

## Chapter 3 ANIMALS\*

\*Editor's note--Ordinance No. 1999-2-95, § I, adopted February 6, 1995, amended Ch. 3 in its entirety to read as set forth herein. Prior to such amendment, Ch. 3 consisted of §§ 3-1--3-15, 3-41--3-44, 3-61--3-65, 3-81--3-85, 3-101, 3-102, 3-121--3-127, 3-147--3-152, 3-169--3-183, and 3-201--3-203. Said sections pertained to animals and derived from §§ 5-2-1--5-2-54 of the 1990 Code.

Cross reference(s)--Animals prohibited from entering public pools, § 4-476.

State law reference(s)--Animal care and control, V.T.C.A., Health and Safety Code § 821.001 et seq.

### ARTICLE I. IN GENERAL

#### Sec. 3-1. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates otherwise:

*Agricultural animal* shall mean species of animals which are normally suited for, kept, or used on a farm, ranch or similar setting for agricultural purposes, such as animal husbandry, food or food production, production of fiber or clothing material, riding, driving, pulling, hauling, commerce, or similar purpose. For purposes of this chapter, the following or similar species of animals shall be considered to be agricultural animals, regardless of age, breed, or sex, unless otherwise stated herein or determined by the animal control officer:

- (1) Alpacas.
- (2) Buffalo.
- (3) Chinchillas.
- (4) Domesticated honey bees.
- (5) Domesticated rabbits.
- (6) Emus.
- (7) Family Cervidae.
- (8) Fowl.
- (9) Livestock.
- (10) Llamas.
- (11) Ostriches.
- (12) Rheas.

*Animal* shall mean any living creature, including, but not limited to, mammals, reptiles, amphibians, birds, fish, insects, arachnids, but specifically excluding human beings.

*Animal control authority* shall mean a municipal or county animal control office with authority over the area where an animal is kept, or a county sheriff in an area with no animal control office.

*Animal control officer* shall mean the person employed by the city to represent and act for the city in the impoundment of animals, controlling of stray animals, enforcement of this chapter and applicable state regulations, and as otherwise authorized herein, or designee.

*Animal shelter* shall mean a facility that keeps or legally impounds stray, homeless, abandoned, or unwanted animals. For purposes of this chapter, the term "city animal shelter" shall mean the Leonard B. Judd Animal Shelter.

*Animal waste* shall mean feces, urine, litter, bedding, spoiled food, or other animal matter which causes foul odors, attracts vermin or encourages their reproduction.

*At large or running at large* shall mean an animal which is not physically confined or physically restrained at all times in one of the following methods:

- (1) Securely confined upon the property of its owner, custodian, or harbinger within a fence, wall, kennel, corral, pen, or similar enclosure. The enclosure must be constructed, maintained, and secured in a manner which will prevent the animal from leaving therefrom at any time. For purposes of this section, the use of "invisible fences" or other similar containment system or device shall not be considered to be adequate physical confinement or restraint of an animal;
- (2) Securely confined upon the property of its owner, custodian, or harbinger within a house, garage, barn, or similar structure. The structure must be constructed, maintained, and secured in a manner which prevents the animal from leaving therefrom at any time;
- (3) Securely restrained upon the property of its owner, custodian, or harbinger with a rope, chain, leash, or other similar tie-out. One end of such tie-out shall be securely attached to a properly fitted collar, halter, harness or similar device being worn by the animal; the other end shall be securely attached to a stationary object in a manner which prevents the animal from leaving the property at any time. Tie-outs shall be secured upon the property of the animal owner or keeper or in a manner so when the attached animal stretches the tie-out to its full length in any direction, the animal will remain completely restrained within the boundaries of the property;
- (4) Securely restrained on a leash, rope, chain, or other lead while upon any premises in the city. One end of such lead shall be securely attached to a properly fitted collar, halter, harness, or similar device being worn by the animal; the other end shall be securely held in the grasp of a person or securely attached to a stationary object;
- (5) Securely restrained by being held in the grasp of a person; or
- (6) Confined within a vehicle or trailer. An animal shall not be considered to be properly confined within a vehicle or trailer if such animal is able to reach outside the vehicle or trailer and attempts to bite or otherwise inflict injury to a passerby, or if the animal should leave the vehicle or trailer without physical restraint.

*Cat* shall mean any cat (*Felis catus*).

*Commercial feedlot/concentrated animal feeding operation* shall mean a concentrated, confined agricultural animal facility operated for meat, milk, or egg production, growing, stabling, or housing in pens or houses wherein agricultural animals are fed at the place of confinement, and crop or forage growth or production of feed is not sustained in the area of confinement.

*Circus or carnival* shall mean a commercial variety show featuring animal acts for public entertainment.

*Currently vaccinated* shall mean an animal vaccinated against rabies and satisfying the following criteria:

- (1) The animal was at least three months of age at the time the vaccination was given;
- (2) At least 30 days have elapsed since the initial vaccination was given; and
- (3) Not more than 12 months (365 days) have elapsed since the most recent vaccination.

*Custodian* shall mean a person who feeds, shelters, harbors, has possession or control of, or has responsibility to care for and control an animal.

*Dangerous dog* shall mean a dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

*Dog* shall mean any dog (*Canis familiaris*).

*Fowl* shall mean species of feathered animals which are normally suited for, or are kept or used on, a farm, ranch, or similar setting for agricultural purposes such as food or food production, animal husbandry, and production of fiber or clothing material, commerce, or other similar purpose. For purposes of this chapter, the following and similar species of animals shall be considered to be fowl, regardless of age, breed, or sex, unless otherwise stated herein or determined by the animal control officer:

- (1) Chickens.
- (2) Ducks.
- (3) Game hens.
- (4) Geese.
- (5) Guineas.
- (6) Peafowl.
- (7) Pheasant.
- (8) Quail.
- (9) Turkeys.

*Harbor* shall mean the act of knowingly or intentionally keeping and caring for an animal, or providing a premise to which an animal returns for food, shelter, care, or protection from impoundment.

*Health and code enforcement officer* shall mean a person employed by the city and assigned to the health and code enforcement division as a sanitarian or code enforcement officer.

*High risk animal* shall mean any species of animal which is designated by the state department of health as having a high probability of transmitting rabies, including skunks, bats, foxes, raccoons, and coyotes.

*Household pet* shall mean species of animals which are commonly found or kept in residential households for an individual's personal enjoyment or companionship, rather than for commerce, utility, or agricultural purposes, unless otherwise stated herein or determined by the animal control officer.

*Hybrid* shall mean the offspring of two animals of different species.

*Licensed veterinarian* shall mean a person licensed to practice veterinary medicine in one or more of the 50 states.

*Livestock* shall mean species of animals which are normally suited for, or are kept or used on, a farm, ranch or similar setting for agricultural purposes such as animal husbandry, food or food production, production of fiber or clothing material, riding, driving, pulling, hauling, commerce, or similar purpose. For purposes of this chapter, the following or similar species of animals shall be considered to be livestock, regardless of age, breed, or sex, unless otherwise stated herein or determined by the animal control officer:

- (1) Bovine.
- (2) Equine.
- (3) Goats.
- (4) Sheep.
- (5) Swine.

*Local rabies control authority* shall mean and refers to the person designated by the governing body of a municipality to enforce the requirements prescribed in Chapter 826, "Rabies," Texas Health and Safety Code (as it is now enacted, or as hereinafter amended). For purposes of this chapter, the animal control officer shall be the local health authority for the city.

*Low risk animal* shall mean any species of animal which is designated by the state department of health as having a low probability of transmitting rabies, including all animals of the order Marsupialia, Insectivora, Rodentia, Lagomorpha, and Xenarthra.

*New owner* shall mean a person who is legally competent to enter into a binding contract and whose name appears as the adopter on an adoption receipt and sterilization agreement executed at the time they adopt an animal from city animal control.

*Nuisance* shall mean any thing or animal which is injurious to the health or morals, or is indecent, or is offensive to the senses, or obstructs the free use of property, or unreasonably interferes with the enjoyment of life or property.

*Owner* shall mean a person who has legal or equitable title to an animal, or who keeps or harbors an animal, or who is a custodian of an animal, or who has control or responsibility to control an animal.

*Person* shall mean an individual, partnership, corporation, trust, estate, company, joint-stock company, foundation, or association.

*Possession* shall mean actual care, custody, control, or management of an animal.

*Potbellied pig* shall mean an animal which is a purebred miniature breed of swine (*sus scrofa vittatus*), commonly referred to as Vietnamese, Oriental, or Chinese potbellied pig, which conforms to the following standards:

- (1) Stands not more than 18 inches in height (1) when measured from a flat standing surface to the peak of the shoulders;
- (2) Weighs not more than 95 pounds; and
- (3) Is registered with the potbellied pig registry service or similarly nationally recognized registry.

*Premises* shall mean a parcel of land (one or more contiguous lots) which is owned, leased, or otherwise controlled by a person.

*Prohibited animal* shall mean species of animals whose sale, display, or possession within the city limits is unlawful. The following or similar species of animals, including their hybrids, shall be considered to be prohibited animals, regardless of age, breed, or sex, unless otherwise stated herein or determined by animal control: Order Crocodylia; Order Primata; Order Chiroptera; Family Ursidae; Family Canidae (except species *Canis familiaris*); Family Felidae (except species *Felis Catus*); Family Mustelidae (except domestic species of ferrets); Family Procyonidae; venomous animals, including reptiles such as pit vipers, cobras, gila monsters; animals which secrete or discharge deadly toxins; electric eels, piranha, or other dangerous fish; insects or arachnids whose bite or sting is usually fatal to humans or usually results in serious injury to a person which requires hospitalization, including Africanized honey bees; crocodile monitors; komodo dragons; hippopotami; rhinoceros; elephants; kangaroos; giraffes; javelina; anteaters; sloths; state department of health designated high risk animals; animals whose possession is prohibited by state or federal law.

*Protective custody impoundment* shall mean the impoundment of an animal for the purpose of protecting the health, safety, or welfare of an animal in the absence of an owner or custodian, or where an owner or custodian is unable to care for or control the animal, or where such impoundment is pursuant to a judicial order. Circumstances include, but are not limited to, police arrests, automobile accidents, fires, medical emergencies, lawful evictions, court orders, and probable abandonments.

*Quarantine* shall mean the strict confinement, by closed cage or pen, of a biting animal or animal suspected of being rabid. Such animal must be separated from all other animals in a manner that there is no possibility of physical contact between animals. Confinement must be at a state department of health approved quarantine facility, or may be at the private residence of the owner or custodian when so authorized by the local health authority.

*Redeem* shall mean and refers to the act of the owner of an animal which has been impounded by the animal control officer, whereby the owner regains possession of the animal after properly completing applicable redemption documents and payment of applicable fees and charges to the city.

*Regulated animal* shall mean species of animals whose sale, display, or possession within the city limits is unlawful, unless the owner or keeper of such animal possesses a valid permit issued by city animal control. The following or similar species of animals, including their hybrids, shall be considered to be regulated animals,

regardless of age, breed, or sex, unless otherwise stated herein or determined by the animal control officer: Hawks, eagles, falcons; boas, pythons, anacondas; any species of animal whose possession is restricted to federal or state permit or license holders authorizing such possession.

*Remove and dispose of all feces* shall mean picking up or causing to be picked up, all feces deposited by the animal on public property or the private property of another person, placing the feces into a container, and disposing of such container into a waste receptacle.

*Riding stable* shall mean an establishment open to the public that keeps one or more equine animals for hire for recreational purposes, for riding or driving, or as otherwise may be prescribed by Chapter 827, Texas Health and Safety Code (as it is now enacted, or as hereinafter amended). The term "riding stable" shall include transient events such as pony rides or carriage rides which operate temporarily in the city.

*Sterilization* shall mean the surgical removal of the reproductive organs of an animal to render it unable to reproduce.

*Stray* shall mean an animal which roams beyond or off the premises of its owner, custodian, or harbinger with no physical restraint.

*Strict isolation* shall mean to confine an animal in a closed cage or pen in a manner which prevents physical contact with other animals or people for a period of time specified by the animal control officer.

*Twelve-month period* shall mean 365 consecutive days.

*Vaccinated* shall mean an animal properly injected by a licensed veterinarian with a rabies vaccine licensed for use in that species of animal by the United States Department of Agriculture (USDA).

*Vermin* shall mean flies, ticks, fleas, lice, rats, mosquitoes or other small animal or insect which may be annoying, destructive, or injurious to health.

*Wild animal or wild life* shall mean a species of animal which normally exists in a natural, unconfined, wild state.

*Zoo* shall mean any premises, whether mobile or stationary, where living animals that normally live in a wild state are kept primarily for display to the general public.

*Zoonosis* shall mean a disease which is transmissible from animals to humans.

(Ord. No. 1999-2-95, § I, 2-6-95; Ord. No. 2338-5-98, § I, 5-18-98; Ord. No. 2473-8-99, § IA, 8-9-99; Ord. No. 2673-4-2001, § 1, 4-2-01)

### **Sec. 3-2. Nuisance.**

It shall be a violation of this chapter for any person to knowingly or intentionally keep or allow any animal to be kept upon their premises, or to fail to supervise or control the actions of an animal in their custody, in a manner which causes or creates a nuisance by:

- (1) Causing an unreasonable disturbance to occupants of adjacent or nearby premises by frequent or prolonged periods of barking, howling, crowing, bawling, squealing, or other animal noise. A person shall be deemed to have knowingly violated the terms of this section if such person is notified by the animal control officer or police officer of a complaint regarding an animal noise disturbance, and the person fails or refuses to cause the disturbance to cease and thereafter prevent its recurrence;
- (2) Keeping any animal in a manner or under conditions which subjects occupants of adjacent or nearby premises to foul odors, unsanitary conditions, an unreasonable presence of vermin or their offspring, or other harmful or offensive conditions which can be attributed to the presence of the animal, or to its physical or environmental conditions. A person shall be deemed to have knowingly violated the terms of this section if such person is notified by the animal control or health and code enforcement officer of such harmful or offensive conditions, and the person fails or refuses to cause such conditions to cease and thereafter prevent its recurrence; or
- (3) Failing to supervise a dog or failing to restrain or control the actions of a dog, by allowing or permitting the dog to defecate on public property or the private property of another person and thereby causing a nuisance by failing or refusing to immediately remove and dispose of all feces deposited on the property by the dog.
- (4) It is a defense to prosecution under subsection 3-2(3) of this section:
  - a. That at the time of the violation, the dog was an assistance dog as defined by Texas Administrative Code, title 25, health services, section 169.22(2) as it is now enacted or hereafter amended.
  - b. That at the time of the violation, the dog was a police dog as defined by Texas Administrative Code, title 25, health services, section 169.22(20) as it is now enacted or hereafter amended.
  - c. That at the time of the violation, the dog was a therapy dog as defined by Texas Administrative Code, title 25, health services, section 169.22 (26) as it is now enacted or hereafter amended.

(Ord. No. 1999-2-95, § I, 2-6-95; Ord. No. 2673-4-2001, § 1, 4-2-01)

Cross reference(s)--Nuisances, ch. 9.

### **Sec. 3-3. Offensive exhibition.**

No person shall knowingly or intentionally cause or allow the breeding of any animal unless the same be done in a place entirely out of view of the general public, nor shall a person knowingly or intentionally cause or allow any animal to be exhibited in an indecent manner.

(Ord. No. 1999-2-95, § I, 2-6-95)

### **Sec. 3-4. Disposal of deceased animals or remains.**

(a) It shall be the responsibility of a person upon whose premises any deceased animal or animal remains are found to properly dispose of such animal or remains within 24 hours of its discovery. Thereafter, the animal control officer may enter the premises and remove and dispose of the deceased animal or animal remains if a hazard to human health exists.

- (1) A person may contact the animal control officer during scheduled operating hours and request that the officer remove a deceased dog, cat, or other similar animal from their premises. Such animal shall be

placed in a sealed plastic bag or similar container, and placed in a conspicuous location at the curb of the street in front of the person's residence on the day the animal control officer is scheduled to pick it up.

(2) The owner of deceased livestock or any large animal which cannot be safely removed and disposed of by the animal control officer shall be responsible for properly disposing of or arranging for removal and disposal of any such deceased animal belonging to them or found upon their premises.

(b) The animal control officer may promptly remove and dispose of any deceased animal found upon public property; however, the animal control officer shall make a reasonable attempt to contact the owner of a deceased animal which is found wearing a legible city registration tag, rabies vaccination tag, or other identifying tag.

(Ord. No. 1999-2-95, § I, 2-6-95)

Cross reference(s)--Solid waste, ch. 12.

### **Sec. 3-5. Treatment.**

Chapter 821, Subchapter A, Texas Health and Safety Code (as it is now enacted, or as hereinafter amended) as it pertains to the treatment of animals is hereby incorporated into this section. A person commits an offense under this section if that person violates any requirements or standards provided therein.

(Ord. No. 1999-2-95, § I, 2-6-95)

### **Sec. 3-6. Disposition of cruelly treated animals.**

(a) Chapter 821, Subchapter B, Texas Health and Safety Code (as it is now enacted, or as hereinafter amended) as it pertains to the definition and disposition of cruelly treated animals is hereby incorporated into this section. The animal control officer shall be authorized to apply to the municipal or justice court for a warrant to seize an animal which the officer has reason to believe is or has been cruelly treated, as provided therein.

(b) Nothing in this section shall prevent a person from being prosecuted for cruelty to animals as provided by applicable sections of the Texas Penal Code.

(Ord. No. 1999-2-95, § I, 2-6-95)

### **Sec. 3-7. Sale of baby fowl unlawful.**

It shall be a violation of this chapter for any person to sell, offer for sale, lease, rent, or in any way transfer, barter, or give away chicks, ducklings, or other infant fowl less than eight weeks of age as pets or novelties; however, this section does not prohibit the display or sale of natural chicks, ducklings, or other infant fowl in proper brooder facilities for hatcheries or stores engaged in the business of selling the same to be raised for agricultural purposes. The sale of such animals shall consist of not less than 12 individual animals per transaction.

(Ord. No. 1999-2-95, § I, 2-6-95)

### **Secs. 3-8--3-20. Reserved.**