

ORDINANCE NO. 19-079

AN ORDINANCE OF THE CITY OF GALVESTON, TEXAS, AMENDING THE CODE OF THE CITY OF GALVESTON, AS AMENDED, CHAPTER 7, "ANIMALS AND FOWL", TO AMEND, UPDATE REGULATIONS, STANDARDS, AND DEFINITIONS; TO MAKE CLARIFICATIONS, RENAME, RENUMBER AND REARRANGE THE CHAPTER AS APPLICABLE; PROVIDING FOR PENALTIES AS APPLICABLE; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Galveston City Council seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, staff has reviewed various Chapters of the City Code. Staff has made recommendations in order to update regulations, standards and procedures and make clarifications, and modifications, as applicable to the Chapter in furtherance of promoting the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and,

WHEREAS, the Galveston Animal Services Advisory Committee and Staff have identified a need to update and amend Chapter 7, "Article I", "Animals & Fowl", and recommends updating and amending Chapter 7, "Animals and Fowl", as provided in section 2 below; and,

WHEREAS, the City Council deems it in the public's interest to amend Chapter 7, "Animals and Fowl", of "The Code of The City of Galveston 1982, as amended".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GALVESTON, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. The Code of the City of Galveston 1982, as amended, Chapter 7 "Animals and Fowl", is amended to read and provide as follows:

Article I. In General.

Sec. 7-1. Definitions.

~~Coop shall mean an enclosed structure designed to house chickens.~~

Coop shall mean a completely enclosed area designed to allow chickens access to the outdoors while providing protection from predators.

Director or local rabies control authority means the city chief of police or ~~his~~ designee who shall, among other duties, be responsible for enforcing the animal ordinances, the minimum standards for rabies control, and any rules adopted by the Texas Board of Health under the rabies quarantine provisions of ~~V.T.C.A., the~~ Texas Health and Safety Code ~~§ 826.045, or its successor.~~

Livestock means an animal raised for human consumption or an equine ~~or bovine (cow)~~ animal.

Run shall mean ~~a completely an~~ enclosed area designed to allow ~~chickens animals~~ access to the outdoors while providing protection from predators.

Sec. 7-2. - Running at large prohibited.

- (a) An owner of an animal shall ensure that such animal does not run at large in violation of this chapter and an owner shall be subject to punishment without regard to whether the owner was acting with a culpable mental state.
- (b) It shall be unlawful for any person owning, keeping or having any animal in ~~his~~ their possession or control to allow it to run at large.
- (c) It shall be unlawful to allow any animal to be restrained by a leash, rope or cord and not be under the immediate control of the owner of the animal.
- (d) An animal found to be a dangerous dog is additionally subject to the conditions of section 7-15.
- (~~e~~) The provisions of this section shall not apply if:
 - (1) The animal is under physical restraint by the owner;
 - (2) The animal is participating in obedience training or competition, dog shows, field trails or performing acts such as herding under the control and supervision of an owner. ~~or handler;~~
 - (3) The animal is found to be a dangerous dog and subject to the conditions of section 7-15;
~~or~~
 - (4) The animal is wild or exotic animal prohibited by section 7-40.
- (~~f~~) Each time an animal runs at large in violation of this section constitutes a separate offense, punishable by a fine of not more than one hundred dollars (\$100.00) shall be a class C misdemeanor punishable by a minimum fine of one hundred dollars (\$100.00), not to exceed five hundred dollars (\$500.00). Each violation shall be considered a separate punishable offense.

Sec. 7-11. - Same—Display of tag.

The license tag issued hereunder shall be attached to a collar and worn by that dog or cat for which issued at all times, except when the animal is maintained within a private kennel or private cattery or is being exhibited in a recognized sporting activity, in which case the license tag shall be made available for inspection upon the demand of the ~~director or his duly authorized representative.~~ animal control authority.

Sec. 7-14. - Impoundment—Mandatory spay/neuter of impounded animals.

- (c) Fees. An animal's owner must pay the impoundment and boarding fee before the animal is released. The animal shelter shall deposit the fees collected in the city's treasury or as agreed to by contract with the city according to the V.T.C.A., Texas Health and Safety Code § 826.016 or its successor. The fees may be used only to help defray the cost of administering this chapter or the ordinances or rules of the city's police, animal control, or animal shelter.
- (d) Any dog or cat found to be without a microchip or registration tag attached to a collar worn by the dog or cat is declared to be a stray animal. Stray dogs and cats are declared to be a public nuisance. Stray dogs and cats shall be impounded for a period of seventy-two (72) hours. After seventy-two (72) hours the stray dog or cat becomes the property of the animal shelter who may make a humane disposition of each unclaimed stray dog or cat, including making the dog or cat available for adoption.
- (e) Required; exceptions.
 - (1) Any stray dog or cat impounded must be spayed or neutered prior to adoption, in accordance with state law.
 - (2) All dogs or cats impounded within the corporate city limits will be spayed/neutered prior to being released to the owner. In the case that an appointment must be scheduled for surgery after release the animal owner must present the animal for the scheduled appointment. Failure to present the animal will constitute a violation of this chapter. The cost to spay/neuter the animal shall be paid by the owner along with the impound fees.
 - (3) The following animals will not be spayed/neutered as directed under subsection (a):
 - a. The animal weighs less than two (2) pounds;
 - b. A licensed veterinarian certifies that the dog or cat should not be spayed/neutered for health reasons or is permanently non-fertile;
 - c. The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work;
 - d. Animals picked up for the first time belonging to a breeder that has:
 - i. A copy of the animal's health statement; and
 - ii. Paid the fee for a first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spay/neutered.

- e. Animals picked up for the first time belonging to an owner that has:
 - i. A copy of the animal's health statement; and
 - ii. Paid the fee for a first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spayed/neutered.
- f. A violation of this section shall be a class C misdemeanor punishable by a minimum fine of one hundred dollars (\$100.00), not to exceed five hundred dollars (\$500.00). Each violation shall be considered a separate punishable offense.

Sec. 7-15. - Dangerous dogs.

Sign(s) shall mean a sign, at least eight (8) inches by twelve (12) inches, of a permanent nature stating "BEWARE OF DANGEROUS DOG" in red lettering on a white background. The lettering shall be no less than two (2) inches in height and made of a reflective material that is visible in low-light situations or at night. In addition, the sign shall include a symbol warning, understandable by small children, of the presence of a dangerous dog.

Sign(s) shall mean a sign of a permanent nature stating "BEWARE OF DANGEROUS DOG" The lettering shall be made of a reflective material that is visible in low-light situations or at night. In addition, the sign shall include a symbol warning, understandable by small children, of the presence of a dangerous dog.

(c) Requirements for a dangerous dog.

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

- g. The Dangerous dog must be spayed / neutered and microchipped. City of Galveston must be listed as a contact person with the microchip company.
- (2) The owner of the dangerous dog who does not comply with subsection (1) shall immediately deliver the dog to the animal control authority.
- (3) If, on application of any person, the Mmunicipal Ceourt of Record finds, after notice and hearing as provided by subsection (h), that the owner of the dog has failed to comply with subsections (c)(1) or (c)(2), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.
- (4) The owner shall pay any cost or fee assessed by the city and or animal shelter.
- (5) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with subsection (c)(1) before the 11th day after the date on which the dog is seized or delivered to the animal control authority. The court shall

order the authority to return the dog to the owner if the owner complies with subsection (c)(1) before the 11th day after the date on which the dog is seized or delivered to the animal control authority.

- (6) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.
- (7) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:
 - a. The owner knows of a dangerous dog attack described in subsection 7-1(f);
 - b. The owner receives notice that the Galveston Municipal Court of Record has found that the dog is a dangerous dog under subsection (h); or
 - c. The owner is informed by the animal control authority that the dog has been determined to be a dangerous dog under subsection (d).

(d) *Reporting of incident.*

(1) *Animal control authority.*

- a. If a person reports a dangerous dog incident, the animal control authority may investigate the incident. The animal control authority may adopt appropriate forms to aid in the enforcement of this section. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of the determination.
- b. An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority to the Galveston Municipal Court of Record. An owner may appeal the decision of the Galveston Municipal Court of Record in the same manner as appeal for other cases from the municipal court of record.

(c)(2) *Municipal Court of Record.*

- a. A person may also report a dangerous dog incident to the Municipal Ceourt of Record for investigation by the animal control authority.

The owner of the dog shall deliver the dog to the animal control authority not later than the fifth day after the date on which the owner receives notice that the report has been filed. The animal control authority may otherwise provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

- b. If the owner fails to deliver the dog as required by subsection (d)(2)a., the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.

- e. ~~The court shall determine, after notice and hearing as provided in subsection (h), whether the dog is a dangerous dog.~~
- d. ~~The court, after determining that the dog is a dangerous dog, may order the animal control authority to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog under subsection (e) and the dog is returned to the owner or destroyed.~~
- e. ~~The owner shall pay a cost or fee assessed under subsection (e)(4).~~
- b. The jurisdiction for the hearing of a dangerous dog determination under subsection (d) or subsection (c)(3) shall be the Galveston Municipal Court of Record, which shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with subsection (c).
- c. A dangerous dog found to be at large or otherwise in violation of this chapter shall be impounded and a disposition hearing set within 10 days of impound. This hearing will determine if the owner has failed to maintain compliance with this chapter. If the court finds the animal owner has violated this chapter the court may order the humane destruction of the dangerous dog.

(h) *Hearing.*

- (1) The jurisdiction for the hearing of a dangerous dog determination under subsection (d) or subsection (c)(3) shall be the Galveston Municipal Court of Record, which shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with subsection (c).
- (2) The owner of a dog subject to a dangerous animal determination or a disposition hearing under this section, or the person from whom the dog was seized, and the person who made the complaint shall be notified, in writing, of the date, time and location of the hearing within five (5) days after the impoundment of the dog.
- (3) The determination hearing or disposition hearing shall be held not later than the 10th day after impoundment of the dog.
- (4) The municipal judge shall consider evidence provided by any interested party, including the city attorney, in making its determination.
- (5) If the municipal judge determines that the dog, which is the subject of the hearing, is a danger to the community, the municipal judge shall issue an order as to the disposition of the dangerous dog and any conditions that may be placed upon the owner for the continued maintenance of the dangerous dog.
- (6) Nothing in this section precludes the owner of a dangerous dog, which is the subject of the hearing from waiving its right to a determination hearing. If a person waives the right to a hearing, the dog will be deemed to be dangerous and the owner shall immediately comply with any conditions imposed or authorize the destruction of the dangerous dog. If the dangerous dog is ordered destroyed and is impounded at the animal shelter, the owner shall release the dangerous dog to the animal shelter for destruction. If the dangerous dog is ordered destroyed and impounded at a veterinary clinic, the owner shall have the dangerous dog destroyed by the licensed veterinarian

immediately and provide documentation of the destruction to the animal control authority.

(i) *Violations and penalties.*

- (8) It is a defense to prosecution for an attack by a dangerous dog or for complying with the requirements of a dangerous dog if the person is:

- c. A dog trainer or an employee of a licensed guard dog company under V.T.C.A., Texas Occupations Code, ch. 1702, as amended.

Sec. 7-15.1. - Nuisance animal—Noise.

It shall be unlawful for the owner or keeper of any animal to allow the animal to bark, howl, whine or make any sound in such a manner, with such intensity, or with such continued duration so as to annoy, distress or disturb the quiet, comfort or repose of persons of normal sensibilities within the vicinity of hearing thereof. A violation of this section shall be a class C misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

A violation of this section shall be a class C misdemeanor punishable by a minimum fine of one hundred dollars (\$100.00), not to exceed five hundred dollars (\$500.00). Each violation shall be considered a separate punishable offense.

Sec. 7-16. - Refusal to allow impoundment; unauthorized release of animals.

- (a) Refusal of any owner or the person in possession or control of any animal to allow or permit the animal control officer to take custody of such animal for impoundment due to violations of this chapter shall constitute a separate offense hereunder. The owner causing such refusal shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than two thousand dollars (\$2,000.00) per day of violation.
- (b) It shall be unlawful for any person to release an impounded animal except upon approval of the director.

Sec. 7-17. - Animal excrement laws.

This section shall not apply to horses on the public beaches.

- (1) Owners of animals must pick up all of their animals' excrement that is secreted off their property.
- (2) A violation of this section shall be a class C misdemeanor punishable by a minimum fine of one hundred dollars (\$100.00), not to exceed five hundred dollars (\$500.00). Each violation shall be considered a separate punishable offense

Violations of the excrement law shall subject the owner to a fine from ten dollars (\$10.00) per violation to fifty dollars (\$50.00) per violation.

Sec. 7-18. - Humane treatment of animals.

- (a) Owners must humanely treat their animals. Humane treatment includes, but is not limited to providing proper and adequate food, drink, shade, shelter, training, and veterinary care.

- (b) It shall be unlawful for any person to use, allow, or permit to be used animal fighting equipment.
- (c) It shall be unlawful for an owner of property to use, allow, or permit the use of animal fighting equipment.
- (d) 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.
- (e) Owners shall maintain and keep all pens, coops, kennels, fenced areas, and enclosures of any kind clean to prevent odors, and the attraction of insects, vermin, or other nuisances. The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors. Spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas, and other vectors. Cages, pens, or enclosures used to confine animals shall be of sufficient size to maintain all animals within such pen or enclosures comfortably and in good health.
- (f) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare. An animal control officer or police officer may 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 in violation of this subsection shall bear the full cost and expense incurred by the city or animal shelter in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from the vehicle.
- (g) It shall be unlawful to tether, chain, or fasten an animal in such a manner as to cause it injury, disease, or pain or not permit it to reach shelter, food and water.
- (h) ~~Violations of the humane treatment law shall subject the owner to a fine from one hundred dollars (\$100.00) to two hundred dollars (\$200.00) per violation.~~
A violation of this section shall be a class C misdemeanor punishable by a minimum fine of one hundred dollars (\$100.00), not to exceed five hundred dollars (\$500.00). Each violation shall be considered a separate punishable offense.

Sec. 7-19. - Animal control officers and police officers; authority.

- (a) Animal control officers and police officers of the city shall be authorized to seize animals that are in violation of this chapter and a police officer may arrest any person who attempts to prevent the detention of the animal.
- (b) Animal control officers and Police officers are authorized to tranquilize or kill any animal that is running loose and cannot be apprehended by reasonable means that appears to be dangerous, seriously injured, or diseased.
- (c) Animal control officers and police officers of the city are authorized to issue notice of violations for any violation of this chapter.

Sec. 7-24. - Use and sale of rabies vaccine.

- (g) An offense under this section is a class C misdemeanor punishable by a minimum fine of \$500.00 up to \$2,000.00.

Sec. 7-40. - Keeping of wild and exotic animals prohibited.

It shall be unlawful for any person to possess, keep, permit, cause or allow any wild or exotic animal upon or within any premises within the city; except as provided below, in the City Code or pursuant to State law. however,

(a) This prohibition shall not apply to zoological parks, performing animal exhibitions, circuses or veterinary hospitals;

(b) This prohibition exempts goats and pigs where city permits have been issued and where city zoning requirements zoned for livestock are allowed.

Sec. 7-41. - Fees enumerated.

- (a) There shall be charged by the city the following fees for issuance of licenses and permits required under this chapter:
- (1) Dog and cat licenses required under section 7-9:
 - a. Altered pet license (spayed/neutered), annually \$5.00
 - b. Senior citizens (age 60+) altered pets, annually 4.00
 - c. Certified service animals altered pets, annually 4.00
 - d. Unaltered pet license (not spayed/neutered), annually 50.00
 - (2) Duplicate dog or cat license, annually 2.00
 - (3) Kennel, cattery and animal establishment license required under section 7-27:
 - a. For each kennel or cattery authorized to house less than fifteen (15) dogs or cats, or combination thereof 50.00

- (4) Pickup and dispose of dead animals and fowl, per animal No fee
- (5) Poultry or fowl permit 10.00
- (6) Goat or Pig permit, annually \$5.00

Sec. 7-42. – Animal Services Advisory Committee Definitions; committee established.

- (a) There is hereby established an animal services advisory committee. The purpose of the committee shall be to assist animal shelters located in the city to comply with the V.T.C.A., Texas Health and Safety Code ch. 823, and to provide recommendations as necessary to the City of Galveston.

SECTION 3. It is declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared invalid by a 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.

SECTION 4. All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 5. In accordance with the provisions of Sections 12 and 13 of Article II of the City Charter, this Ordinance has been publicly available in the office of the City Secretary for not less than 72 hours prior to its adoption; that this Ordinance may be read and published by descriptive caption only.

SECTION 6. This Ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Galveston.

APPROVED AS TO FORM:

DONNA M. FAIRWEATHER
ASSISTANT CITY ATTORNEY

I, Janelle Williams, Secretary of the City Council of the City of Galveston, do hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the City Council of the City of Galveston at its regular meeting held on December 12, 2019, as the same appears in records of this office.

IN TESTIMONY WHEREOF, I subscribe my name hereto officially under the corporate seal of the City of Galveston this _____ day of _____, 2019.

Secretary for the City Council
of the City of Galveston