

ORDINANCE #002-23

AN ORDINANCE OF THE CITY OF DE LEON, TEXAS REPEALING AND REPLACING ORDINANCE #006-20, DELETING ALL REFERENCES TO NON-REGISTERABLE DANGEROUS DOGS AND REPLACING SECTION 6.01 TO ADDRESS DANGEROUS DOGS AND ADDING CLARIFYING LANGUAGE TO SECTION 4.4 TO PROVIDE THAT ANIMALS, INCLUDING FARM ANIMALS, SHALL NOT RUN AT LARGE; PROVIDING A SCHEDULE OF FEES, LICENSE, AND PERMITS, OF THE CODE OF ORDINANCES OF THE CITY PROVIDING COMPREHENSIVE REQUIREMENTS FOR 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, FOWLS, LIVESTOCK AND WILD AND EXOTIC ANIMALS; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FINES AND PENALTIES; MAKING FINDING OF FACT, PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR CERTAIN RELATED MATTERS.

WHEREAS, the rules and 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ARTICLE ONE-That the following Ordinance of the City of De Leon is hereby repealed and superseded by this Ordinance:

Ordinance # 006-20

Adoption Date: June 8, 2020

ARTICLE TWO- FINDINGS, DEFINITIONS AND PENALTIES

Section 2.01 – Findings 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 2.02 - Definitions

When used in this ordinance, the following words and terms, unless the context indicated 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 any peace officer, as provided by Section 822.001(1) of the Texas Health and safety Code..

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

Cat or pet shall mean a domesticated cat which by its temperament does not show long term fear and resistance to contact with humans.

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 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 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.

Feral cat shall mean a cat which is wild, untamed or unsocialized.

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 the three days or longer.

Nuisance means the conduct of any owner in allowing an animal to:

- 1) Engage in conduct, which established such an 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 or property in an animal and/or is harboring an animal.

Number of Permitted Animals means no household shall harbor or keep more than four (4) dogs or (4) cats, or any combination of cats and dogs, when the total exceeds four (4) animals over the age of 10 weeks two 2 and ½ months (2 ½) of age except in an animal shelter, clinic, hospital, or kennel as provided by this ordinance. All kittens or puppies over the age of 10 weeks will be counted in the total number of animals allowed and over four (4) dogs or four (4) cats will be considered a kennel, which must be two hundred fifty (250) feet from any residence.

The City will permit four (4) animals. This can be four (4) dogs, or (4) four cats, or (2) two dogs and (2) two cats, or (3) three dogs and (1) cats or any combination thereof. All kittens or puppies remain with the mother until they are no older than (10) ten weeks of age. If kittens or puppies remain after they are (10) ten weeks of age and the total number of animals exceeds a total of (4) four animals, it will be considered that you have a kennel, which must be (250) Two Hundred Fifty feet from any residence.

No Animals Allowed means that no animal, domestic or nondomestic, which includes but it not limited to dogs, cats and livestock shall be permitted on the City Sports playing fields or surrounding premises during organized activities. Exceptions mean that for the use of certified animal used by the handicapped. Premises that follow are the areas of no animal allowance:

- 1) Baseball, Softball, Soccer or Football Fields. The exception to this rule would be certified animals that help the handicapped or team mascots.
- 2) It shall be the duty of the Animal Control Officer or any of his deputies or any City Police Officers, while on duty, to have removed from the sports playing fields or premises all animals found, except for certified animals to help the handicapped. All animals that are not willfully removed shall be seized and

impounded. All such animals that are impounded shall fall under the current ordinance regarding the impoundment of animals. Any person violation the provisions of this section shall be guilty of a misdemeanor.

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 born 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 Animal means any or all animals, but not limited to venomous reptiles, nonvenomous reptiles over six feet in length, alligators, crocodiles, elephants, rhinoceroses, skunks, racoons, 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 violation. The enclosure shall be securely locked at all times and have secured 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 Two Hundred Forty (240), ten (10) 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 owner of an animal, who quarantine with Rabies 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 or 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 the Rabies Control Officer immediately if the animal becomes sick or displays any behavioral changes;
- 7) Owner shall not subject the animal to any medical procedure, obtaining permission from the Rabies Control Officer;
- 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) Owner must allow Rabies 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.

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. On-Premises:

- 1) Any animal, except free roaming cats, not confined to premises of owner by a substantial fence of sufficient strength **and** height to prevent the animal from escaping there from, or secured on the 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 owners 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 animal shall not be deemed at large.

B. Off-Premises:

- 1) Any animal, except free roaming 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.

Secure Enclosure means a fenced area or structure that is:

- (A) locked;
- (B) capable of preventing the entry of the general public, including children;
- (C) capable of preventing the escape or release of a dog;
- (D) clearly marked as containing a dangerous dog; and
- (E) in conformance with the requirements for enclosures established by the Animal Control Officer.

Serious Injury means bodily injury resulting from severe attack or severe bite from an animal which produces severe pain, trauma, loss or 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, the International Cat Fanciers Associations 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 past wildlife.

Section 2.03 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 THREE-LICENSES, PERMITS AND VACCINATIONS

Section 3.01 Violations

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 persons establishing residence within the City shall comply with this title within ten days of establishing such residency. If an unvaccinated 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 3.02 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 return 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 3.03 Rabies Tag

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

Section 3.04 Licensed 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 the 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. Licenses 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 3.05 Tag and Collar

Upon payment of the license fee, where applicable, the City shall issue to the owner a license certificate and metal having stamped thereon the number corresponding with the number of the certificate. In the case of a dog the tag shall at all times be securely attached to a collar or harness around the neck of the dog. 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 tag. Tags shall not be transferable from one animal to another, and no refunds shall be made.

Section 3.06 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 FOUR-ANIMAL AND LIVESTOCK IMPOUNDMENT

Section 4.01 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 4.02 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 the 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 dog, cat and satisfy all applicable fees, the animal shall become the property of the City.
- C. Animals surrendered by the owner harborer. All animals surrendered by the owner harborer 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 the State or Federal Law prohibits such ownership.

- 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 4.03 Animals Held in Complaint

If a complaint has been filed in Municipal Court of the City against the owner of an impounded animal for 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 4.03 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 4.04 Animal at Large

It shall be unlawful for any person owning or harboring an animal (except cats), including any dog, livestock and farm animal, including, but not limited to, horses, mules, cows, sheep, swine, goats, geese, chickens, ducks, rabbits, fowl or any other 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 is 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 4.06 Confinement during Estrus

Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such a period 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. Owner who does 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. The owner shall pay all expenses incurred as a result of this confinement.

Section 4.07 Adoption of Animals

All animals, which are adopted from the shelter, shall be surgically altered to prevent reproduction. 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 4.08 Estray and other livestock

Each head of cattle, horses, donkeys, or hybrid thereof shall have at least 1200 sq. feet of lot space.

It shall be unlawful for any family to keep or harbor any combination of more than six head of any sheep or goat. Each head of sheep and/or goat shall have at least 500 sq. feet of lot space.

It shall be unlawful for any family to keep or harbor any combination of more than twenty fowl. Fowl is to mean, but not restricted to ducks, chickens, and geese. No family may keep or harbor more than one male fowl of each species.

No member of the swine family may be lawfully kept or harbored in the City except as defined under show projects.

Exceptions for approved 4-H and/or FFA Show Projects

No more than four cattle per person, each head of cattle must have at least 240 sq. feet of lot space. No show cattle within 100 feet of any occupied residence except that of the owner.

No more than four sheep and/or goats per person, each sheep/goat must have at least 120sq. feet of lot space. No sheep or goats within 100 feet of any occupied residence except that of owner.

No more than four swine per person, swine's must have at least 120 sq. feet of pen space per head with no more than two head per pen.

No swine shall be penned within 100 feet of any occupied residence except that of the owner. All swine shown at major shows must be submitted in writing to Animal Control Officer as to which show each swine is entered no later than December 15th of each year. Submission must include ear notches and ear tag numbers for each swine. All swine shown only at the county show must be removed from the City no later than February 10th. All major show swine must be removed from the City no later than ten days after show up date for show entered. Major shows are to be: Fort Worth, San Antonio, San Angelo and Houston. Exceptions may be allowed for such shows as The West Texas Fair and State Fair of Texas. No swine production will be allowed within the City.

Section 4.09 Impoundment of Estray and Livestock

It shall be the duty of the Animal Control Officer to take up any and all estray 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 4.10 Advertisement of Impounded Estray and Livestock

When 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 or other livestock on the public notice board at City Hall.

Section 4.11 Recovery of 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 of:

- 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 4.12 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 fee incurred for the animal (s) while in the custody of the Animal Control Officer.

Section 4.13 Sales 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 the 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 deposition 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 impoundment 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 the bids and arrange for another public auction or sealed bidding procedure.

Section 4.14 Recovery of 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 the animal was forfeited to the 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 4.15 Use of Estray and Livestock

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

Section 4.16 Death or Escape of Estray and Livestock

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

Section 4.17 Reporting of Intake or Disposition

The City shall record the intake and disposition of all animals entering the animal shelter and make available to the public upon request.

ARTICLE FIVE- ANIMAL BITES, CARE AND NUISANCES

Section 5.01 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 the Rabies 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 5.02 Reporting Suspected Rabies

Any veterinarian who clinically diagnosis rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Rabies 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 5.03 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 240 hours, 10 days, from the date of the bite. The investigating officer or responsible agency in compliance with State Law shall design the procedure and place of observation. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment in the animal shelter, or 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 owner cannot be located 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 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 Rabies 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 destroyed 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 5.04 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 5.05 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 and humans.

Section 5.06 Abandonment

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

Section 5.07 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 5.08 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 5.09 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 5.10 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 or 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 display or performance.

Section 5.11 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 5.12 Tampering with Traps and Equipment

(a) 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 5.13 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 5.14 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 on rooster is kept in compliance with this ordinance, the crowing of such rooster shall not be a violation of this section.

Section 5.15 Trap Neuter and Return

A. Definitions. For purposes of this Section, the following terms shall have the following meanings:

1. "Community Cat" is a member of the domestic species *Felis Catus* and shall mean a free-roaming cat who may be cared for by one or more persons who is/are known or unknown; a community cat may or may not be feral. Community Cats are not wildlife.
2. "Community Cat Caregiver" shall mean a person who, in accordance with and pursuant to a policy of Trap-Neuter-Release, provides care, including food, shelter or medical

- care to a community cat, while not being considered the owner, harbinger, controller, or keeper of a community cat.
3. "Ear Tipping" shall mean the removal of the distal one-quarter of a community's cat's left ear, which is approximately 3/8-inch, or 1 cm, in an adult and proportionally smaller in a kitten. This procedure is performed under sterile conditions while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian. Ear-tips are designed to identify a community cat as being sterilized and lawfully vaccinated for rabies.
 4. "Trap-Neuter-Return" shall mean the process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, and returning community cats to their original location.
- B. Permitted Acts. The following actions shall be permitted in as part of Trap-Neuter-Return:
1. Trapping, for the sole purpose of sterilizing, vaccinating for rabies, and ear-tipping community cats, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian, where applicable.
 2. An ear-tipped cat received by local shelters will be returned to the location where trapped unless veterinary care is required.
 3. Community cat caregivers are empowered to reclaim impounded community cats without proof of ownership solely for the purpose of carrying out Trap-Neuter-Return and/or returning ear-tipped community cats to their original locations.
 4. A person who returns a community cat to its original location while conducting Trap-Neuter-Return is not deemed to have abandoned the cat.
 5. Trap-Neuter-Return shall be the preferred disposition for impounded community cats. Animal control and the local shelter are authorized and encouraged to conduct Trap-Neuter-Return or to direct impounded community cats to a Trap-Neuter-Return program.

ARTICLE SIX- DANGEROUS DOGS

Section 6.01 Dangerous Dogs

A. Authorization.

The general laws of the state, except as specifically provided through proper

ordinances and regulations of the city, shall control the handling of dangerous dogs. There is adopted as part of this chapter all of the provisions of title 10, chapter 822, including, subchapter D, as amended, of the Texas Health and Safety Code, including, without limitation, Section 822.0422 et.seq., insofar as applicable.

B. General.

The determination and processing of dangerous dogs in the City shall commence with an investigation conducted by the Animal Control Officer in accordance with Texas Health and Safety Code ch. 822.

C. Alternative process.

Alternatively, the City herein elects to make available an alternative determination and processing of a dangerous dog pursuant to Texas Health and Safety Code § 822.0422 commencing with making a report of an incident meeting the definition of dangerous dog to a City Municipal Court and following the procedure set forth therein.

D. Violation declared.

- (a) It is a violation of this article if 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 and State statutes regulating dangerous dogs.
- (b) It is a violation of this article if 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) Texas Health and Safety Code ch. 822;
 - (2) A local law or ordinance adopted in accordance with Texas Health and Safety Code ch. 822; or
 - (3) A statute or ordinance that is substantially similar to Texas Health and Safety Code ch. 822 and that was adopted by a political subdivision outside of the State.

E. Dangerous dog incident.

A dangerous dog incident means an incident in which the dog:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog is 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) Makes an unprovoked attack on a domestic animal that causes serious bodily injury or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

F. Dangerous dog investigation.

The Animal Control Officer or designee may investigate all reports of dangerous dog incidents. The Animal Control Officer may accept sworn statements from all victims and witnesses to the attack.

G. Reporting of incident.

Dangerous dog incidents may be reported in the following ways:

- (1) A person may report an incident described in Section 6.01E. to the Animal Control Officer.
- (2) The Animal Control Officer shall provide a sworn report describing the dangerous dog incident to the City Attorney's Office.
- (3) The City Attorney's Office shall evaluate the case and determine whether to initiate a dangerous dog proceeding with the Municipal Court ("Court"). If such a proceeding is initiated, the Court shall order the Animal Control Officer or designee to seize the dog and the Court shall issue a warrant authorizing the seizure. The Animal Control Officer shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions until the Court determines one of the following:
 - a. That the dog is not a dangerous dog;
 - b. That the dog is a dangerous dog and the Court or Animal Control Officer finds the owner has complied with the ownership of a dangerous dog pursuant to Section 6.01J.; or
 - c. That the dog should be humanely destroyed or is deceased.
- (4) The Animal Control Officer shall furnish written notice to the owner of the dog identified in the report to inform the owner that a dangerous dog report has been filed with the Court. Notice shall be by hand delivery to the owner of the dog. If the owner cannot be located, notice shall be delivered to any adult at the dog owner's last known physical address or to any adult at the residence where the dog is believed to be kept, if at a location different than the owner's physical address. The notice shall also include a statement that the owner will be notified by the court of the date and time for a hearing if this time has not yet been set by the court.
- (5) If the court determines the dog to be a dangerous dog, the owner shall pay all costs and/or fees assessed by the Municipality related to the seizure and impoundment of the dog, including, but not limited to, boarding fees, microchip procedure, City license and rabies vaccination, and the cost of euthanasia of the dog if ordered by the Court.

H. Failure to surrender dog.

It shall be a separate violation of this Code 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.

I. Judicial determination that dog is a dangerous dog.

- (a) The Court, after determining that the dog is a dangerous dog, shall order the Animal Control Officer to continue to impound the dangerous dog in secure and humane conditions until such time as:
 - (1) The Court orders disposition of the dog and the dog is returned to the owner;
 - (2) The Court orders disposition of the dog and the dog is thereby humanely destroyed; or
 - (3) The dog is deceased.
- (b) The Court shall order the Animal Control Officer to humanely destroy the dog if the Court determines after notice and hearing that the owner has not complied with the dangerous dog requirements in Section 6.01J. The Court shall order the authority to return the dog to the owner if the owner has fully complied with Section 6.01J. either after a hearing or without a hearing based on the recommendation of the Animal Control Officer the owner has complied with Section 6.01J.
- (c) The owner may appeal the decision of the Court by following the appropriate procedures for appeal of a decision of Municipal Court.
 - (1) During the appeal period, the dog shall remain in the custody, care and control of the Animal Control Officer.
 - (2) 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.
- (d) Animal Control may, at their option, request the owner of a dangerous dog to show proof, on a quarterly basis, of compliance with this article. If Animal Control determines that the owner of a dangerous dog has failed to comply with any requirement listed in Section 6.01J. (Requirements for Owner of a Dangerous Dog), the Animal Control Officer shall issue notice of noncompliance to the owner of the dangerous dog and said owner shall deliver the dog immediately to the Animal Control Officer.
- (e) If the Animal Control Officer is not in receipt of the dog within 48 hours after delivery of the notice, then the Court shall order the Animal Control Officer or designee to seize the dog and the Court shall issue a warrant authorizing the seizure. The Animal Control Officer shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions. After the expiration of three days, if the owner of the dangerous dog has not sufficiently presented proof to the Animal Control Officer of compliance with Section 6.01J., the Animal Control Officer shall refer the case to the Municipal Court for notice and hearing.
- (f) Upon proof to the court of the dangerous dog owner's noncompliance, the Court shall enter a final order for the humane destruction of the dog by the Animal Control Officer or its authorized agent or a licensed veterinarian.

J. Requirements for owner of a dangerous dog.

The owner of a dangerous dog shall pay all costs and/or fees assessed by the Municipality related to the seizure and impoundment of the dog, including, but not limited

to, boarding fees, microchip procedure, City license and rabies vaccination, and the cost of euthanasia of the dog if ordered by the Court. Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

- (1) *Registration.* Register the dangerous dog with the Animal Control Officer and pay an annual registration fee in the amount established by the City Council in its fee ordinance;
- (2) *Liability insurance.* Obtain and maintain liability insurance coverage or show financial responsibility in an amount of at least \$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 Officer;
- (3) *Microchip implant.* Implant and maintain a microchip on the dangerous dog. The dog's microchip shall be registered with a national registry. The cost of the national registry service shall be at the owner's expense;
- (4) *Required leash and collar.* Restrain the dangerous dog on a leash and collar issued or approved by the City to ensure, among other things, the visibility of the dangerous dog when out in public, the security of the leash, the length of the leash, and the overall safety of the general public. Collars shall be worn by dangerous dogs at all times and collars shall remain visible at distances of at least 50 feet in normal day light so that the dog can be readily identified as dangerous;
- (5) *Physical control.* 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 17 years of age;
- (6) *Required muzzle.* Secure the dangerous dog with a muzzle in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the dangerous dog is taken off the property of the owner for any reason;
- (7) *Secure enclosure.* Restrain the dangerous dog at all times in a secure enclosure, as defined herein (Definitions; Secured Enclosure), when the dangerous dog is not restrained on a leash. 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;
- (8) *Spay or neuter.* Surgically spay or neuter the dangerous dog and show proof of such to the Animal Control Officer;
- (9) *Rabies vaccinations and licenses.* Maintain current rabies vaccinations and proper licenses on the dangerous dog;
- (10) *Change of address.* Notify the Animal Control Officer within 14 days of a change of ownership or change of address of the dangerous dog;
- (11) *Notifications to third parties.* Notify any boarding facility, caretaker, veterinary clinic or animal trainer that the dog is dangerous prior to going to such location or person and shall notify the Animal Control Authority of the same;

(12) *Notification to Animal Control.* Notify the Animal Control Officer when the dangerous dog is no longer owned by the registrant or is deceased.

ARTICLE SEVEN – DANGEROUS, WILD AND EXOTIC ANIMALS

Section 7.01 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 7.02 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 7.03 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 panda, 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 7.04 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 the applicable City ordinances, including, but not limited to building, planning, and zoning.
- B. Before a permit is issued by 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 Rabies Control Officer for euthanasia (put to sleep) and testing by the Texas Department of Health.
- 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. City license shall be issued and must be worn at all times by the animal.

Section 7.05 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 7.06 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.
- B. 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 EIGHT-SCHEDULED OF FEES, LICENSE AND PERMITS

- A. All fees for Animal Control are located in the Schedule of Fees and Permits Ordinance, approved by City Council yearly.

ARTICLE NINE- MISCELLANEOUS

Section 9.01 Severability

If any provision, section, subsection, clause, or phrase of this or phase of this Ordinance, or the application of some to any person or set of circumstances 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 portions be inoperative or fail by reason of any unconstitutionality, voidness or validity of any other portions hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 9.02 Effective Date

The caption of the 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 9.03 Compliance with Open Meetings 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 Meetings Act, Chapter 551, Texas Government Code.

PASSED, APPROVED AND ADOPTED on this 13th day of February 2023.



Jan Grisham, Mayor

ATTEST


Melenda K. Harbour
City Secretary

The seal is circular with a double-line border. Inside the border, the words "CITY OF DELEON" are written in an arc at the top, and "TEXAS" is written at the bottom. In the center of the seal is a five-pointed star.