

ORDINANCE NO. 22-X

AN ORDINANCE OF THE CITY OF ALVIN, TEXAS, AMENDING CHAPTER 4, ANIMALS AND FOWL, OF THE CODE OF ORDINANCES OF THE CITY OF ALVIN, TEXAS, FOR THE PURPOSE OF AMENDING ARTICLE I. IN GENERAL, ARTICLE II. KENNELS/CATTERIES, AND ARTICLE III. PROHIBITION OF SALES OR THE GIVING AWAY OF DOGS AND CATS ON PUBLIC PROPERTY; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND SETTING FORTH OTHER PROVISIONS RELATED THERETO.

WHEREAS, the City Council of the City of Alvin is continually reviewing the provisions of the City Code of Ordinances to ensure that it meets the current needs of the City and reflects current practice;

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

Section 1. That Chapter 4, Animals and Fowl, of the Code of Ordinances, City of Alvin, Texas, is hereby amended with the language as follows:

Chapter 4 - ANIMALS AND FOWL

ARTICLE I. - IN GENERAL

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Sec. 4-3. Definitions.

For the purpose of this chapter, the definitions as stated in the current or latest "rabies control and eradication" rules of the Texas Department of State Health Services shall also apply, with the following exceptions and/or additions:

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Vicious or dangerous animal means:

- (1) Any animal which because of its physical nature and vicious propensity is capable of inflicting serious physical harm or death to human beings and would constitute a danger to human life or property;

- (2) Any animal which has behaved in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or other animals;
- (3) Any animal certified by a Doctor of Veterinary Medicine, after observation thereof, as posing a danger to human life, animal life or property upon the basis of a reasonable medical probability;
- (4) Any animal that commits an unprovoked attack on a person or animal on public or private property; or
- (5) Any animal that attacks or threatens to attack a person.

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Sec. 4-5. - Licensing of canines, felines and ferrets.

- (a) *Microchip requirements.* It shall be unlawful for the owner or custodian of any canine or feline, including ferrets, to keep such canine, feline or ferret within the corporate limits of the City without first having the animal microchipped by either a veterinarian of the owner's choice or by the City of Alvin Animal Shelter. The owner shall complete a form available at the City of Alvin Animal Shelter providing necessary owner and pet information. If microchipped somewhere other than the City of Alvin Animal Shelter, the owner shall provide proof that the microchip is registered with the microchip company and the information associated with the microchip is correct and current. All animals adopted from the City of Alvin Animal Shelter shall be microchipped unless such procedure is determined by a licensed veterinarian to be adverse to the animal's health.
- (b) *Inoculation against rabies prerequisite to implantation of microchip.* The City shall implant a microchip and provide registration paperwork to any person representing himself to be the owner or custodian of a canine, feline, or ferret which is kept, harbored or maintained within the corporate limits of the city, but shall not be implanted unless and until satisfactory evidence has been presented that such animal has been fully inoculated against rabies under the direction of a veterinarian licensed and duly authorized to practice veterinary medicine in the state.
- (c) When received; fee; receipt for fee.
 - (1) Microchip registration of all canines, felines, or ferrets within the city shall be updated by the owner, when applicable, within thirty (30) days of any change in owner information.
 - (2) A fee in the amount set forth in chapter 28 of this Code shall be required for each microchip implanted by the City under the provisions of this chapter.
- (d) Exemptions. The microchipping provisions of this section shall not apply to the following:
 - (1) Canine and feline animals under the age of four (4) months if kept within an enclosure.

(2) Canine and feline animals brought to the city exclusively for the purpose of entering same in any "dog or cat" show or exhibition.

(3) Animal rescuer.

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Sec. 4-9. Keeping, harboring or owning poultry and rabbits.

(a) No person shall keep, feed, raise or maintain any fowl or rabbits within the city limits, except as may otherwise be provided for herein:

(1) This section does not pertain to household caged domestic birds such as finches, canaries, parakeets, etc.

(2) It is acceptable to have seven (7) hens, three (3) turkeys, three (3) geese, seven (7) ducks, two (2) peahens, seven (7) adult rabbits, but no more than ten (10) of any combination of such animals may be kept upon any lot at least the size of six thousand six hundred (6,600) square feet. In the event that such fowl or rabbits are kept in a larger lot, the number so kept and maintained may be increased only in the ratio of the above figures to the increase in the square footage of such larger lot.

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Sec. 4-12. - Impounding of animals.

(a) Any animal found running at large on the streets, sidewalks, or other public or private places, and not under direct physical control of its owner or keeper, may be captured and picked up by the Animal Control Officer and impounded.

The City of Alvin Animal Shelter is the temporary caregiver for animals impounded and is authorized to provide care, including vaccinations, under the direction of a licensed veterinarian to insure the health of the shelter's animal population. Impounded animals will be kept for seventy-two (72) hours unless redeemed by their owner prior to that time. After seventy-two (72) hours, and if the owner is not identified, the animal may be adopted, rescued, or euthanized as best determined by the Animal Control personnel. An animal determined to be a stray or feral may be euthanized prior to seventy-two (72) hours if it is injured, ill, or so aggressive that it is a danger to Animal Control personnel or other persons. A microchipped animal that is impounded and found to be seriously injured, ill, or so aggressive that it is an immediate danger, may be euthanized only after reasonable efforts to contact the registered owner has been attempted.

(b) Every person, other than a Police Officer or the City Animal Control Officer and/or deputies, that takes up any animal under the provisions of this section shall immediately give notice thereof to the City Animal Control Officer, and every such person, or any person in whose custody such animal may in the meantime be placed, shall contact animal control to pick up or shall deliver such animal to the City Animal Control Officer without fee or charge, and the City Animal Control Officer shall thereupon hold and dispose of such animal as though such animal had been found running at large and impounded by an officer.

Sec. 4-13. - Release of impounded animals.

- (a) If an animal has been impounded for running at large, the Animal Control Officer shall release it to the owner if:
 - (1) The owner pays:
 - a. The applicable fines;
 - b. The pound fees set forth in chapter 28; and
 - c. The fee set forth in chapter 28 for each animal for each day or part of a day after the first day on which such animal was impounded; and
 - (2) The owner redeems his animal within seventy-two (72) hours after its capture and impoundment; and
 - (3) The owner has an unexpired rabies vaccination certificate and, if the owner is a resident of the city, has a current microchip, when applicable, for the animal; and
 - (4) The owner presents proper identification and proof of ownership.
- (b) If the animal has not been redeemed by the owner after an expiration of seventy-two (72) hours, it shall be disposed of humanely or it shall be placed for adoption or rescue after the city has claimed the animal.

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Sec. 4-17. - Releasing or dumping of animals.

- (a) It shall be a violation of this chapter for any person to dump, release or abandon any animal, whatsoever on any property, whether public or private, within the city.
- (b) It shall be a violation of this chapter for any person to surrender an animal to the City Animal Control by providing false information or deceit.
- (c) Any person having knowledge of an animal which has been or is believed to have been dumped, released, or abandoned shall so notify the animal control officer and shall give all pertinent information including description and location of animal and the name, address, car license number, or any other information or description of the person who dumped, released or abandoned the animal, if known.
- (d) Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal or any animal which has been dumped, released, or abandoned to remain on his property or allows or permits egress or ingress for three (3) or more days without notifying the Animal Control Officer shall hereby be deemed the owner of said animal.

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ARTICLE II. - KENNELS/CATTERIES

DIVISION 1. - GENERALLY

Sec. 4-30. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Animal rescuer means any person operating a rescue organization or shelter must register with Animal Control, providing documents as may be required for proof of rescuer status, in order to fit within the exceptions to microchipping and permitting in this chapter.

Cattery means any building, structure, enclosure premises or lot whereupon, or within which, more than four (4) cats, four (4) months of age or older, are kept or maintained for any purpose whatever, except a veterinary hospital operated by a graduate veterinarian duly licensed by the state board of veterinary examiners, or the impound facility operated by the City.

Class I kennel means any building, structure, enclosure, or premises whereupon, or within which, five (5) to eight (8) dogs, four (4) months of age or older, are kept or maintained. One-half (½) acre minimum is required.

Class II kennel means any building, structure, enclosure, or premises whereupon, or within which, nine (9) or more dogs, four (4) months of age or older, are kept or maintained. One-acre minimum is required.

Non-microchipped animal means any dog or cat which has no microchip or the owner information with the microchip company or animal control is not valid.

Unaltered and unsplayed means a condition that exists in an animal which permits the producing of offspring.

Division 2 – Mandatory Licensing of Kennels and Catteries

Sec. 4-31. Licensing.

- (a) No person shall operate or maintain a kennel or a cattery as those terms are defined in section 4-30, without first obtaining approval from a City Animal Control Officer, after which the appropriate license will be obtained from the Animal Control Department. Such license shall be valid for a period of two (2) years from the date of issuance, except that the Animal Control Official may, in his/her discretion, limit the duration of the license to one (1) year when he/she deems such limitation to be appropriate. Said license shall be renewed prior to the date of expiration. Where a kennel license has been issued and is in effect, all animals contained in such kennel shall also be licensed in accordance with the rules and regulations for licensing as set forth in section 4-4.
- (b) An application for a kennel or cattery license shall be filed with the Animal Control Department. Said application form, when completed, shall contain such information as may

reasonably be required by the animal control official for the purposes of enforcement of this chapter, including but not limited to:

- (1) The name, address, and current home telephone number of the caretaker of the subject kennel or cattery; and
- (2) A separate name, address, and current telephone number for emergency use when such caretaker is absent from the subject kennel or cattery.

Where a kennel or cattery is sought to be operated upon leased or rented premises, a letter of consent from the owner of the premises to the effect that the kennel or cattery may be maintained and operated on such premises shall be submitted to the Animal Control Department at the time the application for the kennel or cattery license is submitted.

- (c) After receipt of a kennel or cattery license application, the Animal Control Officer and the City Health Official shall make an inspection of the premises of the kennel or cattery for which a license is requested. No kennel or cattery license shall be issued, nor shall any such license be renewed, unless and until the kennel or cattery, in the opinion of the Health Official, satisfies the applicable laws and regulations of the state, and the applicable ordinances of the City. Notwithstanding any other provision of this chapter, the Health Official or the animal control official may, in their respective discretion, limit the numbers of dogs or cats over the age of four (4) months which are kept or maintained in any kennel or cattery, and such limitation may be imposed at such time as an application for an initial kennel or cattery license is considered or at such time as an application for renewal of a kennel or cattery license is considered.
- (d) Notwithstanding any other provision of this chapter, the Health Official and Animal Control Official are hereby authorized to enter upon and inspect the premises of any kennel or cattery located in the city for the purpose of determining whether such kennel or cattery is in compliance with the provisions of this article. As a condition of the issuance of a kennel or cattery license, each owner and operator of a kennel or cattery shall agree to allow such entry and inspection and such agreement shall be made a part of the license application. Such inspections shall be made during reasonable hours at times when the owner or operator of the kennel or cattery is present on the kennel or cattery premises, and with such frequency as the Health Official or Animal Control official shall deem appropriate. Willful refusal on the part of a kennel or cattery owner or operator to allow such inspection shall be grounds for summary denial of an application for a kennel or cattery license or for summary suspension or revocation of a kennel or cattery license.
- (e) A non-profit animal rescuer shall not be required to pay a fee for the licenses required of this article; provided, however, that all other provisions of this article shall be applicable to any such nonprofit corporation.
- (f) A violation of this section shall be punishable as follows: Any person who violates any part of this chapter shall, upon conviction, be guilty of a misdemeanor, and shall be fined as prescribed by section 1-5. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this section is committed, continued or permitted.

Secs. 4-32—4-35. - Reserved.

DIVISION 3. - ANIMAL RESCUER PERMIT

Sec. 4-36. - Licensing.

- (a) Any person engaged in the rescue of animals, shall first obtain a rescue permit from the City Animal Control Department and shall meet all requirements for a kennel/cattery license.
 - (1) For a rescuer primarily maintaining five (5) to eight (8) dogs or cats outside, a class I kennel/cattery license is required, and the minimum land requirement shall be one-half ($\frac{1}{2}$) acre to one (1) acre in size.
 - (2) For a rescuer primarily maintaining nine (9) or more dogs or cats outside, a class II kennel/cattery license is required, and the minimum land requirement shall be one (1) acre.
- (b) The fee for a kennel/cattery permit as a rescue facility shall be as stated in chapter 28.
- (c) Personal dogs or cats (not for adoption or sale) shall be microchipped in accordance with this chapter.
- (d) A permitted rescuer obtaining animals from a shelter shall not be subject to the payment of impound fees and charges but shall be subject to any spay/neuter fees by a properly licensed veterinarian.
- (e) All rescued dogs and rescued cats older than four (4) months must be spayed/neutered, unless a licensed veterinarian prohibits for reason of medical necessity, prior to releasing to an adopting party. In any event, the animal must be altered within thirty (30) days of receipt by the rescuer.
- (f) Accurate and complete records of all animals shall be maintained by the animal rescuer on forms which will be made available to the city of animal control for inspection upon request.
- (g) Administration of the animal rescue program shall be the responsibility of the animal control official who shall have the authority to issue and revoke animal rescue permits.

Secs. 4-44, 4-45. - Reserved.

DIVISION 5. - ANIMAL SELLER PERMIT

- (a) Any person engaged in the sale of animals, shall first obtain a seller permit from the city Animal Control Department and shall meet all requirements for such permit.
 - (1) Applicant must provide proof of rabies inoculation as required in Sec. 4-5(b) of this chapter.
 - (2) No more than one prior permit granted to household in prior twelve (12) months.
- (b) The fee for a seller permit shall be as stated in chapter 28.
- (c) Seller permit does not apply to kennel/cattery and is limited to one animal or litter.

ARTICLE III. - PROHIBITION OF SALES OR THE GIVING AWAY OF DOGS AND CATS ON PUBLIC PROPERTY

Sec. 4-46. - Prohibition of sales or the giving away of living animals on public property.

No person shall offer for sale or sell, give away or transfer for adoption any cat, kitten, dog, rabbit, bird or any other living animal on any public street, public sidewalk or public park in the city limits.

Secs. 4-47—4-50. - Reserved.

Section 2. That except as amended herein all other provisions of Chapter 41 of the Code of Ordinances, City of Alvin, Texas, shall remain in full force and effect. To the extent of any conflict or inconsistency between the provisions of this Ordinance and any other ordinance, the provisions of this Ordinance shall control.

Section 3. Penalties. Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not to exceed \$500. Each continuing day's violation shall constitute a separate offence. The City of Alvin retains all legal rights and remedies available to it pursuant to local, state and federal law.

Section 3. Severability. Should any section or part of this Ordinance be held unconstitutional, illegal, invalid, or the application to any person or circumstance for any reasons thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

Section 4. Incorporation into Code of Ordinances. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances, City of Alvin, Texas, as an addition, amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage in accordance with the provisions of Chapter 52 of the Texas Local Government Code and the City of Alvin Charter.

Section 6. Open Meetings Act. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the *Texas Government Code*. Notice was also provided as required by Chapter 52 of the *Texas Local Government Code* and the *City of Alvin Charter*.

PASSED and APPROVED on the 7th day of April 2022.

THE CITY OF ALVIN, TEXAS

ATTEST

By: _____
Paul A. Horn, Mayor

By: _____
Dixie Roberts, City Secretary