bite, scratch or otherwise attacks any person within the City limits, a rabies vaccine shall not be administered to the dog or cat until that animal is released from quarantine.

Section 2.02. Certificate of Vaccination.

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information.

- A. The name, address and telephone number of the owner of the vaccinated dog or cat;
- B. The date of vaccination;
- C. The type of rabies vaccine used;
- D. The year and number of the rabies tag; and

E. The breed, age, color and sex of the vaccinated dog or cat.

Section 2.03. Rabies Tag.

Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance.

Section 2.04. License Required.

All dogs and cats three months of age or older which are kept, harbored or maintained within the corporate limits of the City shall be licensed. Cat and dog licenses shall be provided by the Animal Control Officer or his agent upon payment of the required fee for each cat or dog. Before a City license will be issued, the owner of the cat or dog must present a certificate from a licensed veterinarian showing that such cat or dog has been vaccinated for rabies within the preceding 12 months. The owner shall state his/her name and address, and the breed, color and sex of the cat or dog to be licensed. Such license shall be valid for two years from date of issuance. License fees shall not be required for seeing eye dogs or governmental police dogs. The fee for a dog or cat shall be set by the City Council and amended as needed. The list of Fees shall be found in Article Seven of this Ordinance.

Section 2.05. Tag and Collar.

Upon payment of the license fee, where applicable, the City shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the Animal Control Officer or his agent upon presentation of the receipt showing the payment of license fee for the calendar year and the payment of \$2.00 for a replacement license. Tags shall not be transferable from one animal to another, and no refunds shall be made.

Section 2.06. Enforcement.

For the purposes of discharging the duties imposed by this article and to enforce its provisions, any peace officer or Animal Control Officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal or the license for such animal in accordance with the provisions of this article, to include random city-wide canvassing and checks for compliance with the article. The owner of any animal is required to produce the license and vaccination

information for each animal in his ownership upon demand by an Animal Control Officer or peace officer.

Article Three - Animal and Livestock Impoundment

Section 3.01. Impoundment

A: Animals owned or harbored in violation of this ordinance or law of the State of Texas shall be taken into custody by an Animal Control Officer or other designated official and impounded under this ordinance.

B: Owners of impounded pets are required to pay all fees related to impoundment as set by the City Council.

Section 3.02. Disposition of Impounded Animals

A: Dogs and Cats with No Identification. All dogs and cats impounded by the Animal Control Officer shall be held for not less than three days. If the owner of the animal presents proof of ownership within that time period the owner may reclaim the animal after paying all applicable fees. If the animal is not claimed within this period the animal shall become the property of the City.

B: Dogs and Cats with Identification. Unless earlier claimed by the owner, all dogs and cats impounded by the Animal Control Officer, that are wearing traceable identification, or where the owner is known, shall be held for not less than three days after the owner has been notified. Unless the owner notifies the Animal Control Officer in writing of his/her intentions to claim the animal after that date, listing a date by which that owner will reclaim the dog/cat and satisfy all applicable fees, the animal shall become the property of the City.

C: Animals surrendered by the owner/harbinger. All animals surrendered by the owner/harbinger to the Animal Control Officer shall immediately become the property of the City.

D: Animals other than Dogs, Cats or Estray Impounded. All animals other than dogs, cats, stray or animals, holding current restricted animal permits, that are impounded by the Animal Control Officer shall become the property of the City unless such ownership is prohibited by the State or Federal law.

E: Disposition of Animals. Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized by an injection of substances approved for euthanasia by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association to be administered in compliance with the laws of the State of Texas. All animals listed as

endangered or protected shall be transferred to the proper authority at the earliest possible date.

Section 3.03. Animals Held On Complaint.

If a complaint has been filed in Municipal Court of the City against the owner of an impounded animal for a violation of this title the animal shall not be released except on the order of the Municipal Judge or Animal Control Officer which may also direct the owner to pay any penalties for violation of this ordinance in addition to any impound fees. Surrender of any animal by the owner to the Animal Control Officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this ordinance.

Section 3.04. Removal of Animals from Confinement.

A: It shall be unlawful for any person to remove or allow to escape from any place of confinement any animal which has been confined or ordered confined by the City.

B: It shall be unlawful for any person to interfere or attempt to interfere with the Animal Control Officer, or anyone under the direction of the Animal Control Officer, in the taking up and impounding of animals in the City.

Section 3.05. Animals at Large.

It shall be unlawful for any person owning or harboring an animal to permit such an animal to run at large. The Animal Control Officer, or anyone under the direction of the Animal Control Officer, is authorized to take up any animal mentioned in this ordinance that may be found at large in the corporate limits of the City, subject to the applicable provisions of the law. The Animal Control Officer, anyone under his direction or a Peace Officer are authorized to impound any animal mentioned in this title which is in violation of this ordinance. In the event that the animal is on private property or the property of the animal's owner the Animal Control Officer, or anyone under the direction of the Animal Control Officer, or Peace Officer may enter upon the property, other than a private dwelling for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this title and law.

Section 3.06. Confinement during Estrus.

Any unspayed female dog or cat in the state of estrus(heat) shall be confined during such period of time in a house, building or secure enclosure so constructed that it shall not allow another dog or cat to gain access to the confined animal. Owners who do not comply shall be ordered to remove the animal in heat to a veterinary hospital or the animal shelter. Failure to

comply with the removal order of the Animal Control Officer shall be a violation of this ordinance and the dog or cat shall be impounded. All expenses incurred as a result of this confinement shall be paid by the owner.

Section 3.07. Adoption of Animals.

All animals which are adopted from the animal shelter shall be surgically altered to prevent reproduction in that animal. It shall be the responsibility of the person adopting the animal to provide proof of altering to the Animal Control Officer. Failure to comply with this section shall give the Animal Control Officer the right to recover the animal. Such failure shall also constitute a violation of this ordinance.

Section 3.08. Estray and other Livestock.

It shall be unlawful for the owner of any horse, mule, jack, jennet, cattle, hog, chicken or other fowl, goat or sheep (estrays) to permit any such animal to run at large on land that is not his own or under his control, or on any street, alley, or other public place in the City.

It shall be unlawful for any person to keep or harbor any combination of two or more of any of the following animals, horses, mules, jacks, jennets, or any species of cattle. It shall be unlawful for any person to keep or harbor any combination of six or more of any goats or sheep. It shall be unlawful to keep or harbor any member of the swine family within the corporate City limits except as a temporary project of an approved 4H or FFA project.

Section 3.09. Impoundment of Estray and Livestock.

It shall be the duty of the Animal Control Officer to take up any and all estrays and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the City, or otherwise to be found at large, and to confine such estray or other livestock for safe keeping. Upon impounding, the Animal Control Officer shall prepare a file to be located in the city offices. Each entry shall include the following:

A. The name and address of the person who notified the Animal Control Officer of the estray or other livestock;

B. The date, time and location of the estray or other livestock when found;

C. The location of the estray or other livestock until disposition; and

D. A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

Section 3.10 Advertisement of Impounded Estray and Livestock.

When an estray or other livestock has been impounded, the Animal Control Officer shall make a diligent search of the register of recorded brands in the County for the owner of the estray or other livestock. If the search does not reveal the owner, the Animal Control Officer shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray or other livestock on the public notice board at City Hall.

Section 3.11 Recovery by Owner.

The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this ordinance if:

A. The owner has provided the Animal Control Officer with an affidavit of ownership of the estray or other livestock containing at least the following information;

1. The name and address of the owner.
2. The date the owner discovered that the animal was missing,
3. The property from which the animal strayed,
4. A description of the animal including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;

B. The Animal Control Officer has approved the affidavit; and

C. The owner has paid all handling fees to those entitled to receive them.

Section 3.12. Fees

For each and every estray or other livestock taken and impounded there shall be paid to the City by the owner thereof or his agents the fees established by the City Council for each and every day that the animal shall remain in the custody of the Animal Control Officer. The owner shall also pay for any veterinarian or drug fees incurred for the animal (s) while in the custody of the Animal Control Officer.

Section 3.13. Sale of Estray and Livestock.

If the ownership of an estray or other livestock is not determined within 14 days following the final advertisement required by this ordinance, to the estray or other livestock rests with the City and the Animal Control Officer shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the City.

Title shall be deemed vested in the Animal Control Officer for purposes of passing a good title, free and clear of all claims to the purchaser at the sale. The disposition of the proceeds derived from the sale at public auction will be as follows:

- A. Pay all handling fees to those entitled to receive them;
- B. Execute a report of sale of impounded stock;
- C. The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the Animal Control Officer to the City Secretary. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock as provided herein;
- D. If the bids are too low, the Animal Control Officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

Section 3.14. Recovery by Owner of Sale Proceeds.

Within 12 months after the sale of an estray or other livestock under the provisions of this ordinance the original owner of the estray may recover the net proceeds of the sale that were delivered to the City Secretary if:

- A. The owner has provided the Animal Control Officer with an affidavit of ownership; and
- B. The Animal Control Officer has accepted the affidavit of ownership. After the expiration of 12 months from the sale of an estray or other livestock as provided by this ordinance, the sale proceeds shall escheat to the City. If an animal was forfeited to City due to no bidders at auction, the City is not liable to owner for any proceeds of sale, since no proceeds were received.

Section 3.15. Use of Estray and Livestock.

During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may not be used by any person for any purpose.

Section 3.16 Death or Escape of Estray and Livestock.

If the stray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the Animal Control Officer. The report shall be filed in the record regarding the impoundment.

Article Four - Animal Bites, Care and Nuisances.

Section 4.01. Reporting Bites and Scratches.

Every physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the City shall within 12 hours report such treatment to the Animal Control Officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.

Section 4.02. Reporting Suspected Rabies.

Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Animal Control Officer stating precisely where such animal may be found. If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately.

Section 4.03. Quarantine of Dogs and Cats - Disposition of Suspected Animals

A. Any owned dog or cat which has bitten or scratched a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designed by the investigating officer or responsible agency in compliance with State law. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense. Stray dogs and cats, or those animals whose owners cannot be located shall be confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed in this ordinance. Home quarantine may be allowed only in those incidents where permitted by State law and agreed to by the Animal Control Officer. Refusal to produce such dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.

B. Any wild, exotic or dangerous animal that is considered high risk by State law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the

brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by State law

Section 4.04. Providing Care.

No owner shall fail to provide an animal in his/her care with sufficient good and wholesome food or water, adequate-shelter, and protection from weather, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and-with humane care and treatment.

"Adequate Shelter" shall be construed to mean a structure that is enclosed by at least three walls or sides and a roof, which structure is located such that the animal is protected from weather conditions.

Section 4.05. Cruel Treatment.

No person shall beat, cruelly ill treat, torment, mentally abuse, overload, overwork, or otherwise abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

Section 4.06. Abandonment.

No person shall abandon an animal in his/her custody.

Section 4.07. Inducement.

No person shall give away, or offer to give away, to the general public any live animal as a prize or as an inducement to enter any contest, game or other competition or an inducement to enter a place of business; nor shall any person offer an animal to the general public as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

Section 4.08. Injured Animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.

Section 4.09. Poisonous Substances and Traps.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person. This section is not intended to prohibit use of herbicides, insecticides or rodent

control materials. No person shall utilize steel leg-hold traps within the De Leon City limits. This provision is not intended to include humane traps.

Section 4.10. Theatrical Exhibits.

All theatrical exhibits as defined herein shall, in addition to other requirements of this title, comply with the minimum standards of this section. Facilities shall be subject to inspection by an Animal Control Officer upon his/her request during reasonable hours.

A. Animal quarters shall be of sufficient size to allow each animal to stand up, lie down and turn around in a natural position without touching the sides or top or any other animal or waste.

B. Each enclosure shall be maintained at a comfortable and healthy temperature level as well as have adequate ventilation.

C. No animal shall be made to perform by means of any prod, stick, electrical shock, chemical or physical force or by causing pain or discomfort. Any whip or riding crop must be used so as to not cause injury to the animal.

D. No animal shall be caused to fight, wrestle or be physically matched against any other animal or person.

E. No animal shall perform or be displayed in any dangerous situation presenting the danger of physical injury to the animal or person.

F. The Animal Control Officer must be notified of all displays or performances, including date, time and exact location at least 48 hours in advance of a display or performance.

Section 4.11. Creating a Health Hazard.

A. Any person who shall harbor or keep animals on his/her premises, or in or about a premises under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due, to the activity or presence of such animals, shall be guilty of a Class "C" misdemeanor.

B. Any person who shall allow his/her animal to eliminate/defecate on public property or the property of another and does not remove same shall be guilty of Class "C" misdemeanor.

Section 4.12. Tampering with Traps and Equipment.

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the Animal Control Officer.

Section 4.13. Authority to Destroy Injured and Diseased Animals.

The Animal Control Officer or authorized representative, is authorized to destroy any injured or diseased animal, whether such animal is on public or private property, if the animal's recovery from such injuries or disease is in serious doubt, and after a reasonable effort has been made to locate the owner of such animal.

Section 4.14 Excessive Noise.

Any person who shall harbor or keep on his premises, or in or about any premises under his control, any animal or poultry which by loud, continual or unusual noise of any kind shall cause the peace and quiet of the neighborhood or the occupant of adjacent premises to be disturbed, shall be guilty of a Class "C" misdemeanor, and a separate offense shall be deemed committed each day during or on which such violation occurs or continues; provided that where only one rooster is kept in compliance with this ordinance, the crowing of such rooster shall not be a violation of this section.

Article Five - Dangerous, Wild and Exotic Animals

Section 5.01. Nonregistrable Dangerous Dogs.

No person shall own or harbor a nonregisterable dangerous dog within the City. Such an animal may be impounded as a public nuisance. If impoundment of such a nonregisterable dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If a attempt is made to impound a nonregisterable dangerous dog from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given 24 hours notice that if the animal is not surrendered to the Animal Control Officer for impoundment within the 24 hour period, the animal will be destroyed wherever it is found. After this notice, the Nonregistrable dangerous dog may be destroyed during an attempt to impound, if the impoundment cannot be made with safety. Notice under this ordinance may be verbal or in writing. A written notice left at the entrance to the premises where the Nonregistrable dangerous dog is harbored will be considered valid notice under this ordinance.

Section 5.02. Determination of Nonregistrable Dangerous Dog.

A dog is determined to be nonregisterable dangerous dog if:

A: A dog is automatically determined to be Nonregistrable dangerous dog if it commits acts set forth in Section 1.02.

Article Six-Dangerous, Wild and Exotic Animals.

Section 6.01 Exhibitions of Certain Animals Prohibited.

No person shall keep or permit to be kept, on his premises any wild or dangerous animal for display of exhibition purposes, whether gratuity or for a fee. This section shall not be construed so as to apply to a theatrical exhibit or circus, as defined in Section 1.

Section 6.02 Prohibited Animals.

No person may possess a venomous reptile, non-venomous reptile over six feet in length, alligators, crocodiles, elephants, rhinoceros, skunk, raccoon, fox, coyote, bat, wolf or any hybrid of these animals or such other class of animals as may be determined to be dangerous by the Animal Control Officer or any other dangerous animal that may be added in the future to the list as a high risk animal in the Texas Rabies Control Act.

Section 6.03 Restricted Animals.

No person may possess any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, cougars, leopards, cheetah, jaguars, hyenas, bears, lesser pandas, ferrets from natural habitats, binturong, miniature pigs, Vietnamese pot belly pigs, apes, or such other non-domesticated species of animal not common to this area without a permit issued through the Animal Control Officer.

Section 6.04 Permit Requirements for Restricted Animal Ownership.

A. The owner must apply for such permit annually and provide the following information and documentation:

1. A health certificate from a licensed veterinarian stating that the animal is free from infectious disease or is under treatment. A new health certificate is required annually.
2. Copies of applicable State or Federal permits or licenses as required by either of those entities for the keeping of the particular animal.
3. Information relating to the owner including emergency telephone numbers and the telephone number of their veterinarian in case of emergencies.
4. Present proof of liability insurance or financial responsibility in the amount of \$100,000.00 to cover damages resulting from an escape and/or attack by the animal to be permitted.

5. Agreement to allow the Animal Control Officer reasonable access for inspection.

6. Documentation of compliance with all other applicable City ordinances, including, but not limited to building and planning and zoning.

B. Before a permit is issued the Animal Control Officer shall inspect the facility where the animal is to be kept, which must meet the following criteria:

1. Each enclosure must provide adequate sleeping quarters and exercise area;

2. Proper temperature control and ventilation for the particular species must be provided in both areas.

3. Each enclosure must be kept locked and designed so that no one can enter or place appendages in the enclosure.

4. Each enclosure must be constructed to prevent the animal from escaping.

5. Each enclosure must be kept in good repair to prevent both escape and injury to the animal.

6. Each enclosure must have a water container which is secured to prevent its being overturned.

7. Each enclosure must be cleaned daily.

C. Each animal must be provided with continuous clean drinking water and be fed a diet approved by licensed veterinarian.

D. Any animal which has bitten or scratched someone must immediately be surrendered to the Animal Control Officer for euthanasia and testing by the Texas Department of Health. A live test approved by the Texas Department of Health may be substituted for euthanasia.

E. Fees for restricted animal permit shall be set by the City Council, and the permit shall expire one year from the date of issuance and shall not be transferable. A City license shall be issued and must be worn at all times by the animal.

Section 6.05. Violation of Permit Requirements.

Failure to comply with the permit requirements shall constitute a violation of this ordinance and each day of noncompliance shall constitute a separate offense.

Section 6.06. Exemptions.

A. This article does not apply to:

1. Zoological Parks accredited by the American Association of Zoological Parks and Aquariums.
2. Federally licensed research institutions.
3. Any government agency or its employee who uses the animals for an agency related to education, propagation, or behavior program.

D. Anyone holding a valid rehabilitation permit from the Texas Parks and Wildlife Department but only for animals which are in rehabilitation and scheduled to be released to the wild

Article Seven-Schedule of Fees, License and Permits

A. All fees contained in this ordinance shall be set by the City Council of the City of De Leon.

B. Fees for dogs and cats are set for a two year period.

1: For each male dog that is not neutered	\$6.00
2: For each male cat that is not neutered	\$4.00
3: For each male dog that is neutered	\$2.00
4: For each male cat that is neutered	\$2.00
5: For each female dog that is not spayed	\$6.00
6: For each female cat that is not spayed	\$4.00
7: For each female dog that is spayed	\$2.00
8: For each female cat that is spayed	\$2.00
9: A duplicate license for any of the above.....	\$2.00

C. Daily boarding fee (with minimum of 3-day).....\$6.00

D. Rabies vaccination.....\$8.00

E. First time pick-up fee.....\$25.00

F. Second time pick-up fee.....\$50.00

G. Third time pick-up fee (or belongs City property).....\$100.00

H. Fourth time pick-up (automatically belongs City property)*****

Article Eight- Miscellaneous

Section 8.01 Repeal of Ordinance 79-101:

Ordinance No. 79-101 is repealed in its entirety and replaced by this Ordinance.

Section 8.02 Severability:

If any provision, section, subsection, Clause or phase of this Ordinance, or the application of some to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion be inoperative or fail by reason of any unconstitutionality, void-ness or validity of any other portions hereof, and all provisions of this Ordinances are declared to be severable for that purpose.

Section 8.03 Effective Date

This Ordinance shall, upon final passage, be published in the official newspaper of the City as required by law and shall become effective ten (10) days after the date of the last publication.

Section 8.04 Compliance With Open Meeting Act

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

PASSED AND APPROVED on the First Reading this 26th day of February, 2002.

PASSED AND APPROVED on the Second Reading this 12th day of March, 2002.


Mayor John R. Adcock

ATTEST:


B. Gail Neeley, City Secretary

Certification

I, B. Gail Neeley, Secretary, of the City of De Leon, Texas, do hereby certify that the preamble to Ordinance No. 004-02 was published in the De Leon Free Press, 304 S. Texas, De Leon, Texas on the 21st day of March, 2002, and shall take effect ten (10) days after such publication, effective date being the 1st day of April, 2002.


B. Gail Neeley, City Secretary