

**ORDINANCE NO. 2017-017(A)**

**AN ORDINANCE OF THE CITY OF CASTROVILLE, TEXAS, REPEALING CHAPTER 14 – ANIMALS OF THE CITY’S CODE OF ORDINANCES; ADOPTING A NEW CHAPTER 14 – ANIMALS; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE, PROVIDING FOR A SAVINGS CLAUSE, SEVERABILITY CLAUSE; PROVIDING FOR PENALTY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, City Council, based on recommendations from City staff, find and determine it necessary to revise the City’s existing animal control regulations; and

**WHEREAS**, City Council finds and determines that the proposed revisions to the City’s animal regulations are in the best interests of the City; and

**WHEREAS**, City Council finds and determines that the revisions are such that a complete repeal of existing regulations and adoption of a new chapter is the most efficient.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CASTROVILLE, TEXAS, THAT:**

**Section one. Repeal of Chapter 14 – Animals of the City’s Code of Ordinances.** The City of Castroville’s Code of Municipal Ordinances, Chapter 14 – Animals is hereby repealed in its entirety.

**Section two. Adoption of Chapter 14 – Animals of the City’s Code of Ordinances.** The City of Castroville’s Code of Municipal Ordinances is hereby amended by adopting the attached Exhibit “A” Chapter 14 – Animals.

**Section three. Cumulative and Conflicts.** This Ordinance shall be cumulative of all provisions of ordinances of the City of Castroville, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

**Section four. Severability.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section five. Savings.** That all rights and privileges of the City are expressly saved as to any and

all violations of the provision of any Ordinances or Codes Provisions previously occurring under the repealed Chapter 14 – Animals which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances or Code Provisions, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section six. Penalty.** Violation of this Ordinance shall be subject to penalty as prescribed in Section 1-4 of the City of Castroville's Code of Ordinances and **Exhibit "A"** hereto.

**Section seven. Effective Date.** This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

**PASSED AND APPROVED** on this the 25<sup>th</sup> day of April, 2017.

*No Signature*

Jeffrey S. Gardner, Mayor  
City of Castroville

**ATTEST:**

*Debra Howe*  
Debra Howe, City Secretary  
City of Castroville

**APPROVED AS TO FORM:**

\_\_\_\_\_  
DNRBH&Z P.C., City Attorney  
City of Castroville

## EXHIBIT "A"

**Sec. 14-1. - Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

*Abandoned animal* shall mean an animal abandoned while in the person's custody without making reasonable arrangements for assumption of custody by another person.

*Animal* includes every living nonhuman creature.

*Animal care services facility* shall mean a facility operated by the city for the impoundment, care, disposition and or adoption of animals.

*Animal care officer* shall mean a person designated by the state, or the city, who is qualified to perform such duties under the laws of this state and the ordinances of the city.

*Animal determination hearing officer* means the individual designated by the director to conduct administrative hearings to decide whether an animal is dangerous or aggressive provided that such person shall not have participated in any investigation of facts regarding the alleged dangerous or aggressive animal or be in the chain of command of any such person.

*Animal permit hearing officer* means the individual designated by the director to conduct administrative hearings to review the denial and revocation of permits authorized by this chapter provided that such person shall not have participated in any investigation of facts regarding the denial or revocation or be in the chain of command of any such person.

*Animal nuisance* shall mean any of the acts or omissions described in section 14-71 of this Chapter.

*Bite* shall mean any puncturing, tearing or scratching of the skin caused by an animal's teeth.

*Chapter* means this Chapter 14 of the City of Castroville's Code of Ordinances.

*Commercial boarding kennel* shall mean any place other than a veterinary hospital where the property owner, tenant, or occupant keeps or allows others to keep or board any domestic animal for a fee, donation or non-monetary reward.

*Competition animal* shall mean a cat or dog that is of a breed recognized by and registered with an approved breed registry approved by the director and shows or competes in animal shows or other competition events sponsored by an approved breed registry.

*City* shall mean the City of Castroville, Texas.

*"Coggins"* means a blood test that detects antibodies to the disease Equine Infectious Anemia (EIA).

*Confined* shall mean a situation by which an animal is effectively prevented from being free to roam or run at large at will.

*"Cruelly treated"* includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

*Dangerous animal* shall mean any animal, except a dog, who meets any or all of the following criteria:

(1) An animal which by species or nature is vicious or dangerous to man;

- (2) An animal that has bitten two or more people or one person on two or more occasions;
- (3) An animal that has killed a person or another animal; or
- (4) An animal that has attacked a human being and the nature of the attack or the resulting injury was such as might endanger the life or permanent health of the human.

*Dangerous dog* shall mean a dog that:

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

*Department* shall mean the City of Castroville's Animal Control Department.

*Director* shall mean the Director of the City of Castroville's Animal Control Department.

*"Dog" or "Domestic Dog"* shall mean any member of *Canis familiaris* or any combination of *Canis familiaris* and other canine species including both genders.

*Domestic animal* shall mean any animal, which is not prohibited, and commonly kept as pets at the owner's residence, including but not limited to domestic cats and dogs, domestic ferrets, rabbits, and domestic fowl

*Domestic cat* shall mean any member of *Felis domesticus*.

*Domestic fowl* shall mean birds of a breed developed or kept for the purpose of meat production, egg laying or purely for ornament or show, including but not limited to ducks, geese, chickens, turkeys, partridges, parakeets and pigeons.

*Enclosure* means for purposes of dangerous dogs, a house or a building, or in the case of a fence or a structure/pen, the fence or structure/pen must also have minimum dimensions of five (5) feet by ten (10) feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times. The structure/pen must have secure sides to prevent the dangerous animal from escaping from the enclosure. The structure/pen shall provide protection from the elements for the dangerous animal. The animal care officer shall have the right to require that the fence be higher than six (6) feet or require a secure top and or bottom be added to the structure/pen if the need is demonstrated. These additional requirements shall be based upon the type of animal to be kept in this enclosure and its anticipated ability to escape.

*Grooming shop* shall mean a commercial establishment (structure or vehicle) where animals are bathed, clipped, plucked or otherwise groomed.

*Impound* shall mean the placing of an animal in the city's animal care services facility, or, the taking into custody of an animal for purposes of transportation to the city's animal care services facility.

*Keeper* means any person, firm, corporation, organization or department holding, caring for, having an interest in, or having control or custody of an animal. If the keeper of an animal is a minor, the parent or guardian of that minor shall be responsible for compliance with animal care related ordinances.

*Livestock* shall mean any equine, hog, sheep, goat, llama, or any bovine species.

*Non-profit* means either: (i) a 501c3 federally tax-exempt not for profit organization whose purpose is to provide humane sanctuary; or (ii) a shelter for abandoned or unwanted animals or (iii) any City recognized rescue organization which is currently registered with the department.

*Owner of an animal* shall mean any person owning or having care, custody, possession or control of an animal; but does not include those persons caring for an animal at the specific request of an owner.

*Performing animal exhibition* shall mean any spectacle, display, act or event, other than circuses and rodeos, in which performing animals are used.

*Pet* shall mean any domestic animal kept for pleasure or enjoyment, rather than utility or commercial purposes.

*Pet shop* shall mean a business establishment, whether licensed or not by the department, where animals including, dogs, cats, fish, birds, reptiles, or rodents are kept for sale or commercial barter.

*Puppy* shall mean any member of *Canis familiaris* and other canine species including both genders four (4) months of age or under.

*Quarantine* shall mean the detention or isolation of an animal suspected of carrying an infectious or contagious disease.

*Prohibited animals* shall mean:

- (1) Any ape or other non-human primate;
- (2) Any member of the genus *Canis* including wolf, hybrid wolf, coyote, jackal or fox, and similar species except *Canis familiaris*;
- (3) Any member of the genus *Felis* including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except *Felis domesticus*;
- (4) Mustelids; other than the domestic ferret (*Mustela putorius furo*);
- (5) Skunk;
- (6) Any poisonous reptile or venomous species except bees;
- (7) Crocodile, alligator, caiman or related species;
- (8) Miniature Vietnamese pot-bellied pig;
- (9) Ostrich or any other Ratites;
- (10) Bear; and
- (11) All other mammals that live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

*Rabies vaccination* shall mean a protective inoculation by a licensed veterinarian with a rabies vaccine recognized and approved by the United States Department of Agriculture given in an amount sufficient to provide an immunity that satisfies the requirement of state law.

*Registered microchip* shall mean an identification chip implanted under the skin of an animal for the purpose of identifying its owner or keeper which has been registered with a microchip registration company

with current ownership information to include the current owner's or keeper's name, address, and telephone number (if available), and the description of the pet.

*Restraint* shall mean a situation whereby an animal is secured by a tether, a leash or a lead, or is confined within the real property of its owner.

*Responsible person* shall mean a person to whose commands an animal in question is obedient, and who is capable of controlling the animal if the animal should fail to obey such commands.

*Severe injury* means any physical injury that results in death, broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

*Shelter* shall mean a structure with a roof and three (3) sides and a fourth side allowing access that is protected from the elements and a floor that is elevated enough to keep the shelter dry.

*Stray animal* shall mean any animal not under restraint.

*Trapped animal* shall mean an animal caught or taken in, as if in a trap or snare by skill, craft or trickery.

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

*Vaccination certificate* shall mean a document showing on its face that the animal described thereon has received a current inoculation of rabies vaccine in an amount sufficient to produce an immunity that satisfies the requirement of state law, inscribed with the date of the inoculation, the duration of immunity approved for that vaccine, the name and address of the animal's owner, all other information required by state law and signed by a licensed veterinarian.

*Veterinarian* shall mean a person licensed to practice veterinary medicine in the state.

*Veterinary hospital* shall mean any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis of and treatment of diseases and injuries of animals.

*Zoological park* shall mean any facility, other than a pet shop or commercial boarding kennel, displaying or exhibiting one (1) or more species of non-domesticated animals operated by a person or government agency.

(Ord. No. 01-024, § II, 10-8-01; Ord. No. 2011-003, §§ 1, 2, 12-6-10)

Secs. 14-2—14-20. - Reserved.

## **ARTICLE II. - ANIMAL CONTROL**

(Ord. No. 01-024, § II, 10-8-01)

### **Sec. 14-21. - Impoundment.**

(a) The following animals may be impounded;

(1) Cats and dogs not exhibiting evidence of being vaccinated or licensed as described in Article III of this chapter.

(2) Any animal infected or kept under conditions which could endanger the public or animal health or in violation of this article.

(3) Any animal that creates a nuisance, as defined in section 14-71.

(4) Any animal that has bitten a human being or needs to be placed under observation for rabies determination, as determined by the animal control officer.

(5) Any animal violating any provision of this chapter.

(a) No provision of this Chapter shall prohibit any person who finds an animal upon the premises, owned or occupied by the person, to confine such animal in a humane manner until he can notify the animal control officer to come and impound such animal. When so notified, it shall be the duty of the animal control officer to have such animal impounded as herein provided.

(b) Reasonable effort shall be made by the animal control officer to contact the owner of any animal impounded which is wearing a current license tag or microchip; however, final responsibility for location of an impounded animal is that of the owner.

(c) The owner can resume possession of any impounded animal upon payment of impoundment fees, handling fees, and any veterinary bills incurred by animal control for the welfare of the animal, and upon compliance with the vaccination and registration provisions of this Code, except where prohibited in subsections (d) and (e) of this section.

(d) Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by the court of competent jurisdiction, sitting in Medina County.

(e) If any animal is being held under quarantine or observation for rabies, the owner shall not be entitled to visit the animal or to possession of the animal until it has been released from quarantine.

(f) The city administrator shall select and establish a place for impounding all animals impounded under any provision of this chapter.

(g) Any animal, except vicious or wild animals, not reclaimed by the owner may be humanely euthanized after being impounded for three business days, except that any animal wearing a current registration tag and/or microchip shall be impounded for three business days after notification of the owner by certified mail for a maximum of five calendar days.

(h) Any impounded vicious or wild animal, unless there is reason to believe that it has an owner, may be immediately disposed of as may be deemed appropriate by the animal control officer.

(i) Any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately euthanized to prevent further suffering.



(j) An owner who no longer wishes responsibility for an animal, or believes the animal to be in an ill or injured condition, may sign a written waiver supplied by the animal control officer allowing the animal to be immediately euthanized at the owner's expense in a humane manner, provided that an animal that has bitten a human being may be immediately euthanized taking proper care to preserve any body part necessary for rabies testing.

(k) Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a non-profit humane organization for the purpose of veterinary medical care, as determined by the animal control officer.

(l) It shall be irrefutably presumed that any animal not claimed within the impoundment period prescribed in subsection (h) of this section, has been abandoned by its owner. Such abandoned animals shall become the property of the city and may be treated and disposed of by the city, or its designee, in accordance with its written policies and procedures. Such disposition may include but is not limited to adoption or euthanasia, and the city shall have no liability to any person, organization or corporation, as a result thereof.

(m) In compliance with the Texas Health and Safety Code, ch. 828, no dog or cat shall be released for adoption without being rendered unable to reproduce. If determined by a veterinarian that the animal is too young to be sterilized, such animal may not be released for adoption without a written agreement from the adopter to have the animal sterilized when it comes of age.

(Ord. No. 01-024, § II, 10-8-01)

#### **Sec. 14-22. - Impoundment fees.**

Fees for impoundment shall be established by the city council from time to time.

Any owner reclaiming an impounded animal shall pay all impounding fees and licensing fees according to the rate established by the city council. If no proof of a current rabies vaccination can be produced for dogs or cats, the owner will be charged for a rabies vaccination and the dog or cat will be vaccinated for rabies prior to release from impoundment.

(Ord. No. 01-024, § II, 10-8-01)

(Ord. No. 01-024, § II, 10-8-01)

#### **Sec. 14-23. - Keeping of dangerous and wild animals.**

(a) It shall be unlawful for a person to keep, harbor, own, maintain, use or have in such person's possession or on premises under such person's control, within the city, any dangerous or wild animal. This section does not apply to a circus or zoological exhibit traveling through the city, or performing within the city, for purposes of recreational or educational benefit, so long as all dangerous or wild animals are kept caged or securely restrained at all times and so long as all other ordinances, state and federal statutes and state and federal rules and regulations have been complied with in advance. This

section does not apply to the feeding of deer or other animals indigenous to this area that roam freely onto a person's property, provided that a person does not attempt to trap, fence or cage animal to keep the animal on the premises.

(b) An owner of a dangerous dog shall comply with the procedural requirements set forth in Texas Health and Safety Code § 822.042.

(Ord. No. 01-024, § II, 10-8-01; Ord. No. 2011-003, § 3, 12-6-10)

**Sections 14-24-30 reserved.**

### **ARTICLE III. - LICENSES AND PERMITS**

#### **Sec. 14-31. - Licensing of dogs and cats.**

(a) License Required. Any person owning, keeping, harboring or having custody of any dog or cat over three months of age within this municipality must obtain a license as herein provided.

(b) Application. An application for a license must be made for any dog or cat over the age of four months as follows:

(1) Written application for licenses, which shall include the name, address, and phone number of the applicant, description of the dog or cat, the annual fee, and rabies certificate issued by a licensed veterinarian, shall be made to the city or its designee.

(2) An application for a license must be made within 30 days after obtaining a dog or cat.

(3) A dog or cat temporarily visiting the City is not required be licensed unless the dog or cat's stay in the City exceeds 60 calendar days.

(c) Expiration. Unless revoked earlier by the City a license issued under this section shall become effective on the date the dog or cat is vaccinated for rabies, as evidenced by the issuance of a rabies certificate and shall be valid:

(1) for a period of one year, if the dog or cat is capable of reproducing; or

(2) for the life of the animal, if the dog or cat has been sprayed or neutered, or otherwise is incapable of reproducing due to age or other factors, as established by a veterinarian certificate. Lifetime licenses shall automatically be revoked if the lifetime license holder's rabies vaccination certificate is allowed to become expired for more than 60 calendar days. In such event, a new license application and fee shall be required after the dog or cat is re-vaccinated.

(d) Fees. The License fee is \$10.00, which shall be paid in advance at the time of submittal of the license application. This fee is addition to the costs of microchipping the dog or cat. The Replacement License fee is \$2.00.

(e) Fee Exemption. License fees shall not be required for certified seeing eye dogs, hearing dogs, governmental police dogs, or other certified dogs that are trained to assist the physically disabled.

(f) Tags. Upon acceptance of the license application and fee, the city or its designee shall issue a durable tag or identification collar, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness. The owner, at his expense, may elect to utilize a microchip with the identifying number and year of issuance in lieu of a tag.

(g) Microchip ID. Each dog and cat must wear an identification tag attached to a properly fitted collar at all times and/or microchip.

(h) Records. The city shall designate a custodian or records who shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public during normal business hours.

(i) Lost license. It shall be the duty of the owner of any dog or cat to procure a duplicate tag from the city or its designee in the event that the original tag is lost or destroyed, by application and payment of the replacement fee.

(j) Violation. No person may use a license for any animal other than the animal for which it was issued.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-32. - Commercial animal establishment permits.**

(a) No person, partnership, or corporation shall operate a commercial animal establishment, kennel, animal shelter or cattery unless the establishment is located in a properly zoned area and unless a permit has first been obtained in compliance with this section.

(b) The city shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this chapter and other applicable laws. The city may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

(c) When a permit applicant has demonstrated that he is willing and able to comply with the regulations promulgated by the city a permit shall be issued upon payment of a \$30.00 fee.

(d) The permit period shall begin with the fiscal year and shall run for one year. Renewal applications for permits may be made 60 days prior to, and are due at, the start of the fiscal year. Applications for a

permit to establish a new commercial animal establishment, kennel or cattery may be made at any time. The fees for a new establishment shall be prorated per months left in the fiscal year.

(e) If there is a change in ownership of a commercial animal establishment, kennel or cattery, the new owner must apply for a new permit. Permits are not transferrable.

(f) No person shall train any dog to be used as a guard dog or sentry dog without possessing a valid State of Texas license and a valid City of Castroville license. This section shall not apply to the city/county government or any of its agencies. The application for a guard or sentry dog training license shall state the name, address, and telephone number of the owner or trainer, location of the facility, and the maximum number of dogs to be housed at the training facility.

(g) Annual permits shall be issued upon payment of the applicable fee as determined by the city council from time to time.

(h) Every facility regulated by this chapter shall be considered a separate enterprise requiring an individual permit.

(i) No fee may be required of any veterinary hospital, government operated animal shelter, government operated zoological park, school district or civic or charitable organization, but all other applicable regulations shall apply.

(j) Failure to obtain a permit before opening any facility covered by this section shall result in a fine of \$200.00. Each day of operation in violation of this section shall constitute a separate and individual violation.

(k) Any person who has a change in the category under which a permit was issued shall be subject to a reclassification of the permit fee.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-33 • Prohibiting selling, displaying animals on roadside, garage sales, flea markets and festivals.**

(a) Transfers. Except as provided in subsection (c) of this section, it shall be unlawful for any person to sell, trade, barter, lease, rent, or give away, any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place.

(b) Display. Except as provided in subsection (c) of this section, it shall be unlawful for any person to display for a commercial purpose any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market festival, park, community center or outdoor public place.

(c) Non-profits. A non-profit registered with the department for such purpose, may conduct animal adoption activities on commercial parking lot, garage sale, flea market, festival, park, community center

or outdoor public place, other than a roadside or public rights-of-way; provided the non-profit has the permission of the property owner and otherwise complies with city ordinances and state law.

(d) Subsections (a) and (b) shall not apply to any person who has obtained a permit and is complying with the specific limitations as set forth in section 14-34 or facilities not required to obtain a permit under subsection 14-34(c).

(e) Any animal being sold, traded, bartered, leased, rented, or being given away on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place shall be subject to seizure and impoundment at the discretion of the investigating animal care officer and shall be subject to adoption, rescue, foster or humanely euthanized at the discretion of the director if not timely redeemed within the impoundment period as set out in this Code by payment of applicable impoundment fees for each animal impounded.

**Sec. 14-34. - License and permit issuance and revocation.**

(a) After an application is filed, pursuant to section 14-33, the animal control officer or designee shall inspect the facility prior to issuing the permit. The city may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the city, or any law governing the protection and keeping of animals.

(b) Any person whose permit or license is revoked shall, within ten days thereafter, humanely dispose of all animals owned, kept or harbored. No part of the permit or license fee shall be refunded.

(c) It shall be a condition to the issuance of any permit or license that the city shall be permitted to inspect all animals and the premises where the animals are kept at any time and shall, if permission for such inspection is refused, revoke the permit or license of the refusing owner.

(d) If the applicant has withheld or falsified any information on the application, the city shall refuse to issue a permit or license.

(e) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment, kennel or cattery.

(f) Any person having been denied a license or permit may not reapply for a period of 30 days. Each re-application shall be accompanied by 50 percent of the full year fee.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-35. - Registration and permits of livestock and fowl.**

(a) Within 30 days after passage of this chapter [October 8, 2001], it shall be mandatory for every person, firm, corporation or anyone who keeps livestock and/or fowl on any premise located within the city limits of the City of Castroville, to have registered such livestock and/or fowl that are to be harbored or kept in the city for any period exceeding 72 hours.

(b) After expiration of the period established as the registration period in subsection (a) of this section, no person, firm, corporation or any one shall bring into the city limits of the city any livestock and/or fowl for the purpose of maintaining the same in the city for more than 72 hours without having first applied for a permit to do so with the animal control officer, and demonstrating compliance with the requirements of the Comprehensive Zoning Ordinance of the City of Castroville, Ordinance No. 107.

(c) The written application for a permit for livestock, shall include the name, address, and phone number of the applicant, a description of the animals to be permitted, a description of the premises where the livestock will be kept, and a fee of \$1.00 per species shall be paid to the city.

(d) The written application for a permit for fowl shall include the name address and phone number of the applicant, the number of fowl to be permitted (which number shall not exceed 25) a description of the fowl, a description of the premises where the fowl will be kept and a fee of \$1.00 per species paid to the city.

(e) If not revoked, permits for the keeping of livestock and/or fowl shall be for a period of one year.

(f) Upon acceptance of the permit application, the city's animal control officer, or his designee, shall require applicant to certify in writing, under oath, that the premises where the livestock and/or fowl are to be kept are in compliance with all applicable laws, ordinances and regulations. If applicant refuses to certify to such compliance the animal control officer or his designee may deny the permit of the refusing owner.

(g) Upon acceptance of the application, fee and certification by applicant, as required by (f) above, a permit shall be issued which must be maintained by the owner for inspection upon request by the animal control officer or his designee.

(h) It shall be a condition of the permit that the city's animal control officer be permitted to inspect all livestock and/or fowl and the premises where they are kept if any complaint has been filed with the city complaining of an unsanitary condition or a violation of any law, statute, ordinance, rule or regulation. If permission for such inspection is refused, the permit of the refusing owner may be revoked.

(i) The permit period shall begin the day the permit is issued and shall run for one year.

(j) No person may use a license for any livestock and/or fowl other than the one for which it was issued.

(k) It shall be the duty of the owner to obtain a duplicate permit from the city in the event the original permit is lost or destroyed. There will be a fee of \$2.00 for each replacement permit.

(l) If at the time of an inspection, the premise is not being maintained in the proper sanitary condition; the premise is not in compliance with the provisions of the Comprehensive Zoning Ordinance of the City of Castroville, Texas, Ordinance No. 107; or any other law, statute, ordinance, rule, or regulation a written notice shall be given to the owner of the premise and to the owner of the livestock and/or fowl to correct the defects. A re-inspection shall be made at the end of the three days, and if the condition is not corrected, the permit shall be revoked. Any person maintaining such animals after a permit has been

revoked will be subject to the penalties set forth in Article VIII of this Chapter, and each day will constitute a separate offense.

(m) This section does not apply to the keeping of small cage birds, parrots, cockatiels, or aquatic and amphibian animals kept solely as pets.

(Ord. No. 01-024, § II, 10-8-01)

Sections 14-36 through 14-40 reserved.

#### **ARTICLE IV. - RABIES CONTROL**

##### **Sec. 14-41. - Rabies vaccination.**

(a) It shall be unlawful for any person to own, keep, harbor, or have custody or control of a dog or cat over 120 days of age within the city unless such dog or cat is currently vaccinated against rabies by the injection of anti-rabies vaccine by or under the direct supervision of a licensed veterinarian.

(b) Every owner of a dog or cat immunized against rabies as required herein shall procure a rabies vaccination certificate from the veterinarian administering the vaccine. Such certificates shall contain the following information:

(1) Owner's name, address, and telephone number.

(2) The breed, age, color, and sex of the vaccinated dog or cat.

(3) The type of rabies vaccine used, expiration date and serial number.

(4) Date vaccinated.

(5) Rabies tag number.

(6) Veterinarian's signature and license number.

(c) A veterinarian or person under the direct supervision of a veterinarian who vaccinates a dog or cat as required herein shall furnish the owner thereof with a metal tag, serially numbered to correspond with the vaccination certificate number, bearing the year of issuance, and the name of the issuing veterinarian and his address. The owner shall cause the metal tag to be attached to a properly fitted collar or harness of the dog or cat for which it is issued and shall be worn by the dog or cat at all times.

(Ord. No. 01-024, § II, 10-8-01)

##### **Sec. 14-42. - Reports of exposure to rabies.**

Any person having knowledge of the existence of any animal within the city limits exhibiting symptoms of or suspected of being exposed to rabies, or that has bitten, scratched or otherwise attacked an individual or another animal shall report the animal or incident to the animal control office as soon as possible, but not later than 24 hours from the time of the incident. The report shall include the name and address of any victim and the owner of the animal, if known, and any other information relating to the incident or animal.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-43. - Quarantine procedures for animals.**

(a) Every animal that has rabies or symptoms thereof, or every animal that a person could reasonably suspect as having rabies, or that bites, scratches, or otherwise attacks another animal or any person within the city shall be impounded at once and held for observation and quarantined at the approved quarantine facilities of the city, which may be at the facility of a licensed veterinarian. The facilities must meet the minimum state quarantine facility standards and will be subject to inspection by the Texas Department of Health.

(b) The owner of any dog or cat that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched, or otherwise attacked any person or other animal within the city, or that the owner knows or suspects to be rabid or to have attacked an individual, shall submit such animal to the animal control officer for a quarantine period of ten days at the owner's expense. The ten-day observation period shall begin on the day of the bite incident. Any such animal must be immediately surrendered to the animal control officer and taken by him/her to an approved quarantine facility. The owner may choose to have the animal quarantined for the ten-day period at an approved veterinary clinic of his choice.

(c) The refusal to surrender an animal described in (a) or (b) on demand, constitutes a misdemeanor and upon conviction violators shall be subject to the criminal penalties set out in article .

(d) If the owner of an animal described in (a) or (b) above cannot be identified or located at the time of an investigation by the animal control officer, or if the animal was running stray, the animal control officer shall impound the animal and take it to the approved quarantine facilities of the city. If the owner cannot be found, the animal may be humanely killed for rabies diagnosis.

(e) The owner of an animal quarantined under this section shall pay to the approved quarantine facility the reasonable costs of the quarantine and disposition of the animal, including the charges for preparation and shipment of the animal's head or brain, if required, to the nearest Texas Department of Health certified laboratory for rabies testing. If the owner chooses not to pay for quarantine, the animal shall be humanely killed and the brain submitted to a Texas Department of Health certified laboratory for rabies diagnosis, at the owner's expense. All quarantine related payment arrangements shall be at the discretion of the individual quarantine facility and the facility shall be responsible for the collection of monies owed.



(f) The following quarantining procedures shall be observed:

(1) Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

(2) The quarantined animal must be observed at least daily by a person responsible for notifying the animal control officer if clinical signs of rabies are noted.

(3) At the discretion of the animal control officer or his designee, the unowned animal may be humanely killed for rabies diagnosis prior to the end of the quarantine period.

(4) The animal control officer may require a written agreement by the owner or the custodian at the time of quarantine and the animal may be disposed of according to terms of this agreement.

(5) If the biting animal cannot be maintained in secure quarantine or if the owner chooses not to pay for quarantine, the animal shall be humanely killed and the brain submitted to a Texas Department of Health certified laboratory for rabies diagnosis, at the owner's expense.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-44. - Quarantine method and testing.**

(a) Animals quarantined at a veterinary clinic shall be observed by a licensed veterinarian at least on the first and last days of the quarantine period. If the veterinarian determines that the animal has clinical signs of the disease of rabies, the animal shall be humanely killed and the head or brain submitted for testing. If the veterinarian determines that the animal does not exhibit the clinical signs of the disease of rabies, the animal control officer shall provide a form to the veterinarian for his/her signature certifying that the animal has been found to be free of the clinical signs of rabies at the end of the quarantine period. This form shall be returned at the animal control officer at the end of the quarantine period.

(b) The owner of the animal may request permission from the animal control officer for home quarantine if the following criteria can be met:

(1) Secure facilities must be available at the home of the animal's owner, and must be approved by the animal control officer.

(2) The animal is currently vaccinated against rabies and possesses a current city license tag (if the licensing requirement of this chapter is applicable).

(3) The animal was not in violation of any laws or ordinance at the time of the incident.

(4) The bite or scratch incident was a provoked attack.

(5) A licensed veterinarian or the animal control officer must observe the animal on at least the first and last days of the quarantine period. If a veterinarian is performing the observations, for the first observation, the animal will be transported by the animal control officer to the local veterinarian chosen

by the owner, and then returned to the location of the home quarantine by the animal control officer after the observation. If the animal becomes ill during the home quarantine period, a veterinarian and/or the animal control officer must be notified by the person having possession of the animal. At the end of the observation period the owner shall transport the animal by direct route to the veterinarian for the final observation or the animal control officer shall observe the animal at the location of the home quarantine. Both observations by the veterinarian may be made at the location of the home quarantine if requested by the owner or required by the animal control officer. The release from quarantine must be accomplished in writing.

(6) The owner shall be responsible for paying all rabies observation fees to the veterinarian if a veterinarian is performing the observations.

(7) It shall be unlawful to violate the provisions and conditions of the home quarantine as required by the animal control officer. If the owner of the animal fails to abide by all provisions and conditions required by the animal control officer when the home quarantine was granted and the animal is found in violation of these conditions, the animal shall be immediately impounded and quarantined for the remainder of the observation period at an approved veterinary facility at the owner's expense.

(c) No cat or dog shall be released from quarantine unless:

(1) The owner has an unexpired rabies vaccination certificate and license for the animal (if the licensing requirement is applicable).

(2) The animal is vaccinated against rabies by a licensed veterinarian at the owner's expense and a license (if required) is obtained at the owner's expense.

(d) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a Texas Department of Health certified laboratory for rabies diagnosis.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-45. - Disposition of domestic animals exposed to rabies.**

(a) Unvaccinated animals which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be humanely killed or, if sufficient justification for preserving the animal exists, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for six months, and given a booster vaccination one month prior to release from isolation.

(b) Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal shall be humanely killed or, if sufficient justification for preserving the animal exists, the exposed vaccinated animal shall be given a booster rabies vaccination and placed in strict isolation for three months.

(c) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

(d) These provisions will be in accordance with current state law.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-46. - Protective measures against disease.**

(a) Equine. All horses maintained within the city limits must be vaccinated for rabies and tested annually if required by state law for coggins and so registered with the city. Any new additions of horses to the lot must have their vaccination report on file at the animal control, or be vaccinated within 12 hours after arrival.

(b) Fowl. Caution shall be taken in extreme cleanliness of all fowl yards to keep down bugs and lice, which infect the skin. All houses, roosts, and nests must be treated weekly with an approved germicide in the form of a spray and powder. Care shall be taken to see that all cracks and crevices are thoroughly treated. Infection shall be brought to the immediate attention of the animal control officer whereby protective measures can be obtained.

(Ord. No. 01-024, § II, 10-8-01)

Sections 14-47 through 14-14-50 are reserved.

**ARTICLE V. - ANIMAL CARE**

**Sec. 14-51. - Animal care.**

(a) No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(b) No person shall beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(c) No owner of an animal shall abandon such animal.

(d) Chickens or ducklings younger than eight weeks of age may not be sold in quantities of less than 25 to a single purchaser.

(e) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate an as incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(f) Pursuant to Texas Health and Safety Code § 821.022 an Animal Care Officer shall apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize any animal the officer reasonably believes is being or has been cruelly treated.

(g) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substances.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-52 Reporting motor vehicle animal strikes.**

Any person who, as the operator of a motor vehicle, strikes a domestic animal, livestock, or any wild animal over five (5) pounds in weight, shall at once report the accident to the city customer services department at 830-931-4070.

**Sec. 14-53 Traps.**

- (a) Traps with holding mechanisms prohibited No person shall set up or allow to be set up on his property steel jaw traps, spring traps with teeth or perforated edges on the holding mechanism, snares, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped prey, for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically deemed necessary by the director of health in or for the control of communicable disease.
- (b) Finding a prohibited trap on occupied real property a person shall be prima facie evidence that the occupant placed the prohibited trap on the occupied real property; and finding a prohibited trap on unoccupied real property shall be prima facie evidence that the owner placed the prohibited trap on the unoccupied property.
- (c) Exceptions. Those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhogs are excepted and are not prohibited traps. at the owner is responsible for taking care that any of the above said "rodent" traps are not placed or used on or about his property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal, or of a human.
- (d) Live Traps. Live traps for small animals may be obtained from the city for a fee, subject to the conditions that follow:
  - 1) The applicant shall pay the fee as prescribed in the most recent adopted fee schedule passed and approved by the city council.
  - 2) All funds so generated will be used to purchase additional or replacement traps or other equipment needed by the animal control officer.
  - 3) The animal control officer may, but will not be required to assist the property owner with animal relocation or euthanasia.

**Secs 14-54 Safety of animals in motor vehicles.**

(a) No person shall transport or carry on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unenclosed vehicle (including, but not limited to convertibles, pick-up trucks, jeeps, and flatbed trucks), the animal shall be confined by a vented container or cage, or by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

(b) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Any animal care officer or police officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is endangered, and said neglected or endangered animal shall be impounded.

Sec14-55—14-60. - Reserved.

ARTICLE VI. Reserved.

Sec 14-51—14-70. - Reserved.

**ARTICLE VI. - ANIMAL NUISANCE**

**Sec. 14-71. - Animal nuisance.**

(a) It shall be a public nuisance and dangerous to the public health and safety for an animal owner to commit the following acts or omissions:

- (1) The keeping of an animal in such a manner whereby the animal is free of restraint to roam or run at will;
- (2) The keeping of an animal which howls, barks or whines 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 nervous sensibilities within the vicinity of hearing thereof;
- (3) The refusal or failure of an animal owner or keeper to prevent his animal from biting or injuring without provocation, any animal or person;
- (4) The keeping of an animal which has a propensity to damage or destroy public property or a person's property other than its owner's private property;
- (5) The keeping of more than a total of four cats and/or four dogs on a standard size city lot. If securely confined within a structure, up to ten cats may be kept; --
- (6) The keeping of, or permitting of others to routinely provide food or shelter for more than four dogs and/or four cats on any property in the city other than (a) at a dog kennel, (b) at a veterinary facility, (c) at a pet shop, and (d) at a cattery;

(7) The keeping of any animal that causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;

(8) Causing unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;

(9) Keeps or harbors an animal which is offensive or dangerous to the public health, safety, or welfare by virtue of the number or type of animals maintained;

(10) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

(b) The following are exceptions to the above:

(1) Up to seven dogs may be kept on a premise containing between 10,000 square feet and one-half acre of land, if the dogs are enclosed by fencing located 75 feet or more from any dwelling or business building owned or occupied by any person other than the owner.

(2) Up to ten dogs may be kept on a premise containing one-half acre to two acres of land, if the dogs are enclosed by fencing located at least 150 feet from any dwelling or business building owned or occupied by any person other than the owner.

(3) The limit on the number of dogs and cats permitted shall not include pups and kittens until they are four months old.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-72 Leash and pooper scooper required.**

An animal owner or keeper shall not walk an animal without a leash restraint, and shall not guide or take animals onto the yards or driveways of property not owned, leased or occupied by the animal owner for the purpose of allowing the animal to defecate, but shall keep the animal in the public right-of-way, and shall carry a container and implement for the sanitary removal of the animal's fecal matter from the public sidewalk and public right-of-way adjacent to any property with a structure or other improvements thereon.

Secs 14-73—14-80. - Reserved.

**ARTICLE VIII. - ENFORCEMENT**

**Sec. 14-81. - Violations by animal owners: Presumptions.**

(a) It is a violation of this chapter to, by act, omission or possession to create an animal nuisance.

(b) The following are hereby declared to be rebuttably presumed to be animal nuisances in violation of this chapter:

(1) Any act, omission or possession of an animal or animals that causes two or more neighbors, each occupying separate residences, to file a sworn written complaint with the Administrator, within a 12-month period, complaining of either of the following:

A. the crowing, whining, barking or howling of an animal kept by its owner shall give rise to the presumption that an owner keeps an animal which crows, howls, barks or whines in such a manner, with such intensity, or with such continued duration as to annoy, distress or disturb the quiet, comfort or repose of a person of normal nervous sensibilities; or

B. the fouling of the air by odor as a result of the keeping or harboring of an animal by its owner shall give rise to the presumption that an owner keeps an animal in such a manner that the odor creates an unreasonable annoyance or discomfort to a person of normal sensibilities. (2) Any act, omission or possession of an animal or animals that causes the damage or destruction of public or private property.

(Ord. No. 01-024, § II, 10-8-01)

**Sec. 14-82. - Unlawful acts; criminal penalties; civil remedies.**

(a) Unless otherwise specifically provided for in this chapter, if it is found that a person intentionally, knowingly or recklessly violated any provision of this chapter, then upon conviction a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this chapter, the person shall be fined an amount not less than two hundred dollars (\$200.00) and shall be fined not less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.

(b) If it is found that a person intentionally, knowingly or recklessly violated sections 5-4, 5-5, 5-7, 5-8 and 5-80 then upon conviction a person shall be punished by a minimum fine of five hundred dollars (\$500.00) and a maximum fine of two thousand dollars (\$2,000.00) for a first offense, a minimum fine of one thousand dollars (\$1,000.00) and a maximum fine of two thousand dollars (\$2,000.00) for a second offense, and a fine of two thousand dollars (\$2,000.00) for a third and subsequent offense.

(c) Nothing in this section shall limit any and all other criminal, civil or administrative remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.

(d) Where it is deemed necessary by the city manager and the director, the city attorney's office is hereby empowered to secure injunctive relief to enforce the provisions of this chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this chapter.

Secs. 14-83—14-90. - Reserved.