

CITY OF JOHNSON CITY

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY REVISING AND AMENDING CHAPTER 2 ANIMAL CONTROL OF THE CITY CODE OF ORDINANCES; REVISING MISDEMEANOR PENALTIES AND FINES; AND PROVIDING FOR AN EFFECTIVE DATE

RECITALS

WHEREAS, the City Council of the City of Johnson City ("City") enacted Chapter 2 *Animal Control* ("Ordinance") of the City's Code of Ordinances; and

WHEREAS, the City Council finds that revisions and upgrades to the Ordinance are necessary for conformance with current Texas law and for enforcement; and

WHEREAS, Texas Local Government Code Sections 215.025 grants the City authority to regulate animals; and

WHEREAS, Pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is necessary or proper for carrying out a power granted by law to the City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Johnson City:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. AMENDMENT AND ADOPTION OF CHAPTER 2. ANIMAL CONTROL

- A. Amendment and Adoption. The City Council of the City of Johnson City hereby amends and revises Chapter 2. *Animal Control* of the City's Code of Ordinances, in its entirety and replaces it with Chapter 2. *Animal Control* as revised and as depicted in "*Attachment A*", attached hereto and incorporated fully herein for all intents and purposes, and to read as contained therein.
- B. Saving Provision. The amendment and revision of Chapter 2 *Animal Control* does not affect enforcement of any violation of the Ordinance committed at the time the Ordinance was in effect or punishment imposed under that Ordinance prior to its amendment and revision.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. PUBLICATION AND CODIFICATION

The City Secretary is hereby directed to record and publish the Attachment in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code after publication in the City newspaper.

ARTICLE V. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and approval.

PASSED AND APPROVED this, the 1st day of February, 2022, by a majority vote of the City Council of Johnson City, Texas.

CITY OF JOHNSON CITY, TEXAS

Rhonda Stell, Mayor

Attest:

Whitney Walston
City Secretary

CITY OF JOHNSON CITY CODE OF ORDINANCES

CHAPTER 2 ANIMAL CONTROL

Amended and Revised _____, 2022

CITY OF JOHNSON CITY CODE OF ORDINANCES
CHAPTER 2 ANIMAL CONTROL
TABLE OF CONTENTS

ARTICLE 2.01 GENERAL2

 Sec. 2.01.001 Purpose and intent.....2

 Sec. 2.01.002 Conflicting law.2

 Sec. 2.01.003 Nuisance.....2

 Sec. 2.01.004 Definitions.2

 Sec. 2.01.005 Prohibitions.....6

 Sec. 2.01.006 Rabies control.6

 Sec. 2.01.007 Animal exhibitions.....8

ARTICLE 2.02 ANIMAL CARE8

 Sec. 2.02.001 Restraint - animals at large.8

 Sec. 2.02.002 Number allowed; space and management requirements.....9

 Sec. 2.02.003 Treatment and care of animals.....9

 Sec. 2.02.004 Animal waste.11

 Sec. 2.02.005 Inspection of animals and premises.11

ARTICLE 2.03 VOCATIONAL EDUCATION PROGRAMS.....11

 Sec. 2.03.001 General.....11

ARTICLE 2.04 DOGS AND CATS.....12

 Sec. 2.04.001 Number allowed.....12

 Sec. 2.04.002 Unlawful restraint of dog.....12

 Sec. 2.04.003 Rabies vaccination required.....13

 Sec. 2.04.004 Impoundment and violation notice.13

 Sec. 2.04.005 Redemption or adoption of impounded animals.....14

 Sec. 2.04.006 Dangerous dogs.....14

 Sec. 2.04.007 Feral cats.....17

ARTICLE 2.05 COMMERCIAL ANIMAL ESTABLISHMENTS.....17

 Sec. 2.05.001 Permits.17

 Sec. 2.05.002 Facility standards.17

ARTICLE 2.06 ENFORCEMENT.....20

 Sec. 2.06.001 Offenses and penalties20

 Sec. 2.06.002 Enforcement.....20

CITY OF JOHNSON CITY CODE OF ORDINANCES

CHAPTER 2 ANIMAL CONTROL

ARTICLE 2.01 GENERAL

Sec. 2.01.001 Purpose and intent.

The purpose of this Chapter is to promote the public health, safety, and general welfare of the citizens of the City and to ensure the humane treatment of animals by regulating the care and control of animals within the City as authorized under Texas Local Government Code Section 215.025.

Sec. 2.01.002 Conflicting law.

The provisions of this Chapter are based on and in accordance with provisions of the Texas Health and Safety Code Title 10 Health and Safety of Animals, in particular Chapters 821, 822, and 826. Should any provision of this Chapter conflict with statute, the more stringent provision or regulation applies.

Sec. 2.01.003 Nuisance.

The keeping, holding or maintaining of any animal on any property located within the corporate limits of the City in violation of this Chapter is a menace to public health and safety and constitutes a public nuisance.

Sec. 2.01.004 Definitions.

For purposes of this Chapter, the following definitions shall apply except where the context indicates a different meaning:

Abandon means to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to timely redeem any animal impounded or quarantined by the City, as specified herein.

Abuse shall mean to mistreat through intent or neglect any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this Chapter.

Adequate shelter means a sturdy structure:

- (1) that provides the dog protection from inclement weather; and
- (2) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

Adult dog or cat means any dog or cat over the age of four months.

Animal means any living creature classified as a member of the animal kingdom, including, but not limited to, birds, fish, fowl, mammals, and reptiles, but specifically excluding human beings.

Animal control officer means the person designated by the City to enforce this Chapter or a police officer of the Johnson City Police Department.

Animal control facility/shelter means any facility operated by a humane society, or municipal/county agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.

At large shall mean off the premises of the owner and not under the control of the owner or his employee or his agent by means of a leash, chain, rope, cord, or such other personal presence and attention as will reasonably control a dog's actions and conduct.

Cat means any domestic feline animal (*Felis domesticus*).

Circus means any commercial variety show featuring animal acts for public entertainment.

City of Johnson City; City means the City of Johnson City.

Collar means a band of material specifically designed to be placed around the neck of a dog.

Commercial animal establishment means any pet shop, grooming shop, kennel, auction, riding school or stable, zoological park, circus, or performing animal exhibition.

Cruelly treated means tortured, seriously overworked, abandoned, deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

Currently vaccinated means vaccinated against rabies and satisfies the following criteria:

- (1) The animal must have been vaccinated against rabies according to the label recommendations of a United States Department of Agriculture (USDA) approved vaccine;
- (2) At least 30 days have elapsed since the initial vaccination; and
- (3) The time elapsed since the most recent vaccination has not exceeded 36 months, depending on the vaccine utilized.

Dangerous dog means a dog that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

Dog means any domestic canine animal (*Canis familiaris*).

Domestic animal means any animal which is not prohibited and commonly kept as pets at the owner's residence, including but not limited to, domestic cats and dogs, domestic ferrets, rabbits, and domestic birds.

Enclosure means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

Euthanized means to cause death by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

(2) Utilizes anesthesia produced by an agent which causes painless loss of consciousness followed by death of the animal.

Harness means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

Hybrid means any offspring of two animals of different species.

Impound means to place an animal in the City's animal control facility; or the taking into custody of an animal for purposes of transportation to the City's animal control facility.

Inclement weather shall include rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.

Isolation means the keeping of an animal so confined so as not to have any human or other animal contact and is incapable of escape

Kennel means any premises wherein any person engages in the business of boarding, breeding, letting for hire, training for a fee, or selling animals.

Licensed veterinarian means a person licensed by the State of Texas to practice veterinary medicine.

Livestock means bovine, equine, goat, sheep or poultry.

Local health authority means a person designated by the City to enforce the provisions of the Rabies Control Act and this Chapter.

Nuisance shall mean:

- (1) An owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal to:
 - a. Engage in conduct which establishes such animal as a dangerous animal;
 - b. Be at large as defined herein;
 - c. Cause a disturbance by excessive, continuous, or untimely barking, howling, crowing, or otherwise make excessive noise near the private residence of another; or continual barking, howling, whining, crowing, or other audible noise, in excess of 15 minutes, even if in sporadic bursts;
 - d. Produce maggots, flies, odors, or unclean conditions sufficient to annoy adjacent property owners or residents;
 - e. Chase vehicles or molest, attack, or interfere with other animals or persons on public property;
 - f. Damage, soil, defile or defecate on private property, other than the owners' property or on public walks or recreation areas, unless such waste is immediately removed and properly disposed of by the owner; or
 - g. Allow such fecal matter or other animal waste to accumulate to such a degree as to cause unsanitary, dangerous, or offensive conditions; or

- (2) An animal normally found in the wild that has entered onto any public or private property and, by its presence, is committing a threat to public health and safety or is generally interrupting the tranquility of the location.

Own means to keep, harbor, or have control, charge, or custody of an animal.

Owner means any person who keeps, harbors, or has charge or control of, or permits any animal to habitually be or remain on, or be lodged or fed within his/her house, yard, or premises. This term shall not apply to veterinarians or kennel operators who have temporary custody of an animal for a period of less than 60 days or animals owned by others.

Performing animal exhibitions means any spectacle, display, act, or event other than circuses, in which performing animals are used, excluding certified therapy animals or demonstration animals used in school educational programs except swine.

Properly fitted means, with respect to a collar or harness, a collar or harness that:

- (1) is appropriately sized for the animal based on the dog's measurements and body weight;
- (2) does not choke the animal or impede the animal's normal breathing or swallowing; and
- (3) does not cause pain or injury to the animal.

Quarantine means the keeping of an animal so confined so as not to have any human or other animal contact and is incapable of escape.

Quarantine period means that portion of the observation period during which a biting animal, or an animal which has been bitten, is physically confined for observation.

Restrain means to secure an animal by a leash, lead, cage or within the confines of its owner's home, yard, or property which is fully enclosed by a good, secure and substantial fence.

Restraint means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Secure enclosure means a fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing entry of the general public, including children;
- (3) Capable of preventing escape or release of an animal; and
- (4) Clearly marked, if applicable as containing a dangerous animal.

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

Vaccinated means properly injected by a licensed veterinarian with a rabies vaccine licensed for use in that species by the United States Department of Agriculture.

Vaccination certificate means a certificate showing that the animal described thereon has received an inoculation of a rabies vaccine in an amount sufficient to produce an immunity, and bears the signature of a licensed veterinarian.

Veterinary clinic/hospital means an establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of a disease and injuries of animals.

Vicious animal means any animal or animals that constitute a physical threat to human beings or other animals.

Wild animal means any warm-blooded animal which is normally found in the wild, including but not limited to, any non-human primate, raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or bear.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person, partnership, corporation, or government agency.

Sec. 2.01.005 Prohibitions.

- (a) *Wild animals.* It shall be unlawful for anyone to keep or harbor any wild animal within the City limits. This section does not apply to zoological parks, performing animal exhibitions, or circuses.
- (b) *Vicious animals.* It shall be unlawful for anyone to keep or harbor any vicious or dangerous animal.
- (c) *Animal fighting.* No person shall possess or harbor any animal for fighting contests, nor shall any person train, torment, badger, bait, or use any animal for the reason of causing or encouraging the animal to attack human beings or domestic animals.
- (d) *Other prohibited animals.* It shall be unlawful for anyone to keep any hog, pig or swine, peacock, emu, ostrich, or hybrid wolf within the City limits, except when confined and in transit through the City.
- (e) *Disturbing the peace.* No person shall own an animal in such a manner that the peace or quiet of the public is unreasonably disturbed.

Sec. 2.01.006 Rabies control.

- (a) The minimum standards for rabies control in Texas contained in the Rabies Control Act, Texas Health and Safety Code, Chapter 826, as amended, are incorporated fully herein by reference and serve as the basis for this Section.
- (b) *Vaccination Required.* All dogs, cats, and household pets over the age of four months within the City shall be immunized against rabies by a licensed veterinarian and by means of any standard vaccine approved by the U.S. Government for the prevention of rabies. The animal must receive a booster within the 12-month interval following the initial vaccination. The animal must be revaccinated against rabies every 12 or 36 months, depending on the vaccine used. The licensed veterinarian who administers such vaccine shall issue to the animal's owner a rabies tag and vaccination certificate which contains the name, address, and telephone number of the owner; the name, species, sex, date of birth, weight, breed, and color of the animal; the type, producer, expiration date, and serial number of the vaccine used; the date vaccinated; the rabies tag number; and the veterinarian license number and signature. The

information on the vaccination certificate is confidential and not subject to disclosure under Texas Government Code Chapter 552, the Public Information Act.

(c) *Report of exposure to rabies.*

- (1) Any veterinarian who shall find any animal within the City limits afflicted with a disease which is transmissible from the animal to man shall immediately report to the local health authority such case together with the name and address of the owner and the location of the premises where the animal can be found.
- (2) Persons having knowledge of any animal exhibiting symptoms of, or exposed to rabies, or that has bitten, scratched, or otherwise attacked, without provocation, an individual or another animal, or that the person suspects to be rabid or could reasonably foresee as capable of transmitting rabies, shall report the animal or incident to the City or the local health authority as soon as possible, but not later than 24 hours from the time of the incident. The report shall include the name and address of any victim to the incident or animal.

(d) *Quarantine procedures.*

- (1) Any animal that bites or reportedly bites a human or is suspected of having rabies shall be isolated in strict confinement at the animal control facility for observation. Such animal shall not be euthanized or released for at least ten days unless, at the discretion of the local health authority, the animal is sacrificed for the purpose of laboratory examination.
- (2) Any currently vaccinated animal that has been bitten by a known or suspected rabid animal shall be revaccinated immediately (within 48 hours) and placed in isolation under observation for a period of 45 days or euthanized. At the discretion of the local health authority, any unvaccinated animal which has been bitten by a known or suspected rabid animal shall be isolated in strict confinement in a place and manner approved by the local health authority and observed for a period of 90 days or euthanized.
- (3) In the event the owner refuses to surrender such animal on demand, such action shall constitute a misdemeanor subject to penalties as provided in this Article.
- (4) The owner of any animal that is isolated shall pay all fees and expenses related to the confinement and disposition, including, when applicable, the charges for preparation and shipment of the animal's head or brain to the nearest Texas Department of Health certified laboratory for rabies diagnosis. All quarantine related payment arrangements shall be at the discretion of the quarantine facility.
- (5) In no event shall any animal subject to this Section be allowed to remain at the owner's home unless a written evaluation by a licensed veterinarian, establishing health and safety, is acquired by the owner and submitted to the local health authority. In addition, the following criteria must be met:
 - a. Approval from the animal control officer at the scene of the incident.
 - b. A secure enclosure must be used to prevent escape.
 - c. The animal has a current vaccination certificate or is an unvaccinated animal under the age of four months.
 - d. The local health authority or a licensed veterinarian must observe the animal, at the very least on the first and last days of the quarantine period.

Sec. 2.01.007 Animal exhibitions.

- (a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or likely cause, physical injury or suffering.
- (b) All equipment used on a performing animal shall fit properly and be in good working condition.

ARTICLE 2.02 ANIMAL CARE

Sec. 2.02.001 Restraint - animals at large.

- (a) Animals at large prohibited. It shall be unlawful for an owner of an animal to allow an animal to chase vehicles or molest, attack, or interfere with other animals or persons on public property, or be at large. The animal control officer is authorized to impound any animal found and determined to be at large.
- (b) All animals shall be kept under restraint at all times while in the City.
- (c) An owner shall exercise proper care and control of their animals to prevent such animals from becoming a public nuisance.
- (d) Every female dog or cat in season (estrus) shall be kept securely confined in such a manner that it cannot come in contact with a male dog or cat except for planned breeding.
- (e) Unlawful restraint of an animal.

(1) An owner may not leave an animal outside and unattended by use of a restraint that unreasonably limits the animal's movement.

(2) In this Section, a restraint unreasonably limits an animal's movement if the restraint:

- a. Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the animal;
- b. Is a length shorter than the greater of:
 - 1. Five times the length of the animal, as measured from the tip of the animal's nose to the base of the animal's tail; or
 - 2. Ten feet;
- c. Is in an unsafe condition; or
- d. Causes injury to the animal.

(3) Exceptions. This section does not apply to:

- a. An animal restrained to a running line, pulley, or trolley system, and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;
- b. An animal restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
- c. An animal restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

- d. An animal restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this State if the activity for which the license is issued is associated with the use or presence of a dog;
- e. An animal restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
- f. An animal restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

Sec. 2.02.002 Number allowed; space and management requirements

- (a) Animals which are normally and customarily kept as pets and not prohibited elsewhere in this Chapter are allowed in any zoning district, provided that such animal(s) are kept in accordance with the requirements of all federal, state, or local regulations. The list of animals authorized by this Section includes pigeons, chickens, pheasants, cows, horses, sheep, goats and other livestock.
- (b) Pigeons. A maximum of 15 pigeons is allowed on a single lot, parcel or tract of land. All pigeons shall be confined at all times in a clean, sanitary cage or loft located at least 75 feet from any residence or adjacent property not owned by the owner of the pigeons.
- (c) Livestock or fowl. A minimum of one acre (43,560 square feet) is required for livestock or fowl. Any fraction of an acre does not count when calculating the number of animals allowed. The maximum number of animals allowed per acre is as follows:
 - (1) Farm animals (horses, cows, sheep, goats, et cetera): Two on any one- or two-acre tract; on tracts larger than two acres, one additional animal is permitted for each additional full acre.
 - (2) Rabbits: Four.
 - (3) Chickens: Five.
 - (4) Turkeys: Three.
 - (5) Other fowl: Two.
- (d) Livestock and fowl shall not be housed within 25 feet of any residence or adjacent property line. No livestock or fowl shall be allowed to roam, graze, or be housed within 200 feet of any food service establishment or food processing establishment.
- (e) Exclusions. Subsections (b) and (c) of this section shall not apply to animal control facilities, veterinary establishments, animal hospitals operated by a licensed veterinarian, or commercial animal establishments located on property zoned for such purposes. Such establishment, however, must meet sanitation requirements and keep animals securely caged or penned. Subsections (b) and (c) shall not be construed to prohibit any person engaged in operating any slaughter house, packing house, or stockyard from keeping livestock for a reasonable length of time while awaiting their use.

Sec. 2.02.003 Treatment and care of animals.

- (a) It shall be unlawful for any person to intentionally or knowingly:
 - (1) Beat, cruelly treat, torment, torture, overload, overwork, or otherwise abuse any animal;
 - (2) Fail unreasonably to provide necessary water, food, care, shelter, and ventilation for an animal in his custody;

- (3) Abandon unreasonably any animal in his custody;
 - (4) Transport or confine any animal in a cruel manner;
 - (5) Kill, injure, or administer poison to an animal. This shall not apply to rodent control or pets brought to an animal facility or veterinarian for euthanasia;
 - (6) Cause or instigate an animal to fight with another;
 - (7) Give away any live animal, fish, reptile or bird as a prize for, or an inducement to enter, any contest, game, or other competition, a place of business, or business agreement;
 - (8) Fail to stop and render assistance or to report an injury or death of a domestic animal to the owner, police department, or animal control officer when one has struck an animal with a vehicle;
 - (9) Allow an animal to ride in the open bed of a vehicle, unless it is restrained in such a way that it cannot jump or accidentally fall out of the vehicle; or
 - (10) Trap an animal by means of a steel jaw leg or neck trap.
- (b) Seizure and disposition of cruelly treated animal. The procedures for the seizure and disposition of a cruelly treated animal as outlined in Texas Health and Safety Code Chapter. 821, Subchapter B, are incorporated fully herein and serve as the basis for this Section.
- (1) If the animal control officer has reason to believe that an animal has been or is being cruelly treated, he may apply to the Municipal Court for a warrant to seize the animal.
 - (2) On showing probable cause that the animal has been or is being cruelly treated, the Court shall issue the warrant and set a time within 10 days of the date of issuance for a hearing in the Court to determine whether the animal has been cruelly treated.
 - (3) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.
 - (4) If the Court finds the animal's owner has not cruelly treated the animal, the Court shall order the animal returned to its owner.
 - (5) If the Court finds the animal's owner has cruelly treated the animal, the Court shall:
 - a. Order a public sale of the animal by auction;
 - b. Order the animal given to a nonprofit animal shelter, pound, or society for the protection of animals; or
 - c. Order the animal humanely destroyed if the Court decides that such action is in the best interests of the animal or that the public health and safety would be served by doing so.
 - (6) The Court may order that the animal disposed under this subsection be spayed or neutered at the cost of the receiving party.
 - (7) The owner of the animal may appeal the order. While the appeal is pending, the animal may not be sold, destroyed, or given away.
 - (8) Notice of the auction shall be posted where all public notices are posted.
 - (9) At the auction, a bid by the former owner or the owner's representative shall not be accepted.
 - (10) Proceeds from the sale of the animal shall be applied first to the expenses incurred in caring for the animal during impoundment and in conducting the auction. Any excess proceeds shall be paid to the Court.
 - (11) If the animal control officer is unable to sell the animal at auction, he may cause the animal to be destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Sec. 2.02.004 Animal waste.

- (a) The owner of an animal shall be responsible for the immediate removal of any feces deposited by the animal on public walks, recreation areas, or private property, excluding the property of the owner.
- (b) The owner of an animal shall keep the area where the animal is kept in a sanitary condition so as not to become an odor nuisance to neighboring property.

Sec. 2.02.005 Inspection of animals and premises.

Animals and the premises where animals are kept or maintained shall be subject to inspection by the City health officer, City health inspector, animal control officer or designee, or a City employee in cases of emergency involving serious threats to the public safety or health.

ARTICLE 2.03 VOCATIONAL EDUCATION PROGRAMS

Sec. 2.03.001 General.

- (a) Animals which are normally and customarily kept as approved 4-H and Future Farmers of America, (“FFA”) projects, including chickens, turkeys, rabbits, sheep/goats, cattle, and horses, will be allowed in any zoning district except where residential deed restrictions disallow such uses. All projects will be based on a confined feeding program with a minimum lot size of one acre with no proration for area less than one acre. Additionally, all projects shall meet the following minimum area requirements:

<i>Project</i>	<i>Maximum Number per Acre</i>	<i>Minimum Specifications</i>
Chickens	50	20'×20' confined feeding area and shelter
Turkeys	50	25'×25' confined feeding area and shelter
Rabbits	25	Individual confinement hutches per head
Sheep or Goats	2 for first acre 1 for each additional acre	8'×16' pen with 3'×6' shelter per 2 head
Cattle	2 for first acre 1 for each additional acre	10'×20' pen with a 6'×8' shelter per animal and an additional 100 sf with 4'×6' shelter per each additional animal
Horses	2 for first acre 1 for each additional acre	10'×20' indoor stall/pen per horse with minimum 40'×40' outside corral allowed

- (b) Multiple projects on the same acreage shall meet the minimum area specifications for each project.
- (c) Livestock and fowl shall not be housed within 25 feet of any residence or adjacent property line.
- (d) Agricultural education project center housing facilities, including those on a high school campus, are exempt from the number of animal provisions of this Section.
- (e) The confined area must be kept clear of all manure in order to reduce odor and insects.
- (f) All livestock must have a feeding program consistent with best management feeding practices and a high-quality water source at all times.
- (g) Licensing requirements do not apply to approved projects.

- (h) At the discretion of the Chief Administrative Officer of the City, a complaint of public nuisance or violation of good animal husbandry practices may be mediated by City officials and 4-H and FFA leaders in an attempt to foster responsible project management, good citizenship, and community responsibility. Failure to resolve or abate unsatisfactory conditions within 14 days from the first complaint shall be cause for civil or criminal action under the provisions of this Chapter.

ARTICLE 2.04 DOGS AND CATS

Sec. 2.04.001 Number allowed.

It shall be unlawful for a person to own more than four adult dogs and four adult cats in any residential district within the City. Veterinarian facilities, pet shops and animal care facilities are exempt from this requirement.

Sec. 2.04.002 Unlawful restraint of dog.

- (a) The minimum standards for restraint of a dog are contained in the Texas Health and Safety Code, Section 821.102, as amended, are incorporated fully herein by reference and serve as the basis for this Section.
- (b) An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
- (1) adequate shelter;
 - (2) an area that allows the dog to avoid standing water and exposure to excessive animal waste;
 - (3) shade from direct sunlight; and
 - (4) potable water.
- (c) An owner may not restrain a dog outside and unattended by use of a restraint that:
- (1) is a chain;
 - (2) has weights attached;
 - (3) is shorter in length than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (B) 10 feet; This subsection does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subdivision; or
 - (4) is attached to a collar or harness not properly fitted.
- (d) Exceptions. This section does not apply to:
- (1) the use of a restraint on a dog in a public camping or recreational area in compliance with the requirements of the public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

- (2) the use of a restraint on a dog while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by this state provided the activity is associated with the use or presence of a dog;
 - (3) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of shepherding or herding cattle or livestock;
 - (4) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of cultivating agricultural products;
 - (5) a dog left unattended in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;
 - (6) a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in an activity that requires the dog to be temporarily restrained;
 - (7) a dog restrained while the owner and dog are engaged in, or actively training for, hunting or field trialing; or
 - (8) a person walking a dog with a handheld leash.
- (e) A person commits an offense if the person knowingly violates this section. The restraint of each dog that is in violation is a separate offense.
 - (f) An offense under this section is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted under this section.
 - (g) If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Sec. 2.04.003 Rabies vaccination required.

All dogs and cats over the age of four months within the City shall be immunized against rabies, at a minimum of every 12 or 36 months, depending on the vaccine used, by a licensed veterinarian and by means of any standard vaccine approved by the U.S. Government for the prevention of rabies.

Sec. 2.04.004 Impoundment and violation notice.

- (a) Unrestrained animals or animals deemed to be a public nuisance shall be taken by the animal control officer and impounded in an animal control facility.
- (b) Impounded animals which have a current rabies tag attached to a collar about the animal's neck or other identifying markings will be kept for at least five business days. Animals with no rabies tag or identifying marking will be kept at least three business days. However, if, in the opinion of the animal control facility veterinarian, the animal is too sick or injured to survive the impoundment period, it may be immediately euthanized.
- (c) If the owner of an impounded animal can be identified, the animal control officer shall notify the owner as soon as possible.
- (d) In addition to, or in lieu of, impounding an animal found at large, the animal control officer may issue to the known owner of such animal a notice of ordinance violation.
- (e) It shall be unlawful for any person to rescue or turn loose impounded animals from the animal control vehicle, animal control facility, or live traps without the consent of the animal control officer.

Sec. 2.04.005 Redemption or adoption of impounded animals.

- (a) Any animal may be claimed by its owner upon payment of all fees and expenses related to the impoundment.
- (b) Animals must have a current vaccination tag prior to being redeemed or adopted.
- (c) Any animal not claimed in a facility by its owner within three days (unidentified owner), or five days (identified owner), shall become the property of the City, or the facility, and shall be placed for adoption in a suitable home or humanely euthanized.
- (d) Any animal placed for adoption will be surgically sterilized prior to its release to the new owner.
- (e) Adoption fees will include any fee or expense related to the animal's confinement, medical attention, vaccinations, and surgical procedures. Adoption fees will be paid directly to the animal control facility.

Sec. 2.04.006 Dangerous dogs.

- (a) The minimum regulations for dangerous dogs in Texas Health and Safety Code Chapter 822, as amended, are incorporated fully herein and serve as the basis for this Section.
- (b) Requirements for owner of dangerous dog. Not later than the 30th day after a person learns that he is the owner of a dangerous dog, the person shall meet the following requirements:
 - (1) *Confinement.* All dangerous dogs shall be confined in a secure enclosure.
 - (2) *Leash and muzzle.* The owner of a dangerous dog shall not allow the animal to go outside its kennel, pen or structure unless the animal is muzzled, restrained by a chain or leash not more than four feet in length, and under the physical control of a person. The muzzle must not cause injury to the animal or interfere with its vision or respiration, but must prevent the animal from biting any human or animal.
 - (3) *Signs.* The owner of a dangerous dog shall display in a prominent place on the owner's premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. The sign must be readable from the public roadway or thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a dangerous dog. Similar signs shall be posted on the animal's kennel, pen or enclosed structure.
 - (4) *Registration.* Every person who owns a dangerous dog must annually register such animal with the animal control officer. A collar on the animal identifying the animal as a dangerous dog must be worn at all times. Such collars must also have the owner's name and address. A registration fee, as prescribed by the most recent Municipal Fee Schedule, shall be charged for each dog.
 - (5) *Insurance.* The owner of a dangerous dog must provide proof to the City that the owner has procured public liability insurance of at least \$100,000.00, insuring the owner for any damage or personal injury which may be caused by the animal.
 - (6) The owner of a dangerous dog who does not comply with the requirements of this Section shall deliver the dog to the animal control officer not later than the thirtieth (30th) day after the owner learns that the dog is a dangerous dog.
- (c) Seizure of a dog causing death or serious bodily injury to a person.
 - (1) The Municipal Court shall order the animal control officer to seize a dog that causes death or serious bodily injury to a person and shall issue a warrant authorizing the seizure:

- a. On the sworn complaint of any person, including the attorney or a peace officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
 - b. On the showing of probable cause that the dog caused the death of or serious bodily injury to the person, as stated in the complaint.
- (2) The animal control officer shall seize the dog and shall provide for the impoundment of the dog in a secure and humane condition until the Court orders the disposition of the dog.
 - (3) The Court shall set a time for the hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the tenth day after the date on which the warrant is issued.
 - (4) The Court shall give written notice of the time and place of the hearing to the owner of the dog or the person from whom the dog was seized and the person who made the complaint.
 - (5) Any interested party, including the City Attorney, is entitled to present evidence at the hearing.
 - (6) The Court may order the dog destroyed if the Court finds that the dog caused the death of a person by attacking, biting, or mauling the person. If that finding is not made, the Court shall order the dog released to its owner, the person from whom it was seized or any other person authorized to take possession of the dog.
 - (7) The Court may not order the dog destroyed if the Court finds that the dog caused the serious bodily injury to a person by attacking, biting or mauling the person and:
 - a. The dog was being used for the protection of a person or a person's property; and the attack, bite, or mauling occurred in an enclosure in which the dog was being kept; and the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and the injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
 - b. The dog was not being used for the protection of a person or person's property; and the attack, bite or mauling occurred in an enclosure in which the dog was being kept; and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
 - c. The attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
 - d. The dog was defending a person from an assault or person's property from damage or theft by the injured person; or
 - e. The injured person was younger than eight years of age; the attack, bite, or mauling occurred in an enclosure in which the dog was being kept; and the enclosure was reasonably established to keep a person younger than eight years of age from entering.
 - (8) Destruction of dog. The destruction of a dog under this Subsection must be performed by a licensed veterinarian; or personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

(d) Dangerous dog declaration and procedure.

- (1) If the animal control officer has cause to believe that an animal is dangerous, he may find and declare that animal dangerous and shall notify the owner, in writing, of that fact.

- (2) If the owner cannot be located, the animal may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address.
 - (3) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control officer to the Municipal Court. An owner may appeal the decision of the Municipal Court in the same manner as an appeal for other cases from the Municipal Court.
 - (4) Upon application, the Court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with the requirement for keeping a dangerous dog. The hearing must be set not later than the tenth day after the date on which the dog is seized or delivered.
 - (5) The Court shall give written notice of the time and place of the hearing to the owner of the dog or the person from whom the dog was seized and the person who made the complaint. Any interested party, including the City Attorney, may present evidence at the hearing.
 - (6) If the animal has attacked, bitten or injured a human being or domestic animal and the circumstances indicate that there is a probability of additional occurrences, and that the animal poses a threat of serious harm to the public health and safety, the animal control officer may order the impoundment and destruction of the animal after notifying the owner. Such notice shall be in writing and shall be issued within two days of the impoundment.
 - (7) The owner shall have the right to a hearing as outlined above.
 - (8) If the owner fails to request a hearing or fails to appear at the hearing, the animal will be destroyed.
 - (9) If a Court finds, after notice and hearing as provided in this Subsection, that the owner of a dangerous dog has failed to comply with the requirements for keeping a dangerous dog, the Court shall order the animal control officer to seize the dog and shall issue a warrant authorizing the seizure. The animal control officer shall seize the dog and provide for its impoundment in secure and humane conditions.
 - (10) The owner shall pay any cost or fee assessed by the City related to the seizure, acceptance, impoundment, or destruction of the dog.
- (e) Immediate destruction of the animal if warranted. Nothing in this Section shall be construed to prevent the immediate destruction by the animal control officer of any vicious animal when less drastic methods, such as tranquilizing, are not effective or available or when the animal cannot be restrained or controlled.
- (f) Reporting requirements.
- (1) If the owner of a registered dog sells or moves the dog to a new address, the owner, not later than the 14th day after the sale or move, shall notify the animal control officer of the new address.
 - (2) The owner of a registered dangerous dog shall notify the animal control officer of any attacks the dangerous dog makes on people.
- (g) Consequences of attacks by dangerous dog.
- (1) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
 - (2) An offense under this section is a Class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor.

- (3) If a person is found guilty of an offense under this Section, the Court may order the dangerous dog destroyed by a licensed veterinarian.

Sec. 2.04.007 Feral cats.

A feral cat trap-neuter-return (TNR) program shall be established by the City for the purpose of eliminating a potential public health or public safety threat, a nuisance, or for the welfare of the animal. The animal control officer shall develop policies and operational procedures for the trapping and disposition of feral cats. The City may partner with an animal advocacy group on the establishment of a TNR program.

ARTICLE 2.05 COMMERCIAL ANIMAL ESTABLISHMENTS

Sec. 2.05.001 Permits.

- (a) No person, partnership, or corporation shall open or operate a commercial animal establishment without first obtaining a permit in compliance with this Chapter and the City of Johnson City Zoning Code.
- (b) The City shall publish these regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this Chapter and other applicable laws. The City may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.
- (c) Upon a showing by the applicant for a permit that they are willing and able to comply with the regulations published by the City, a permit shall be issued upon payment of the applicable fee.
- (d) The permit period shall begin on January 1 of each year and shall run for one year. Fees will be prorated for applications received during the year.
- (e) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon payment of a transfer fee.
- (f) Annual permit fees will be charged in accordance with the most recent adopted fee schedule passed and approved by the City Council.
- (g) A permit may be revoked upon violation by the permit holder of any provision of this Chapter.
- (h) Denial of a permit application or revocation of a permit may be appealed to the City Council who shall hear the appeal, after proper posting, at the next scheduled regular council meeting.

Sec. 2.05.002 Facility standards.

(a) General.

- (1) Structural strength. Housing facilities shall be structurally sound and shall be maintained in good repair to protect and contain animals and restrict the entrance of other animals.
- (2) Fencing. Fencing shall be solidly anchored to the ground to prevent animals from escaping by digging under the fence and sufficient height to prevent animals from escaping.
- (3) Water and electricity. Adequate potable water and reliable and adequate electric power shall be available.
- (4) Storage. Food and bedding supplies shall be stored in facilities which protect them against infestation or contamination by vermin. Refrigeration shall be provided for perishable food items.

- (5) Waste disposal. Provisions shall be made for the removal and disposal of food and animal wastes, bedding, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards.
- (6) Washrooms. Facilities, such as washrooms, basins, or sinks, shall be provided to maintain cleanliness among animal caretakers.

(b) Indoor facilities.

- (1) Heating. Indoor housing facilities shall be sufficiently warm enough to protect animals from cold.
- (2) Bedding. Sufficient clean bedding material and other means of protection shall be provided when the ambient temperature falls below the temperature to which an animal is acclimated.
- (3) Ventilation. Indoor housing facilities shall be adequately ventilated to provide for the health and comfort of the animals at all times. Fresh air shall be provided by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or air conditioning, shall be provided when the ambient temperature is 85 degrees Fahrenheit or higher within the facility.
- (4) Lighting. Indoor housing facilities shall have ample light by natural or artificial means. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period.
- (5) Surfaces. The interior building surface shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.
- (6) Drainage. A suitable method shall be provided to rapidly eliminate excess liquid from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors. Closed drainage system, shall be equipped with traps and so installed as to prevent any backup of sewage onto the floor of the room.

(c) Outdoor facilities.

- (1) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all animals to protect themselves from the direct rays of the sun.
- (2) Shelter from rain. Adequate shelter shall be provided to allow animals to remain dry.
- (3) Shelter from cold. Adequate shelter shall be provided for all animals when the temperature falls below 50 degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which an animal is acclimated.
- (4) Drainage. A suitable method shall be provided to rapidly eliminate excess liquid.

(d) Space requirements.

- (1) Primary enclosures must be large enough so that animals may obtain adequate exercise. Separate kennels used as sleeping quarters must provide sufficient space to allow each animal to turn about freely, stand easily, sit, and lie in a comfortable, normal position.
- (2) A primary enclosure shall never house more than 12 dogs.
- (3) Dog kennel houses and primary enclosures shall meet the following minimum space requirements:

Dog's Weight	Primary Width	Enclosure Sq. Ft.	House Width	House Sq Ft.
Up to 15 lbs	2.0 ft.	6.0	1.5 ft.	3.0
15 to 35 lbs.	2.5 ft.	10.0	2.0 ft.	5.0
35 to 65 lbs.	3.0 ft.	15.0	2.5 ft.	7.5
65 to 95 lbs.	3.0 ft.	18.0	2.5 ft.	9.0
95 to 130 lbs.	3.5 ft.	24.0	3.0 ft.	12.0
Over 130 lbs.	4.0 ft.	32.0	3.5 ft.	14.0

(4) If the primary enclosure or kennel contains more than one dog, the minimum number of square feet required is the sum of the square feet requirements for each individual dog.

(e) Food and water.

- (1) Animals shall be provided food which shall be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
- (2) Food receptacles shall be accessible to all animals and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and clean. Food receptacles shall be sanitized at least once every two weeks. Self-feeders may be used for dry food, and they shall be sanitized regularly to prevent molding, deterioration or caking of feed.
- (3) Clean potable water shall be available to the animals at all times, unless restricted for veterinary care. Containers shall be designed to prevent tipping and spilling of water. Containers shall be clean and sanitized at least once every two weeks.

(f) Sanitation.

- (1) Cleaning. Feces shall be removed daily to prevent contamination of the animals and to reduce disease hazards and odors. Rugs, blankets, and other bedding material shall be kept clean and dry.
- (2) Sanitizing. Prior to the introduction of animals into empty previously occupied enclosures, such enclosures shall be sanitized to prevent an accumulation of debris, feces, or any disease hazard, and shall be repeated at a minimum of once every two weeks. Cages, rooms, and hard surfaced pens and runs shall be sanitized by washing them with hot water (180 degrees Fahrenheit) and soap or detergent; by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant; or by cleaning all soiled surfaces with live steam. Pens and runs using gravel, sand, or dirt shall be sanitized by removing the soiled gravel, sand, or dirt and replacing it as necessary.
- (3) Housekeeping. Premises shall be kept clean and in good repair in order to protect the animal from injury and to facilitate prescribed husbandry practices. Premises shall remain free of accumulations of trash, debris, or feces.
- (4) Pest control. An effective program for the control of insects, parasites, and vermin shall be established and maintained.
- (5) Employees. A sufficient number of caretakers shall be utilized to maintain the standards set forth in this Section.
- (6) Classification and separation. Animals housed in the same enclosure shall be maintained in compatible groups with the following restrictions:

- a. Females in season (estrus) shall not be housed in the same enclosure with males, except for breeding purposes.
 - b. Any animal exhibiting a vicious disposition shall be housed individually.
 - c. Dogs shall not be housed with cats, nor shall dogs or cats be house with other species, except at the request of the owner.
 - d. Puppies and kittens shall not be housed with adult dogs or cats, other than their dames, except at the request of their owner.
 - e. Animals under quarantine or treatment for a communicable disease shall be separated from other animals in such a manner so as to minimize dissemination of the disease.
 - f. Animals with substantial injuries shall be housed separately from other animals.
- (g) Records. The kennel operator shall keep available for inspection a record that shows the name, address, and telephone number of owners of each animal at the kennel; the description, age, breed, sex, and color of each animal; and a current rabies certificate for each animal.
 - (h) Inspection. The City has the right to inspect the facilities. As a condition of the issuance of a permit, each operator agrees to allow such inspection.

ARTICLE 2.06 ENFORCEMENT

Sec. 2.06.001 Offenses and penalties

- (a) A person commits an offense if the person violates any provision of this Chapter. A violation of this Chapter is a misdemeanor.
- (b) Each day a violation continues shall be deemed a separate offense.
- (c) An offense under this Chapter is a Class C misdemeanor, punishable by a fine not exceeding \$500.00.
- (d) An offense where a dog attack results in serious bodily injury or death is a Class A misdemeanor punishable as prescribed under state law.
- (e) A repeat offense of a violation of unlawful restraint of a dog is a Class B misdemeanor punishable as prescribed under state law.
- (f) For a violation of this chapter which is also a violation of state law, the state punishment applies.
- (g) The City shall be entitled to pursue all other criminal and civil remedies, including injunctive relief, to which it is entitled under the authority of other ordinances or state law.
- (h) The City shall be entitled to any and all costs for services associated with removal of an animal from a property where the property owner could not be located or refused to allow removal when deemed necessary by the animal control officer.

Sec. 2.06.002 Enforcement

- (a) The provisions of this Chapter shall be enforced by the animal control officer who shall have the authority to issue citations to a person violating the provisions of this Chapter.
- (b) It shall be unlawful for any owner or person to interfere with an animal control officer in the performance of duties under this Chapter.
- (c) The City shall have the right to abate a nuisance proscribed in this Chapter.
- (d) Right of Entry.

- (1) The animal control officer shall have the authority to enter upon property for the purpose of enforcing the provisions of this Chapter provided that if such property is occupied, the

- officer shall first present proper credentials to the occupant and request to enter, explaining the reason for entry and obtaining permission from said occupant.
- (2) Should an animal control officer be unable to determine whether a violation exists on a premises, and should the officer be denied admission to inspect the premises, the officer is authorized to request from the municipal judge, a magistrate, or justice court a warrant to enter and inspect the premises.
 - (3) If the animal control officer has reasonable cause to believe that the keeping or the maintaining of any animal is so hazardous, unsafe or dangerous as to require immediate inspection of a premises to safeguard the animal or the public health or safety, the officer shall have the right to immediately enter and make such inspection, whether or not permission to inspect has been obtained.
 - (4) An animal control officer pursuing an animal which runs at-large onto private property while enforcing the provisions of this Chapter shall not be guilty of trespass onto the private property.

ARTICLE 2.01 GENERAL PROVISIONS^{*}**Sec. 2.01.001 Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

Abandoned animal. Any animal that has not been provided with one (1) or more of the necessities of life, including air, food, water or protection from the sun and other elements of nature, or has been left in the custody of another person without their consent.

Adult animal. An animal that is six (6) months of age or older.

Animal. Any live, vertebrate creature, domestic or wild.

Animal control authority/enforcement officer. All officers of the city police department and/or any person or persons designated by the city as the animal control authority, whether one or more, or his or her designee.

At-large.

(1) Off-premises. Any animal which is not restrained by means of a leash of sufficient strength to control the actions of such animal while off the owner's property.

(2) On-premises. Any animal not confined on the premises of the owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom.

Cat. An animal that is a member of the feline family (*Felis domesticus*).

Commercial animal establishment. Any pet shop, auction, riding school or stable, zoological park, circus, recurring animal exhibition or kennel.

Currently vaccinated. Vaccinated against rabies and satisfying the following criteria:

(1) The animal must have been at least three (3) months of age at the time of vaccination;

(2) At least thirty (30) days have elapsed since the animal was vaccinated; and

(3) Not more than 48 months have elapsed since the date of the most recent vaccination of the animal.

Dangerous animal. Any animal that inflicts bodily injury on any person or animal, subject to the further provisions hereof.

Dog. An animal that is a member of the canine family (*Canis familiaris*).

Kennel.

(1) Any lot, building, structure, enclosure or premises where five (5) or more adult animals are kept; and

(2) Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, cats, or other animals.

Notice/official notice. Whenever notice is required by the animal control authority or an enforcement officer, it shall mean notice by personal service, certified mail return receipt requested, or a written notice left at the entrance to the premises where the animal is harbored.

Owner. Any person, trust, partnership, corporation, or any other entity owning, keeping, or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

Pet. Any animal kept for pleasure rather than utility.

Secure enclosure. A fenced pen, kennel or structure that is locked, and is capable of preventing the entry of the general public, including children; is capable of preventing the escape or release of an animal; is clearly marked as containing a quarantined/dangerous animal; and is in conformance with any additional requirements for enclosures, as established and provided in writing to the owner by the animal control authority.

Tract. A contiguous parcel of land under common use or ownership.

Trap-neuter-return. A nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, eartipped, and then returned to the location where they were originally trapped or to another community cat colony when authorized under section 2.01.009.

Vaccination. An injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) months, or as prescribed by the state board of health, by a licensed veterinarian.

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

(Ordinance 16-0402 adopted 4/5/16)

Wild animal. Any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated and for which there is no approved rabies vaccine. (Ordinance 16-0702 adopted 7/5/16)

Sec. 2.01.002 Penalties; additional remedies

(a) Violation of any provision of this chapter is a misdemeanor, and a person, upon conviction thereof, shall be punished by a fine not exceeding \$500.00. For a violation of this chapter which is also a violation of state law, the state punishment applies.

(b) In addition to the penalties provided above, procedures and penalties (both civil and penal) set forth in the laws of the state with regard to the treatment, registration, keeping or use of animals which are permitted to be adopted by municipalities are specifically adopted hereby by the city. Each day a violation continues shall be deemed a separate offense.

(c) The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of other ordinances or state law.

Sec. 2.01.003 Enforcement

(a) The provisions of this chapter shall be enforced by any enforcement officer, and such persons shall have the authority to issue citations to persons violating the provisions of this chapter.

(b) It shall be unlawful for any owner or person to interfere with an enforcement officer in the performance of his or her duties as prescribed by this chapter.

(c) Those enforcing the provisions hereof shall have the right to pursue and apprehend animals running at-large onto private property while enforcing the provisions of this chapter, and shall not be guilty of trespass while doing so.

Sec. 2.01.004 Dangerous animals generally; dangerous dogs

(a) The provisions of sections 822.001 through 822.005 (subchapter A), sections 822.011 through 822.013 (subchapter B) and sections 822.041 through 822.047 (subchapter D) of the Texas Health and Safety Code of the state are hereby adopted and incorporated in this code as though the same were fully set out herein. Any future modifications of such laws of the state shall automatically be incorporated herein. References herein to any of said sections will mean the relevant sections of the Health and Safety Code.

(b) Whenever in the above-incorporated sections reference is made to the animal control authority, it shall refer to the code enforcement officer of the city.

(c) An owner of a dangerous dog may, as an alternative to the provisions of section 822.042, remove the dangerous animal from the city limits or surrender the animal for humane destruction or have the same performed within twenty-four (24) hours after learning that the animal is dangerous or upon quarantine clearance, whichever is later.

(d) The liability insurance required under section 822.042 is to be in an amount of at least \$100,000.00, and shall be for bodily injury or property damage.

(e) All owners of dangerous animals shall provide to the city two (2) color photographs of the animal in two (2) different poses showing the color and approximate size of the animal.

(f) The owner of a dangerous animal is required to have the animal wear, at all times, a tag denoting the dangerous dog designation.

(g) No dangerous animal may be kept on a porch or patio, or in any part of a house or structure, even

if restrained, that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.

(h) No person shall permit a dangerous animal to go outside its secure enclosure unless such animal is securely leashed. No person shall permit a dangerous animal to be kept on a chain, rope, or other type of leash outside its secure enclosure unless a person is in immediate physical control of the leash.

(i) All owners of dangerous animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "beware - dangerous animal." The sign is to be no smaller than twelve (12) inches by twelve (12) inches and shall not exceed eighteen (18) inches by twenty-four (24) inches in size. In addition, a similar sign shall be posted on the kennel or pen of such animal.

(j) All owners of registered dangerous animals shall, within ten (10) calendar days of the occurrence, report the following in writing to the enforcement officer:

- (1) Removal from the city, or death of said animal;
- (2) Written proof of new address if the animal is sold and/or moves within the city.

(k) An owner of a dangerous animal shall notify the city police department of any attack the animal makes on any person or any animal.

(l) A dangerous animal may be destroyed during an attempt to seize or impound the animal, if impoundment cannot be made with safety, wherever the impoundment is attempted, without liability to an owner of a dangerous dog.

(m) (1) Should any person other than an enforcement officer desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with the police department of the city containing:

- (A) The name, address and telephone number of the complainant and other witnesses;
- (B) The date, time, and location of any incident involving the animal;
- (C) A description of the animal;
- (D) The name, address, and telephone number of the animal's owner, if known;
- (E) A statement describing the facts of death or serious bodily or animal injury upon which such complaint is based; and
- (F) A statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.

(2) After a sworn complaint is filed, it shall be referred to an enforcement officer and/or the municipal court for processing and hearing in accordance with the provisions of the above-referenced sections of the Health and Safety Code of the state.

State law references—Dogs that attack persons or are a danger to persons, V.T.C.A., Health and Safety Code, sec. 822.001 et seq.; Dogs and coyotes that are a danger to animals, V.T.C.A., Health and Safety Code, sec. 822.011 et seq.; Dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.

Sec. 2.01.005 Dogs running at-large

It shall be unlawful for any owner or person to allow a dog to be at-large. All dogs shall be kept under restraint. It shall be a defense to the definition of "at-large" if the animal is participating in an organized training or demonstration event, in which case the animal must be under the control of a person in the immediate vicinity of the animal, or when the animal and the person accompanying it are not in reasonable proximity to any other person or animal and is in a public area designated and posted for the free run or play of animals.

State law references—Restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, Sec. 826.033.

Sec. 2.01.006 Impoundment

(a) Generally.

(1) Any enforcement officer or the animal control authority may take up and confine any animal found at-large or otherwise in violation of this chapter. All confinements shall be at a private animal shelter or, if deemed necessary, at a qualified veterinary hospital/clinic for which the owner must pay all of the

clinic's fees prior to reclaiming the animal.

(2) If the owner, keeper, or harbinger of such animal is known or can be readily ascertained, the animal control officer shall notify him or her by telephone, personal service, certified mail, or door tag not later than twenty-four (24) hours following the beginning of the next business day after such confinement or after obtaining owner information. If the owner cannot be ascertained, every attempt shall be made to find the owner including online posting, scanning for a microchip, and following up on contact information on an animal's tags. In the case of confined dogs or cats, if the animal is unclaimed after three business days, the enforcement officer will work with private animal shelter staff to assess the animal's condition and whether to set it up for adoption. If the animal is deceased during the three days in confinement, the owner shall be notified.

(3) The enforcement officer may, as an alternative to taking custody of the animal, issue a written order to the owner or person in possession of the animal found in violation of this chapter to confine the animal or to quarantine the animal, either at the owner's or possessor's property or a veterinary clinic/hospital of the enforcement officer's discretion. Failure of any person so ordered to follow such order of the enforcement officer shall also be a violation of this chapter.

(b) Dangerous animals. If impoundment of a dangerous animal 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 harbinger. If an attempt is made to seize or impound a dangerous animal from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given twenty-four (24) hours' notice that, if the animal is not surrendered to the enforcement officer for impoundment within said twenty-four hour period, then the animal will be destroyed wherever it is found. Notice under this section shall be in writing. A written notice left at the entrance to the premises where the dangerous animal is harbored will be considered valid notice under this section. In lieu of surrendering the animal to the enforcement officer, an owner may permanently remove said animal from the city, if written proof of destination is provided to the enforcement officer. To the extent reasonably possible, the enforcement officer shall notify the private animal shelter prior to destruction of a dangerous animal.

(c) Unredeemed animals. Any animal not redeemed within three business days following confinement is subject to a determination regarding the disposition of the animal by the enforcement code officer or other animal control authority in consultation with private animal shelter staff. The animal shelter shall be entitled to dispose of such animals by adoption, humane euthanasia, or in such manner as previously agreed upon between the city and the owner of the animal hospital or shelter.

Sec. 2.01.007 Wild/prohibited animals

(a) No owner shall keep or permit to be kept on his premises or premises under his control any wild/prohibited or dangerous animal for sale, display, or exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to any persons or entities as defined by section 822.102(a), subsections (1) through (11), of the Health and Safety Code.

(b) No person shall keep or permit to be kept any wild or prohibited animal as a pet.

(c) An enforcement officer may issue temporary approval for keeping, care, and protection of an injured, newborn or immature animal native to this area which it deems to be incapable of caring for itself. The enforcement officer shall contact the private animal shelter for arrangements to rehabilitate such wildlife.

(d) The feeding of wild/prohibited animals within city limits is prohibited.

State law reference—Dangerous wild animals, V.T.C.A., Health and Safety Code, Sec. 822.101 et seq.

Sec. 2.01.008 Nuisances

(a) Unsanitary or offensive conditions. It shall be unlawful and constitute a public nuisance for any person to maintain any animal or fowl in such a manner or allow any pen, enclosure, yard or similar place used for the keeping of animals or fowl to become unsanitary, or offensive by reason of odor, or create a condition that is a breeding place for fleas or other vectors and which is offensive to persons of ordinary sensibilities residing in the vicinity thereof or is determined to be a public nuisance by any enforcement officer.

(b) Animals or fowl at-large. It shall be unlawful and constitute a public nuisance for any person to maintain any animal or fowl which repeatedly roams at-large in violation of this chapter on public or

private property, attacks another animal(s), or damages public or private property.

(c) Removal of animal waste. It shall be unlawful and constitute a public nuisance for the owner of any animal to allow any excreta deposited by his animal to remain on public or private property. The creation of any condition injurious to public health caused by the lack of or improper disposal of animal waste will also be considered a violation of this section.

(d) Noisy animals. It shall be unlawful and constitute a public nuisance to keep any animal which, by causing frequent or long-continued barking, howling, crowing, meowing, or other noise, shall disturb any person of ordinary sensibilities residing in the vicinity of the premises where the animal is kept, housed or harbored.

(e) Allowing animal to remain nuisance. It shall be unlawful for any owner or person to allow any animal to remain a public nuisance as defined herein. The enforcement officer shall provide information and/or advise an owner or person of available resources to assist in abating the nuisance.

(f) Feeding animals. It shall be unlawful and constitute a public nuisance for any person to feed any animal which is not owned by that person and which is then on public property or not then on property owned or controlled by such person or on which such person is employed. It is an exception to this provision if the person is feeding animals at the request of the owner(s) of the property on which the feeding occurs or with the permission of an enforcement officer. The city shall work with private animal groups to create a program to control the feeding of feral cats.

Sec. 2.01.009 Traps or equipment set out by enforcement officer

(a) No person shall remove, alter, damage, or otherwise tamper with a trap or equipment set out by an enforcement officer or labeled as part of the trap-neuter-release program for cats.

(b) A property owner or occupant of a premises may confine or trap an animal, in a humane manner approved by the code enforcement officer, habitually found without the owner's or occupant's consent upon the premises of such owner or occupant. After confining or trapping an animal, the person shall immediately, within 12 hours of trapping, notify the code enforcement officer for determination of its disposition, including spay/neuter and release. It shall be a violation for any person to confine or trap an animal without promptly notifying the code enforcement officer. Trapped animals must be provided food and water. Injured trapped animals must be transported to a veterinarian immediately.

(c) Trapping done by a feral cat or animal advocacy group that is approved by the code enforcement officer shall be exempt from this subsection.

(d) A feral cat trap-neuter-return program shall be established by the city. The code enforcement officer shall develop policies and procedures to be approved by city council for the trapping and disposition of feral cats for the purpose of eliminating a potential public health or public safety threat, a nuisance, or for the welfare of the animal. The city may partner with an animal advocacy group on the establishment of a TNR program.

Sec. 2.01.010 Confinement of female dogs in heat

The owner of any female dog shall keep such dog confined in a secure enclosure during the time that such dog is in heat to prevent the attraction of other dogs.

Sec. 2.01.011 Restraining devices

(a) When a restraint is used to tether an animal, it shall be placed or attached so that it cannot become entangled with the restraining device of any other animal or with any other object. A restraint unreasonably limits a dog's movement if the restraint:

(1) Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;

(2) Is a length shorter than the greater of:

(A) Five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;

(3) Is in an unsafe condition; or

(4) Causes injury to the dog.

(b) A restraint shall be defined as a chain, rope, tether, leash, cable or any other device attached to a

stationary device.

- (c) The restraint must be longer than five (5) times the length of the dog or at least ten (10) feet and must not cause peril to the dog.
- (d) The collar attached to the restraint must be the circumference of the dog's neck plus one (1) inch.
- (e) An owner may leave a dog restrained for a reasonable period of time. A reasonable period of time is one that does not exceed 3 hours in a 24-hour period and is no longer than necessary for the owner to complete a temporary task that requires the dog to be chained.
- (f) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement between the hours of 10:00 p.m. and 6:00 a.m., within 500 feet of a school, or during extreme weather. Extreme weather is considered less than 32 degrees Fahrenheit, during a heat advisory or hurricane, tornado, tropical storm, or flood warning.
- (g) An exception to this section is the use of a restraint for a pulley or trolley system.
- (h) This section is provided and to be enacted in conjunction with state law, Texas Health and Safety Code section 821.077. Unlawful restraint of dog and its penalties stated therein.
- (i) Should a violation of this section occur, at the discretion of an enforcement officer, after attempting to locate the animal's owner, the officer may enter onto private property for the sole purpose of removing the animal. If professional services are required to remove the animal, the owner is responsible for any and all costs associated therewith.

State law reference—Unlawful restraint of dog, V.T.C.A., Health and Safety Code, sec. 821.076 et seq.

Sec. 2.01.012 Animal cruelty

- (a) It is unlawful for any person to intentionally or knowingly:
 - (1) Torture an animal;
 - (2) Fail unreasonably to provide necessary food, care and shelter for an animal in the person's custody. An animal enclosure shall be structurally sound and maintained in good repair. Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters;
 - (3) Abandon unreasonably an animal in person's custody;
 - (4) Transport or confine an animal in a cruel manner;
 - (5) Kill, seriously injure, or administer poison to an animal belonging to another without legal authority or the owner's effective consent, except when an animal is discovered on the person's property in the act of or immediately after injuring or killing livestock, fowl or any domestic animal;
 - (6) Cause one animal or fowl to fight with another;
 - (7) Use a live animal as a lure in dog race training or in a dog coursing on a racetrack;
 - (8) Trip a horse;
 - (9) Seriously overwork an animal;
 - (10) Tether an animal in a manner that causes injury or death; or
 - (11) Allow conditions that cause or permit unwarranted pain and suffering.
- (b) This section applies to any person in possession of an animal regardless of ownership. It is a defense to prosecution that the conduct engaged in involved self-defense, or is a bona fide scientific experimentation, or is related to wildlife management.

Sec. 2.01.013 Animal breeding

Dog and cat breeders who have 11 or more intact females and sell 20 or more puppies/kittens in any calendar year must have a license from the Texas Department Licensing and Regulation. Breeders must meet with standards of housing and care for animals and must comply with state agency rules and regulations for animal inspections and annual veterinary examinations.