

## **ORDINANCE # 11-2018**

AN ORDINANCE OF THE CITY OF COMANCHE TEXAS, ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING COMPREHENSIVE REQUIREMENTS FOR THE KEEPING AND CARE OF ANIMALS AND FOWL; PROVIDING FOR THE CONTROL, REGULATION, UCENSING, PERMITTING AND VACCINATION OF DOGS AND CATS; PROVIDING REGULATIONS AND REQUIREMENTS FOR OTHER ANIMALS, FOWL, LIVESTOCK AND WILD AND EXOTIC ANIMALS; PROVIDING FOR IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE OR OTHERWISE IN VIOLATION OF THIS ORDINANCE; PROVIDING PROCEDURES FOR RABIES REPORTING AND CONTROL; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FINES AND PENALTIES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

**Whereas**, the proper care, regulation and control of animals, fowl and livestock is necessary for the health, safety and quality of life of the citizens of the City of Comanche, Texas (herein the "City");

**Whereas**, the establishment of reasonable requirements for the care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public;

**Whereas**, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law to unusual circumstances and conditions that arise from time to time with respect to the keeping, care and control of domestic, wild and exotic animals; and

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

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this Ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Animal Control Regulations Adopted.** The City Council hereby adopts the "Animal Control Regulations" for the control and regulation of animals within the City of Comanche to read as set forth in and attached hereto entitled. Animal Control Regulations of the City of Comanche attached to and incorporated in this Ordinance as though fully transcribed herein for all purposes.

**Section 3. Amendment of Ordinances.** All Ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or of the City, the terms and provisions of this Ordinance shall govern.

**Section 4. Savings Clause.** All rights and remedies of the City of Comanche are expressly saved as to any and all violations of the provisions of any Ordinances affecting animals, licensing and registration within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.


**Section 5. Effective Date.** This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

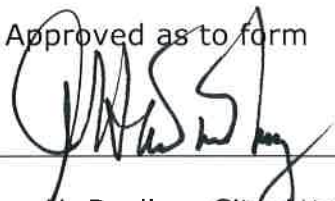
**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

**PASSED AND APPROVED** on this 24<sup>th</sup> day of July 2018, by a vote at Meeting of the City of Comanche City Council, Comanche, Texas.

  
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Ronnie Clifton, Mayor

  
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Jacqui Stewart, CCD  
Interim City Secretary

Approved as to form  
  
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James H. Dudley, City Attorney

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### **ARTICLE I. IN GENERAL**

**Section 1 Definitions.** The following words, terms, and phrases, when used in this Ordinance, shall have the following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

"Animal" shall mean any living creature other than hominids. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets. The term shall exclude a fish and other small aquarium-maintained creatures, not herein prohibited or restricted, where the owner only maintains no more than three aquariums having a total capacity of ninety gallons.

"Animal Control Division", "Animal Control Authority", or "Animal Control Officer" shall mean the Animal Control Division of the City's Police Department, its' animal control officers and/or peace officers.

"Animal Shelter" or shall mean a facility designated by the City Council to be used for the impoundment of animals taken up by the Animal Control Officers or other similar facility that may be temporarily contracted or designated by the Chief of Police for animal impoundment under the provisions of this Act.

"Animal welfare group" shall mean an association or nonprofit corporation who has as one of its purposes the providing for the welfare and/or protection of animals of any kind.

"Authority" shall mean the local rabies control authority as defined in this section.

"Brand" shall mean a mark made on the skin of any animal which indicates the ownership of the animal; typically used with livestock.

"Cat" shall mean the male and the female of any domesticated member of the feline species of animals.

"Chief of Police" shall mean the Chief of Police or designee responsible for the administration of this act.

"Circus" shall mean a commercial variety show featuring animal acts for the public at a fee or a part of a charity.

"Commercial Animal Enterprise" shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries, or any similar entrepreneurial relationship regarding animals.

"Day" shall mean a workday including Saturday and excluding, Sunday and City holidays.

"Dangerous Wild Animal" shall have the same meaning as defined in Chapter 822, Texas Health and Safety Code, Subchapter E.

"Distance between structures" where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.

"Dog" shall mean the male and the female of any domesticated member of the canine species of animal.

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

"Estray" has the same meaning as defined in Chapter 142, Texas Agricultural Code, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.

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

"Fish" shall mean any of the cold-blooded animals that extract oxygen from water through the use of gills.

"Fowl" shall include all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

"Governmental entity" shall mean an agency or political subdivision of the state or an agency or department of the federal government.

"Harbor" means to possess while in the act of keeping and caring for an animal; or of providing a premise to which the animal returns for food, shelter or care for a period of three days or longer.

"Habitual Offender" or "Habitually" means or refers to, an owner who has received two or more final convictions of this Ordinance or the owner of an animal who has been the subject of impoundment in the Animal Shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.

"Kenel" means an establishment designed or used for the selling, breeding, or overnight boarding of animals where more than three dogs and two cats or three cats and two dogs or a combination of five other animals are to be boarded, sold, or bred.

"Livestock" shall include, 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 rabies control authority" shall mean the senior Animal Control Officer, or an officer he designates to act in his place when he is temporarily unable to act for any reason.

"Marine animal" shall mean any animal, other than a mammal or bird that lives in a marine environment.

"Multi-pet owner" means a person who keeps or harbors more than four (4) cats or dogs or any combination of four (4) cats and dogs. Puppies and kittens under four months of age shall not be counted for purposes of this definition.

"Neutered" shall mean any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

"Non-registerable dangerous dog" means any dog which:

- (a) When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or
- (b) Has been deemed non-registerable by the Animal Control Officer and upheld or unchallenged by any court of jurisdiction.

"Owner" or "presumed owner" shall mean any person who has purchased or who owns, keeps, maintains, harbors or has care, custody or control of one or more animals. Ownership may be determined by identifying an adult resident of the premises upon which the animal is kept, maintained, harbored or otherwise resides and such adult shall constitute the owner of the animal upon such premise. Each actual resident of the premises shall be the owner or presumed owner and charged with responsibility for the animals thereon maintained or harbored.

Performing animals shall mean any spectacle, display, act, or event in which animals perform.

"Person" shall mean and include an individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated.



"Policy or Policies" shall mean the policies and procedures adopted consistent with this Act and applicable to the Animal Control Division of the City's Police Department.

"Poison" shall mean a substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

"Premise" shall mean a definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.

"Prohibited Animals" means any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, Vietnamese pot belly pigs, miniature pigs, apes or such other nondomestic species of animal not common to this area.

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

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

"Quarantine by Owner" means an animal owner who quarantines with Animal Control Officer's permission under the following conditions:

- (a) Animal must have current rabies vaccination and be registered with Animal Control;
- (b) Animal must be inside an enclosed structure, i.e., house or garage, and must remain there for ten days;
- (c) If maintained outside, animal must be behind a fence from which it cannot escape and on a chain from which it cannot break loose or inside a covered pen or kennel from which it cannot escape. The length of the chain must prevent the animal from making contact with the fence in which it is kept;
- (d) Animal must be kept away from other animals and people except those in the immediate household;
- (e) Animal may not be removed from corporate City limits of Comanche while under quarantine;

(f) Owner shall notify Animal Control Officer immediately if animal becomes sick or displays any behavioral changes;

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

(h) Animal must be examined by the local rabies control authority or designee by the first day of home quarantine and again on the final day of quarantine. Upon final examination the authority may declare the animal to be free of the rabies virus or under questionable circumstance differ such examinations to a licensed veterinarian. In such instances, owner shall be responsible all associated costs and when required produce proof of such veterinarian examinations;

(i) Owners who are deemed Habitual Offenders as defined herein shall not be allowed home quarantine;

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

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

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

"Residence" shall mean any place of human habitation at any time, day or night, including, but not limited to, any single or multi-family dwelling, church, school, convalescent center or nursing home.

"Restrained" shall mean any animal secured by a leash, rope or chain of some sort or confined through fencing or otherwise within the property limits of its owner.

"Restricted Animals" means any individual species and/or subspecies defined herein as "Prohibited" animals that have been registered and permitted in compliance with the procedures set out in Section 125 herein.

"Running at large" (animals at large)

(a) Off-premises:

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

2. Any cat which is creating a nuisance off the owner's property.

(b) On-premises:

1. Any animal, not confirmed to premises of owner by a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom;

2. An animal intruding upon the property of another person other than the owners shall be termed "at large";

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

4. Securing an animal by a chain, leash, or tether shall not satisfy the requirements for properly confining an animal on- premises.

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

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

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

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

"Tag" shall mean a vaccination tag attached to a collar as required by this Ordinance or some other permanent identifying device attached to a collar or to an animal.

"Tattoo" shall mean a permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

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

"Vaccination" shall mean an injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, state veterinarian and administered by a licensed veterinarian or at an approved anti-rabies clinic.

"Veterinarian" shall mean any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.

"Workday" shall mean a day from Monday through Saturday, excluding City holidays, with each respective day's work hours beginning at 8:00 a.m. and continuously operating until 8:00 p.m.; defining the public's routine access to administrative fee(s) and impound release transactions authorized by this Ordinance.

"Wild animal" or "wildlife" shall mean any nondomestic 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 including all animals identified herein as prohibited.

"Zoological park" or "Zoo" shall mean any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person under the auspices of a governmental entity.

**Section 2. Purpose.** It is the intent and purpose of this Ordinance 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 that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

**Section 3. Enforcement and Policy.**

(a) The provisions of this Ordinance may be enforced by Animal Control Officers, police officers, and such other persons as designated by the City Council. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, stray, control or impoundment, or other animal related matters.

(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 Ordinance while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any Animal Control 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.

(c) In all instances of a violation of any provision of this Ordinance, 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 Ordinance for any violation of this Ordinance. The Animal Control Division may also by policy establish a conditional written warning procedure relating to registrations, displaying of tags, and general "at large," violations. The receipt of such written warnings does not preclude the Animal Control Division from citing the recipient if the conditions of the written warning are not met in a timely fashion.

(d) In the enforcement of this Ordinance, Animal Control Officers and police officers shall have the authority to utilize firearms to kill or otherwise disable any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock or wildlife consistent with humane policies adopted by the Animal Control Division.

(e) Unless specifically provided in this Ordinance, an offense under this Ordinance shall not require a culpable mental state. It is the intent of this Ordinance to impose strict liability for violation of the requirements of this Ordinance.

(f) To aid in the administration of this Ordinance, the Animal Control Division shall by policy making authority of the Chief of Police, adopt administrative policies and operational procedures consistent with the purpose and intent of this Act.

**Section 4. Powers and duties of citizens.** Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large (as provided in Section 32) and may deliver the animal to an Animal Control Officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an Animal Control Officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an Animal Control Officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the Animal Control Officer or animal shelter.

**Section 5. Penalty.**

(a) Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) A person commits an offense, if with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this Ordinance to an Animal Control Officer or other person authorized to enforce provisions of this Ordinance.

(c) A person commits an offense if he reports to a person authorized to enforce provisions of this Ordinance an offense or incident with that person's concern knowing that the offense or incident did not occur.

**Section 6. Prima Facie Evidence.** In any prosecution charging a violation of this Ordinance, governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any Section of this Ordinance occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this Ordinance, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with the Ordinance.

**Section 7. Abatement of Conditions not complying with Ordinance.** Whenever any premises where animals are kept in an unsanitary conditions, or the facilities are not in keeping with provisions of this Ordinance or any other regulations herein, the Animal Control Division, by written notice on a form provided by police department policy clearly stating the intent of this section, to the person responsible for the condition of the premises, may order the abatement of the conditions which are not in accordance

with the Ordinance or other regulations, or conditions which constitute a nuisance. Failure to comply with such order shall, in addition to any criminal or administrative proceedings, be grounds for and entitle the City to obtain relief by injunction. Nothing herein precludes the City's use of any public health Ordinance or law in lieu of nuisance abatement or injunctive relief herein provided.

**Section 8. Compliance with Ordinance not relief from compliance with other regulations.** The keeping of any animal in accordance with provisions of this Ordinance shall not be construed to authorize the keeping of the same in violation of the zoning Ordinance or any other Ordinance of the City.

**Section 9. Fees.** The fee schedule attached as "Appendix A" shall apply to all animals within the City limit. It shall not be construed that the City be required to bear the costs of any animal that has an owner. The owner shall reimburse the City for any actual expenses and shall be responsible for all fees set forth in attached Appendix "A". The City may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this Ordinance or the State statute in addition to a fine being charged. In extra ordinary circumstances certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval; or pay agreements reached between owners and Animal Control Supervisor(s). Such administrative actions shall be guided by Animal Control's adopted policies and procedures.

**Sec. 10--30 - Reserved.**

## **ARTICLE II. GENERAL REGULATIONS**

**Section 31. Identification for animals.** Except as provided herein, all animals within the City shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.

**Section 32. Running at large.**

(a) *Responsible Party.* It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the City to allow or permit such animal to run or be at large within the City.

(b) *Cats.* The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this Ordinance and which is wearing the required vaccination tags. The prohibition shall apply to all other cats.

(c) *Restraint Required.* An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a fence of sufficient strength and height to prevent the animal from escaping therefrom. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) *Snakes.* It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.

(e) *Impoundment.* The Animal Control Officer for the City may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the Animal Control Officer observes an animal on property which is owned by a person other than the owner of the animal and observes the animal return to property of its owner, the Animal Control Officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner the Animal Control Officer, his/her agent, or peace officer may enter the property, other than a private dwelling for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of the title and law.

(f) *Prima Facie Evidence.* 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.

### **Section 33. Confinement During Estrus.**

(a) *Secured Enclosure Required.* Any unaltered female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house; building or secure enclosure and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals except for controlled breeding permitted by the owner of the female.

(b) *Chaining or Tethering.* Additionally, the female dog or cat shall not be chained or tethered, except in a secured enclosure, and if chained or tethered within a secured enclosure, the female dog or cat may not be chained or tethered in a manner that prevents her from defending herself or from avoiding a male.

(c) *Removal of the Animal.* Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital or the animal shelter. Failure to comply with the removal order of the Animal Control Officer shall be a violation of this Ordinance and the dog or cat will then be impounded as prescribed herein. All expenses incurred, as a result of this confinement, shall be paid by the owner.

### **Section 34. Animal defecation prohibited in certain areas.**

(a) It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence 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 a prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) *Exception.* It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's from public or private property.

**Section 35. Wild animals or wildlife.**

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

(b) All persons 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 or 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 that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

**Section 36. Nuisance animals.**

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

1. Molests or chases pedestrians, passersby or passing vehicles, including bicycles, or molests, attacks or interferes with other animals or persons on public property or private property other than the owners;

2. Makes unprovoked attacks on other animals of any kind or engages in conduct which establishes such animal as a "Dangerous Animal";

3. Is repeatedly at large; specifically, three or more times per 12-month period (excluding domestic cats);

4. Damages, soils or defiles public property or private property, other than property belonging to or under the control of the owner;

5. Repeatedly defecates on property not belonging to or under the control of its owner, unless such waste is immediately removed and properly disposed of by the owner of the animal (including domestic cats);

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

7. Produce odors or unclean conditions sufficient to annoy persons living in the vicinity; or

8. Is unconfined when in heat.



(b) If the Animal Control Officer determines that any animal is a nuisance, the Animal Control Officer may issue an order requiring that the owner meet certain remedial requirements to correct the conduct of the animal. The order, the form of which shall be provided for by policy, shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file a written appeal to this order clearly stating the reasons for the appeal, within 10 days of service. A hearing shall be conducted to determine the issues stated in the written appeal. At the hearing the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of preponderance of the evidence presented. The decision of the hearing officer shall be rendered within 30 days from receipt of the appeal and the decision of the hearing officer shall be final. Nothing herein precludes the City from seeking other remedies if owner's fail to comply with the remedial requirements stated or the decision(s) rendered in the appeal process.

(c) Persons residing within 600 feet of a person who harbors or keeps an animal that they believe to be a nuisance may initiate a written, signed complaint, the form of which shall be provided for by policy, with the Animal Control Division. Animal Control Division shall investigate the merits of such complaints to determine if the stated animal is a nuisance as defined herein this section. If the animal is determined to be a nuisance animal the procedure set forth in (b) of this section shall apply.

**Section 37. Honeybees.** No person shall construct, place or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the occupants of all such residences.

**Section 38. 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 50 feet from any residence, excluding the residence of the person keeping or harboring the animals.

**Section 39. Livestock.**

(a) It shall be unlawful for any person owning or having care, custody or control over any livestock, except the horses used by the City Police Department, to:

1. Cause or permit any livestock to be pastured, herded, staked or tied in any street, lane, alley, park or other public place; or

2. Tie, stake or pasture or permit the tying, staking or pasturing of any animal upon any private property within the City without the consent of the owner or occupant of such property; or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property; or

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

bam sufficient and adequate to restrain such livestock.

(b) It shall be unlawful for any person to keep or harbor any livestock within the City in a pen or other enclosure situated at any point closer than 100 feet to any residence or building occupied by any person during any part of the day or night, excluding the residence of the person keeping or harboring the livestock.

(c) 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 21780 square feet of area for livestock, 1000 square feet for sheep or goats.

**Section 40. Storage of feed.** All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

**Section 41. Other Restrictions.**

(a) *Hogs.* The keeping of hogs is prohibited.

(b) *Keeping of Animals Near City Water Supply.*

It is unlawful and constitutes an offense for any person, whether for himself or as the agent or servant of another or others, to keep or to participate in keeping any horse, hog, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the City obtains its principal water supply as specified in the official Texas Administrative Code published under authority of the Secretary of State, Title 31, Natural Resources and Conservation, Section 290.41 (c) (I) (C) (D) (F).

2. "Keeping" means the care and control of the livestock or fowl in question for a period of longer than five days.

(c) *Keeping of Animals and Fowl - Restricted.* It is unlawful and constitutes a nuisance to keep any horse, cattle, sheep, goat, rabbit or livestock, including fowl, at any place within the City, when the place where the same are within 100 feet of any private residence or dwelling place or within 500 feet of any building or establishment open to the public, with the exception of park land, or if the animal or fowl in question is kept in a manner and under conditions wherein by reason of the odors emanating therefrom, the noise made by it or from any other cause pertaining to it or pertaining to the manner or to the place at which it is kept is reasonably calculated to annoy, offend or disturb the reasonable sensibilities of inhabitant of a private residence, or person(s) occupying or visiting an establishment open to the public. The distance provisions do not apply to park land; however, other requirements of this section relating to the manner in which animals are kept shall apply to such park land.

(d) *Keeping of Animals and Fowl - Proof Constitutes Prima Facie Case.* Proof that not to exceed five(5) head of grown fowl and no more than one(1) adult male and (4) females shall have a minimum of 10 square feet as described in subsection (c) above, or any combination thereof, are being kept at any one time at a place within the City that is within 50 feet of the private residence of another, or within 500 feet of any building or establishment open to the public, shall be sufficient to make out a

prima facie case, and unless such prima facie case is overcome by sufficient evidence, it shall warrant a conviction under the provisions of this section.

(e) *Keeping of Animals and Fowl - Exceptions to Distance Restrictions.* The distance restrictions and livestock prohibitions of this Ordinance do not apply to property zoned as Agricultural (A) according to the Zoning Ordinance of the City of Comanche. The distance restrictions of this Ordinance do not apply to property zoned as Residential Estate (RE) according to the Zoning Ordinance of the City of Comanche, or to property properly zoned or used (as in continuing use) as veterinary clinics or facilities or established kennels that are for the purposes of care or boarding animals or existing shipping pens utilized for temporary holding before shipment or sale.

(f) *Dead Animals and Fowl.* It is unlawful for any person in the City to cause to be placed or place or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.

**Section 42. Animals Held on Complaint.** If a complaint has been filed in Municipal Court of the City against the owner of an impounded animal for a violation of this title the animal may be held on the order of the Municipal Judge who may also direct the owner to pay any penalties for violation of this Ordinance in addition to all impoundment fees. Surrender of an animal by the owner thereof to the Animal Control Officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this Ordinance.

**Section 43. Removal of Animals from Confinement.**

(a) *Removal of Animals from Confinement.* It shall be unlawful for any person to remove or allow to escape from any place of confinement any dog or cat which has been confined or ordered to be confined by the City, without the consent of the Animal Control Division.

(b) *Release of Confined Animals.* It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person for which the person is not given specific permission to enter for the purpose of releasing a confined, chained or tethered animal.

(c) *Impounding- Interfering with Officers.* It shall be unlawful for any person to interfere or attempt to interfere with the Animal Control Officer or to interfere or attempt to interfere with any person acting for the City in the taking up and impounding of animals in the City.

**Secs. 44--60. Reserved.**

## ARTICLE III. ANIMAL PROTECTION PROVISIONS

### Section 61. Animals in motor vehicles.

(a) It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence 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 animal 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 the animal, including the removal from a vehicle in addition to any criminal penalty that may be imposed under this section.

(b) Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle related incidents which result in animals being left uncontrolled or unattended, animal control or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the City's kennel facility, a veterinarian, humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.

### Section 62. Duty of motor vehicle operator to report accident involving animals.

(a) Any person who, as the operator of a motor vehicle within the City, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. 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.

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

**Section 63. 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.

**Section 64. Selling dyed animals.** It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

**Section 65. Giving animals as prizes or inducements.**

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.

(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.

**Section 66. Trapping and shooting.**

(a) *Trapping Prohibited.* It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed, leg-hold trap or for any person, other than Animal Control Officers, to set or otherwise use other trapping devices including "live traps" used for the capture of any animal. Consistent with the provisions herein, the Animal Control Division is authorized to utilize humane "live traps" and may conduct trapping operations or provide or authorize such devices' use to property owners as may be needed throughout the City. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.

(b) *Hunting Prohibited.* It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the City. It shall be unlawful for any person to hunt, shoot or kill, within the City, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(c) *Domestic Animals.* It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the City. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

**Section 67. Molesting animals.** It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

**Section 68. Pens and enclosures; sanitary requirements; minimum cage size; overcrowding.**

(a) 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 pen 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.
3. Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.

(b) Cages, pens or enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such pen or enclosures comfortably and in good health.

**Section 69. Negligent care.**

(a) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.

(b) To provide "adequate shelter" for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:

1. The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.
2. If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.
3. Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.

(c) A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to

appear at the municipal court may be issued or before a complaint may be filed with the municipal court.

**Section 70. Animal in state of pain or suffering.**

(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the Animal Control Division may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.

(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the Animal Control Officer may dispose of the animal in a humane manner.

**Section 71. Sale of animals in public place.**

(a) Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the City, the person offering the animal for sale, the owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made, shall be responsible for ensuring that the animal protections of this Article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.

(b) The term "public place" as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores and flea markets.

(c) If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:

1. The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.

2. The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.

3. The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.

**Section 72. Animal fights and fighting paraphernalia.**

(a) It shall be unlawful for any person to intentionally, knowingly, recklessly, or with criminal negligence use, or allow or permit to be used, property that he owns or has control over for the purpose of conducting animal fights. For purposes of this section, "animal" shall mean a domesticated living creature and wild living creature

previously captured, other than a dog.

(b) It shall be unlawful for any person to possess animal fighting equipment within the City. As used herein, the term "animal fighting equipment" means any equipment used for training, handling, housing, feeding or transporting fighting animals. The term also includes animals being used, trained or bred for fighting or intended to be used, trained, or bred for fighting.

**Section 73. Slaughtering of animals.** Animals may be slaughtered for human or animal consumption within the City, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

**Section 74. Use of poisonous substances.**

(a) It shall be unlawful for any person to administer poison to an animal belonging to another without legal authority or the owner's effective consent. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person.

(b) It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the City.

(c) The provisions of subsection (a) and (b) shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits used to control insects and wild rodents. For purposes of this section, the term "exterminator" shall mean an individual licensed by the Texas Structural Pest Control Board, unless he or she is exempt from such licensing.

**Section 75. Cruel Treatment.** No person shall beat, cruelly mistreat, torment, mentally abuse, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

**Section 76. Abandonment.** No person shall abandon an animal in his/her custody.

**Section 77. Creating a Health Hazard.** Any person who shall harbor or keep animals on his/her premises, or in or about a premise under his/her control, and who allows such premises to become a hazard to the general health and welfare of the community, or who shall allow such premises to give off obnoxious or offensive odors due, to the activity or presence of such animals, shall be guilty of a Class "C" misdemeanor.

**Section 78. Tampering with Traps and Equipment.** No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to or set out by the Animal Control Officer.

**Secs. 79—100 Reserved.**



## ARTICLE IV. DANGEROUS ANIMALS

**Section 101. 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 Animal Control Officer shall recognize the right of a person to use an animal as a protector or as a guard; however, the Animal Control Officer 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. It is also the intention of this Article to provide public safety regarding dangerous wild animals and other potentially dangerous nondomestic animals, as well as, providing avenues for permitting the safe exhibition of certain animals for public entertainment.

**Section 102. Dangerous animals.** (a) A dangerous animal shall be defined as an animal which:

1. Has inflicted injury on a human being without provocation on public or private property; or
2. Has killed or severely injured a domestic animal without provocation while off the owner's property; or
3. 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; or
4. Is a warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the Texas Department of Health; or
5. Is a hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; or
6. Is a venomous or carnivorous fish or reptile or any fish or reptile that grows over six feet in length.

(b) If an animal acts as stated in subsection (a) of this section, the Animal Control Officer shall impound the animal immediately if it is at large; or, if it is in the possession of some person, the Animal Control Officer may issue a notice requiring that the animal be taken to a designated location for impoundment. The form of such notice shall be provided for by policy. An animal which is impounded shall not be released until a final determination is made on the disposition of the animal.

(c) Notice shall be given to the owner that the Animal Control Officer has determined that the animal is a dangerous animal. This notice shall also set out the 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

shall have five working days from receipt of the notice to file a letter with the Chief of Police stating that{s]he shall comply with the remedial requirements as stated in the notice or that {s]he disagrees with the determination that the animal is dangerous or the remedial requirements and that {s]he requests a hearing before the Chief of Police or designee. Such hearing shall be conducted as provided for Nuisance Animals of this Ordinance.

(d) If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for 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.

(e) If the animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the Chief of Police or designee may again review the situation and prescribe additional or different remedial requirements.

### **Section 103. Potentially dangerous animals.**

(a) If the Animal Control Officer believes that an animal has exhibited behavior indicating that it represents a potential danger, the Animal Control Officer may initiate an investigation to determine whether or not the animal is potentially dangerous.

(b) 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; or

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.

(c) If upon investigation the Animal Control Officer determines that the animal is indeed a potentially dangerous animal, remedial requirements may be prescribed subject to the same processes, including appeals, addressed under this Ordinance for Dangerous Animals.

(d) If an animal's behavior creates a more dangerous situation even though the owner is complying with the remedial requirements, the City Magistrate depending upon previous action, may again review the situation and prescribe additional or different remedial requirements.

**Section 104. 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; or
2. Was tormenting, abusing or assaulting the animal or has in the past been observed or reported to have tormented, abused or assaulted the animal and the animal was not at large at the time of the offense; or
3. Was committing or attempting to commit a crime.
4. If the he dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or
5. If the dog was injured and responding to pain.

(b) The provisions of this Article shall not apply to animals under the control of a governmental law enforcement, correctional, or military agency.

(c) The provisions of this Article shall not apply to a dog whose conduct has brought it within the coverage of the V.T.C.A., Health and Safety Code Chapter 822, to the extent that said Chapter preempts local regulation of the dog's conduct.

#### **Section 105. Non-registerable Dangerous Dogs.**

No person shall own or harbor a non-registerable dangerous dog within the City. Such an animal may be impounded as a public nuisance. If impoundment of such non-registerable dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer.

If an attempt is made to impound a non-registerable dangerous dog from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given 24 hours' notice that if the animal is not surrendered to the Animal Control Officer for impoundment within said 24-hour period, then the animal will be destroyed wherever it is found. After this notice, the non-registerable dangerous dog may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Ordinance may be verbal or in writing on a form provided for by policy. A written notice left at the entrance to the premises where the non-registerable dangerous dog is harbored will be considered valid notice under this Ordinance.

**Section 106. Determination of Non-registerable Dangerous Dog.** A dog is determined to be a non-registerable dangerous dog if:

- (a) A dog is automatically determined to be non-registerable if it commits acts as set forth under the definition of "Non-registerable dangerous dog" in Section 1; or
- (b) The Animal Control Officer may find and determine a dog to be non-registerable if:

1. Upon receipt of an affidavit of complaint signed by one or more individuals, made

under oath before an individual authorized by law to take sworn statements or made at the animal shelter before the Animal Control Officer, setting forth an act described in Section 1 and referenced above in (a), and setting forth the:

- a. Nature and the date of the act described in Section 1,
- b. The location of the event,
- c. The name and address of the owner of the animal in question, and
- d. The description of the animal in question.

2. The Animal Control Officer investigates the complaint and may determine that an animal is non-registerable under this title and/or State law;

(c) The dog has been registered as, or finally determined or declared to be, a dangerous dog, either in Comanche or in another City or county in Texas, or has made an unprovoked attack on another person outside the dog's enclosure, or causes injury to such person or a person assisting or intervening on behalf of such person; or

(d) The owner of a dog determined to be a registerable dangerous dog under this Ordinance, or any previous or other Ordinance of this City or any other City or State law, cannot or will not comply with the requirements set out in this Ordinance for the keeping of a registerable dangerous dog.

**Section 107. Notification of Determination of a Non-Registerable Dangerous Dog.**

(a) Within five working days of determining an animal non-registerable, the Animal Control Officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a non-registerable animal. In the event that certified mail, return receipt requested, cannot be delivered, the Animal Control Officer may then give notice by ordinary mail to last known address of owner. For the purposes of this section, written notice may be delivered by the Animal Control Officer in person to the owner/harbinger of the dog in question.

(b) If the animal is determined to be non-registerable under this Ordinance, the owner may appeal to the Municipal Court within 15 days of notification. Failure to appeal the determination of a non-registerable dangerous dog shall result in the Animal Control Officer's determination as becoming final.

**Section 108. Status of Dog Pending Appeal.** Pending any appeal to Municipal Court, the animal must be confined at the animal shelter or licensed veterinary facility, and the cost of such confinement shall be borne by the owner. If the dog in question is not in the possession of the animal shelter at the time of the declaration, the owner must surrender the dog to the Animal Control Officer when ordered to do so. If the owner fails to immediately surrender the dog, the Animal Control Officer shall take the dog into his possession from the premises of the owner or elsewhere, wherever the dog may be found within the City limits. If the dog cannot be taken into custody by the Animal Control Officer, it may be taken into custody under a search warrant pursuant to CCrP, Article 18.01, the grounds for issuance shall conform to Subdivision (8) of Article 18.02 of the same Code and issued by the Municipal Judge.

**Section 109. Defense to Determination.** It is a defense to the determination that a dog as a non-registerable dangerous dog, dangerous dog or should be destroy and to the prosecution of the owner of that dog:

- (a) If the threat, injury or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal and was older than eight years of age at the time of the attack;
- (b) If the person was teasing, tormenting, abusing or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal and is older than eight years of age at the time of the attack;
- (c) If the person was committing or attempting to commit a crime;
- (d) If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or
- (e) If the dog was injured and responding to pain.

**Section 110. Disposition of a Non-Registerable Dangerous Dog.**(a) If the Municipal Court upholds the determination by the Animal Control Officer, the court shall, subject to any rights of appeal, order the dog to be euthanized in a safe and humane manner.

(b) In the event the Municipal Court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner reimburses the City for any veterinary medical treatment administered to the dog while in the custody of the Animal Control Officer.

**Section 111. Registerable Dangerous Dog.** This designation shall refer to a dog determined dangerous under this Ordinance and in compliance with State law and that meets any of the following criteria:

- (a) Any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in an apparent attitude of attack such that the person reasonably believes that the animal will cause physical injury to the person;
- (b) Any dog that commits an unprovoked act in a place other than an enclosure in which the dog was being kept and which enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and the act causes a person to reasonably believe that the dog will attack and cause bodily injury to any person; or
- (c) Any animal that has killed or seriously injured a domestic-animal without provocation while off the owner's property.

**Section 112. Determination of a Registerable Dangerous Dog.** A dog is determined to be a registerable dangerous dog if it meets the requirements set out in foregoing section, and:

- (a) The owner of the dog in question knows of such an attack as defined in this City of Comanche Animal Control Ordinance

Ordinance; or

(b) The owner is notified by the Animal Control Officer that the dog in question is a registerable dangerous dog. The Animal Control Officer may find and determine a dog to be a registerable dangerous dog if:

1. Upon receipt of an affidavit of complaint signed by one or more individuals made under oath before an individual authorized by law to take sworn statements, setting forth an act described in foregoing section of this Ordinance and set forth as follows:

- a. Nature and the date of the act described in foregoing section,
- b. The location of the event,
- c. The name and address of the owner of the animal in question, and
- d. The description of the animal in question.

2. The Animal Control Officer has been notified by another agency that the dog has been determined to be dangerous under the State law.

**Section 113. Notification of Declaration of Registered Dangerous Dog.**

(a) Within five working days of determining a dog to be a registered dangerous dog, if written notification cannot be given personally to the owner of the dog, the Animal Control Officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a registerable dangerous dog. In the event that certified mail, return receipt requested, cannot be delivered, the Animal Control Officer may then give notice by ordinary mail.

(b) If the dog is determined to be registerable under this title, the notice shall inform the owner of the dog that he/she may appeal the determination to Municipal Court no later than 15 days after the date the owner is notified of the determination. Failure to appeal the determination of registerable dangerous dog within the 15-day period shall result in the Animal Control Officer's determination becoming final.

(c) Upon determination by the Animal Control Officer, that the dog is dangerous, the owners shall be required to secure the animal immediately within an enclosure that meets the requirements of this Ordinance. If the owner fails to do so, the Animal Control Officer shall impound the dog until such enclosure is provided.

(d) The Animal Control Officer shall immediately notify, in writing, adjacent and contiguous property owners of such determination.

**Section 114. Status of Dog on Appeal.** Pending the outcome of the appeal, the animal must be confined at a licensed veterinary clinic or at the animal shelter, the cost of which shall be borne by the owner of the dog in question. If the dog in question is not in the possession of the animal shelter or a veterinary clinic at the time of the determination, the owner must surrender the dog to the Animal Control Officer when ordered to do so. If the owner fails to immediately surrender the dog, the Animal Control Officer shall have the right to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the City limits. If the dog cannot be taken into custody by the Animal Control Officer, it may be taken into

custody under a search warrant for contraband issued by the Municipal Judge.

**Section 115. Defense to Determination of Registerable Dangerous Dog.** The defenses identified in Section 109 shall serve as a defense to the determination of a dog as a registerable dangerous dog and to the prosecution of the owner of that dog.

**Section 116. Disposition of a Registerable Dangerous Dog.**

(a) If the Municipal Court upholds the determination by the Animal Control Officer, the owner shall, no later than ten days after the hearing, comply with the provisions of this Ordinance for the keeping of a registered dangerous dog in the City and the dog shall be returned to the owner provided all costs involved in the impoundment, holding and medical treatment of the dog are paid.

(b) In the event the Municipal Court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner has paid all veterinary medical costs administered to such dog while in the custody of the Animal Control Officer.

(c) The Municipal Court may order make any reasonable orders for the dog consistent with this Ordinance and Chapter 822 of the Health and Safety Code.

(d) If the Animal Control Officer has information or belief, or has determined that a court of competent jurisdiction has ever made or upheld a determination or declaration that a dog is dangerous, or if the Animal Control Officer has determined that a declaration or determination of dangerous dog became final for failure to appeal or any other reason, under previous or other Ordinances of this City or other cities or State law, the Animal Control Officer shall notify the person owning or keeping such dog in writing that the owner shall no later than ten days after the date of the notice comply with the provisions of this title for the keeping of a registered dangerous dog in the City of Comanche.

**Section 117. Requirements for Registration and Possession of Registered Dangerous Dog.** The owner must register the dog with the Animal Control Officer, and pay the fees as required by State law not later than 30 days after the owner is notified that the dog is dangerous. The registration shall not be transferable and shall expire one year from date of issuance. The Animal Control Officer shall provide to the owner of the registered dangerous dog a tag which must be placed on the dog's collar and worn at all times.

(a) The owner must comply with the following to register the dog:

1. Present proof of liability insurance or financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog;
2. Present proof of current rabies vaccination of the registerable dangerous dog;
3. Present proof that the dog has been altered so as to prevent reproduction;
4. Provide a proper enclosure as defined in this Ordinance and that proper enclosure must be inspected and approved by the Animal Control Officer;

5. Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog; and

6. Further identification may be required and designated by the order of the City Council.

(b) When the registered dangerous dog is taken outside the approved proper enclosure, the animal must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting a person or other animal, and the dog must be restrained by a substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length.

(c) Prior to selling or moving the registered dangerous dog either inside or outside the City limits, the owner must notify the Animal Control Officer of his/her intentions. In the event the dog is moved permanently outside the City limits the owner must comply with the State law in notifying the Animal Control Division in control of the area into which the dog has been moved.

(d) Anyone bringing a dog into the City limits that has been declared dangerous by another animal control authority must notify the Animal Control Officer of the new address where the dog will be kept and upon presentation of the dog's prior registration tag that has not expired shall pay a fee set by the City Council, and the Animal Control Officer shall issue a new tag to be placed on the dog's collar. This owner must also comply with all requirements set out in this title.

**Section 118. Attack by Registered Dangerous Dog.** The owner of a dangerous dog shall notify the Animal Control Officer of any attacks the dog makes on people or animals.

**Section 119. Appeal from Municipal Court.** Any appeal of the decision or order of the Municipal Court of Comanche shall be made within ten days in the same manner as appeal from civil cases originating in the Justice of the Peace Courts of this State. The Municipal Court shall order the appellant to post a supersedes bond payable to the City in an amount not less than \$10,000.00. The form of the bond shall be as prescribed in the laws pertaining to civil appeals originating in the Justice of the Peace Courts in this State. The appellant shall be responsible for the cost of appeal.

**Section 120. Defense to Prosecution for Violation of Registered Dangerous Dog.** It is a defense to prosecution that the person possessing a dangerous dog is:

(a) Veterinarian, peace officer, or employee of the City, and the harboring of the dog was in the performance of his/her duties;

(b) 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: or



(c) A dog trainer or an employee of a guard dog company, while in the performance of his/her duties, under the Private Investigators and private Security Agencies Act.

**Section 121. Penalties for Violation of This Article relating to Dangerous Dog.** (a) It shall be a violation of this Article if the person is the owner of a registered dangerous dog and the dog makes an unprovoked attack on another person outside the dog's proper enclosure and causes bodily injury to the other person whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

(b) It shall be a violation of this Article if the person is the owner of a registered dangerous dog and that dog kills or wounds a domestic animal while outside the dog's proper enclosure whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

(c) It shall be a violation of Article if the person is the owner of a registered dangerous dog and that dog attacks a person who gains access to the proper enclosure due to negligence on the part of the owner or the owner's agent. This negligence shall include a failure to comply with the notification of ownership of dangerous dog through posting of warning signs in accordance with this Article.

(d) In addition to criminal prosecution, a person who commits an offense under this Article is liable for a civil penalty not to exceed \$10,000.00. The City Attorney of Comanche may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the City.

**Section 122. Exhibitions of Certain Animals Prohibited.** No person shall keep, or permit to be kept, on his premises any wild or dangerous animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed so as to apply to a zoo or circus, as defined in Section 1.

**Section 123. Prohibited Animals.** No person may possess a prohibited animal within the City limits. Such prohibited animals shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals or any hybrid of these animals or such other class of animals as may be determined to be dangerous by the animal Control Officer or any other dangerous animal which may be added in the future to the list as a high-risk animal in the Texas Rabies Control Act, as amended.

(a) Class Mammalia: family Canidae (such as wolves, coyotes and fox) except domesticated dogs and hybrids involving 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); and order Chiroptera (such as bats).

(b) Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotiladae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators and their allies (order Loricata) and nonvenomous reptiles over six feet in length.

(c) Brown recluse (*Loxosceles*) and black widow (*Lactrodectus*) spiders.

**Section 124. Prohibited Dangerous Wild and other nondomestic Animals.** The animals specified in this section as dangerous wild animals shall be deemed as contraband and no person may possess any individual species and/or subspecies of the following dangerous wild animals: Order Carnivora, family felidae (such as lions, tigers, jaguars, leopards and cougars, ocelot, lynx, bob cat, cheetahs, jaguars), hyenas, bears, lesser pandas, ferrets from natural habitats, order Primata (such as monkeys, chimpanzees, apes). No person may possess any individual species of the following animals: Antelope, binturong, miniature pigs, elephants, Vietnamese pot belly pigs, or such other nondomestic species of animal not common to this area.

**Section 125. Certificate of Registration of Dangerous Wild Animals and other nondomestic animals on issuance of Permit to Operate Circus or Zoo.** (a) Notwithstanding the provisions of Sections 122, 123, & 124 special certificates of registration of dangerous wild animals and other nondomestic animals noted in such Sections, may be issued in conjunction with the issuance process of permitting circus or non-accredited zoo operations within the City. The issuance of such permits shall provide an exception to said sections and classify such animals as "restricted" and subject to the terms set out in the application and agreement processes provided herein. The application for certificate and permit shall be made to the Animal Control Authority on a form provided for by department policy. Such form shall contain a formal "agreement" between the City and the applicant relating to routine permitting criteria and specifically, general business practices as these relate to the type of permit required (Circus or Zoo), hours of operation, and covenants to observe approved safety and escape prevention procedures. Approved permits and related certificates of registration shall be issued under the authority of the Chief of Police. Applications shall be investigated for reputation for historical compliance with similar laws in this jurisdiction and others, and the applicant shall provide the following information and documentation:

1. A health certificate from a licensed veterinarian stating that the animal is free from symptoms of infectious disease or is under treatment. A new health certificate is required each time the permit is renewed. A copy will remain with the Animal Control Officer.
2. Copies of applicable State or Federal permits or licenses as required by either of those entities for the keeping of the particular animal in question. These copies will be retained by the Animal Control Officer;
3. Information relating to the owner including emergency telephone numbers and telephone numbers for their veterinarian in case of emergencies;
4. Present proof of liability insurance or financial responsibility in the amount of \$100,000.00 to cover the damages resulting from an escape and/or attack by any one individual animal listed in Sections 123 and 124 to be registered and permitted;
5. Agreement to allow reasonable access for inspection by Animal Officer;
6. Enter into an agreement with the City that safety and escape prevention be maintained on a 24 hour basis, the failure of which shall be grounds for permit

revocation and documentation of compliance with all other applicable City Ordinances, including, but not limited to building and planning and zoning.

7. The negligent escape of any animal subject to permitting under this Article shall be prima facie evidence of a breach of the safety and escape prevention covenants required herein.

8. Failure to provide required information or documentation, or an unsatisfactory investigative finding shall be grounds for denial of permit. An appeal of denial of permit shall be made in writing within 10 days of the notice of denial to the City Magistrate. The City Magistrate may review the issues leading to the denial or conduct an administrative hearing, and decide the issue, in either, the decision of the City Magistrate is final.

(b) Before a certificate(s) and permit is issued, the Animal Control Officer shall inspect the facility where the animal(s) is/are to be kept, which must meet the following criteria:

1. Each enclosure must provide adequate exercise area and sleeping quarters;
2. Proper temperature control and ventilation for the particular species must be provided in both areas;
3. Each enclosure must be kept locked and designed so that no one can enter or place appendages in the enclosure;
4. Each enclosure must be constructed so as to prevent the animal from escaping;
5. Each enclosure must be kept in good repair to prevent both escape and injury to the animal;
6. Each enclosure must have a water container which is secured so as to prevent its being overturned;
7. Each enclosure must be cleaned daily.

(c) Animal Control Officer may when deemed necessary, employ the services of a licensed veterinarian to assist in this application process and applicant shall be responsible for the reasonable costs associated with such service in addition to any permit fees required under this Act.

(d) Each animal must be provided with continuous clean water and must be fed a diet approved by a licensed veterinarian.

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

(f) Fee for Circus/Zoo registration and permit shall be according to the schedule established in "Appendix A", and the permit shall expire one year from date of issuance and shall not be transferable. Major modifications or additions to such facilities' animal containment areas shall require a re-inspection and/or re-permitting of the circus or zoon. In such instances, an original application fee shall be collected.

**Section 126. Violation of Sections 122, 123, 124 & 125 relating to various prohibited animals.** (a) It shall be a violation of this Article if a person keeps or permits to be kept on his premises any wild or dangerous animal for display or exhibition purposes and each day of noncompliance shall constitute a separate offense.

(b) It shall be a violation of this Article if a person possesses an animal prohibited under Section 123 and each day of violation shall constitute a separate offense.

(c) It shall be a violation of this Article if a person possesses an animal prohibited under Section 124 and each day of violation shall constitute a separate offense. In addition to any criminal penalty, if a person possesses an animal classified in Section 124 as a "dangerous wild animal" in violation of this Article, that person is liable for a civil penalty of not less than \$200 and not more than \$2,000 for each dangerous wild animal in violation and for each day the violation continues. The City Attorney may bring suit to collect said penalty and costs allowed by statute and such penalty shall be retained by the City.

(d) It shall be a violation of this Article to operate a circus or zoo without a valid permit issued pursuant to this Article and each day of operation shall constitute a separate offense. In addition to any criminal penalty, if the circus or zoo at the time of the violation is in possession of any "dangerous wild animal", the liability for the civil penalty detailed in subsection (c), herein may be imposed for each dangerous wild animal possessed.

**Section 127. Non-applicability.** (a) This Article does not apply to:

1. Zoological Parks accredited by the American Association of Zoological Parks and Aquariums;
2. Federally licensed research institutions;
3. Any government agency or its employee who uses the animals for an agency related to education, propagation, or behavior program; or
4. Anyone holding a valid rehabilitation permit from the Texas Parks and Wildlife Department but only for animals which are in rehabilitation and scheduled to be released to the wild.
5. A research facility as defined by Animal Welfare Act (7 U.S.C. §2132) and licensed by the U.S. Secretary of Agriculture.
6. A dangerous wild animal in the custody and control of a circus company or other similar entity not based in this city and the animal is "in transit".
7. An animal subject to this Article in the temporary custody and control of a television or motion picture production company during production activities.
8. Any federal, state, or local governmental entity acting in official capacity and engaging in zoological activities.

(b) This Ordinance does not apply to an animal that is an FFA or 4-H project and that is and remains in good standing and on an official list of such authorized projects filed with the City by the authorized sponsor of such FFA or 4-H program; provided that such

exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the Mayor that such animal is not being maintained and cared for in compliance with the standards of such FFA or 4-H program, or is, otherwise, no longer an authorized FFA or 4-H project.

**Section 128. Guard Dogs.** (a) All dogs which are trained by a certified professional and kept solely for the protection of persons and property, residential, commercial or personal, shall obtain a permit from the Animal Control Officer. The fee for this permit shall be according to the schedule established in Appendix "A". The area or premises in which such dog is confined shall be conspicuously posted with warning signs bearing letters not less than two inches high, stating "Guard Dog on Premises."

(b) The area of premises shall be subject to inspection by the Animal Control Officer to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent its coming in contact with the public.

(c) This section does not apply to dogs used by Federal, State, County, or municipal law enforcement agencies or correctional institutions.

**Secs. 129 -140. Reserved.**

## **ARTICLE V. IMPOUNDMENT**

**Section 141. Impoundment Generally.** (a) Animals owned or harbored in violation of this Ordinance or law of the State of Texas or those safekeeping or humane situations provided herein this Act, shall be taken into custody by an Animal Control Officer or other designated official and impounded under the Ordinance.

(b) Owners of impounded pets are required to pay all fees related to the impoundment as set in "Appendix A".

**Section 142. Tampering with Animal 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 animal shelter or any enclosure belonging to or used by the City to impound or keep animals. 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 or release of any animal from the animal shelter, from an impoundment vehicle or from any enclosure used by the City for the impoundment of animals.

**Section 143. Redemption of impounded animal.** (a) Except as may be provided elsewhere in this Ordinance, the owner of any animal impounded in accordance with this Ordinance may reclaim, on any workday, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the City or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees, or some alternate fee satisfaction as provided for in Section 9 of this Ordinance, the animal may be sold or otherwise disposed of by the City or its agent.

(b) If a dog or cat has been impounded on two prior occasions, the dog or cat must be spayed or neutered before being released to the owner if impounded on a third City of Comanche Animal Control Ordinance

occasion. The owner of the dog or cat will be responsible for arranging for the spay or neuter surgery. The dog or cat will be transported to the veterinarian by an Animal Control Officer or an employee or agent of the animal shelter. The cost to spay or neuter the dog or cat shall be paid by the owner, along with the impoundment fees, either to the animal shelter or to the veterinarian in advance of transporting the animal for the surgery. After the surgery is performed, the veterinarian may release the dog or cat to the owner.

**Section 144. Disposition of dogs and cats.** (a) *Dogs and Cats with No Identification.* All dogs and cats impounded by the Animal Control Officer or brought to the animal shelter by a person, other than the harbinger or owner of that animal shall be held for a minimum of 72 hours during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog/cat. In the event that the dog/cat is not claimed after 72 hours in the shelter, the dog/cat shall become the property of the City.

(b) *Dogs and Cats with Identification.* Unless earlier claimed by the owner, all dogs and cats impounded by the Animal Control Officer, or brought to the animal shelter by a person other than the harbinger or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum of three (3) complete days from the time the animal enters the facility, during which time the Animal Control Officer will notify the owner, when known, of the impoundment. Unless the owner has notified the Animal Control Officer in writing of his/her intentions to claim the dog/cat after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees and this arrangement has been approved by the Animal Control Supervisor, the animal shall become the property of the City on the eighth day.

(c) *Animals Surrendered by the Owner/Harbinger.* All animals surrendered by the owner/harbinger to the Animal Control Officer shall become the property of the City immediately upon completion of the owner/harbinger surrender form.

(d) *Animals Other Than Dogs, Cats or Estrays Impounded.* All animals other than dogs, cats, estrays or animals, holding current restricted animal permits that are impounded by the Animal Control Officer or brought to the animal shelter by a person other than the owner/harbinger shall become the property of the City unless such ownership is prohibited by State or Federal law.

(e) *Disposition of Animals.* Any animal that cannot be adopted or transferred to a proper and appropriate agency shall be euthanized by an injection of substances approved for euthanasia by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association to be administered in compliance with policy and the laws of the State. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.

**Section 145. Adoption of Animals.** (a) All animals which are adopted from the animal shelter shall be surgically altered to prevent reproduction in that animal. If the animal has not been altered before it leaves the animal shelter, the person adopting the animal shall sign an adoption contract stating that he/she will have the animal surgically altered and the date by which the surgery must be performed (generally dogs and cats should be altered after reaching 6 months of age).

(b) It shall be the responsibility of the person adopting to provide proof of altering to the Animal Control Officer.

(c) Failure to comply with this section or failure to comply with the terms of the adoption contract shall give the Animal Control Officer the right to recover the adopted animal in question and revoke the owner's adoption contract. Such failure shall also constitute a violation of this Ordinance.

(d) The adoption fee shall be set herein at ninety-five (\$95.00) dollars and may be increased or decreased as needed by policy, to render and keep neutral the cost of surgically altering, medicating, vaccinating and preparing the animal for adoption. In lieu of such adoption fees, an agreement may be reached with approved veterinarians for direct payments of surgery and associated costs. The person adopting the animal shall be provided a list of fees related to the adoption prior to the agreement being signed.

(e) This section's requirements of altering and adoption fee shall not apply where cooperative agreements between the Animal Control Division and an animal welfare group are made for the placement with such groups of animal's subjects to adoption. Likewise, this section's requirements shall not apply to animal transfers made under cooperative agreements between the Animal Control Division and other governmental entities.

**Section 146. Estray and Other Livestock.** (a) It is unlawful for any owner or person in control of any horse, mule, jack, jennet, cattle, hog, goat or sheep (estrays) to permit any such animal to run at large on land not his own or under his control, or on any street, alley or other public place in the City.

(b) It is unlawful for the owner or person in control of any chicken or other fowl to permit the same to run at large on any land not his own or under his control, or on any street, alley or other public place in the City.

(c) It is unlawful and constitutes a nuisance for the owner or any person in charge or control of any pigeons in the City, or the owner or any person in charge or control of any out building or barn in the City upon which pigeon's nest, to allow such pigeons to run or fly at large in the City.

**Section 147. Impoundment of Estray and Livestock.** The Animal Control Authority, upon receipt of a report or upon discovery of an estray, within the city, shall as soon as possible, notify the sheriff of the county and report the presence of the animal and the location where the animal can be found. If circumstance permits, the Animal Control Officer shall refer the matter in its entirety to the sheriff. If circumstance does not permit or the sheriff seeks the assistance of the Animal Control Authority, the Animal Control Officer may cause the impoundment of any and all estray and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the City, or otherwise to be found at large, and to confirm such estray or other livestock for safe keeping. Upon impounding, the Animal Control Officer shall prepare a file to be located in the Animal Control Division offices. Each entry shall include the following:

- (a) The name and address of the person who notified the Animal Control Officer of the estray or other livestock;
- (b) The date, time and location of the estray or other livestock when found;
- (c) The location of the estray or other livestock until disposition; and
- (d) A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

**Section 148. Advertisement of Impounded Estray and Livestock.** When an estray or other livestock has been impounded by the Animal Control Authority, the Animal Control Officer shall make a diligent search of the register of recorded brands in the County for the owner of the estray or other livestock. If the search does not reveal the owner, the Animal Control Officer shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray or other livestock on the public notice board of City Hall.

**Section 149. Recovery by Owner.** The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this Ordinance if:

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

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

(b) The Animal Control Officer has approved the affidavit; and

(c) The owner has paid all handling fees to those entitled to receive them.

**Section 150. Sale of Estray and Livestock.** If the ownership of an estray or other livestock is not determined within 14 days following the final advertisement required by this Ordinance, ownership of the estray or other livestock rests with the City and the Animal Control Officer shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the City.

(a) Title shall be deemed vested in the Animal Control Officer for purposes of passing a good title, free and clear of all claims to the purchaser at the sale.

(b) The disposition of the proceeds derived from the sale at public auction will be as follows:

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



**Section 151. Recovery by Owner of Sale Proceeds.** (a) Within 12 months after the sale of an estray or other livestock under the provisions of this Ordinance the original owner of the estray may recover the net proceeds of the sale that were delivered to the City Secretary if:

1. The owner has provided the Animal Control Officer with an affidavit of ownership;
2. The Animal Control Officer has accepted the affidavit of ownership.

(b) After the expiration of 12 months from the sale of an estray or other livestock as provided by this Ordinance, the sale proceeds shall escheat to the City. If an animal was forfeited to the City due to no bidders at auction, then City is not to be liable to owner for any proceeds of sale, since no proceeds were received.

**Section 152. Use of Estray and Livestock.** During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may not be used by any person for any purpose.

**Section 153. Death or Escape of Estray and Livestock.** If the estray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the Animal Control Officer. The report shall be filed in the record regarding the impoundment.

**Secs. 154--160. Reserved.**

## ARTICLE VI. RABIES CONTROL

**Section 161. Vaccinations.** (a) All dogs or cats four months of age or older within the City shall be vaccinated against rabies. Such vaccinations shall be repeated at the intervals prescribed by rule of the state department of health, or its successor.

(b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate on a form approved by the State Department of Health. The veterinarian shall also issue a metal tag with the veterinarian's address and the year of the vaccination stamped thereon. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information.

- 1.The name, address and telephone number of the owner of the vaccinated dog or cat;
- 2.The date of vaccination;
- 3.The type of rabies vaccine used;
- 4.The year and number of the rabies tag; and
- 5.The breed, age, color and sex of the vaccinated dog or cat.

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

(d) It shall be unlawful for any person within the City to own, keep, possess, harbor or allow to remain upon premises under his control any dog or cat which has not been vaccinated as required herein. Any person establishing residence within the City shall comply with this title within ten days of establishing such residency.

**Section 162. 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 animal 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 not vaccinated in accordance with the requirements of this Article to be released, such 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 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 animal shelter within the stated time shall be grounds for the immediate return of the animal to the animal shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor punishable as set out in section 5, except that the minimum fine shall be \$200.00.

**Section 163. Proof of vaccination; dismissal; fine.** 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. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a **\$20.00** administrative fee.

**Section 164. License Required.** (a) *License Issuance.* All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the City shall be licensed. Licenses shall be provided by the Animal Control Officer or his agent upon payment of the required fee for each animal. Before a City license will be issued for a cat or dog, the owner must present a certificate from a licensed veterinarian showing that such cat or dog has been vaccinated for rabies within the preceding 12 months. The owner shall state his/her name and address, and the breed, color and sex of the animal to be licensed. Such license shall be valid for one year from date of issuance. Any owner previously found to be a habitual offender and having previously had their license revoked under Section 165 may be deemed not eligible for current licensure. Appeals of such ineligibility shall be those procedures set out under Section 165 for Revocations.

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

(c) *Livestock.* All livestock shall be tagged or tattooed and the tag or tattoo will be the identifying tag required to be worn and will be shown on the license.

**Section 165. Revocation of License.** Notice of Hearing and Appeals. (a) The Chief of Police may revoke any license after a hearing where an affirmative finding on any one or more of the following fact issues:

1. That Impoundment of the animal by the City more than two times during a 12-month period has occurred;
2. That More than two final convictions of a person for violating this Ordinance when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket; or
3. Any combination of subsections (a)(1) and (a)(2) of this section, totaling three incidents; or
4. Upon a determination that the animal is a non-registerable dangerous animal, as defined herein.

(b) Notice of Revocation Hearing setting the hearing date no sooner than 10 days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal's owner and deposited in the U.S. Mail.

(c) Upon revoking the license of any animal, the Animal Control Officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U. S. mail.

(d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided above, no animal which has had its license revoked shall be kept, maintained or harbored within the City limits and each 24-hour period shall constitute a separate violation.

(e) Upon revocation of a license, owner of animal with revoked license shall notify the Animal Control Officer of the location to which the animal is being removed.

(f) Appeals of Revocation Hearing findings must be filed with the City Manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "Notice of Appeal of Decision of the Chief of Police in Revocation Hearing", contain a statement of the reason(s) for the appeal and signed by the animal owner making the appeal. The City Manager or designee shall hear the appeal. At the hearing the formal rules of evidence do not apply. The hearing officer shall make his/her decision on the basis of preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the Chief; however, a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.

**Section 166. Counterfeiting; destruction of tags, certificates.** (a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a license.

(b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.

**Section 167. Reporting rabid animals or rabies exposure.** (a) It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the Animal Control Officer all cases of rabies with which he comes in contact or to which his attention has been directed. 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 Animal Control Officer within 24 hours.

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

(d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Animal Control Officer stating precisely where such animal may be found.

(e) If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the Animal Control Officer.

**Section 168. Animal bites and scratch reports ; submission to quarantine.**

(a) *Report of Victim.* Any person who is bitten or scratched by an animal shall report that fact to the Animal Control Officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the Animal Control Officer within 24 hours.

(b) *Report of Owner.* A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the Animal Control Officer within 24 hours any incident where such animal bit or scratched any person.

(c) *Custody.* The animal committing the act shall be submitted to the Animal Control Officer for quarantine. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the Animal Control Officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred to another location for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine of \$100.00 shall be imposed by the municipal court.

(d) *Observation.* Any owned dog or cat having bitten or scratched a person shall be observed for a period often days from the date of the bite. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with State law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.

(e) *Strays.* Stray dogs and cats, or those animals whose owners cannot be located shall be confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.

(f) *Surrender of Animal.* The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed in this Ordinance.

(g) *Home Quarantine.* Home quarantine may be allowed only in those incidents where permitted by State law and agreed to by the Animal Control Officer. Refusal to produce such dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.

(h) *Other Animals.* Any wild, exotic or dangerous animal that is considered high risk by State law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by State law.

**Section 169. Contents of required reports.** When an individual is placed under a 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 Animal Control Officer shall include, if the person making the report knows, the following information:

- (a) The location where the bite or scratch occurred.
- (b) 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.
- (c) The name and address of any person who was bitten or scratched.
- (d) The name and address of the person who owns, keeps, harbors or has control over the premises where the animal committing the act normally can be found.
- (e) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies can be found.

**Section 170. Quarantine and release.** (a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the animal shelter. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.

(b) Any animal quarantined shall be held for a period of ten days from the date of the bite. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.

(c) Upon release of an animal from quarantine, if the ownership of the animal is known, such owner has 48 hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided herein this Article without waiting for an additional 72 hours.

**Section 171. Submission of head for rabies diagnosis.** (a) If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the State Department of Health for rabies diagnosis.

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

**Section 172. 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 rabies control authority 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 fees have been paid by such owner.

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

(c) The local rabies control authority 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 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.

If the animal is a wild animal, the local rabies control authority may order that all fees be paid by the person who was bitten or scratched.

**Section 173. Enforcement.** For the purposes of discharging the duties imposed by this Article and to enforce its provisions, any peace officer or Animal Control Officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibition by the owner of such animal or the license for such animal in accordance with the provisions of this Article, to include random City-wide canvassing and checks for compliance with the Article. The owner of any animal is required to produce the license and vaccination information for each animal in his ownership upon demand by an Animal Control Officer or peace officer.

**Secs. 174-180. Reserved.**

## **ARTICLE VII. COMMERCIAL ANIMAL ENTERPRISES AND MULTIPLE ANIMAL OWNERSHIP.**

**Section 181. Permit Required.** (a) Permits shall be required for all commercial animal enterprises and multi-animal owners. Commercial animal enterprises shall include but not be limited to enterprises such as kennels, pet shops, riding stables, animal auctions, performing animal exhibition, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals. Five or more animals maintained on any one lot shall be considered a multi-animal owner. No person shall maintain, harbor or care for more than five animals of any species without having obtained a multi-animal owner permit, excluding fish.

(b) All such permits shall be considered commercial except multi-animal owner. Multi-animal owner permits shall be considered as relative only to private multiple animal ownership, with no relationship to any commercial animal enterprise. Multiple Animal Ownership Permits shall not be required for residences with common household pets having "litters" which remain at such residences for a period of time not exceeding three months.

**Section 182. Permits.** (a) Permits shall be valid for one year from date of issuance. The permit fee shall be according to the schedule established in Appendix "A".

(b) The Animal Control Officer upon an inspection finding inconsistent with the permit requirements of this Article, may file an application with the Municipal Judge to revoke any permit issued under this Article. In addition to conducting a full revocation hearing, the Municipal Judge may temporarily suspend any permit pending a full hearing if such immediate action is determined reasonably necessary to protect the public health or the safety of any animal.

**Section 183. Facility Requirements for Permits to Board, House or otherwise Keep Animals.** Upon inspection of the premises by the Animal Control Officer, the permit shall be issued if the following conditions are met:

(a) The facility must be adequate for the number and type of animals to be kept.

1. Facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. Size of facility shall be in proportion to the size of the individual animal's height and weight.

2. Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.

3. The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.

(b) The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.

(c) The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.



(d) The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.

(e) The applicant or holder of the permit shall not have been issued citations for violation of this Ordinance on two separate occasions, or animals covered by or to be covered by the permit have not been impounded on two separate occasions.

(f) The Chief of Police shall adopt Standard Operational Procedures for the Animal Control Division consistent with this Article in providing guidelines and standards for the inspection of such facilities for permitting and for the periodic monitoring of such facilities. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for Multiple Animal Owner Permitted Residence or during regular business hours for Commercial Animal Enterprise Permitted Facility. Refusal to allow such inspections shall be grounds for permit revocation.

**Section 184. Revocation or Suspension of Commercial Animal Enterprise or Multi-Pet Ownership Permits.** Any commercial animal enterprise or multi-pet owner permit may be revoked if the owner's facility is found to be in violation of this Ordinance, any zoning law, health law or any other applicable Ordinance of the City or of the State of Texas, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

**Secs. 185-190. Reserved.**

## Appendix "A"

### FEES SCHEDULE

There is hereby fixed and assessed the following fees to defray the cost of managing an Animal Control Program and for the protection of the public health, against the owner or keeper of every animal kept in the City; at such time that fee adjustments may be required to maintain a neutral "at cost" relationship, "Appendix A" may be amended by Ordinance of the City Council:

(a) *Standard licensing fee:*

- (1) Unneutered dog or cat – per annum fee of \$10.00.
- (2) Neutered dog or cat – per annum fee of \$6.00.
- (3) Other animals – per annum fee of \$6.00.

License will be provided free of charge for service animals or government police dogs.

(b) *Permits:* A permit shall be issued after payment of the applicable fee:

1	Circus/Zoo	\$500.00
2	Commercial Animal Enterprise	\$100.00
3	Multiple Animal Owner	\$ 50.00
4	Guard Dog	\$ 50.00
5	Renewal – per annum fee of all	\$ 50.00

(c) *Impoundment fee:* An impoundment fee must be paid for each animal captured:

		First Time	Second Time	Third Time
1	Dog or Cat	\$ 50.00	\$ 100.00	\$ 100.00
2	Quarantine (per day) 10 day hold	\$ 20.00		
3	Fowl or other small animal	\$ 15.00	\$ 25.00	\$ 50.00
4	Livestock	\$ 15.00	\$ 200.00	\$ 350.00
5	Zoological and/or circus animal	\$ 100.00	\$ 200.00	\$ 500.00

(6) More than 4 violations by any pet or combination thereof owned by the same person in three years or less shall be \$500.00 for each impoundment thereafter.

(d) *Boarding and Quarantine fees:* In addition to the impoundment fee, a boarding fee must be paid for each animal confined by the Animal Shelter. Such fees will be charged for daily costs of boarding, excluding the first day of impoundment. Owners must pay daily boarding fees, the amount established by policy, for the housing and care of the animals before their animals are released to them. Quarantine fees covering the 10-day boarding and observation period shall also be set by policy and paid before release of the animal. No initial impound fee shall be added to quarantine fees. In addition to impound fee(s) the boarding of estrays shall include the first day of boarding and such daily fee shall be set by policy if the stray is held by the Animal Control Authority or if held by a third person contracting party, fees shall be set in the contract between the city and that party at the current fair and reasonable rate.

(e) *Expenses of Animal.* In addition to other fees, the owner shall also pay for any veterinarian or drug fees incurred for the animal(s) while in the custody of the Animal Control Officer or Animal Shelter.

(f) *Owner/harbored Animal Surrender fees:*

Cats -	\$ 25.00
Dogs -	\$ 25.00 City (\$50.00 County)
Litters (dogs or cats)	\$ 45.00
Other small animals	\$ 10.00
Large animals	n/a