

**ORDINANCE NO. 2026**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 4 OF THE HURST CODE OF ORDINANCES ENTITLED, "ANIMAL CONTROL AND PROTECTION"; PROVIDING PENALITIES, PROVIDING A SEVERANCE CLAUSE; AND PROVIDING FOR PUBLICATION.**

**WHEREAS,** the City Council desires to update the City provisions dealing with animal control to better serve the health and needs of those living within its limits;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HURST, TEXAS;**

Section 1: That Chapter 4 of the Hurst Code of Ordinances is hereby repealed and replaced to read as set forth in Exhibit "A" hereto.

Section 2: This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Hurst, Texas, and this ordinance shall not operate to repeal or affect any other ordinance except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby required.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reasons held unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 4: Any person, firm or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than two thousand dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.


Section 5: This ordinance shall become effective from and after its passage and approval.

**IT IS SO ORDERED.**

Passed on first reading on the 24<sup>th</sup> day of July 2007, by a vote of 5 to 0.

Passed on second reading on the 14<sup>th</sup> day of August, 2007, by a vote of 6 to 0.

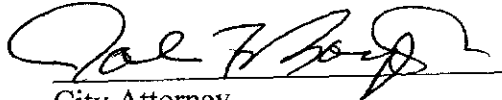
**CITY OF HURST**

  
Richard Ward, Mayor

**ATTEST:**

  
Rita Frick, City Secretary

**Approved as to form and legality:**

  
City Attorney

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## EXHIBIT "A"

### ARTICLE I. GENERAL PROVISIONS

#### Sec. 4-1. Purpose.

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions in which the animals are kept should not infringe on the surrounding homes and their inhabitants.

(Ord. No. 1280, § 1, 4-10-90)

#### Sec. 4-2. Definitions.

As used in this chapter, the following words and phrases listed herein shall have the meaning ascribed to them below:

*Abuse:* To mistreat through intent or neglect any animal, fowl, livestock or wildlife in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

*Animal:* Any living creature other than Homosapiens. Unless indicated otherwise, the term shall include livestock, fowl and wildlife as well as dogs, cats and other creatures commonly owned as pets.

~~*Animal control office*~~ *Animal Services:* The office of the city, which is primarily responsible for the enforcement of regulations regarding animals. ~~Also referred to in this chapter as ACO~~

~~*Animal control officer*~~ *Animal Services Officer:* Any employee of the city attempting to carry out the provisions of this chapter. Also referred to in this chapter as ASO.

*Animal shelter:* A facility designated by the city council to be used for the impoundment of animals, fowl, livestock and wildlife taken up by the ACO Animal Services Officers. Sometimes referred to as *shelter*.

*Authority:* See ~~Local health authority~~ *Local Rabies Control Authority*

*Brand:* A mark made on the skin of any animal, which indicates the ownership of the animal. Typically used with livestock.

*Cat:* The male and female of any domesticated member of the feline species of animals.

*Circus:* A commercial variety show featuring animal acts for the public.

*City:* The City of Hurst.

*Commercial animal enterprise:* A commercial enterprise or business that involves the sale, trade or performance of animals or involves providing a service by animals or involves providing a service by animals or for animals. It is an enterprise that involves the exchange of money or some other item of value. Includes pet stores, kennels and similar businesses as well as the breeding of animals for sale or trade.

*Day:* A workday; excludes ~~Saturday~~, Sundays and holidays.

*Distance between structures:* Where a minimum setback or distance between any enclosure for animal, fowl or livestock from a residence is required, it shall mean the most direct line distance between the two (2) structures unless otherwise provided.

*Dog:* The male and the female of any domesticated member of the canine species of animal.

*Fish:* Any of the cold-blooded animals that extract oxygen from water through the use of gills.

*Fowl:* All birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and non-domestic feathered creatures, regardless of age or sex.

*Governmental entity:* An agency of political subdivision of the State of Texas or an agency or department of the federal government.

*Harbor:* Any animal, fowl, livestock or wildlife shall be deemed harbored if it is fed, sheltered or maintained for three (3) days or more.

*Livestock:* Regardless of age, sex or breed: Horses and all equine species, including mules, donkeys and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

~~Local health authority~~ *Local Rabies Control Authority:* The senior Animal Control Services Officer

*Marine animal:* Any animal, other than a mammal or bird, that lives in a marine environment.

*Neutered:* Any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovarian-ectomy in the female.

*Owner:* Any person, partnership, association, company or corporation owning, keeping, maintaining, harboring or having the care, custody or control of one (1) or more animals, fowl, livestock or wildlife.

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*Performing animals:* Any spectacle, display, act or event in which animals, fowl, livestock or wildlife perform.

*Person:* An individual, partnership, associate, company or corporation.

*Residence:* Any place of human habitation at anytime, day or night, including but not limited to any residence, church, school, convalescent center or nursing home.

*Restrained:* Any animal, fowl, livestock or wildlife secured by a leash of some sort or confined within the property limits of its owner.

*Tag:* A vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or to an animal.

*Tattoo:* A permanent mark which is made on the skin of any animal by puncturing the skin and inserting indelible color and which is used to show ownership.

*Vaccination:* An injection of a vaccine for rabies administered by a licensed veterinarian or at an approved anti-rabies clinic.

*Veterinarian:* Any person duly licensed to practice veterinary medicine by the Texas Board of Veterinary Examiners or who is exempt from such licensing.

*Wild animal or wildlife:* Any non-domestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state and which is not naturally tame or gentle or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property. Such creatures shall include but are not limited to all animals prohibited by the State of Texas or federal law and shall include but are not limited to the following animals:

- (1) *Class mammalian:* Order carnivora, family felidae (such as lions, tigers, ocelot, cougar, leopard, cheetah, jaguars, bobcat, lynx, serval and caracal) except commonly accepted domesticated cats and hybrids involving same; family canidae (such as hyena, coyote, jackal, wolf and fox) except domesticated dogs and hybrids involving the same; family mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers) except ferrets; family procyonidae (such as raccoons); family ursidae (such as bears); order primata (such as baboon, orangutan, gorilla, monkey and chimpanzees); and order chiroptera (such as bats).
- (2) *Reptiles:* Poisonous reptiles, cobras and their allies (elapidae, hydrophiidae); vipers and their allies (crotiladae, viperidae); Boonsland and Kirtland's tree snakes, gila monsters (heleodermatidae); and crocodiles, alligators and their allies (order loricata).

(3) *Spiders*: Brown recluse (*loxosceles*) and black widow (*latrodectus*) spiders.

*Zoological park or zoo*: Any facility, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of animals, fowl, livestock and wildlife, operated by a person, partnership, company or corporation or under the auspices of a governmental entity shall be a licensed or accredited member of the American Zoo and Aquarium Association.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-3. Enforcement.**

(a) The provisions of this chapter may be enforced by Animal ~~control~~ Services Officers, police officers, park rangers and such other persons as are designated by the city.

(b) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any animal control officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties. It shall be unlawful to take or attempt to take any animal from any Animal ~~control~~ Services Officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal without proper authorization.

(c) In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-4. Penalty.**

This chapter is declared to be necessary as a public health measure, and violation shall be punished as provided by section 1-5 of this Code.

(Ord. No. 1280, § 1, 4-10-90)

**Secs. 4-5--4-9. Reserved.**

New: Exemption of city officials from liability.

All of the regulations provided in this chapter and the functions and duties of all officers, agents, servants or employees of the city in the enforcement of this chapter are declared to be governmental and for the benefit, health and welfare of the general public. Any city official or employee charged with the enforcement of this article, acting for the city in the discharge of his/her duties, shall not thereby render himself/herself personally liable by the performance of any act required or permitted in the discharge of his/her duties.

## ARTICLE II. ANIMAL GRIEVANCES

### Sec. 4-10. Municipal court.

The municipal court for the city shall hear appeals from the decisions or actions of the authority or ACO ASO as provided for in this chapter. The court shall also hear complaints involving animals or the care of animals initiated by neighborhoods as provided herein. These may include complaints regarding noisy or nuisance animals as provided in section 4-44, negligent care of animals as provided in section 4-60, dangerous animals or potentially dangerous animals as provided in article VI or any other conduct or action which violates a provision of this chapter. The court shall also hear complaints initiated by the ACO ASO in regard to this chapter. In all of its actions, the court shall seek to devise circumstances under which an owner may keep an animal; however, the court shall also give consideration to the safety of the neighborhood and the health and welfare of the animal.

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 1, 3-14-91)

### Sec. 4-11. Initiation of proceedings.

(a) *Appeals.* To appeal the action or decision of the authority or ACO ASO as provided herein, a person must file a notice of appeal with the municipal court within five (5) days of receiving notice of the action or decision. The court shall hear all appeals as if there had been no prior disposition in the case. All decisions of the ACO ASO made pursuant to this chapter are final unless appealed as provided herein.

(b) *Complaints by residents.* Persons residing within six hundred (600) feet of a person who harbors or owns an animal may initiate an action before the court regarding the animal for violations of this chapter or as otherwise provided herein by filing a petition signed by the residents of ten (10) percent of the households within that area. Such petition shall contain the printed name, address and phone number of each person signing it, the total number of households within the prescribed area and a statement setting forth specific facts to support the allegations it contains regarding the animal in question. If the petition does not contain this information or if less than fifty (50) percent of those who signed the petition fail to appear at the hearing, the court may hold the petition to be invalid and dispense with any further action. The petition shall also designate an individual as the neighborhood contact.

(c) *Complaint by ACO ASO.* The ACO ASO may also initiate a complaint in the municipal court under this article regarding any animal for violations of this chapter if the ACO determines that the situation requires stronger remedial measures than the ACO ASO is authorized to impose. Otherwise, the ACO ASO shall impose such remedial measures as it deems necessary after a full investigation of the matter.

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 2, 3-14-91)

### Sec. 4-12. Procedures before the municipal court in animal grievance cases.

(a) *Generally.* The general procedures for the municipal court are as set out in section 13-11 of this Code.

(b) *Hearing.* The municipal court shall hold a hearing as set forth in section 4-10 of this article at such time as each matter is docketed by the clerk of the municipal court according to normal docketing procedures.

(c) *Notice.* Notice of a hearing before the municipal court under this article shall be given to the person who harbors or owns the animal in issue at least seventy-two (72) hours in advance unless the person waives his right to that notice. Notice shall also be given to the authority, ACO ASO and neighborhood contact at least seventy-two (72) hours in advance unless waived herein. The neighborhood contact shall be responsible for notifying the other persons who signed the petition.

(d) *Burden of proof.* The burden of proof in any appeals or any action initiated by the ACO shall be upon the authority or the ACO ASO. In an action initiated by the petition of a neighborhood, the burden of proof shall be on those filing the petition. This burden may be sustained by a preponderance of the evidence.

(e) *Service.* All service of notices or statements may be by personal service or by certified mail, return receipt requested.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-13. Remedial requirements.**

(a) Where the municipal court or ACO ASO finds against the person who is found to have harbored or owned an animal in violation of the provisions of this chapter cited in section 4-10, the court or ACO ASO may place certain remedial requirements upon such person. The remedial requirements may include one (1) or more of the following items:

(1) *Leash and muzzle.* The owner shall not permit the animal to go outside the kennel or pen unless such animal is securely leashed with a leash no longer than four (4) feet in length which is in the physical control of at least one (1) person. Such animal may not be leashed to inanimate objects, such as trees, posts, buildings, etc. Additionally, such animal must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(2) *Confinement outdoors.* The animal shall be securely confined in an enclosed and locked pen or kennel except when on a leash and muzzled or when confined indoors. Such pen or kennel must have secure sides and a secure top attached or have sides that measure eight (8) feet from the ground. The structure must be locked with a key or combination lock if an animal held to be dangerous is within the structure. The structure must have a secure bottom or floor attached to the sides of the structure, or the sides of the structure must be embedded in the ground no less than two (2) feet. All structures erected to house the animal must comply with all zoning and building regulations. Such structures must also be adequately lighted and ventilated and be kept in a clean and sanitary condition.

(3) *Relocation of confinement area.* The owner may be required to relocate on his property the confinement area in which the animal is kept so that the animal does not annoy, disturb or in some other manner offend neighbors.

(4) *Confinement indoors.* The animal may not be kept on a porch, patio or in any part of a house or other structure that will allow the animal to exit such building or structure on its own volition. In addition, no such animal, except a cat, may be kept in a house or



structure when the windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(5) *Signs.* The owner of an animal held to be dangerous shall display in prominent places on the premises where the animal is kept a sign easily readable by the public, which states *Beware of Dangerous Animal*. A similar sign shall also be posted on the kennel or pen of the animal.

(6) *Insurance.* The court, but not the ACO, ASO may require that the owner acquire insurance in an amount deemed reasonable to insure against bodily injury or property damage caused by the animal.

(7) *Restitution.* The court, but not the ACO, ASO may require the payment of restitution for damages or injury caused by the animal.

(8) *Training.* The court, but not the ACO, ASO may require that the person and animal engage in training necessary to eliminate the problem. The court may designate a specific training program to be followed or utilized.

(9) *Removal from city.* The court, but not the ACO-ASO, may require that the animal be removed from the city.

(10) *Prohibit animal ownership.* The court, but not the ACO ASO, may prohibit the person from acquiring and keeping within the city any other animal for a period of time of up to five (5) years. It may also require the person to sell, give away or otherwise humanely dispose of the animal at issue in the hearing.

(11) *Spay or neuter.* The court, but not the ACO ASO, may require that an animal which is being returned to an owner or which an owner shall be allowed to keep within the city be spayed or neutered.

(12) *Destruction.* The court, but not the ACO ASO, may order that an animal shall be humanely destroyed.

(13) *Identification.* Prior to removal from the city, the ASO, may order that the dangerous animal be micro-chipped for identification purposes.

(b) In requiring that remedial requirements be followed, the court or ACO ASO shall also state a time frame within which the owner must comply with the required action. For good cause, the time period to comply may be extended by the court or ACO-ASO.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-14. Return of animal.**

(a) If an animal is in the custody of the ACO ASO, an inspection of the premises where the animal is to be kept may be made prior to the animal's return if such is necessary to determine if the remedial requirements have been met. The ACO ASO may retain the animal until the remedial requirements have been met. The ACO ASO shall have the right to inspect such premises in the future at reasonable times to ensure continued compliance with the remedial requirements.

(b) As a condition of returning an animal which has been in the custody of the ACO ASO to its owner, the court or the ACO ASO may require that all or a portion of the expenses incurred by the ACO ASO to keep such animal be paid by the owner.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-15. Reporting significant events.**

(a) The owner of an animal declared dangerous, potentially dangerous or a nuisance animal under the provisions of this chapter shall report any of the following events within five (5) days to the ACO-ASO:

- (1) Permanent removal of the animal from the city;
- (2) Death of the animal;
- (3) The birth of any offspring, including the number, markings, color and sex;
- (4) Change of location within the city; and
- (5) Transfer of ownership, including the name and address of the new owner and the location where the animal is to be kept.

(b) The owner of an animal declared dangerous, potentially dangerous or a nuisance animal under the provision of this chapter shall report within twenty-four (24) hours to the ACO ASO the escape of the animal; the owner of an animal declared dangerous or potentially dangerous shall report to the ACO ASO within twenty-four (24) hours any instance in which said animal attacks or bites a person or other animal.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-16. Violation of remedial requirements.**

It shall be unlawful for the owner of an animal to violate or fail to comply with the remedial requirements placed on him by the court or ACO ASO. If a person fails to comply or violates any remedial requirement or any other provision of this chapter, the disposition of the animal may be referred to the court for further consideration. Such further consideration shall require a hearing as provided for under this chapter. In addition to the remedies provided herein, a civil action may be filed to enforce the requirements of this chapter.

(Ord. No. 1280, § 1, 4-10-90)

Secs. 4-17--4-19. Reserved.

**ARTICLE III. RABIES CONTROL**

**Sec. 4-20. Vaccinations.**

(a) All dogs, cats and ferrets four (4) months of age or over within the city shall be immunized against rabies annually by a licensed veterinarian by means of any standard vaccine as prescribed by the United States Department of Agriculture (USDA). The vaccine must be administered according to label recommendations. Livestock (especially those that have frequent contact with humans), domestic ferrets, and wolf-dog hybrids should be vaccinated against rabies. Nothing in this section prohibits a veterinarian and owner or custodian from selecting a more frequent rabies vaccination interval. Health and Safety Code, §§826.014 and 826.015 allow local jurisdictions to establish more frequent rabies vaccination intervals.

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(b) The metal tag provided for in subsection (a) of this section shall be securely fastened in some manner to the dog or cat at any time the animal is not confined to the owner's property, and it shall be unlawful for any person to remove such metal tag from any dog or cat.

(c) It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon the premises under his control any animal without having such animal immunized against rabies as required by subsection (a) of this section.

~~(d) This section shall not apply to fish, birds, ungulates or any of the following list of animals: Hamsters, guinea pigs, rabbits, rats, mice, gerbils or any other animal other than a dog which, in the opinion of the licensed veterinarian, would be endangered by a rabies vaccination.~~

(Ord. No. 1280, § 1, 4-10-90)

#### **Sec. 4-21. Vaccination of impounded animals.**

(a) After impoundment, all animals which are required to be vaccinated by this article which are redeemed by an owner from the shelter must be vaccinated against rabies in accordance with the requirements of this article, or the owner thereof must present a veterinarian's certificate showing a current vaccination.

(b) In order for an animal to be released, if the ~~which~~ animal was not vaccinated in accordance with the requirements of this article, the owner must sign a statement giving the name of the owner and the address where the animal is to be immediately taken and confined and stating that the owner will have the animal vaccinated in accordance with the requirements of this article. Within seven (7) days of the release of the animal, a certificate of vaccination shall be presented to the animal shelter. Failure to present the vaccination certificate to the shelter within the stated time and/or failure to have the animal immediately vaccinated shall be grounds for the immediate return of the animal to the shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor, which may be punished by a fine set as set out in section 1-5 of this Code except that the minimum fine shall be one hundred dollars (\$100.00). Refusal to show a certificate of vaccination shall constitute prima facie evidence of such failure.

(Ord. No. 1280, § 1, 4-10-90)

#### **Sec. 4-22. Proof of vaccination; dismissal; fine.**

(a) The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article.

(b) If convicted in the municipal court of failing to have an animal vaccinated, a person shall be fined a minimum of one hundred dollars (\$100.00); provided that if the person presents the court with proof of vaccination within seven (7) days of his conviction, the judge may reduce the fine to twenty-five dollars (\$25.00).

(Ord. No. 1280, § 1, 4-10-90)

#### **Sec. 4-23. Counterfeiting and destruction of vaccination tags and certificates.**

(a) It shall be unlawful for any person to counterfeit a rabies vaccination tag or certificate.

(b) It shall be unlawful for any person to willfully destroy a rabies vaccination certificate.

(Ord. No. 1280, § 1, 4-10-90)

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**Sec. 4-24. Reporting rabid animals or rabies exposure.**

(a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report all known or suspected cases of rabies with which he comes in contact or to which his attention has been directed to the ACO ASO. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

(b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the ACO ASO within twenty-four (24) hours.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-25. Animal bites and scratch reports; submission to quarantine.**

(a) Any person who is bitten or scratched by an animal shall report that fact to the ACO ASO within twenty-four (24) hours. If the person bitten or scratched is a minor under the age of seventeen (17), the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the ACO ASO within twenty-four (24) hours.

(b) A person who owns, keeps, harbors or allows an animal to remain on the premises under his control shall report to the ACO ASO within twenty-four (24) hours any incident where such animal bites or scratches any person.

(c) If the bite or scratch was to any person, the animal dog, cat or ferret committing the act shall be submitted to the ACO ASO for quarantine. This duty to submit the animal dog, cat or ferret to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on the premises under his control. If convicted of violating this provision, a minimum fine of one hundred dollars (\$100.00) shall be imposed by the municipal court. In addition, no license or permit to keep animals within the city shall be issued to any person so convicted for a period of five (5) years.

~~(d) Subsection (c) of this section shall not apply if the person who owns, keeps, harbors, has possession of or allows an animal to remain on the premises under his control produces to the ACO a current valid vaccination certificate for the animal in question.~~

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-26. Contents of required reports.**

When an individual is placed under duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the ACO ASO shall include, if the person making the report knows, the following information:

- (1) The location where the bite or scratch occurred;
- (2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located;
- (3) The name and address of any person who was bitten or scratched;
- (4) The name and address of any person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found;

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(5) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-27. Quarantine and release.**

(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the shelter. Only with the prior approval of the ~~local health authority~~ Local Rabies Control Authority (LRCA) may the animal be held in quarantine at any other location.

(b) Any ~~animal~~ dog, cat, or ferret quarantined shall be held for a period of ten (10) days from the date of the bite. The ~~animal~~ dog, cat, or ferret shall not be released from quarantine until such release has been approved by the ~~local health authority~~ Local Rabies Control Authority.

(c) Upon release of an animal from quarantine if the ownership of the animal is known, such owner has forty-eight (48) hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in section 4-83 without waiting for an additional seventy-two (72) hours.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-28. Submission of brain for rabies diagnosis.**

(a) If the animal which bit or scratched a person is a ~~wild~~ high risk animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The brain shall then be submitted to a laboratory certified by the Texas Department of Health for rabies diagnosis.

(b) If an animal which is being quarantined becomes ill, it may be humanely destroyed in such a manner that the brain is not mutilated. The brain shall then be submitted to a laboratory certified by the Texas Department of Health for rabies diagnosis. The brain of each animal which dies while in quarantine shall also be submitted for rabies diagnosis.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-29. Cost of quarantine or rabies diagnosis.**

(a) If, at the end of the required quarantine period, a quarantined animal is found to be free of rabies, the ~~local health authority~~ Local Rabies Control Authority (LRCA) shall order the release of the animal to the owner if the rabies vaccination provisions of this article have been complied with and any impoundment and quarantine fees have been paid by such owner.

(b) If a brain is submitted to the Texas Department of Health for rabies diagnosis, the cost of removing the brain and shipping it shall be paid by the owner of the animal.

(c) The ~~local health authority~~ Local Rabies Control Authority (LRCA) may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:

- (1) The animal has a rabies vaccination certificate;
- (2) The animal was on the property under the control of the animal's owner when the bite or scratch occurred; and
- (3) The bite or scratch occurred when the animal was acting to defend its owner or the property or after provocation.

Similarly, if the animal is a wild animal, the local health authority may order that all fees be paid by the person who was bitten or scratched. This order may be appealed to the court as set out in article II except that the appeal must be filed within one (1) day and the court shall hear the case as soon as possible thereafter. Failure to pay the fees as ordered shall serve as a basis to deny, suspend or revoke any license required under this chapter.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-30. Quarantine and impoundment facility standards.**

The city's animal shelter or other facility utilized for rabies quarantine or impoundment shall meet or exceed the minimum standards established by the Texas Board of Health under authority of the Rabies Control Act of 1981 as specifically set out in Chapter 169.26 of the Texas Administrative Code.

(Ord. No. 1322, § 3, 3-14-91)

**Sec. 4-31. Advisory committee.**

An advisory committee consisting of a licensed veterinarian, the city's animal control officer, a police officer and a representative from an animal welfare organization shall be appointed by the city council. Members shall serve for two (2) years and may be reappointed. Such committee shall meet at least three (3) times a year and its duties shall be limited to compliance with the requirements of Chapter 823 of the Texas Health and Safety Code.

(Ord. No. 1322, § 3, 3-14-91)

**Sec. 4-32. Miscellaneous animal shelter operating requirements.**

(a) The city's animal shelter shall be inspected annually by a veterinarian for compliance with as required by Chapter 823 of the Texas Health and Safety Code. Copies of the veterinarian's report shall be filed with the animal control officer and with the Texas Board Department of Health on forms promulgated provided by the Texas Department of Health.

(b) Animals shall be segregated by species, sex (if known) and, if the animals are not related, by size.

(c) Sick, injured or diseased animals shall be segregated from healthy animals.

(d) Records shall be kept of the date and disposition of animals taken into custody which records shall be maintained at the animal shelter and made available for inspection at all reasonable times; provided, however, no such records need be maintained after four (4) years after disposition of the animals.

(e) The following methods of killing a dog, cat or other small animal in custody of the animal shelter are prohibited:

- (1) Shooting, except in emergency field conditions;
- (2) Clubbing;
- (3) Decompression chamber;
- (4) Unfiltered or uncooled carbon monoxide;

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- (5) Curariform drugs, used alone, including curare, succinylcholine, pancuronium and glycerol fenesin;
  - (6) Magnesium salts, used alone;
  - (7) Chloral hydrate;
  - (8) Nicotine; or
  - (9) Strychnine.

(Ord. No. 1322, § 3, 3-14-91)

**Secs. 4-33--4-39. Reserved.**

**ARTICLE IV. GENERAL REGULATIONS**

**Sec. 4-40. Running at large.**

(a) It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal, livestock, fowl, reptiles or wildlife within the city to allow or permit such animal, livestock, fowl, reptile or wildlife to run or be at large within the city.

(b) The prohibition against an animal running at large shall not apply to cats.

(c) *At large* means unconfined ~~inside the owner's house~~ or to the premises of the owner by a suitable and substantial fence of sufficient strength ~~above and substantial fence of sufficient strength~~ and height to prevent escape there from or secured on such premises by a leash of sufficient strength so that it cannot reach public access ~~to prevent escape from the premises and so arranged that the animal will remain upon the premises when the leash is stretched to full length in any direction.~~ Provided, however, that an animal shall not be considered *at large* when held and controlled by some person or by means of a leash or chain of proper strength and length to control the actions of the animal or while confined within a vehicle.

(d) The ACO ASO for the city may impound any animal observed to be at large whether the animal is on public or private property. If the ACO ASO observes an animal on property, which is owned by a person other than its owner and follows the animal back to the property of its owner, the ACO-ASO may impound the animal and/or issue a citation for the animal's running at large. Additionally, ASO's have the right to impound any animal that is unable to be contained within the fence line or residence of the owner.

(e) Proof that an animal was found at large in violation of this section together with proof that the defendant was the owner of such animal at the time shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-41. Animal in heat.**

Any person who owns, harbors, or keeps any female dog or cat shall, during the period that such animal is in heat or in estrus, keep such dog or cat in a secured area that prevents a male dog or cat from having access to such female except for controlled breeding permitted by the owner of the female. Additionally, the female dog or cat shall not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-42. Animal defecation prohibited.**

(a) It is unlawful for the owner or person in control of an animal to allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) It shall be a defense to prosecution under this provision that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-43. Wild animals or wildlife.**

(a) No person shall possess, keep or have care, custody or control of a wild animal or wildlife within the city except as provided herein.

(b) All persons, including commercial animal enterprises, shall be prohibited from selling, giving, transferring or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks, performing animal exhibitions or licensed circuses; nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and was being kept by a Texas State Wildlife Rehabilitation permit. Once the animal is capable of surviving on its own, the animal must be released to the ACO-ASO.

(e) Any wild animal which is found running at large may, at the discretion of the animal warden, be impounded or destroyed upon sight.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-44. Nuisance animals.**

(a) As used in this article, a *nuisance animal* shall be defined as any animal which commits any of the acts listed herein:

- (1) ~~Molests~~ Harasses or chases pedestrians, passersby or passing vehicles, including bicycles; or
- (2) Makes unprovoked attacks on other animals of any kind; or
- (3) Is repeatedly at large, specifically three (3) or more times per twelve-month period; or
- (4) Damages private or public property; or
- (5) Defecates on property not belonging to or under the control of its owner; or



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(6) Barks, whines, howls, crows, cackles or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities; or

(7) Is unconfined when in heat.

(b) If the ACO ASO determines that any animal is a nuisance, the ACO ASO may issue an order requiring that the owner meet certain remedial requirements to correct the conduct of the animal as provided in section 4-13 of this chapter. The order shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal to this order as provided in article II of this chapter.

(c) Persons residing within six hundred (600) feet of a person who harbors or keeps an animal which they believe to be a nuisance may initiate an action before the court as provided for in subsection 4-11(b).

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 4, 3-14-91)

#### **Sec. 4-45. Honeybees.**

No person shall construct, place or maintain any beehive within three hundred (300) feet of any residence other than that of the owner except with the consent of the occupants of all such residences.

(Ord. No. 1280, § 1, 4-10-90)

#### **Sec. 4-46. Pens and coops; location.**

(a) All fowl and rabbits shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.

(b) Any person keeping or harboring any animal, other than livestock, shall locate any pen, coop, hutch or other housing at least fifty (50) feet from any residence, excluding the residence of the person keeping or harboring the animals.

(Ord. No. 1280, § 1, 4-10-90)

#### **Sec. 4-47. Livestock.**

(a) It shall be unlawful for any person owning or having care, custody or control over any livestock to:

(1) Ride or allow any type of livestock upon any public school grounds, public park property or municipal grounds within the city except between curbs of streets or areas specifically designated as bridle paths or other designated riding or exhibiting areas for animals.

(2) Ride or allow any type of livestock upon the property of another within the city except with the express consent of the owner or person in charge of such property obtained prior thereto.

(3) Permit any livestock to be or remain during the nighttime secured by a stake or secured in any manner other than by enclosing such animal in a pen, corral or barn sufficient and adequate to restrain such livestock.

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(b) On streets, horses shall be ridden as close as practicable to the curbs, and in no event shall horses be allowed on controlled access highways.

(c) It shall be unlawful for any person to keep or harbor livestock within the city in a pen or other enclosure situated at any point closer than ~~two hundred (200)~~ one hundred (100) feet to any residence, excluding the residence of the person keeping or harboring the livestock.

(d) It shall be unlawful for any person to keep or harbor any livestock within the city in a pen or other enclosure which has less than six hundred (600) square feet of area for each livestock.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-48. Animals and fowl kept in residential areas; distance and area requirements.**

(a) No more than four (4) dogs and/or four (4) cats ~~more~~ older than eight (8) weeks of age shall be kept on any lot in any zoning district in the city within ~~two hundred (200)~~ one hundred (100) feet of any residence other than that of the owner. No more than five (5) of any other type of animal, fowl or reptile more than six (6) months old shall be kept in any residentially zoned area of the city.

(b) No pigeons, fowl and/or livestock shall be kept on any lot or tract of less than forty thousand (40,000) square feet. For each forty thousand (40,000) square feet of lot or tract area, an owner may keep one (1) head of livestock or fifty (50) pigeons or fowl; provided, however, no such livestock, pigeons or fowl shall be housed within one hundred (100) feet of any residence of adjacent property.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-49. Other animal nuisances.**

(a) *Noise.* No person shall willfully or knowingly harbor or keep on his premises or elsewhere any animal or pigeon or fowl of any kind that makes or creates an unreasonable disturbance of the neighbors or the occupants of adjacent premises or people living in the vicinity thereof or suffer or permit such animal to make or create disturbing noise by howling, barking, bawling, crowing or otherwise. A person shall be deemed to have willfully and knowingly violated terms of this section if such person shall have been notified by the neighbors or the Animal Services ~~control~~ Officer or any police officer of such disturbance and shall have refused for a period of twenty-four (24) hours to correct such disturbance and prevent its recurrence.

(b) *Odors.* It shall be unlawful for any person to maintain any animal, pigeon or fowl in such a manner that residents of adjacent or nearby property are subjected to obnoxious odors.

(c) *Trespass, attacks; damage.* It shall be unlawful for any person to maintain any animal in any area, which constitutes a nuisance by reason of repeated trespasses on public and private property, attacks on other animals or damage to public or private property.

(d) *Declaration of nuisance.* In addition to the foregoing conduct constituting a misdemeanor, the same shall also be deemed a nuisance and may be enjoined in district court.

(Ord. No. 1280, § 1, 4-10-90)

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**Sec. 4-50. Animals, fowl and reptiles prohibited from municipal buildings without permit.**

It shall be unlawful for any person to allow any animal, fowl or reptile under their care and control to enter any municipal facility without the permission from the city. This section does not apply to service animals, as defined in the Texas Human Resources Code, Section 121.002.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-51. Animals and fowl prohibited in establishments selling food; exception.**

It shall be unlawful for any person to allow any live animal or fowl to enter or remain inside any establishment in the city where food is sold excepting service animals ~~registered support dogs~~ as defined in the Texas Human Resources Code, Section 121.002.

Secs. 4-52--4-54. Reserved.

**ARTICLE V. ANIMAL PROTECTION**

**Sec. 4-55. Animals in motor vehicles.**

No person shall leave any animal in any standing or parked vehicle in such a way to endanger the animal's health, safety or welfare. An animal control officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of said animal, including removal from and damage done to the vehicle.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-56. Duty of motor vehicle operator to report accident involving animals, fowl, livestock.**

Any person who, as the operator of a motor vehicle within the city, strikes any animal shall stop at once, render such assistance as may be safe and practicable and shall report the accident to the police department. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-57. Tethered animals.**

~~It shall be unlawful for any person to tether, chain or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained or fastened on public property. It shall be unlawful to tether, chain or~~

~~fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water.~~

It shall be unlawful for any person to tether, chain or fasten any animal in such a manner so that they are accessible to the general public. All unattended tethered animals must be inside a fenced enclosure. It shall be unlawful to tether, chain or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water. Additionally, all animals riding in the back of pick-ups must be secured in pet carriers.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-58. Molesting Aggravation of animals.**

It shall be unlawful for any person in any manner to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-59. Pens and enclosures; sanitary requirements.**

The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:

- (1) All animal wastes shall be disposed of promptly, and all pens and enclosures shall be cleaned as needed to prevent odors and not draw insects or other vermin or create a nuisance.
- (2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-60. Negligent care.**

(a) It is unlawful for any person or persons to fail, refuse or neglect to provide any animal in his or her charge or custody, as owner or otherwise, with proper food, drink, shade, shelter, upkeep or veterinary care as may be necessary for diseased or injured animals. Any animal habitually kept outside shall be provided with a structurally sound, moisture-proof and windproof shelter large enough to accommodate the animal and to which the animal may seek refuge from moisture and wind. Additionally, any animal left in a residence whether considered a rental property or animal shelter, without notifying the proper authorities and without being claimed will be considered abandonment.

(b) Upon a finding by the ACO ASO that an owner is being negligent in his/her care of an animal as described in subsection (a) above, the ACO ASO shall issue a written notice of said finding to the owner. Said notice shall contain the ACO's ASO's requirements for the correction of the problem and shall specify the time by which the corrections must be completed. The owner may file an appeal to this order as provided in article II of this chapter.

(c) In addition to the remedial requirements which may be issued pursuant to section 4-13, the ACO ASO and the municipal court are also empowered, subject to the limitations contained in article II, to issue such orders as are reasonably necessary to enforce subparagraph (a) above. Said orders may include one (1) or more of the following items:

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(1) *Shade and shelter.* The owner shall provide a structure, to which the animal has constant and continual access, which is adequate to protect the animal from hazardous exposure to the elements.

(2) *Veterinary care.* The owner shall provide all necessary medical care for the animal.

(3) *Animal Coat.* The owner shall assist in upkeep of the animals' coat in order to prevent a health or hygiene issue from occurring.

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 5, 3-14-91)

**Sec. 4-61. Impoundment of a severely injured, ill, diseased or distressed animal; owner not located.**

(a) If an animal control officer or police officer has reason to believe that an animal is severely injured, ill, diseased or distressed, and the owner or custodian of the animal cannot be located after reasonable attempts, said officer may apply to the municipal court for a warrant for seizure and impoundment of the animal.

(b) On a showing of probable cause that the animal is severely injured, ill, diseased, or distressed and that the owner or custodian of said animal could not be located after reasonable attempts, the municipal court shall issue a warrant for seizure and impoundment of the animal.

(c) The officer executing the warrant shall cause the animal to be impounded, take the animal to the shelter or a veterinarian, and shall give written notice to the owner of the name of the officer, a telephone number where the officer can be contacted and the location where the animal can be claimed.

(d) If it appears to the officer that the animal is in imminent danger of permanent injury or death or that the animal, by reason of its condition, constitutes a serious, physical hazard to persons or other animals and the officer cannot locate the owner on the premises, the officer may enter the premises where the animal is located in a reasonable manner, without a warrant, and take the animal to the shelter or to a veterinarian. A written notice as required in subparagraph (c) above shall be left at or near the location from which the animal was taken, in such a manner as to be conspicuous to the animal's owner or custodian when that person returns.

(e) If an animal is impounded pursuant to this section, said animal shall be subject to the provisions of article VII.

(Ord. No. 1322, § 6, 3-14-91)

Secs. 4-62--4-69. Reserved.

**\* Article VI will be replaced in it's entirety to reflect guidelines set forth in the Texas Health and Safety Code, Title 10, Health and Safety of Animals, Chapter 882, Regulation of Animals.**

**~~ARTICLE VI. DANGEROUS ANIMALS~~**

**~~Sec. 4-70. Purpose of article.~~**

It is the intention of this article to provide a means of dealing with an animal that is dangerous, or by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this article and in implementing its provisions, the ACO and the municipal court shall recognize the right of a person to use an animal as a protector or as a guard; however, the ACO and the municipal court shall also take into consideration the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-71. Definitions; regulations.**

(a) ~~The term *dangerous animal* shall include but is not limited to the following:~~

- ~~(1) Any animal which has inflicted severe injury or death on a human being without provocation on public or private property; or~~
- ~~(2) Any animal which has killed or severely injured a domestic animal without provocation while off the owner's property; or~~
- ~~(3) Any animal which is trained or harbored for fighting, which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting.~~

~~(b) The owning, keeping or maintaining of a dangerous animal within the corporate limits of the city is hereby prohibited and declared unlawful unless such animal is confined at all times within a securely enclosed locked pen or structure upon the residence premises of the owner or other person responsible therefore. Such structure or pen shall not be deemed securely enclosed unless it has secure sides, top and bottom with top and bottom secured to sides. If such pen or structure has no bottom, the sides must be embedded in the ground at least two (2) feet. If such pen or structure has no top, the sides must measure eight (8) feet from the ground. If any such dangerous animal is to be moved to or from such pen or structure, it shall be lawful to do so only if the animal is muzzled and leashed with a secure chain controlled by at least one (1) person for each such animal. This section is inapplicable to Texas licensed veterinarians and person charged with the duty of animal control.~~

~~(c) If an animal acts as stated in (a)(1) or (a)(2) above, is trained or harbored for fighting or is a pit bull terrier, the ACO shall impound the animal immediately if it is at large or, if it is in the possession of some person, the ACO may issue a notice requiring that the animal be taken to a designated location for impoundment. An animal, which is impounded shall not be released until a final determination is made on the disposition of the animal. The ACO or municipal court may deem this subsection inapplicable and disregard it if the owner of the animal is in compliance with subsection (b) above and the ACO feels that no further remedial measures are necessary.~~

~~(d) Notice shall be given to the owner that the ACO has determined that the animal is a dangerous animal. This notice shall also set out the remedial requirements, which the owner must comply with. This notice shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal of the ACO's order as provided in article II.~~

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(e) ~~If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for seventy two (72) hours, the animal may be disposed of in a humane manner. If the owner of a dangerous animal which has been impounded cannot be located for the delivery service of the notice required herein either in person or by mail, the animal may be disposed of in a humane manner after all reasonable effort has been made to locate such owner.~~

(f) ~~If an animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the court may again review the situation and prescribe additional or different remedial requirements.~~

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 7, 3-14-91; Ord. No. 1769, § 1, 3-27-01)

#### **Sec. 4-72. Potentially dangerous animals.**

(a) ~~If persons in a neighborhood believe that an animal has exhibited behavior indicating that it represents a potential danger, said persons as provided in subsection 4-11(b) may initiate an action before the municipal court to determine whether or not the animal is potentially dangerous. Any such hearing shall be conducted as provided for in article II. Pending the outcome of such hearing, the animal must be securely confined in a humane manner either on the premises of the owner, with a licensed veterinarian or at the shelter.~~

(b) ~~If the ACO determines that an animal is potentially dangerous, the ACO shall give notice of that determination to the owner of the animal. This notice shall also set out the remedial requirements, which the owner must comply with. This notice shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal of the ACO's order as provided in article II.~~

(c) ~~An animal may be defined as *potentially dangerous* if it has engaged in the following conduct:~~

(1) ~~When unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack;~~

(2) ~~Has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.~~

(d) ~~If an animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the municipal court may review the situation and prescribe additional or different remedial requirements.~~

(Ord. No. 1280, § 1, 4-10-90; Ord. No. 1322, § 8, 3-14-91)

#### **Sec. 4-73. Exceptions.**

(a) ~~No animal may be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person who at the time:~~

(1) ~~Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal~~

(3) ~~Was committing or attempting to commit a~~

~~(b) The provisions of this article shall not apply to a dog whose conduct was brought in within the coverage of the Section 42.12 of the Texas Penal Code or any other state statute. However, where the conduct of a dog does not fall within the definition of vicious conduct stated within the penal code or other statute, its conduct may be addressed by the provisions of this article.~~

(Ord. No. 1280, § 1, 4-10-90)

Sees. 4-74-4-79. Reserved.

### ARTICLE VI. DANGEROUS DOGS

#### Sec. 44-XX. Requirements for owner of dangerous dog.

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

- (1) Register the dangerous dog with the animal control authority for the area in which the dog is kept;
- (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
- (3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept; and
- (4) Comply with an applicable municipal or county regulation, requirement, or restriction on dangerous dogs.

(b) The owner of a dangerous dog who does not comply with Subsection (a) shall deliver the dog to the animal control authority not later than the 30th day after the owner learns that the dog is a dangerous dog.

(c) If, on application of any person, a justice court, county court, or municipal court finds, after notice and hearing as provided by Section 822.0423, that the owner of a dangerous dog has failed to comply with Subsection (a) or (b), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.

(d) The owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, impoundment, or destruction of the dog. The governing body of the municipality or county may prescribe the amount of the fees.

e) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority. The court shall order the authority to return the dog to the owner if



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the owner complies with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority.

f) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.

g) For purposes of this section, a person learns that the person is the owner of a dangerous dog when :

1) the owner knows of an attack described in Section 822.041(2)(A) or (B);

(2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under Section 822.0423; or (3) the owner is informed by the animal control authority that the dog is a dangerous dog under Section 822.0421.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

Amended by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997;

Acts 1999, 76th Leg., ch. 96, § 1, eff. May 17, 1999.

#### **Sec. 4-XX. Determination that a dog is dangerous.**

(a) If a person reports an incident described by Section 822.041(2), the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.

(b) 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 authority to a justice, county, or municipal court of competent jurisdiction. An owner may appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county, or municipal court.

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

#### **Sec. 4-XX. Reporting of incident in certain counties and municipalities.**

(a) This section applies only to a county with a population of more than 2,800,000, to a county in which the commissioners court has entered an order electing to be governed by this section, and to a municipality in which the governing body has adopted an ordinance electing to be governed by this section.

(b) A person may report an incident described by Section 822.041(2) to a municipal court, a justice court, or a county court. The owner of the dog shall deliver the dog to the animal control authority not later than the fifth day after the date on which the owner receives notice that the report has been filed. The authority may provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

(c) If the owner fails to deliver the dog as required by Subsection (b), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.

(d) The court shall determine, after notice and hearing as provided in Section 822.0423, whether the dog is a dangerous dog.

(e) The court, after determining that the dog is a dangerous dog, may order the animal control authority to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog under Section 822.042 and the dog is returned to the owner or destroyed.

(f) The owner shall pay a cost or fee assessed under Section 822.042(d).

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.  
Amended by Acts 1999, 76th Leg., ch. 96, § 2, eff. May 17, 1999.

**Sec. 4-XX. Hearing.**

(a) The court, on receiving a report of an incident under Section 822.0422 or on application under Section 822.042(c), 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 Section 822.042. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered.

(b) The court shall give written notice of the time and place of the hearing to:

- (1) the owner of the dog or the person from whom the dog was seized; and
- (2) the person who made the complaint.

(c) Any interested party, including the county or city attorney, is entitled to present evidence at the hearing.

(d) An owner or person filing the action may appeal the decision of the municipal court, justice court, or county court in the manner provided for the appeal of cases from the municipal, justice, or county court.

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

**Sec. 4-XX. Registration.**

(a) An animal control authority for the area in which the dog is kept shall annually register a dangerous dog if the owner:

- (1) presents proof of:
  - (A) liability insurance or financial responsibility, as required by Section 822.042;
  - (B) current rabies vaccination of the dangerous dog; and
  - (C) the secure enclosure in which the dangerous dog will be kept; and

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(2) pays an annual registration fee of \$50.

(b) The animal control authority shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.

(c) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee of \$25, the animal control authority shall issue a new registration tag to be placed on the dangerous dog's collar.

(d) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

**Sec. 4-XX. Attack by dangerous dog.**

(a) 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.

(b) 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.

(c) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in Section 822.003.

(d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having civil jurisdiction in the county or an attorney for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county or municipality.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

**Sec. 4-XX. Violations.**

(a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 822.042 or Section 822.0422(b) or an applicable municipal or county regulation relating to dangerous dogs.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

Amended by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

**Sec. 4-XX. Defense.**

(a) It is a defense to prosecution under Section 822.044 or Section 822.045 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.

(b) It is a defense to prosecution under Section 822.044 or Section 822.045 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(c) It is a defense to prosecution under Section 822.044 or Section 822.045 that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.  
Amended by Acts 2001, 77th Leg., ch. 1420, § 14.809, eff. Sept. 1, 2001.

**Sec. 4-XX. Local regulation of dangerous dogs.**

A county or municipality may place additional requirements or restrictions on dangerous dogs if the requirements or restrictions:

- (1) are not specific to one breed or several breeds of dogs; and
- (2) are more stringent than restrictions provided by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

**Sec. 4-XX. Destruction of dog.**

The destruction of a dog under this subchapter must be performed by:

- (1) a licensed veterinarian;
- (2) personnel of recognized animal shelter or humane society who are trained in the humane destruction of animals; or
- (3) personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

**Sec. 4-XX. Provocation or location of attack irrelevant.**

Except as provided by Subsection(b)(5), this subchapter applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of whether the incident resulting in the person's death or serious bodily injury occurred.

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## ARTICLE VII. IMPOUNDMENT AND DISPOSITION

### Sec. 4-80. Generally.

It shall be the duty of the local health authority, the ACO or their agents to seize and impound in the animal shelter any and all animals, fowl, livestock and wildlife found in violation of any provision of this chapter.

(Ord. No. 1280, § 1, 4-10-90)

### Sec. 4-81. Tampering with shelter or impoundment vehicle.

It shall be unlawful for any person in the city without proper authority to break into, open, pull down the enclosure of or make any opening into the shelter or any enclosure belonging to or used by the city to impound or keep animals, livestock, fowl or wildlife. It shall also be unlawful for any person to turn out or release or cause to be turned out or released or aid or abet the turning out from or release of any animal from the shelter, from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.

(Ord. No. 1280, § 1, 4-10-90)

### Sec. 4-82. Redemption of impounded animal.

(a) Prior to any sale, the owner of any animal impounded may redeem the same by paying the fee as provided in section 4-85 in addition to any fines.

(b) After sale, any animal may be redeemed by paying to the purchaser double the amount bid by him for such animal or animals and his reasonable expenses for keeping the same provided that the owner so redeems the animal within thirty (30) days after the date of sale; otherwise, the animal shall become the absolute property of the purchaser.

(Ord. No. 1280, § 1, 4-10-90)

### Sec. 4-83. Disposition of dogs and cats.

If not redeemed within seventy-two (72) hours of its capture and impoundment, any impounded dog or cat may be destroyed in a humane manner or given up for adoption to any person willing to pay the cost of necessary vaccinations and such other reasonable charges as may be imposed.

(Ord. No. 1280, § 1, 4-10-90)

### Sec. 4-84. Disposition of other animals.

(a) Any impounded livestock or other animals, other than a dog or cat, which is not redeemed within five (5) days of capture and impoundment may be sold to the highest bidder at an auction conducted at such time and place as set forth in this chapter.

(b) If an animal cannot be sold at a public auction as prescribed herein, the city or its agent may either give the animal to some person capable of humanely caring for it or humanely euthanize the animal.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-85. Fees.**

The city manager may approve a list of fees to redeem any animal impounded by the city. Such fees may include a fee for capturing the animal, a daily board fee and the cost of advertising said animal.

(Ord. No. 1280, § 1, 4-10-90)

**Sec. 4-86. Destruction of certain animals.**

Any animal impounded or found at large within the city may be destroyed by Animal Control Officers upon determination has been injured or is sick and in such a state that its recovery is seriously in doubt or that such animal is sick and endangers the health of other animals or persons.

(Ord. No. 1280, § 1, 4-10-90)