

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, REPEALING CHAPTER 2, "ANIMAL CONTROL," OF THE CODE OF ORDINANCES OF THE TOWN OF PROSPER, TEXAS, AND REPLACING IT WITH A NEW CHAPTER 2, "ANIMAL CONTROL," GENERALLY PROVIDING FOR THE CONTROL OF ANIMALS; PROVIDING FOR DEFINITIONS; PROVIDING FOR RABIES CONTROL; PROVIDING A VIOLATION FOR RUNNING AT LARGE; PROVIDING FOR REGISTRATION; PROVIDING FOR IMPOUNDMENT; PROVIDING FOR QUARANTINE; PROVIDING FOR NUISANCES; PROHIBITING CERTAIN ANIMALS; PROVIDING FOR THE CONTROL OF VICIOUS ANIMALS; PROVIDING FOR SANITARY CONDITIONS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Prosper, Texas ("Town Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the Town of Prosper, Texas ("Town" or "Prosper") to repeal the existing Chapter 2 of the Code of Ordinances relating to animal control, and replacing it with a new Chapter 2, entitled "Animal Control."

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

Existing Chapter 2, "Animal Control," of the Code of Ordinances of the Town of Prosper, Texas, is hereby repealed in its entirety and replaced with a new Chapter 2, "Animal Control," to read as follows:

"ARTICLE 2.01 - IN GENERAL

Sec. 2.01.001 - Definitions.

Sec. 2.01.002 - Purpose and scope.

Sec. 2.01.003 - Exemption of Town officials from liability.

Sec. 2.01.004 - Incorporation by reference.

Sec. 2.01.005 - Interference with Animal Control Officer.

Sec. 2.01.006 - Sanitary standards.

Sec. 2.01.007 - Inspection of animals and premises.

Sec. 2.01.008 - Noncomplying premises; remedies.

Sec. 2.01.009 - Number of dogs and cats at residences.

Sec. 2.01.010 - Public nuisances declared unlawful.

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ARTICLE 2.02 - RESTRAINT OF ANIMALS

- Sec. 2.02.001 - Restraint of animals.
- Sec. 2.02.002 - Secure animals on a leash.

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- Sec. 2.03.001 - Nuisance declared.
- Sec. 2.03.002 - Finding of an animal as "dangerous."
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- Sec. 2.03.004 - Failure to comply with requirements.
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- Sec. 2.03.007 - Violations.
- Sec. 2.03.008 - Defenses.

ARTICLE 2.04 -DOG AND CAT LICENSES

- Sec. 2.04.001 - Rabies vaccination tag serves as Town registration.

ARTICLE 2.05-RABIES CONTROL

- Sec. 2.05.001 - Rabies vaccination.
- Sec. 2.05.002 - Domestic animals that exhibit rabies symptoms or reasonably indicate rabies symptoms.

ARTICLE 2.06 - ANIMAL CONTROL IMPOUNDMENT

- Sec. 2.06.001 - Impoundment; notice; disposition.
- Sec. 2.06.002 - Impoundment time; fees; redemption of animal.

ARTICLE 2.07- CARE AND HUMANE TREATMENT OF ANIMALS

- Sec. 2.07.001 - Unlawful acts enumerated.
- Sec. 2.07.002 - Keeping of certain animals prohibited
- Sec. 2.07.003 - Guard dogs.
- Sec. 2.07.004 - Keeping of livestock.
- Sec. 2.07.005 - Impounding of livestock.
- Sec. 2.07.006 - Keeping of fowl, rabbits and guinea pigs restricted.
- Sec. 2.07.007 - Keeping of bees.
- Sec. 2.07.008 - Disposal of dead animals.
- Sec. 2.07.009 - Proper care of animals.

ARTICLE 2.08 - ANIMAL ESTABLISHMENTS

- Sec. 2.08.001 - Compliance.

Sec. 2.08.002 - Minimum standards for animal establishments.

Sec. 2.08.003 - Prohibited sales.

ARTICLE 2.01 IN GENERAL

Sec. 2.01.001 - Definitions.

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

Abandon means to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal, or to fail to timely redeem an animal impounded by Animal Control, as specified herein.

Animal means any living, vertebrate creature, domestic or wild, other than *Homo sapiens*.

Animal care and control center means any facility operated or designated by the Town for the purpose of impounding and caring for animals as prescribed by law.

Animal Control means the town's code compliance division or other staff as authorized by the Town Manager with authority to enforce the provisions of this chapter and state law related to the health, care, and safety of animals.

Animal Control Officer means an authorized agent or employee of the Town to enforce the provisions of this chapter.

Animal establishment means any pet shop, kennel, grooming shop, auction, flea market, performing animal exhibition, or other facility engaged in the handling of domestic animals, excluding veterinary clinics, hospitals, animal shelters, and individuals caring for animals in their private residence in compliance with the terms of this chapter.

Assistance animal means an animal that is specially trained or equipped to help a person with a disability and that:

- (1) Is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animal; and
- (2) Has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type.

At large or running at large means an animal, including fowl or livestock, not in a Secure enclosure or not completely confined by a building, wall, pen or fence of sufficient strength of construction, to physically restrain the Animal on the premises behind the front building line of the Owner or Custodian, or an Animal that is not under the physical restraint of the Owner or Custodian or any other person authorized by the Owner to care for the Animal by leash, cord, chain, or rope.

Bodily injury means physical pain, illness, or any impairment of physical condition.

Cat means a commonly domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other prohibited animal.

Circus means a commercial variety show featuring animal acts for public entertainment, including a petting zoo.

Currently vaccinated means the inoculation of an animal with a rabies vaccine or other medicine satisfying all of the following criteria.

- (1) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine;
- (2) At least 30 days have elapsed since the initial vaccination; and
- (3) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer and as required by state law.

Dangerous animal means an animal that:

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

Direct physical control means control within the owner's observation and in such close proximity as to permit the owner reasonable opportunity to control the animal, should it become necessary to do so in order to protect the animal, a person, or another animal from harm.

Dog means a commonly domesticated member of the Canidae (canine) family, other than a wolf, jackal, fox, dingo, coyote, or other prohibited canines.

Dog tethering means using a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.

Domestic animal means any animal whose physiology has been determined or manipulated through selective breeding, and that does not occur naturally in the wild, and that may be vaccinated against rabies with an approved rabies vaccine, and that has an established rabies quarantine observation period. The term domestic animal includes livestock, caged or penned fowl other than animals belonging to the class Aves, order Falconiforms and subdivision Raptae, normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, non-poisonous reptiles or non-poisonous snakes.

Emu means a fowl of the Order of Struthioniforme.

Fowl means any bird of any kind.

Guard dog means any dog that has been trained for the purpose of protecting property by a guard dog company that is required to be licensed pursuant to Texas Occupations Code, Ch. 1702, as amended from time to time, or a dog that received protection or guard dog training and is used by law

enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and is used only for protective functions, irrespective of its status as a personal pet of its owner or handler.

Impound means to take an animal into custody by the Town; impoundment shall begin at the time any Animal Control Officer or police officer takes control of an animal either by hand, rope, trap, projectile or confinement to a vehicle.

Kennel means any premises in which five or more dogs three months of age or older are kept, or where the business of buying, selling, breeding, grooming, training or boarding of dogs is conducted. The term "Kennel" does not include veterinary hospitals or humane societies.

Licensed veterinarian means a person authorized to practice veterinary medicine who is currently licensed by the state board of veterinary medical examiners.

Livestock means an animal raised for human consumption or an equine animal including, but not limited to, a horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, a head of any species of cattle, or an emu, ostrich, or rhea.

Local Rabies Control Authority (LRCA) means the officer designated by the Town under the Texas Health and Safety Code § 826.017, as amended, or his or her designee.

Ostrich means a fowl of the Order of Struthioniforme.

Owner means any person who owns, keeps, shelters, maintains, feeds, harbors, or has temporary or permanent custody of a domestic or prohibited animal, or who knowingly permits a domestic or prohibited animal to remain on or about any premises occupied by that person or over which that person has control. An animal shall be deemed to be owned by a person who harbored it, fed it, or sheltered it for three consecutive days or more.

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

Pet means any animal kept for pleasure rather than utility.

Pet shop means a commercial enterprise regularly engaged in the buying, selling, grooming, breeding or boarding of animals.

Prohibited animal means:

- (1) any animal not normally born and raised in captivity, including but not limited to the following:
 - a. *Class Reptilia*: Family Helodermatidae (venomous lizards) and Family Hydrophiidae (Venomous Marine snakes); Family Viperidae (rattlesnakes, pit vipers, and true vipers); Family Elapidae (coral snakes, cobras, and mambas); Family Columbridae-DispholidusTypus (boomslang); BiogaDendrophilia (mangrove snake) and Kirklandii (twig snake only); Order Crocodilia (such as crocodiles and alligators); Family Boidae (boa constrictor; anaconda) over eight feet in length; Family Pythonidae (python) over eight feet in length;
 - b. *Class Aves*: Order Falconiforms (such as hawks, eagles, falcons, and vultures);

- c. *Class Mammalia: Order Carnivores,*
1. Family Felidea (such as lions, tigers, bobcats, jaguars, leopards, and cougars), and any hybrid of an animal listed in this section except commonly domesticated cats;
 2. Family Canidae (such as wolves, dingos, coyotes, foxes, and jackals), and any hybrid of an animal listed in his section except commonly domesticated dogs;
 3. Family Mustelida (such as weasels, skunks, martins, minks, badgers, and otters) except ferrets;
 4. Family Procyonidae (such as raccoons and coati);
 5. Family Ursidae (such as bears);
 6. Marsupialia (such as kangaroos, opossums, koala bears, wallabies, bandicoots, and wombats);
 7. Chiroptera (bats);
 8. Edentata (such as sloths, anteaters, and armadillo);
 9. Proboscidea (elephants);
 10. Primata (such as monkeys, chimpanzees, orangutans, and gorillas);
 11. Rodentia (such as beavers and porcupines); and
 12. Ungulata (such as antelope, deer, and camels).
- d. *Class Amphibi:* Poisonous frogs; does not include non-poisonous reptiles or non-poisonous snakes.

- (2) The term "prohibited animal" does not include livestock, fowl, or normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, non-poisonous reptiles, or non-poisonous snakes not otherwise listed above.

Properly fitted with respect to a collar or other neck restraint means a collar or other neck restraint that measures the circumference of a dog's neck plus at least one inch. With respect to a harness, properly fitted means a harness that is of an adequate size, design, and construction as appropriate for the dog's size and weight.

Protective custody means the holding of an animal by the Town:

- (1) Due to the arrest, eviction, hospitalization, or death of the animal's owner;
- (2) Pursuant to a court order; or
- (3) At the request of a law enforcement agency.

Public nuisance means the following:

- (1) An owner's failure to control or restrain, or otherwise allowing, either by conduct, omission, or condition of premises, any animal to:
 - a. Engage in conduct that establishes such animal as a dangerous animal;
 - b. Be at large or running at large as defined herein;
 - c. Cause a disturbance by excessive, continuous, or untimely barking, howling, crowing, or otherwise audible noise. Such noise, in excess of 15 minutes, even if in sporadic bursts, shall be prima facie evidence that the same constitutes a nuisance;
 - d. Accumulate, attract, or generate maggots, flies, odors or unclean conditions sufficient to annoy adjacent property owners or residents;
 - e. Chase vehicles or molest, attack or interfere with other animals or persons on public property;
 - f. Damage, soil, defile, or defecate on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner; or
 - g. Generate or accumulate fecal matter or other waste to such a degree as to cause unsanitary, dangerous, or offensive conditions.
- (2) Any animal normally found in the wild that has entered onto any public or private property and by its presence is committing a threat to public health and safety or is generally interrupting the tranquility of the location.

Quarantine means to take into custody and place in confinement as defined in this chapter isolated from human beings and other animals in such a way as to preclude the possibility of disease transmission. The quarantine period for a dog, cat, or a domestic ferret in rabies quarantine is ten days from the date of the bite, scratch, or other exposure, or as recommended by the regional veterinarian from the Department of State Health Services.

Rabies means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite, scratch, or other exposure.

Restraint means an animal is under restraint under the following conditions:

- (1) It is securely enclosed or confined to its owner's yard by a physical fence in a manner that will isolate the animal from the public and from other animals except for animals owned or under the control of the owner;
- (2) It is accompanied by its owner or trainer at a bona fide dog show, field trial, or exhibition;
- (3) It is secured by a person holding a leash no more than six feet in length and of sufficient strength to control the animal;
- (4) It is an assistance or service animal, as defined by this chapter, that is being used by a person with a disability;

- (5) It is a guard dog in the performance of duty in an enclosed building or securely fenced and locked area that is marked on all sides with signs in four-inch letters stating "guard dog" and clearly visible to the public.

Rhea means a fowl of the Order of Rheiforme.

Sanitary means any condition of good order and cleanliness that discourages and limits disease transmission.

Secure enclosure means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous animal in conjunction with other measures that may be taken by the owner. Such enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom, and shall be designed to prevent the animal(s) from escaping from the enclosure. The enclosure shall be posted with signs on all sides in four-inch letters warning of the presence of a dangerous animal.

Securely enclosed or confined means:

- (1) An area that is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design as to prevent any animal from escaping from the area and in a manner that will isolate the animal from the public and other animals except for animals owned or under the control of the owner.
- (2) The term "securely enclosed or confined" does not mean enclosure or confinement by an invisible or electronic fence.
- (3) Such fence or enclosure shall comply with the appropriate zoning regulations applicable to the property.

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

Service animal means an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability or, by the virtue of a natural aptitude or acquired ability, is able to provide therapeutic treatment, mitigation, safety, or rescue.

Sterilization means the surgical removal or AVMA approved and Veterinarian-verified chemical castration of the reproductive organs of a dog or cat to render the animal unable to reproduce.

Stray means an animal that is roaming with no physical restraint beyond the premises of the animal's owner or keeper.

Town means the Town of Prosper, Texas.

Unprovoked attack by a dog means an incident in which a dog that attacked a person or an animal was not hit, kicked, or struck by a person with any object or part of a person's body, nor was any part of the dog's body pulled, pinched, or squeezed by a person, nor was the dog taunted or teased by any person, nor was the person in the dog's territory on the property of the dog's owner at the time of the attack.

Vaccination certificate means the certificate issued by a licensed veterinarian on a form approved by the department of state health services.

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

Zoological park means any permanent collection of living animals for public display, other than a pet shop or kennel, displaying or exhibiting one or more species of animals.

Sec. 2.01.002. - Purpose and scope.

- (a) It is the purpose of this chapter to:
- (1) Provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled in the Town;
 - (2) Decrease the number of unwanted and stray dogs and cats in the Town;
 - (3) Encourage responsible animal ownership;
 - (4) Protect the public health, safety, and welfare of the Town.
- (b) The provisions of this chapter shall not be construed to authorize the keeping of any animal in violation of any other Town ordinance, state or federal statute or law.

Sec. 2.01.003. - Exemption of Town officials from liability.

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

Sec. 2.01.004. - Incorporation by reference.

Any reference made in this chapter to any other law, statute, code, ordinance, rule, or regulation is intended to incorporate such law, statute, code, ordinance, rule, or regulation as it presently exists and also any future amendments, changes, revisions, repeals, or re-codifications of such law, statute, code, ordinance, rule, or regulation, unless otherwise expressly provided.

Sec. 2.01.005. - Interference with Animal Control Officer.

It shall be unlawful for any person to interfere with an Animal Control Officer while engaged in the performance of his or her duties. A person interferes with an Animal Control Officer if he or she:

- (1) Releases or causes an animal to be released after an Animal Control Officer has impounded the animal; or
- (2) Physically constrains the movement of an Animal Control Officer or his or her vehicle or equipment by:
 - a. Placing any part of the person or person's property in the way of the Animal Control

Officer's progress in the performance of the officer's duties.

- b. Taking or moving the Animal Control Officer's equipment, causing a time delay in the Animal Control Officer's ability to use the equipment; or
- (3) Intentionally or knowingly fails or refuses to provide an Animal Control Officer with the person's full name, date of birth, and mailing address when the Animal Control Officer has identified himself or herself as an Animal Control Officer, is investigating a violation or possible violation of a provision of this chapter, and requests this information from the person. For purposes of this subsection, a person fails or refuses to provide the information required if the person provides inaccurate, incorrect, or incomplete information.

Sec. 2.01.06. - Sanitary standards.

- (a) The owner of any animal allowed by this chapter to be kept in the Town shall comply with the following standards of sanitation for that animal:
 - (1) Remove manure and droppings from pens, stables, yards, cages and other enclosures, and handle or dispose of the excretions in such manner as to keep the premises free of any public nuisance.
 - (2) Discarding waste on any public or private property shall be considered a violation of this section.
- (b) Such standards of sanitation shall be administered by Animal Control.

Sec. 2.01.07. - Inspection of animals and premises.

Animal Control shall have the authority to inspect animals and/or premises. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, an Animal Control Officer may enter upon private property to the full extent permitted by law.

Sec. 2.01.008. – Non-complying premises; remedies.

Where premises do not comply with the provisions of this chapter or if any health ordinance or law is not observed by any person owning or possessing an animal in the Town, Animal Control may, upon written notice to the person owning or controlling the premises, order the correction of the objectionable conditions. In addition to any criminal proceeding, failure to comply with such order shall entitle the Town to obtain relief by injunction or other legal procedure available to the Town.

Sec. 2.01.009. - Public nuisances declared unlawful.

The keeping of any animal or bird in a manner that permits, allows, constitutes, or causes a public nuisance under this chapter shall be unlawful.

Sec. 2.01.010. - Parental responsibility.

- (a) If an animal is owned or purported to be owned by an individual who is younger than 17 years of age, responsibility and liability for compliance with this chapter with respect to such an animal may be imposed on the parent, legal guardian, or other person who has the duty of control and reasonable discipline of the minor individual, as appropriate, regardless of whether the parent, legal guardian, or other person otherwise meets the definition of "owner" with respect to the animal

at issue.

- (b) It shall be an affirmative defense to imposition of responsibility and liability under subsection (a), above, that the parent, legal guardian, or other person establishes by a preponderance of the evidence that he or she made a reasonable good faith effort to ensure compliance with this chapter.

ARTICLE 2.02 RESTRAINT OF ANIMALS

Sec. 2.02.001. - Restraint of animals.

- (a) It shall be unlawful for an owner or person in control of an animal to fail to keep the animal under restraint as defined in this chapter.
- (b) It shall be unlawful for an owner to fail or refuse to control, restrain, or otherwise allow, either by conduct, omission, or condition of premises, his or her animal to become a public nuisance by being at large or running at large.
- (c) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.
- (d) It is an affirmative defense to a violation of subsection (c), above, that the dog tethering:
 - (1) Is during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity;
 - (2) Is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog; or
 - (3) Occurs on the owner's premises:
 - a. While the dog is within the owner's direct physical control; and
 - b. Preventing the dog from advancing to within 15 feet of the edge of any public street.
- (e) The affirmative defenses provided in subsection (d), above, are only available if the following elements are met:
 - (1) The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;
 - (2) The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;
 - (3) The chain, rope, tether, leash, cable, or other device does not exceed 1/20 of the dog's body weight;
 - (4) The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and
 - (5) The dog has access to adequate shelter and clean and wholesome water.

- (f) A person commits an offense if the person fails to comply with this section. If a person fails to comply with this section with respect to more than one animal, the person's conduct with respect to each animal constitutes a separate offense.
- (g) This section does not prohibit a person from walking a dog with a hand-held leash.

Sec. 2.02.003. – Secure Animals on a leash.

It shall be unlawful for an owner or person in control of an animal to fail to keep the animal under restraint as defined in this chapter.

- (1) The animal is secured by a standard leash no longer than 10 feet or retractable leash no longer than 16 feet and of sufficient strength to control the animal while the animal is being walked;
- (2) A specially trained dog that is used by a blind or deaf individual to aid him/her within the Town;
- (3) A guard dog in the performance of duty in an enclosed building or securely fenced and locked area which is marked on all sides with signs in four-inch letters stating "guard dog" and clearly visible to the public.

**ARTICLE 2.03
DANGEROUS ANIMALS**

Sec.2.03.001. - Nuisance declared.

- (a) It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains in the Town an animal that has been declared dangerous by Animal Control or the municipal court unless the owner complies with the requirements of this article.
- (b) It is hereby declared to be a public nuisance that an owner or other person who harbors, keeps, or maintains in the Town or brings to the Town an animal that has been declared dangerous outside of the Town under one or more of the following:
 - (1) Chapter 822 of the Texas Health and Safety Code, as amended;
 - (2) A local law or ordinance adopted in accordance with chapter 822 of the Texas Health and Safety Code, as amended; or
 - (3) A statute or ordinance that is substantially similar to chapter 822 of the Texas Health and Safety Code, as amended, and that was adopted by a political subdivision outside of the State of Texas.

Sec. 2.03.002. - Finding of an animal, as "dangerous."

- (a) *Complaints to Animal Control regarding dangerous animals.*
 - (1) On receipt of a written, sworn, notarized affidavit by any person charging that a particular animal is dangerous, Animal Control shall investigate the incident to determine whether such

animal is, in fact, dangerous. Any written, sworn, notarized affidavit shall contain at least the following information:

- a. The name, address, and telephone number of the complainant and any witnesses;
- b. The date, time, and location of the incident;
- c. A description of the animal including, to the extent known, the breed, color, sex, and size;
- d. The name, address, and telephone number of the animal's owner, if known, and the premises where the animal is kept;
- e. A statement, in as much detail as possible, of what the animal did that makes it a dangerous animal as that term is defined in section 2.01.001;
- f. Any other facts that the complainant believes to be relevant; and
- g. If the animal is alleged to have caused the death of or serious bodily injury to a person, the sworn complaint must be filed in the municipal court under section 2.003.002 (b).

(2) Delivery or seizure of an animal alleged to be dangerous.

- a. The owner of the animal shall deliver the animal to Animal Control for impoundment within five days of being served with notice that a sworn complaint has been filed and that the owner is required to deliver the animal to Animal Control.
 1. The owner of the animal shall be served with notice in one or more of the following ways:
 - i. Hand-delivery to the owner in person by a Town employee;
 - ii. Delivery to the owner by courier-receipted delivery;
 - iii. Delivery to the owner's agent or attorney of record, as the case may be, either in person or by courier-receipted delivery;
 - iv. Hand-delivery to any adult person at the owner's last known address who agrees to accept the notice and deliver it to the owner;
 - v. By certified or registered mail, return receipt requested, postage prepaid, to the owner's last known address;
 - vi. By posting the notice prominently on the door of the property at the owner's last known address; or
 - vii. By first-class mail through the United States Postal Service, provided that service is also attempted by one or more of the other methods in this subsection.
 2. A certificate or affidavit of any person showing service of a notice under the provisions of this section shall be prima facie evidence of the fact of service. Nothing herein shall preclude the owner from offering proof that the notice was not

received.

3. It shall be an offense for an owner to refuse or fail to deliver an animal to Animal Control after being served with notice that a sworn complaint has been filed under this section. Each day an owner fails or refuses to deliver the animal shall constitute a separate offense.
 4. If the owner fails to deliver the animal to Animal Control, the municipal court may issue a warrant authorizing seizure of the animal.
- b. If the animal has been impounded by Animal Control, the animal shall remain in the custody of Animal Control until Animal Control has completed his or her investigation and determination.
- (3) Investigation of sworn complaint by Animal Control.
- a. Animal Control shall complete an investigation and determine whether the animal is to be declared dangerous within ten days of the date of the sworn complaint or within ten days of the date the animal is delivered to or seized by Animal Control, whichever is later. Notwithstanding the foregoing, Animal Control may make a determination if the owner does not deliver the animal.
 - b. During the investigation any interested person shall be given the opportunity to present evidence in person, in writing, or by other means on the issue of whether the animal is to be declared dangerous.
 - c. If Animal Control finds that the animal is not dangerous, the animal shall be returned to the owner, provided that the animal has been properly vaccinated against rabies in conformance with this chapter and that all impoundment and medical fees have been paid.
 - d. If Animal Control declares the animal to be dangerous, the animal's owner shall:
 1. Comply with the requirements for keeping a dangerous animal as provided in section 2.03.003. The animal shall remain impounded at the owner's expense until such compliance has been attained; or
 2. Provide for the humane destruction of the dangerous animal by a person listed in Texas Health and Safety Code § 822.004, as amended.
- (4) Appeal from dangerous animal determination made by Animal Control.
- a. An owner of an animal that is declared to be dangerous by Animal Control may appeal that determination to the municipal court by filing written notice with the court clerk within ten days of the date the determination is made.
 - b. The court shall set a cash bond to secure payment of the fees for impoundment and any other reasonable costs incurred in caring for the animal during impoundment. The owner shall post the cash bond within ten days of filing the written notice of appeal. Notwithstanding the foregoing requirement, the court may waive payment of the bond for good cause shown.

- c. The findings of Animal Control shall be suspended during the pendency of the appeal.
 - d. The municipal court shall hold a hearing within ten days of receiving written notice of the owner's appeal provided the owner has posted the cash bond set by the court, unless the court has waived the bond. If the owner has not posted the cash bond within ten days, and the court has not waived the requirement of the bond, the appeal shall be dismissed, and Animal Control's determination shall be final. Notwithstanding the foregoing, if the court has not held the hearing within ten days, the court shall hold the hearing as soon as practicable.
 - e. Any interested person, including the Town Attorney, may provide evidence at the hearing.
 - f. The animal shall continue to be impounded at the owner's expense during the pendency of the appeal and, if the court finds the animal to be dangerous, until the requirements for the keeping of a dangerous animal are satisfied or provision has been made by the owner for the humane destruction of the animal.
 - g. An owner may appeal the decision of the municipal court to a court of competent jurisdiction in the same manner as state law provides for other appeals of similar cases from the municipal court.
- (b) Complaints filed in municipal court regarding dangerous animals or animals that caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person.
- (1) A person may file a written, sworn, notarized affidavit in the municipal court charging that a particular animal is dangerous or that the animal caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The written, sworn, notarized affidavit shall contain at least the following information:
 - a. The name, address, and telephone number of the complainant and any witnesses;
 - b. The date, time, and location of the incident;
 - c. A description of the animal including, to the extent known, the breed, color, sex, and size;
 - d. The name, address, and telephone number of the animal's owner, if known, and the premises where the animal is kept;
 - e. A statement, in as much detail as possible, of what the animal did that makes it a dangerous animal as that term is defined in section 2.01.001, or what the animal did to cause the death of or serious bodily injury to a person; and
 - f. Any other facts that the complainant believes to be relevant.
 - (2) Delivery or seizure of an animal alleged to be dangerous or to have caused the death of or serious bodily injury to a person.
 - a. The owner of the animal shall deliver the animal to Animal Control for impoundment within five days of being served with notice that a sworn complaint has been filed and that the owner is required to deliver the animal to Animal Control.

1. The owner of the animal shall be served with notice in one or more of the following ways:
 - i. Hand-delivery to the owner in person by a Town employee;
 - ii. Delivery to the owner by courier-receipted delivery;
 - iii. Delivery to the owner's agent or attorney of record, as the case may be, either in person or by courier- receipted delivery;
 - iv. Hand-delivery to any adult person at the owner's last known address who agrees to accept the notice and deliver it to the owner;
 - v. By certified or registered mail, return receipt requested, postage prepaid, to the owner's last known address;
 - vi. By posting the notice prominently on the door of the property at the owner's last known address; or
 - vii. By first-class mail through the United States Postal Service, provided that service is also attempted by one or more of the other methods in this subsection.
 2. A certificate or affidavit of any person showing service of a notice under the provisions of this section shall be prima facie evidence of the fact of service. Nothing herein shall preclude the owner from offering proof that the notice was not received.
 3. It shall be an offense for an owner to refuse or fail to deliver an animal to Animal Control after being served with notice that a sworn complaint has been filed under this section. Each day an owner fails or refuses to deliver the animal shall constitute a separate offense.
 4. If the owner fails to deliver the animal to Animal Control, the municipal court may issue a warrant authorizing seizure of the animal.
- b. If the animal has been impounded by Animal Control, the animal shall remain in the custody of Animal Control until Animal Control has completed his or her investigation and determination.
 - c. Notwithstanding the foregoing, on a showing of probable cause to believe the animal caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person, the court shall issue a warrant authorizing seizure of the animal without prior notice to the owner of the filing of the sworn complaint.
- (3) Hearing in the municipal court.
- a. The municipal court shall hold a hearing and make a determination within ten days of the date the warrant is issued or within ten days of the date the animal is delivered or seized, whichever is earlier. Notwithstanding the foregoing, if the court has not held the hearing within ten days, the court shall hold the hearing as soon as practicable.

- b. The court shall serve notice of the date and time of the hearing on the owner and the complainant in the manner specified in section 2.03.002(a)(2)(a)(1).
- c. Any interested person, including the Town Attorney, may provide evidence at the hearing.
- d. If the court finds that the animal is not dangerous or that the animal did not cause the death of or serious bodily injury to a person, the animal shall be returned to the owner, provided that the animal has been properly vaccinated against rabies in conformance with this chapter and that all impoundment and medical fees have been paid.
- e. If the court declares the animal to be dangerous, the animal's owner shall:
 - 1. Comply with the requirements for keeping a dangerous animal as provided in section 2.03.003. The animal shall remain impounded at the owner's expense until such requirements have been satisfied; or
 - 2. Provide for the humane destruction of the dangerous animal by a person listed in Texas Health and Safety Code § 822.004, as amended.
- f. If the court finds that the animal caused the death of or serious bodily injury to a person, the court:
 - 1. Shall order the animal destroyed at the owner's expense if the court finds the animal caused the death of a person;
 - 2. May order the animal destroyed at the owner's expense if the court finds the animal caused serious bodily injury to a person; or
 - 3. May declare the animal to be a dangerous animal and order the animal released to the owner if the owner complies with section 2.03.003, and pays all impound fees and any reasonable cost incurred in caring for the animal during impoundment. The animal shall remain impounded at the owner's expense until such requirements have been satisfied.
- g. An owner may appeal the decision of the municipal court to a court of competent jurisdiction in the same manner as state law provides for other appeals of similar cases from the municipal court.

Sec. 2.03.003. - Requirements for owner of dangerous animal.

- (a) Not later than the thirtieth day after a person learns that the person is the owner of a dangerous animal, the person shall:
 - (1) Register the dangerous animal with Animal Control, pursuant to section 2.03.005.
 - (2) Restrain the dangerous animal at all times on a leash in the immediate physical control of a person or in a secure enclosure as that term is defined in section 2.01.001, and post signs on all four sides of the enclosure in one inch letters warning of the presence of the dangerous animal;

- (3) Further secure the dangerous animal with a muzzle in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal when the dangerous animal is taken off the property of the owner for any reason;
 - (4) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person or animal and provide proof of the required liability insurance coverage or financial responsibility to Animal Control;
 - (5) Provide the dangerous animal with a fluorescent yellow collar visible at 50 feet in normal day light to be worn at all times.
 - (6) Spay or neuter the dangerous animal;
 - (7) Have the dangerous animal microchipped for its lifetime with a national registry, and present proof of same to Animal Control. The owner of the dangerous animal shall microchip the animal by implanting a microchip identification device on the animal within seven calendar days after being notified by Animal Control or by the municipal court that such animal is dangerous. The cost of the service shall be at the owner's expense; and
 - (8) Comply with any other restriction or requirement of Animal Control or of the municipal court.
- (b) Notwithstanding the foregoing, if Animal Control or the municipal court finds that the animal made an unprovoked attack on another animal that caused bodily injury to the other animal and occurred in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, then Animal Control or the municipal court may impose one or more of the requirements above.

Sec. 2.03.004. - Failure to comply with requirements.

- (a) The owner of a dangerous animal who does not comply with section 2.03.003 or an order issued pursuant to section 2.03.003 shall deliver the animal to Animal Control no later than the thirtieth day after the owner learns the animal is a dangerous animal.
- (b) After the thirtieth day after a person learns that the person is the owner of a dangerous animal, the Animal Control Officer or the owner of the dangerous animal may apply to the municipal court for a hearing to determine whether the owner has complied with section 2.03.003 or an order issued pursuant to section 2.03.003, or whether the owner has paid all impound fees and other reasonable costs of caring for the animal during impoundment.
 - (1) If the animal is impounded, the hearing shall be held within ten days of the date when the application for the hearing is made.
 - (2) If the animal is not impounded, the court shall issue a warrant for the seizure of the animal and shall hold the hearing within ten days of the date the animal is delivered to or seized by Animal Control.
 - (3) The court shall serve notice of the date and time of the hearing on the owner in the manner specified in section 2.03.002.
 - (4) The court shall order the animal humanely destroyed if the court finds the owner has not

complied with section 2.03.003 or an order issued under section 2.03.003, or that the owner has not paid all impound fees and other reasonable costs of caring for the animal during impoundment:

- a. Before the eleventh day from the date the animal was delivered to or seized by Animal Control, if the animal was not impounded at the time the application for the hearing was made, or
 - b. Before the eleventh day from the date the application for the hearing was made, if the animal was impounded at the time the application was made.
- (5) The court shall order the animal released to the owner if the court determines the owner has complied with section 2.03.003 or an order issued under section 2.03.002, and that the owner has paid all impound fees and other reasonable costs of caring for the animal during impoundment.
- (6) The court may order the humane destruction of the animal if the owner of the animal has not been located before the fifteenth day after the seizure and impoundment of the animal.
- (c) For purposes of this section, a person learns that the person is the owner of a dangerous animal when:
- (1) The owner knows of an attack described in section 2.03.001, definition of dangerous animal
 - (2) The owner is served with notice by Animal Control that the animal is a dangerous animal under section 2.03.002(a);
 - (3) The owner is served notice that the municipal court has found that the animal is a dangerous animal under section 2.03.002(b); or
 - (4) Notice may be served in the manner specified by section 2.03.002.

Sec. 2.03.005. - Registration of a dangerous animal.

- (a) All dangerous animals shall be required to wear a florescent yellow collar:
- (1) Liability insurance or financial responsibility as required in section 2.03.003(4).
 - (2) Current rabies vaccination of the dangerous animal if such vaccination is available for the species;
 - (3) The secure enclosure in which the animal will be kept; and
 - (4) Payment of an annual registration fee of \$500.00 to Animal Control.
- (b) The owner of a dangerous animal shall notify Animal Control within 24 hours if the dangerous animal is at large, unconfined, has attacked a human being or another animal, has died, or has been sold or given away. If the animal has been sold or given away, the former owner shall provide the Animal Control with the name, address, and telephone number of the new owner. If the new owner's address is in the Town or if the animal is kept in the Town, Animal Control shall notify the new owner by certified mail, return receipt requested, or in person, that the animal has been determined to be a dangerous animal and provide the new owner a copy of the requirements

contained in this article. The new owner must be given notice to comply with the requirements for owners of dangerous animals, if the animal is physically located for any time within the Town. It shall be unlawful for a new owner to fail to comply with any requirement of sections 2.03.003 and 2.03.003. The same reporting requirements are imposed on any and all subsequent owners of the dangerous animal.

- (c) If the owner removes the dangerous animal from the Town limits:
 - (1) The owner shall provide Animal Control with the physical address and telephone number where the animal will be kept, and the name of any person who will be caring for the animal if the owner will not be caring for the animal;
 - (2) Animal Control shall notify the Animal Control Authority in the area where the animal will be kept of the classification of the animal as dangerous.

Sec. 2.03.006. - Attack by dangerous animal.

- (a) A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on a person or another animal outside the animal's enclosure and causes bodily injury to the person or other animal.
- (b) An offense under this section is a class C misdemeanor, unless the attack causes the death of or serious bodily injury to a person, in which event the offense is a class A misdemeanor.
- (c) If a person is found guilty of an offense under this section, the court may order the dangerous animal destroyed by Animal Control or a licensed veterinarian.
- (d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000.00. The Town Attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the Town.

Sec. 2.03.007 - Violations.

- (a) A person who owns or keeps custody or control of a dangerous animal commits an offense if the person fails to comply with any section of this division or an order issued pursuant to section 2.03.002.

Sec. 2.03.008. - Defenses.

It is a defense to prosecution under this division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the state to deal with stray animals, and that the person has temporary ownership, custody or control of the animal; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous animal.

ARTICLE 2.04
DOG, CAT, AND FERRET REGISTRATION

Sec. 2.04.001. - Rabies vaccination tag serves as Town registration.

- (a) A current rabies vaccination tag is required and shall serve as a dog's, cat's, and ferret's Town registration. All dogs, cats, and ferrets shall be registered with the Town.
- (b) The rabies certificate must be supplied, upon request, to an Animal Control Officer, a peace officer, or the local rabies control authority.
- (c) A current rabies vaccination tag must be affixed to a collar or harness that must be worn by the dog, cat, or ferret at all times.
- (d) Vaccination certificates and tags shall be valid only for the animal for which the certificate or tag was originally issued.
- (e) A person commits an offense if the person violates a provision of this section or permits an animal owned by the person or under the person's control to be in violation of a provision of this section.

ARTICLE 2.05
RABIES CONTROL

Sec. 2.05.001. - Rabies vaccination.

- (a) *Vaccinations required.*
 - (1) A person who owns, keeps, harbors or has custody of a dog, cat, or ferret over four months of age must have said animal immunized against rabies by injection of anti-rabies vaccine by a veterinarian validly licensed in Texas or in another jurisdiction.
 - (2) The same animal must receive a booster within the 12-month interval following the animal's initial vaccination, or such interval as provided by state law; and the same animal must be revaccinated against rabies at a minimum of at least once every three years with a rabies vaccine licensed by the department of agriculture, or at such interval as provided by state law.
 - (3) A person commits an offense if the person owns, keeps, harbors, or has custody of a dog, cat, or ferret that has not been immunized against rabies as required by this section.
- (b) Every owner of a dog, cat, or ferret immunized against rabies shall procure a rabies vaccination certificate from the veterinarian administering the vaccine.
- (c) The provisions restricting the use and sale of rabies vaccine for animals as set forth in the state statute enacting the "Rabies Control Act of 1981" are hereby adopted by reference, as contained in Chapter 826 of the Texas Health and Safety Code, as amended, a copy of which is on file in the office of the Town Secretary, and as amended from time to time.
- (d) It shall be unlawful for a person to administer, sell, or distribute rabies vaccine for animals in a manner not authorized by section subsection (c), above.

Sec. 2.05.002. - Domestic animals that exhibit rabies symptoms or reasonably indicate rabies symptoms.

- (a) A dog, cat, or ferret that has rabies or symptoms that could reasonably indicate rabies, or that bites, scratches, or otherwise creates a condition that may expose or transmit rabies to any human being or animal, shall be immediately impounded as provided in section 2.06 of this chapter and shall be held in quarantine in the Town a minimum period of ten days from the date of the bite, scratch, or when the condition that may have exposed or transmitted the rabies virus to a human being occurred, or longer as the local rabies control authority may deem necessary. Such quarantine will be subject to the following conditions:
- (1) An unvaccinated dog, cat, or ferret shall not be vaccinated against rabies during the ten-day observation period.
 - (2) The animal must be observed twice daily for rabies symptoms during the observation period.
 - (3) If an Animal Control Officer is able to notify the owner of the subject animal, within 24 hours of notification and with the approval of the local rabies control authority, the owner may exercise the option to quarantine the subject animal in:
 - a. A Department of State Health Services approved facility including a licensed veterinarian's clinic in the Town that has the facilities for isolation cages;
 - b. The animal care and control center;
 - c. Other approved sites within the Town designated and approved by the local rabies control authority; or
 - d. In a home quarantine as provided in subsection (b), below.
- (b) Home quarantine.
- (1) The owner or custodian of the dog, cat, or ferret may request permission from the local rabies control authority to place the animal in home quarantine if the following criteria can be met:
 - a. Secure facilities must be available at the home of the animal's owner or custodian, and must be approved by the local rabies control authority;
 - b. The animal is currently vaccinated against rabies;
 - c. There are no other animals residing at the residence;
 - d. The animal bit a person who lives at the same residence as the animal; and
 - e. The animal has not been quarantined for a previous bite incident.
 - (2) Animals not eligible for home quarantine must be quarantined within the Town as otherwise provided in this section.

**ARTICLE 2.06
ANIMAL CONTROL IMPOUNDMENT**

Sec. 2.06.001. - Impoundment; notice; disposition.

- (a) Animals may be impounded by Animal Control, or his or her designee, under any of the following circumstances when:
- (1) An animal is at large or running at large;
 - (2) An animal is reasonably suspected of having inflicted bodily injury on any person or animal, or poses a threat to public safety or constitutes a public nuisance;
 - (3) A dog, cat, or ferret does not have a valid, current rabies vaccination tag;
 - (4) The animal is prohibited under this chapter;
 - (5) An animal is not cared for in violation of sections 2.07.001;
 - (6) An animal that has rabies or symptoms that could reasonably indicate rabies, or that bites, scratches, or otherwise creates a condition that may expose or transmit rabies to any human being or animal;
 - (7) An animal is not kept in conformity with this chapter or state law; or
 - (8) An animal is held in protective custody, as that term is defined in section 2.01.00.1.
- (b) If, by vaccination tag or other means, the owner of an impounded animal can be identified, Animal Control shall, as soon as practicable after impoundment, notify the owner, if reasonably possible, that if the impounded animal is not redeemed within five days after impoundment, disposition of the impounded animal shall occur in accordance with this chapter, and that the owner has a right to a hearing on the validity of the impoundment and applicable fees, and the disposition of the impounded animal in accordance with this chapter.
- (c) On request of the owner of an impounded animal prior to the disposition of the animal as provided in this chapter, Animal Control shall conduct a hearing on the validity of the impoundment and the applicable fees, and the disposition of the impounded animal.
- (1) The hearing must be held as soon as practicable;
 - (2) Any interested person may provide evidence in person, in writing, or by other means;
 - (3) Animal Control shall make a decision at the conclusion of the hearing and promptly inform the owner of his or her decision; and
 - (4) The owner may appeal Animal Control's decision within five days to the municipal court.

Sec. 2.06.002. - Impoundment time; fees; redemption of animal.

- (a) Impounded animals, including those released from quarantine, shall be kept for five days from the date of impoundment. In calculating the length of this time, the first day after impoundment shall be day one. If the owner of such impounded animal does not redeem the impounded animal within five days after impoundment, disposition will be in accordance with this chapter. The animal may

be disposed of prior to the expiration of such time if in the professional opinion of Animal Control disposition is necessary to avoid the unnecessary suffering of a sick or injured animal.

- (b) Impounded and quarantined animals, except for prohibited animals, shall be available for immediate redemption upon meeting the requirements as set forth by the animal care and control center.
- (c) When an owner cannot provide proof to Animal Control at the time of release from impoundment that the impounded animal is currently vaccinated against rabies, then the owner must meet the requirements of the animal care and control center, prepay for a vaccination, obtain the vaccination within 48 hours of release, and provide proof of same to Animal Control. Failure to comply with the provisions of this section is a violation of this chapter.
- (d) A schedule of the current applicable fees for reclaiming impounded or quarantined animals is available for review at the animal care and control center.
- (e) It is not a defense to prosecution of any citations that applicable impoundment, bite, boarding, vaccination, microchip or registration fees have been paid.
- (f) If an animal is not redeemed within five days from the date of impoundment as provided in this section, the animal shall become the property of the animal care and control center and shall be disposed of by offering it for adoption to the public, offering it to a local humane group for adoption or by humanely destroying the animal.

ARTICLE 2.07 CARE AND HUMANE TREATMENT OF ANIMALS

Sec. 2.07.001. - Unlawful acts enumerated.

- (a) It shall be unlawful for a person to treat an animal in an inhumane or cruel manner as defined by Texas Penal Code § 42.09, as amended, Texas Penal Code § 42.091, as amended, Texas Penal Code § 42.092, as amended, or Texas Health and Safety Code ch. 821, as amended.
- (b) It shall be unlawful for a person to knowingly own, harbor, train, sell, or offer for sale any animal that is to be used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging said animal to attack human beings or animals when not provoked, except that this section shall not apply to guard dogs.
- (c) It shall be unlawful for a person to mutilate any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes.
- (d) It shall be unlawful for a person to cause an animal to fight another animal or person.
- (e) It shall be unlawful for a person operating a motor vehicle that strikes a domestic animal or livestock within the Town to fail to report the accident to Animal Control as soon as practicable.
- (f) It shall be unlawful for a person to tether a dog in a manner that prevents the animal from access to adequate shelter, food, and water, or in such a manner that the animal could become entangled or injured.

- (g) It shall be unlawful for a person to confine an animal in such a manner that prevents the animal from being able to stand to its full height, to stretch out, to turn around and lie down, or to make normal postural adjustments comfortably for an unreasonable amount of time.
- (h) It shall be unlawful for a person to confine an animal in such a way that the animal is forced to stand or lay in its own feces, urine, standing water, or other unsanitary conditions.
- (i) It shall be unlawful for a person to crop a dog's ears, dock a tail, remove dew claws, or perform other surgical procedures on a dog or a cat except as provided by the veterinary licensing act.
- (j) It shall be unlawful for a person to sell, barter, give away as toys, or deliver live chickens, ducklings, goslings, or rabbits less than eight weeks of age to any person. Sale of such animals for agricultural purposes is exempt from this provision.
- (k) It shall be unlawful for a person to sell, offer for sale, barter or display any living chickens, rabbits, ducks or any other fowl or animal that has been dyed, colored or otherwise treated so as to impart to them an artificial color.
- (l) It shall be unlawful for a person to give away any live animal as a prize or inducement for the purpose of attracting trade or business.
- (m) It shall be unlawful for a person to use steel jaw or leg-hold traps except in the case of mouse or rat control.
- (n) It shall be unlawful for any person to beat, starve, overwork, or to otherwise abuse any animal.
- (o) It shall be unlawful for an owner or other person having care and control of any animal to abandon said animal.

Sec. 2.07.002. - Keeping of certain animals prohibited

It shall be unlawful for a person to sell, offer for sale, barter, trade, keep, own, maintain, use or have in the person's possession or on premises under the person's control any of the following:

- (1) Any dangerous animal except as provided in sections 2.03.003 or 2.06.002 pursuant to a final determination that the animal is dangerous; or
- (2) Any prohibited animal, unless that person is a person exempted by Section 822.102, Subchapter E, Dangerous Wild Animals, of the Texas Health and Safety Code, as amended. Any prohibited animal is exempt from this section if:
 - a. The animal(s) belongs to a bona fide zoological park, circus, educational institution, museum, licensed laboratory, publicly owned nature center, or animals kept by bona fide members of an educational or scientific association or society approved by Animal Control, or persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes. If a person holds a permit from the state department of parks and wildlife to operate a wild care center in the Town, the permit holder must also comply with the Town's comprehensive zoning ordinance, as amended, and must keep any and all animals or reptiles in cages of sufficient size, construction, and strength to restrain the animal or reptile at all times; or

- b. The animal is an assistance or service animal as defined in this chapter that has been registered with the Town and Animal Control has been provided with:
 1. Records of vaccination appropriate for the species of animal;
 2. Documentation from a veterinarian that the animal is healthy;
 3. Proof of proper restraint for the animal; and
 4. Proof that the animal has been or is being trained to perform tasks of an assistance or service animal.

Sec. 2.07.003. - Guard dogs.

- (a) All guard dogs shall be registered with Animal Control prior to being used as guard dogs.
- (b) A guard dog that commits an unprovoked bite upon a human being or animal shall be quarantined as required in section 2.05.002. If a person committing a crime is bitten by a guard dog that is protecting life or property, the animal may be observed at a kennel, or the animal care and control center as directed by Animal Control or his or her authorized representative.
- (c) That portion of the "Private Investigators and Private Security Agencies Act," Texas Occupations Code, ch. 1702, as amended, which refers to guard dog companies and restrictions on the use of guard dogs, is hereby adopted by reference.

Sec. 2.07.004. - Keeping of livestock.

- (a) *Generally.*
 - (1) It shall be unlawful for any person to keep or permit the keeping of livestock on premises owned by the person or under his or her control, except in compliance with the following regulations:
 - a. It shall be unlawful for any person to keep livestock on any premises, if the overall area is less than 1/3 acre for each livestock kept, or to keep more than can be cared for under sanitary conditions and not create a public nuisance.
 - b. Male equines, including, but not limited to, horses, capable of breeding, will be confined in such a manner that said animal will not be dangerous to human beings, and all breeding shall be under the control of the owner or handler.
 - c. It shall be unlawful and a violation of this ordinance for any person other than a veterinarian, to keep any live swine within the Town.
- (b) *Adequate fences and barriers.* It shall be unlawful for any person to keep on his premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping and/or damaging neighboring flowers, trees, shrubbery and/or other property located on adjacent property. It shall be a rebuttable presumption that such fences or barriers are inadequate for the designated purpose, if livestock escapes from the premises. This presumption is rebuttable and shall have the effects and consequences set forth in Texas Penal Code § 2.05, as amended. A fence or barrier may include, but is not limited to, electronic barriers, whether underground, electrified wiring, or the erection of any structure of wood or wire, wood and wire, masonry or any

other material, whether it encloses land on all sides or only on one or more sides, which is intended to prevent the passage of livestock. Such a fence or barrier is the means by which the land is enclosed so as to prevent the ingress and egress of livestock, and to make a complete enclosure that is sufficient, in usual circumstances, to turn livestock of ordinary habits and disposition.

- (c) *Barns, stables and other animal facilities.* All barns, stables, and other animal facilities constructed after the effective date of the ordinance from which this chapter is derived shall meet the requirements of the Town building codes and zoning ordinances, as applicable thereto.

Sec. 2.07.005. - Impounding of livestock.

- (a) *Authority.* Any livestock found at large or running at large within the corporate limits of the Town may be impounded by Animal Control, the county sheriff's department, or their designee.

- (b) *Disposal.*

- (1) In the event that ownership of the impounded livestock cannot be determined, and after being held for a period of three days, the livestock may be impounded by the county sheriff's department. At such time, the livestock shall become the responsibility of the county sheriff's department. Should the owner be located within the three-day period, the owner shall pay all required fees adopted by the Town. The Town, by this provision, intends to comply with any applicable provisions of state law relative to the impoundment of strays.

- (2) If impounded livestock are sold at public auction by the county sheriff's department, the county holding facility will apply such amount of the proceeds as necessary to satisfy the fees and costs incurred because of animal impoundment and auction, any fees and costs incurred by the Town for impounding the livestock, restitution for any damage sustained by a property owner for said livestock having been at large, upon submission of a notarized affidavit and satisfactory proof of such damage. Upon payment of all fees, costs, and restitution, any remaining monies shall be returned to the owner of the livestock, upon submission of a sworn, notarized affidavit that the applicant was in fact the owner of the livestock immediately prior to the sale.

Sec. 2.07.006. - Keeping of fowl, rabbits and guinea pigs restricted.

- (a) *Enclosure requirements.* Fowl, rabbits, and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosed yard. Litter and droppings from these animals must be collected and disposed of in accordance with this chapter; provided, however, that the provisions of this section shall not apply to ducks or other waterfowl inhabiting natural or manmade watercourses or bodies of water.
- (b) *Number of rabbits and guinea pigs.* It shall be unlawful for any person to knowingly be in possession of more than 12 rabbits or guinea pigs, or combination thereof; and any other rodent, on any premises in the Town.
- (c) *Regulation of fowl.* Roosters are banned within the corporate limits of the Town except for properties with an Agricultural property tax exemption, and are declared to be nuisances under Texas Local Government Code Ch. 217, as amended, when located in residential districts.

- (d) *Number of fowl.* Except for exotic birds raised, kept, or harbored for commercial purposes, it shall be unlawful for any person, firm, or corporation to maintain, own, or control any premises within the Town limits where more than an aggregate of 12 fowl are kept or harbored in one enclosure except for properties with an Agricultural property tax exemption. "One enclosure" as that term is used herein shall be held to mean any and all connected buildings, whether under one roof or otherwise, and buildings and sheds that may have entrances to the same or adjoining lot or lots with a gateway or other opening between them.
- (e) *Ducks, turkeys, geese, and peacocks prohibited.* It shall be unlawful to own or keep ducks, turkeys, geese, or peacocks within the corporate Town limits except on properties with an Agricultural property tax exemption, lakes or other natural or manmade watercourses or bodies of water, and public park lands.

Sec. 2.07.007. - Keeping of bees.

It is unlawful for any person to keep, or allow to be kept, bees in such a manner as to deny the reasonable use and enjoyment of adjacent property or endanger the personal health, safety, and welfare of the inhabitants of the Town. Honeybees may be kept if the following conditions are met:

- (1) All hives shall be located a minimum of 150 feet from any inhabited dwelling other than that of the person keeping such bees;
- (2) No more than three hives shall be allowed on lots or tracts of land less than one acre in area;
- (3) There is an adequate source of water within 20 feet of all hives; and
- (4) Any hive contaminated with or known to have Africanized honeybees (killer bees) shall be destroyed by a qualified beekeeper at the owner's expense.

Sec. 2.07.008. - Disposal of dead animals.

- (a) It shall be the owner's responsibility to remove and properly dispose of a deceased animal within 24 hours of the death of the animal. If requested by the owner, an Animal Control Officer will pick up a deceased animal if the animal has been placed in a sealed, clear plastic bag and left at curb side.
- (b) The Animal Control Officer shall have the authority to take custody of and dispose of all deceased animals found on any roadway, street, highway, and/or public or private property where the owner cannot otherwise be identified.
- (c) It shall be the specific responsibility of the owner of any livestock to have the livestock removed and properly disposed of within 24 hours of the death of said livestock, consistent with state law.

Sec. 2.07.009. - Proper care of animals.

Every owner or other person having care and control of any animal shall provide the following for each animal under his or her care and control:

- (1) Sufficient nutritious and wholesome food, served to the animal in clean containers, to maintain the animal in good health;

- (2) Clean and wholesome water, served to the animal in a clean container, such water to be available to the animal at all times;
- (3) Adequate shelter, which shall allow the animal to remain dry and protected from the elements at all times and which shall provide either natural or artificial shade for the animal to avoid direct sunlight. If the shelter is provided by enclosure, the enclosure shall allow for adequate ventilation; and
- (4) Veterinary care as needed to prevent suffering.

**ARTICLE 2.08
ANIMAL ESTABLISHMENTS**

Sec. 2.08.001. - Compliance.

- (a) It shall be unlawful for an animal establishment to sell, trade or give away any dog or cat, over three months of age, unless the dog or cat has been vaccinated as required by this chapter.
- (b) Animal Control shall be permitted to inspect any animal establishment and all animals and the premises where such animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions of this chapter.

Sec. 2.08.002. - Minimum standards for animal establishments.

In addition to the other requirements of this article, animal establishments shall comply with the following minimum standards:

- (1) Remove manure and droppings from pens, yards, cages, and other enclosures daily and handle or dispose of the excretions in such manner as to keep the premises free of any public nuisance.
- (2) Place food in sanitary containers on sanitary surfaces.
- (3) Remove all refuse on the premises and dispose of same by a means approved by Animal Control.
- (4) Such standards of sanitation shall be administered by Animal Control.
- (5) It shall be unlawful for any animal establishment to fail or refuse to comply with any minimum standard set forth in this section.

Sec. 2.08.003. - Prohibited sales.

- (a) It shall be unlawful for any person to sell, exchange, trade, barter, lease, rent, or give away any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.
- (b) A person commits an offense if the person fails to comply with this section.
- (c) It is an affirmative defense to prosecution under subsection (a) that the person is a: veterinary clinic; animal hospital; animal shelter; animal welfare, rescue, and/or adoption agency that is a

registered non-profit entity in compliance with section 501(c)(3) of the Internal Revenue Code; bona fide zoological park; circus; educational institution; museum; licensed laboratory; publicly owned nature center; bona fide member of an educational or scientific association or society approved by the director of health; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; animal establishment in compliance with the terms of this chapter; or individual caring for animals in his private residence in compliance with the terms of this chapter.

- (d) Officers in the Town's Animal Control, code compliance and police departments are authorized to investigate alleged violations of this section and to issue citations for such violations."

SECTION 3

Any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under the Ordinance shall not preclude Prosper from filing suit to enjoin the violation. Prosper retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

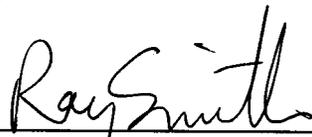
SECTION 5

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6

This Ordinance shall become effective from and after its adoption and publication as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 28th DAY OF JANUARY, 2014.



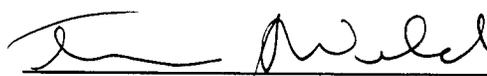
Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney