

ORDINANCE NO.2021-10468

AN ORDINANCE AMENDING THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, REPEALING THE EXISTING CHAPTER 6, “ANIMAL SERVICES” AND ADOPTING A NEW CHAPTER 6, “ANIMAL SERVICES”; PROVIDING DEFINITIONS; ESTABLISHING DUTIES AND AUTHORITIES OF THE ANIMAL SERVICES MANAGER; PROVIDING REGULATIONS FOR THE KEEPING, CARE, AND TREATMENT OF ANIMALS AND FOWL; PROVIDING REGULATIONS FOR THE IMPOUNDING AND DISPOSITION OF ANIMALS; PROVIDING RABIES CONTROL MEASURES; PROVIDING VACCINATION REQUIREMENTS FOR DOGS, CATS, AND FERRETS; REQUIRING A MICROCHIP AND REGISTRATION FOR DOGS AND CATS; PROVIDING REGULATIONS FOR AGGRESSIVE DOGS AND DANGEROUS DOGS; PROVIDING REGULATIONS FOR THE KEEPING OF LIVESTOCK; PROHIBITING THE KEEPING OF WILD ANIMALS; DEFINING AND PROHIBITING ANIMAL NUISANCES; PROVIDING REGULATIONS FOR THE KEEPING OF BEES; PROVIDING FOR PERMITS AND FEES FOR CERTAIN ACTIVITIES RELATED TO ANIMALS; PROVIDING FOR CRIMINAL OFFENSES; DISPENSING WITH A CULPABLE MENTAL STATE; PROVIDING DEFENSES AND AFFIRMATIVE DEFENSES; PROVIDING A PENALTY; PROVIDING SEVERABILITY AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Irving, as a home-rule municipality, has the full power of local self-government pursuant to Section 51.072(a) of the Texas Local Government Code, as amended, and may enact ordinances for the good government, peace, or order of the city and to protect the health, safety and welfare of its citizens; and

WHEREAS, the proper care, regulation and control of animals, fowl, and livestock is necessary for the health, safety, and welfare for the residents of Irving, Texas; and

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

WHEREAS, many stray pets lose their tags or are abandoned without tags, making identification of the pet impossible in many circumstances; and

WHEREAS, microchips placed under a pet’s skin are easily read to facilitate (1) identification of the pet; (2) reuniting the pet with its owner; and (3) identifying people who abandon animals; and

WHEREAS, the American Society for the Prevention of Cruelty to Animals (ASPCA) estimates that nearly 70% of dogs that attack humans are unsterilized; and

WHEREAS, unsterilized, lost or abandoned pets contribute substantially to the stray animal population; and

WHEREAS, sterilization for animals will decrease the stray and unwanted animal population and will decrease aggressive behavior in dogs and cats; and

WHEREAS, the Centers for Disease Control, the United States Department of Agriculture, and the American Veterinary Medical Association have all determined that chaining or tethering is inhumane and causes dogs to become a significantly greater risk to bite; and

WHEREAS, regulating the use of tethers will decrease the instances of inhumane treatment and injury to dogs and decrease the chances of aggressive behavior by dogs; and

WHEREAS, in 2020, the Texas Department of State Health Services recorded 574 confirmed cases of rabies in Texas, including infected skunks, bats, raccoons, and foxes, as well as 8 infected dogs and 25 infected cats; and

WHEREAS, vaccinating pets will prevent them from acquiring rabies from wildlife, thereby reducing the risk of transmission from pets to people; and

WHEREAS, Texas Health and Safety Code, Title 10, Subchapter D, § 822.047 authorizes municipalities to place additional requirements or restrictions on dangerous dogs if the requirements or restrictions are (1) not specific to one breed or several breeds of dogs; and (2) are more stringent than restrictions provided by that subchapter; and

WHEREAS, state law does not place any regulations on aggressive dogs who attack domesticated animals; and

WHEREAS, regulating aggressive dogs and dangerous dogs that have shown a propensity for attacking domesticated animals or people is necessary to protect the health, safety, and welfare of residents and their pets; and

WHEREAS, wild animals behave unpredictably, and may carry diseases dangerous to humans and domesticated animals and, therefore, prohibiting the ownership of wild animals is necessary to protect the health, safety, and welfare of residents and their pets; and

WHEREAS, regulating breeding activities and limiting the places where sales and other transfers of cats and dogs are allowed will help control the unwanted pet population, thereby reducing the number of potential strays and at-large animals in the city; and

WHEREAS, animal exhibits can be dangerous to participants and bystanders and, if left unregulated, may lead to inhumane treatment of animals and unsanitary conditions, and therefore, regulating animal exhibits is necessary to protect the health, safety, and welfare of the animals and all participants and spectators; and

WHEREAS, keeping a large number of animals in a place not designed to accommodate them can create a health hazard as well as produce odors and noise that may create a nuisance for others in the area; and

WHEREAS, limiting the number of companion animals that may be housed at a particular location will enhance the health of the animals and decrease the nuisance issues for people living nearby;

WHEREAS, beekeeping activities in neighborhoods require regulation to keep hives from

becoming a nuisance to nearby residents, and also to prevent the local introduction of aggressive, Africanized bee colonies that can pose a significant threat to the health and safety of pets and humans; and

WHEREAS, the City Council of the City of Irving finds it is in the best interest of the public health, safety and welfare of its citizens and for the protection of animals to enact this ordinance regulating animals in the City of Irving.

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

SECTION 1. That the findings set forth above are incorporated into the body of this ordinance as if fully set forth herein.

SECTION 2. That the Code of Civil and Criminal Ordinances of the City of Irving, Texas, is hereby amended by repealing the existing Chapter 6, "Animal Services," in its entirety and adopting a new Chapter 6, "Animal Services," to read as follows:

**ARTICLE I**  
**IN GENERAL**

**Section 6-1. Definitions.**

When used in this chapter, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

*Abandon.* To cease to support, care for or look after an animal without making reasonable arrangements for assumption of custody and care by another person.

*Aggressive dog.* A dog that, while at large:

- (a) Is found to menace, charge or display threatening or unprovoked aggressive behavior, or endangers the safety of a domestic animal or person; or
- (b) Commits an unprovoked attack on a domestic animal that, at the time of the attack, was not at large and:
  - (1) Causes bodily injury to the attacked animal and the attacking animal has already committed at least one (1) unprovoked attack on a previous occasion against a human being or domestic animal; or
  - (2) Causes the death of the attacked animal.

*Animal.* Any nonhuman vertebrate.

*Animal exhibition.* Any spectacle, display, act or event in which animals are used.

*Animal fighting paraphernalia.* Equipment, products, implements, or materials of any kind that are

used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting. This includes, but is not limited to, cat mills, fighting pits, sparring muffs, springpoles, flirt poles and tables, and mounting blocks; unprescribed veterinary medicines and treatment supplies; descriptive materials and instructions for conditioning and use of implements; and gaffs, slashers, heels, and any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

*Animal noise disturbance.* A minimum of two (2) separate recorded noise events within a period of 24 hours where the animal can be heard continuously for a 20-minute period of time, at least 100 yards away or behind the wall of a structure used for human habitation.

*Animal Services.* The City-operated division for the purpose of animal care, control, and enforcement of this chapter.

*Animal Services Manager.* The manager of Animal Services or his/her designated representative.

*Animal Services Officer.* An employee of Animal Services, who meets all of the requirements to be an animal control officer, as defined and described in the Texas Health and Safety Code, Chapter 829, to act as the animal control authority under state law and to help carry out and enforce the provisions of this chapter.

*At large.* Any animal not confined by some physical means of sufficient height, strength, length, and/or manner of construction to preclude the animal from leaving the premises of the owner; or any animal which is not physically and continually restrained by some person, by means of a leash or chain of proper strength and length to preclude the animal from making unsolicited contact with any person, their clothing, their property, and/or their premises.

*Bee.* All life stages of the common domestic honeybee, *Apis mellifera* species.

*Beekeeper.* A person who owns, maintains or possesses one or more colonies of bees.

*Bite.* A cut, wound or tear caused by contact with teeth which breaks the skin.

*Bodily injury.* Any damage to the physical condition of an animal or person, including but not limited to physical harm, illness or injury.

*Breeding.* The mating of animals and production of offspring.

*Cat.* The only domesticated species of the family Felidae, *Felis catus*, and which is not a hybrid of *Felis catus* and another feline species.

*Chicken.* All breeds of *Gallus gallus domesticus*, a common domesticated fowl widely kept for meat and eggs.

*City.* The City of Irving, Texas.

*City animal shelter.* The Irving Animal Care Campus, a City-owned and operated facility established for the impoundment, quarantine, care, adoption, euthanasia, and other disposition of animals.

*Colony or hive.* An aggregate of bees consisting principally of workers with one queen and many drones, including brood, combs, honey and the receptacle inhabited by the bees.

*Commercial animal establishment.* Any pet shop, animal auction, riding school or stable, zoological park, circus, recurring animal exhibition or commercial kennel.

*Companion animal.* An animal kept for pleasure rather than utility, of a species that has been bred and raised to live in or about the habitation of humans, and is dependent on people for food and shelter. The term specifically includes, but is not limited to, dogs, cats, canaries, parakeets, parrots, cockatiels and other birds commonly maintained in households in cages, hamsters, gerbils, guinea pigs, rabbits and ferrets. For purposes of this chapter, neither "livestock," "domestic fowl," "chickens," nor "wild animal" as defined herein shall be considered a companion animal.

*Confine or confinement.* To restrict an animal to an area, effectively preventing the animal from being free to roam or run at large.

*Cruel or Cruelty.* Causing or permitting unjustified or unwarranted pain or suffering.

*Currently vaccinated.* Vaccinated against rabies by a licensed veterinarian, with a rabies vaccine licensed by the U.S. Department of Agriculture for that species, at or after the minimum age requirement and using the recommended route of administration for the vaccine, and:

- (1) at least 30 days have elapsed since the initial vaccination; and
- (2) not more than 12 months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a one-year rabies vaccine or was the animal's initial vaccination; or
- (3) not more than 36 months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a three-year rabies vaccine and the animal is a dog or cat that has received at least two vaccinations.

*Custody.* Responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

*Dangerous dog.* 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; or
- (3) Has previously been declared a dangerous dog, as defined by Texas Health and Safety Code, Title 10, § 822.041(2), by an animal control authority, municipal court, justice court or county court.

*Department.* The Animal Services division.

*Designated caretaker.* The provisional assumption of ownership for the purposes of administering preventative immunizations and treatment including emergency euthanasia in the event of suffering during an animal's stray hold period at an impound facility.

*Direct physical control.* Near enough to the animal to exercise physical control over the animal in the event it should become necessary to do so to protect the animal, a human, or another animal from harm.

*Dog.* The only domesticated species of the family Canidae, *Canis familiaris*, and which is not a hybrid of *Canis familiaris* and another canine species.

*Dog park.* The Irving Dog Park, or a public park designed for dogs to exercise and play off leash in a controlled environment under the supervision of their owners or keepers, which is enclosed to prevent the dogs from running at large..

*Domestic or domesticated animal.* Any animal normally adapted to live in intimate association with humans, or for the advantage of humans, which is commonly and universally accepted as being domesticated, including companion animals and livestock.

*Domestic fowl.* Birds kept for the purpose of meat production, egg laying or purely for ornament or show, including but not limited to peacocks, guineafowl, ducks, geese, turkeys, partridges and pigeons, and excludes chickens for the purposes of this chapter.

*Euthanize.* To cause the death of an animal implementing a technique that is in accordance with the methods, recommendations, and procedures prepared by the American Veterinary Medical Association (AVMA) and set forth in the latest edition of the AVMA Guidelines for the Euthanasia of Animals.

*Feral.* Living in a wild state but descended from a domesticated animal.

*Ferret.* The only domesticated species of the family Mustelidae, *Mustela putorius furo*.

*Harbor.* To provide care for, sustenance, shelter, refuge, or to exercise custody or control over a domestic animal. Harbor does not include providing assistance in an emergency to an injured or ill animal.

*Hen.* A female chicken.

*High-risk animal.* An animal which has a high probability of transmitting rabies. Such animals include skunks, bats, foxes, coyotes, and raccoons.

*Humane trap.* An animal trap designed to capture animals without a holding mechanism, to capture the animals alive without causing trauma, injury or death.

*Impound.* The collecting and confining of an animal by a government entity or government contractor pursuant to a state or local ordinance.

*Keeper.* Any person holding, caring for, having an interest in, or having control or custody of an animal.

*Licensed veterinarian.* A veterinarian licensed by the Texas Board of Veterinary Medical Examiners.

*Livestock.* Any farm animal regarded as an asset, including cattle, horses, ponies, mules, donkeys, hinnies, sheep, goats, llamas, alpacas, swine, and exotic livestock as defined by Agriculture Code Section 142.001, as amended.

*Low-risk animal.* An animal which has a low probability of transmitting rabies. Such animals include all animals of the orders Didelphimorphia, Insectivora, Rodentia, Lagomorpha, and Xenarthra.

*Microchip.* A passive electronic device that is injected into an animal which contains a unique number. The microchip can be read by an electronic scanning device for purposes of animal identification.

*Miniature pig.* A domesticated pot-bellied pig, not exceeding 150 pounds in weight and 20 inches in height measured at the highest point of the front shoulder when fully grown, which includes several subspecies of the family Suidae, *Sus scrofa*.

*Municipal Court.* The City municipal court(s) of record.

*Observation period.* The time following a potential rabies exposure during which the health status of the animal responsible for the potential exposure must be monitored. The observation period for dogs, cats, and domestic ferrets is 10 days (240 hours); the observation period for other animals, not including those defined as high risk, unless otherwise specified in the Texas Administrative Code, Title 25, §169.27, or a low-risk animal, is 30 days. All observation periods are calculated from the time of the potential exposure. A potential exposure is an incident in which an animal has bitten a human or in which there is probable cause to believe that an animal has otherwise exposed a human to rabies.

*Owner.* A person who owns, harbors, keeps, shelters, maintains or has permanent or temporary custody or control of an animal.

*Person.* An individual or group of individuals acting in concert, partnership, corporation, trust,

estate, firm, foundation, or other legal entity.

*Pet shop.* A business establishment where animals including dogs, cats, fish, birds, reptiles, or rodents are kept for sale or commercial barter.

*Poison.* A substance that is capable of causing illness or death of a living organism if introduced or absorbed.

*Police officer.* A sworn employee of the Irving Police Department.

*Police service animal.* An animal used by a trained law enforcement handler that is specifically trained for law enforcement, corrections, prison or jail security, or investigative purposes.

*Properly fitted.* A collar or harness that:

- (1) does not impede the animal's normal breathing or swallowing; and
- (2) is attached to the animal in a manner that does not allow for escape; and
- (3) does not cause injury to the animal.

*Protective custody.* The impoundment of an animal:

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

*Quarantine.* A strict isolation and physical confinement imposed to prevent the spread of disease.

*Ratite.* Any ostrich, rhea, emu, cassowary, or kiwi.

*Registration.* The act of recording or entering information on an official list.

*Rooster.* A male chicken.

*Scratch.* Contact with claws or nails that breaks the skin.

*Secure enclosure.* A fenced area or structure that is:

- (1) locked; and
- (2) capable of preventing the entry of the general public, including children; and
- (3) capable of preventing the escape or release of a dog; and
- (4) clearly marked as containing a dangerous or aggressive dog as applicable; and
- (5) enclosed by a secure top and sides with a solid bottom or, constructed in such a manner which would prevent the animal from tunneling under the enclosure and escaping; and
- (6) in conformance with the requirements for enclosures established by the Animal Services Manager or by this chapter.

*Serious bodily injury.* An injury characterized by severe bite wounds or severe ripping and tearing



of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

*Service animal.* A dog that is individually trained to do work or perform tasks directly related to a disability for a person with disabilities, as defined by the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, as amended. Dogs whose sole function is to provide comfort or emotional support are not considered service animals under the ADA.

*Sterilized.* Rendered permanently incapable of reproduction by means approved by the American Veterinary Medical Association.

*Stray animal.* A domestic animal which is found to be at large within the City.

*Swine.* Any of various stout-bodied, short-legged omnivorous artiodactyl mammals of the Suborder Suina, including pigs, hogs and boars.

*Torture.* Any act that causes unjustifiable pain or suffering.

*Trolley system.* A device consisting of a horizontal cable, line, rope or chain attached to two or more stationary objects, and designed or adapted for use with a tether that attaches to a dog's collar or harness.

*Unowned animal.* Any animal for which an owner has not been identified.

*Unprovoked attack.* An act of physical force by an animal resulting in bodily injury that is not:

- (1) In response to being tormented, abused, or assaulted by any other person or animal; or
- (2) In response to pain or injury; or
- (3) In protection of itself, its food, kennel, immediate territory, or offspring.

*Vaccinate or vaccination.* Inoculated with a substance used to stimulate the production of antibodies and provide immunity against one or several diseases.

*Venomous.* Capable of injecting venom by means of a bite or sting.

*Wild animal.* All species of animals that have not been domesticated and usually live in a natural environment, regardless of state or duration of captivity. The term includes, but is not limited to:

- (1) a "dangerous wild animal" as that term is defined in Texas Health and Safety Code, Title 10, § 822.101, as amended; and
- (2) a margay, badger, elephant, hippopotamus, rhinoceros, non-human primate, crocodile, alligator, caiman, gavial, raptor, marsupial; and
- (3) any venomous animal; and
- (4) any non-venomous snake longer than six (6) feet; and

- (5) any member of the genus *Canis* including wolf, hybrid wolf, coyote, jackal or fox, and similar species except *Canis familiaris*; and
- (6) any member of the genus *Felis* including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except *Felis domesticus*; and
- (7) any mustelid other than the domestic ferret (*Mustela putorius furo*); and
- (8) any skunk, raccoon, opossum, armadillo or squirrel; and
- (9) any hybrid of a wild animal.

*Zoological park.* Any facility, other than a pet shop or commercial boarding kennel, displaying or exhibiting one or more species of non-domesticated animals, operated by a person, partnership, corporation or government agency.

**Section 6-2. Duties; Authority.**

- (a) The Animal Services Manager is hereby designated as the person responsible for the enforcement of this chapter. All aspects of management and operation of Animal Services is the responsibility of the Animal Services Manager.
- (b) The Animal Services Manager is hereby designated as the local rabies control authority in accordance with requirements listed in Texas Administrative Code, Title 25, Chapter 169, and Texas Health and Safety Code, Title 10, Chapter 826. In the absence of the Animal Services Manager, the officer temporarily serving in that capacity shall assume the duties and responsibilities of the local rabies control authority.
- (c) Any Animal Services Officer or police officer shall have the authority to enforce the provisions of this chapter and issue citations for violations in accordance with state and local law.
- (d) Any Animal Services Officer or police officer shall have the authority to:
  - (1) Impound any animal on public property;
  - (2) Impound any animal running at large;
  - (3) Seize and impound any animal on private property, if:
    - i. The resident or property owner, or someone with apparent authority consents; or
    - ii. The City obtains a seizure warrant or court order to do so; or
    - iii. The Animal Services Officer or police officer reasonably believes there is an imminent threat to public safety or health, or suffering would be unreasonably prolonged for any animal needing immediate attention and there is insufficient time to obtain a warrant.
  - (4) Seize and impound any animal upon the request of a police officer for protective custody

incident to arrest, or upon hospitalization or death of the animal's owner or person in possession of the animal.

- (e) In addition to other authorities granted in this chapter, any Animal Services Officer or police officer shall have the authority to:
- (1) Destroy any animal which poses an imminent danger to a person or property, or a real or apparent necessity exists for the destruction of an animal;
  - (2) Destroy any animal that has rabies or is displaying rabies symptoms;
  - (3) Destroy any animal to relieve suffering;
  - (4) Tranquilize, trap or otherwise disable any animal while enforcing the provisions of this chapter;
  - (5) Engage in the lawful pursuit of animals running at large onto private property while enforcing the provisions of this chapter;
  - (6) Lawfully enter onto private property and/or a commercial animal establishment to enforce the provisions of this chapter.
- (f) To aid in the efficient administration of this chapter, the Animal Services Manager is authorized to adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter.

**Section 6-3. Enforcement; Penalty.**

- (a) Unless specifically provided otherwise in this chapter or by state or federal law, a person who violates any provision of this chapter commits an offense, and upon conviction, shall be punished by fine not to exceed \$500.00.
- (b) Each 24-hour period of violation, and each separate animal or condition in violation of this chapter shall constitute a separate offense.
- (c) For purposes of enforcement and prosecution, a rebuttable presumption of ownership exists with respect to each adult resident of the premises upon which an animal the subject of prosecution is kept, maintained, harbored or possessed on the date the violation is alleged.
- (d) Unless specifically provided otherwise, an offense under this chapter is a strict liability offense and the culpable mental state required by the Texas Penal Code is hereby specifically negated and clearly dispensed with.
- (e) The criminal remedies in this section are in addition to and cumulative of the remedies available to the City for enforcement of the provisions of this chapter. 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, including but not limited to a petition for civil penalties and/or injunctive relief available under state law for a violation of the provisions of this chapter.

**Section 6-4. Interference; False Statements or claims.**

- (a) A person commits an offense if he/she prevents, obstructs, or interferes with any Animal Services Officer or police officer in the performance of their duties under this chapter.
- (b) A person commits an offense if he/she fails to comply with a lawful order by an Animal Services Officer or police officer duly acting under the authority of this chapter.
- (c) A person commits an offense if he/she knowingly initiates, communicates or circulates a false report or statement concerning any violation under this chapter, either verbal or written, which he/she knows to be false or baseless.
- (d) A person commits an offense if he/she knowingly makes a false claim regarding ownership of an animal with the intent to obstruct an investigation or enforcement under this chapter.

**Section 6-5. Incorporation by reference.**

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

**Section 6-6. Animal Services Fees.**

- (a) All fees for this chapter shall be reviewed, set and adopted by City Council resolution.
- (b) The Animal Services Manager or his/her designated representative shall have the authority to reduce or waive fees under this chapter only in the following circumstances:
  - (1) As part of a national, statewide, regional, local or City event being held to encourage the adoption of animals; or
  - (2) If an animal owner submits a signed, written request to the Department verifying their inability to pay the fee; or
  - (3) The Animal Services Manager determines that it is in the best interest of the animal(s) to waive or reduce the fee.

**Section 6-7-6-9. Reserved.**

**ARTICLE II**

**ANIMAL CARE AND SAFETY**

**Section 6-10. Tethering.**

- (a) A person commits an offense if he/she restrains an animal with any tying device including a chain, rope, tether, leash, or cable, to attach an animal, directly or indirectly, to a stationary object or trolley system.
- (b) It is an affirmative defense to prosecution under subsection (a) that:
- (1) The restraint is required to protect the safety or welfare of a person or the animal; and
  - (2) The animal's owner remains in direct physical control of the animal; and
  - (3) The restraint occurs on the owner's private property and prevents the animal from being within ten (10) feet from the edge of any public right-of-way, street, sidewalk, park, other public land.
- (c) The affirmative defenses provided in subsection (b) do not apply unless the restraint meets all of the following specifications:
- (1) The chain, rope, tether, leash, cable, or other device is not attached to a choke-type, prong-type or pinch-type collar of any sort;
  - (2) The chain, rope, tether, leash, cable, or other device is attached to a properly fitted, collar or harness worn by the animal;
  - (3) The chain, rope, tether, leash, cable, or other device is not placed directly around the animal's neck;
  - (4) The chain, rope, tether, leash, cable, or other device does not exceed more than one-tenth of the animal's body weight;
  - (5) The chain, rope, tether, leash, cable, or other device, by design and placement, allows the animal a reasonable and unobstructed range of motion without entanglement; and
  - (6) The animal has access to adequate shelter and water as defined by Sections 6-11(c) and 6-11(d).
- (d) Nothing in this section authorizes an owner to allow an animal to run at large or to fail to provide restraint as required by Section 6-80 of this chapter.

**Section 6-11. Proper and adequate care requirements.**

- (a) A person or owner commits an offense if he/she keeps, harbors, uses or maintains any animal without proper and adequate care in violation of any of the provisions in this section.
- (b) A person or owner commits an offense if he/she fails to provide an adequate enclosure for the animal that:
  - (1) Is constructed of sufficient strength, height, materials, and design to prevent the animal from escaping and to isolate the animal from the public and from other animals not under the care and control of the same person or owner; and
  - (2) Is designed, erected and maintained in accordance with applicable building and zoning requirements of the Code of Civil and Criminal Ordinances and the Land Development Code of the City; and
  - (3) Provides access to adequate natural or artificial shade from direct sunlight at all times and is large enough to contain all animals kept outdoors at one time and is separate from any shade created from the designated shelter; and
  - (4) Provides a safe floor surface that does not permit the animal's feet or any portion of its foot to pass through any opening. The floor is constructed in a manner that protects the animal's feet and legs from injury.
- (c) A person or owner commits an offense if he/she fails to provide adequate shelter that:
  - (1) Is accessible and allows the animal to enter and exit freely; and
  - (2) Consists of a solid-sided structure on three or more sides with a roof or cover to allow the animal to remain dry and protected from weather, wind and moisture; and
  - (3) Provides natural or artificial shade for the animal to avoid direct sunlight and provides sufficient light for regular, diurnal lighting cycles; and
  - (4) Maintains a temperature that allows the animal to maintain normal body temperature and is not detrimental to the health of the animal; and
  - (5) Provides ventilation and access to an adequate supply of fresh air; and
  - (6) Is of adequate size to allow the animal to stand up, sit, turn around freely and lie down in a normal position; and
  - (7) Is cleaned and maintained in a manner to ensure sanitary conditions, control insects and pests, and to minimize the risk of disease and obnoxious odors.
- (d) A person or owner commits an offense if he/she fails to provide clean and potable water at all times and in a clean and easily accessible container.
- (e) A person or owner commits an offense if he/she fails to provide adequate food that:

- (1) Is wholesome and contains sufficient quantity and nutritive value to maintain a healthy body weight;
  - (2) Meets the normal daily requirements for the species, condition and size of the animal;
  - (3) Is provided in a clean and easily accessible container; or
  - (4) Is placed in a location that minimizes contamination from feces, urine and pests.
- (f) A person or owner commits an offense if he/she knowingly fails to provide veterinary care by a licensed veterinarian when such treatment is necessary to prevent pain and suffering and to prevent, treat or cure infestation, injury or disease.

**Section 6-12. Inhumane treatment of animals.**

- (a) A person or owner commits an offense if he/she:
- (1) Tortures, beats, torments, overloads, overworks, maims, disfigures, burns, scalds, causes serious bodily injury to, needlessly kills or otherwise abuses any animal;
  - (2) Engages or permits another person to engage in any sexual act with an animal;
  - (3) Deprives an animal of necessary food, water, care or shelter;
  - (4) Abandons any animal in the City;
  - (5) Confines any animal in such a way as to cause or permit unjustified pain or suffering;
  - (6) Causes, allows or permits an animal to remain in filthy conditions;
  - (7) Attaches a collar or harness to an animal that is of an inadequate size so that it inhibits the animal's breathing, swallowing or barking, or restricts the animal's growth, or causes damage to the skin;
  - (8) Teases or taunts any animal to provoke an aggressive or fearful response from the animal;
  - (9) Causes, instigates or trains an animal to fight another animal or allows or otherwise permits such activity on property that he owns or controls;
  - (10) Manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers any animal fighting paraphernalia or training equipment;
  - (11) Docks the tail, removes the dew claws, crops the ears or performs other surgical procedures on a dog or cat unless he/she is a licensed veterinarian;
  - (12) Removes the comb, waddle or earlobes of any fowl (sometimes referred to as "dubbing");
  - (13) Mutilates any dead animal for reasons other than food preparation or taxidermy. Dissection in compliance with medical or veterinary research, medical or veterinary necropsy, and bona fide educational use of dead animals shall not be considered mutilation;

- (14) Fails to provide or follow a treatment regimen prescribed by a licensed veterinarian for an animal with an obvious or diagnosed illness or injury; or
- (15) Physically removes from its mother any dog, cat, ferret, or rabbit less than six weeks old, or any other animal that is not yet weaned, except as advised by a licensed veterinarian.
- (b) This section does not apply to a licensed veterinarian or a euthanasia technician, performing euthanasia of animals following applicable laws.
- (c) It is a defense to prosecution under this section if the animal is livestock or fowl slaughtered for human consumption without causing unjustified pain or suffering, and the animal is not slaughtered or processed in public view.
- (d) The Animal Services Manager shall have the authority, in accordance with the provisions of Chapter 821 of the Texas Health and Safety Code, to obtain a warrant for the seizure and impoundment of any animal subject to an investigation for inhumane treatment under this chapter or for cruel treatment under Texas Health and Safety Code, Chapter 821. Procedures regarding the disposition of the animal(s) shall be governed by and in accordance with this chapter and Texas Health and Safety Code, Chapter 821.
- (e) Nothing in this section shall be construed to limit any duty imposed on a person by any other provision of this chapter or any applicable state or federal law.

**Section 6-13. Animals in vehicles.**

- (a) A person commits an offense if he/she leaves an animal in a standing or parked vehicle without providing the animal with adequate air and protection from heat or cold. An animal left under such conditions may be impounded.
- (b) A person commits an offense if he/she transports or carries any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; or if traveling in an unenclosed portion of a vehicle, including but not limited to, a convertible, pick-up truck, jeep, trailer or flatbed truck, the animal is safely confined by a seatbelt, vented container, cage or other device which will prevent the animal from falling, jumping, leaving or being thrown from the motor vehicle and from strangling on a leash, rope or tether of any type.

**Section 6-14. Animal traps and poisons.**

- (a) A person commits an offense if he/she places, baits, sets or permits a trap to be set on property owned or controlled by him/her that is designed in such a fashion as to reasonably ensure trauma, injury or death of the entrapped animal.
- (b) A person commits an offense if he/she sets a humane trap and does not check the trap for a trapped animal at least once every two (2) hours during daylight or at least once every eight (8) hours if left overnight.
- (c) A person commits an offense if he/she does not provide humane care for any trapped animal including



protection from the elements, including heat, cold and precipitation (rain, sleet, snow), and adequate food and water. Trapped dogs or cats bearing identification shall be turned over to the animal's owner or to the Department.

- (d) A person commits an offense if he/she places any substance, article or bait that has in any manner been treated with any poisonous or toxic substance, including antifreeze or any drug, in any place accessible to humans, birds, dogs, cats or other animals.
- (e) A person commits an offense if he/she removes, alters, damages or otherwise tampers with a trap or other equipment belonging to, set by, or set at the request of the Department.
- (f) A person commits an offense if he/she releases or removes an animal from a trap belonging to, set by, or set at the request of the Department.
- (g) A person commits an offense if he/she sets a trap on public property without written permission from the Animal Services Manager or if he/she sets a trap on another's property without written consent from the property owner.
- (h) A person commits an offense if he/she transports any animal subject to a statewide rabies quarantine, pursuant to Texas Administrative Code, Title 25, §169.34, including any live species of coyote, raccoon or fox indigenous to North America.
  - (1) Animals subject to statewide quarantine may be transported by exempt individuals such as peace officers and individuals hired or contracted by local, state, or federal government agencies to deal with animals when such transport is part of their official duty.
  - (2) If an exempt individual transports such animals for release, the animals must be released within a ten-mile radius of where the animals were originally captured.
- (i) This section shall not be interpreted to restrict the extermination of rats, mice, other rodents or insects through the use of traps, poisons or other commercially available means when used on the person's property or with the written consent of the property owner, and in accordance with the manufacturer's written label instructions except that the person is responsible for taking reasonable precautions to ensure that no human or animal, other than the targeted species, comes into contact with the traps, poison or other means and does not violate any other provision of this chapter.
- (j) It is a defense to prosecution under subsection (a) if the use of such traps is deemed necessary by the Animal Services Manager for the purpose of controlling communicable disease or invasive species.

**Section 6-15. Microchip, microchip registration and ID tag required for dogs and cats.**

- (a) A person who resides in the City commits an offense if he/she is the owner of a dog or cat over four (4) months of age that is not implanted with a microchip and registered with a microchip registration company.

- (1) The owner of a dog or cat shall maintain his/her current contact information with a microchip registration company, including current name, address and telephone number.
  - (2) If there is a change in ownership of a microchipped dog or cat, the transferring owner is responsible for ensuring that the microchip is no longer registered in the transferring owner's name within thirty (30) days of the date of change in ownership. The new owner is responsible for re-registering the microchip to have the registration information transferred to the new owner's name, and to provide an address and telephone number, within thirty (30) days after the change in ownership.
- (b) A person commits an offense if he/she uses a registered microchip number for any animal other than the one for which it was issued.
- (c) A person commits an offense if he/she owns any dog or cat in the City and the dog or cat is not wearing an identification tag with the owner's name and current phone number securely fastened to a collar or harness worn at all times when the dog or cat is outdoors.
- (d) It is a defense to prosecution under Subsection (a) that:
- (1) The owner of a dog or cat presents verifiable written documentation from a licensed veterinarian certifying that the dog or cat is determined to be medically unsuitable for microchipping; and
    - i. The owner shall have the dog or cat permanently marked with an identifying tattoo by a licensed veterinarian. Written documentation that includes the identifying tattoo number and owner's name, address and telephone number must be provided to the Department within thirty (30) days of tattooing, and
    - ii. If there is a change in contact information, the owner of a tattooed dog or cat shall update contact information with the Department within thirty (30) days of the date of the change in contact information. If there is a change in ownership of a tattooed dog or cat, the initial owner or keeper shall be responsible for notifying the Department of the change within thirty (30) days of the date of change in ownership. The new owner or keeper is responsible for providing the Department with the new owner's or keeper's name, address and telephone number within thirty (30) days after the change in ownership.
- (e) It is a defense to prosecution under this section if:
- (1) The owner of the dog or cat is not a resident of the City and is keeping the dog or cat in the City for less than thirty (30) days;
  - (2) The owner has owned or had possession of the dog or cat for less than thirty (30) days; or
  - (3) The owner has an unexpired City of Irving registration certificate for the dog or cat that was issued before the effective date of this chapter.

**Section 6-16-6-19. Reserved.**

**ARTICLE III**

**IMPOUNDMENT AND DISPOSITION OF ANIMALS**

**Section 6-20. Impoundment.**

- (a) Animals found in circumstances in which impoundment is authorized by the provisions of this chapter may be taken into custody and impounded at the City animal shelter or other appropriate facility designated by the Animal Services Manager.
- (b) The Department is authorized to accept animals from owners who reside in the City and voluntarily relinquish ownership and control of an animal to the City by stating such in writing. Upon executing a written statement and surrendering the animal, the animal immediately becomes property of the City. Such animal will be subject to disposition at the sole discretion of the Department.
- (c) The City shall immediately, upon possession, be the designated caretaker of any animal duly impounded or surrendered. Upon intake, animals will be microchipped for identification if no microchip is detected, given vaccinations to protect animal health, and will receive any other necessary treatment the veterinarian determines is appropriate for the animal, at the owner's expense.
- (d) Except as otherwise provided in this chapter or pursuant to a court order, any impounded animal shall be held as follows:
  - (1) Seventy-two (72) hours, excluding the day of impoundment, unless (d)(2), (d)(3), (d)(4) or (d)(5) of this subsection applies to the animal;
  - (2) Up to Seventy-two (72) hours if the animal is feral;
  - (3) Ten (10) days, excluding the day of impoundment, if the animal is being held for protective custody;
  - (4) Seventy-two (72) hours after the expiration of the observation period if the animal is impounded for quarantine; or
  - (5) An alternative period mutually agreed upon by the owner and the Animal Services Manager with such agreement being in writing and signed by the owner on a form approved by the Animal Services Manager.

**Section 6-21. Disposition of animals.**

- (a) If any animal is not reclaimed by the owner within the applicable hold period described in Section 6-20, any prior ownership will be completely divested and the animal shall become property of the City and such animal may be adopted, transferred or euthanized at the sole discretion of the

Department.

- (b) Any impounded animal suffering due to illness, injury or disease may be transferred or euthanized during the hold period at the sole discretion of the Department.
- (c) Due to their immature immune systems, any impounded animal under three (3) months of age shall immediately become property of the City and may be adopted, transferred or euthanized at the sole discretion of the Department.
- (d) The owner of an impounded animal remains subject to prosecution for a violation and liable for any fees related to impoundment whether or not the animal is reclaimed.

**Section 6-22. Release of impounded animals.**

(a) In order for an owner to reclaim an impounded animal, he/she must meet the following requirements:

- (1) Rabies vaccination required for dogs, cats and ferrets
  - i. For the purposes of this subsection, sufficient proof of an animal's current rabies vaccination is a rabies vaccination certificate issued by a licensed veterinarian as described in Section 6-30(e).
  - ii. If the owner cannot prove that the animal has a current rabies vaccination, the owner shall pay a fee to the City to have the rabies vaccination administered prior to the animal being released by the City.
  - iii. If a rabies vaccination cannot be given at the time of reclaiming the animal, the owner shall have seven (7) days to provide the Department written, verifiable proof of obtaining a current rabies vaccination from a licensed veterinarian.
- (2) Microchip required for dogs and cats
  - i. Prior to releasing an animal, a microchip must be detectable with a scanner and the microchip registration information must match the owner.
  - ii. If the microchip information does not match the owner at the time of reclaiming the animal, the owner shall have thirty (30) days to provide the Department written, verifiable proof of microchip registration.
  - iii. If the animal is not already microchipped, the owner shall pay a fee to the City to have a microchip implanted into the animal prior to the animal being released by the City.
  - iv. If a microchip cannot be implanted at the time of reclaiming the animal, the owner shall have seven (7) days to provide the Department written, verifiable proof of microchip implantation from a licensed veterinarian and registration as required in Section 6-15.
- (3) Sterilization required for any dog, cat or rabbit impounded more than one time in any consecutive 12-month period
  - i. For the purposes of this subsection, proof of sterilization shall be a sterilization certificate issued by a licensed veterinarian.
  - ii. If the owner cannot provide proof of sterilization prior to release, the owner shall provide such certificate within thirty (30) days of release.

iii. Subsections (3)i. and (3)ii. do not apply if the owner of the animal provides proof that one or more of the following conditions are met:

- The animal is less than six (6) months of age;
- A licensed veterinarian certifies in writing and on office letterhead that the dog or cat is not medically suitable to be spayed or neutered due to health condition(s) or is permanently non-fertile as confirmed by a health examination;
- The animal is a trained military or police service animal.

- (b) Provide payment to the city animal shelter for all applicable fees, costs and expenses incurred by the City in the seizure and impoundment of the animal. These fees and costs shall include, but not be limited to, daily impoundment fees, veterinarian fees, cost of vaccinations, and cost of any medication and treatment reasonably required for the animal's care while impounded.
- (c) Animals cannot be reclaimed or released if:
- (1) An impounded animal is wild or prohibited. Such animals may be transferred or euthanized at the discretion of the Department;
  - (2) An impounded animal is being held for investigation of rabies, rabies quarantine or is subject to a pending hearing or court order. Such animals shall not be released until the other provisions of this chapter or court determination are met; or
  - (3) If the owner fails to provide sufficient proof of vaccination, microchipping, or sterilization as required by Section 6-22(a).
- (d) A person commits an offense if he/she fails to provide proof of vaccination, microchipping, or sterilization as required in this section.

### **Section 6-23. Animal adoptions.**

- (a) Animals may be adopted from Animal Services under the following conditions:
- (1) The animal has been evaluated by Animal Services personnel and determined to be an adoption candidate based on health, age and observed behavior. A decision by Animal Services shall not constitute a warranty of health, age or behavior of the animal;
  - (2) The dog, cat or rabbit is sterilized. If the dog, cat or rabbit is not already sterilized, the Animal Services Manager may, at his/her sole discretion, release the animal with a signed sterilization agreement pursuant to Texas Health and Safety Code, Title 10, Chapter 828.
  - (3) The dog or cat has microchip identification implanted;
  - (4) The dog, cat or ferret is currently vaccinated against rabies; and
  - (5) All adoption fees and other fees authorized by this chapter are tendered to the City.
- (b) The Animal Services Manager may refuse/deny the adoption of any animal for any reason, including but not limited to, a person who is believed:

- (1) To be under the age of 18 years;
  - (2) To not have the proper facilities to contain or care for the animal following the provisions of this chapter;
  - (3) To want the animal for the purposes of resale or for purposes other than companion animal ownership;
  - (4) To potentially subject the animal to abandonment, inhumane treatment or cruelty if adopted; or
  - (5) To have the intent to transfer custody of the animal to its previous owner, permitting the previous owner to evade enforcement under this chapter.
- (c) A person commits an offense if he/she signs a sterilization agreement under Texas Health and Safety Code, Title 10, Chapter 828 and fails to provide confirmation of sterilization as required by said chapter, as amended.

**Section 6-24-6-29. Reserved.**

**ARTICLE IV**

**RABIES CONTROL**

**Section 6-30. Rabies vaccination required for dogs, cats and ferrets.**

- (a) A person commits an offense if he/she owns or keeps any dog, cat or ferret in the City which is not currently vaccinated against rabies.
- (b) A person commits an offense if he/she fails to provide a certificate of rabies vaccination, as described in subsection (e) of this section, for any dog, cat, or ferret upon request by Animal Services personnel or a police officer.
- (c) A person commits an offense if he/she owns or keeps any dog, cat or ferret in the City which is not wearing a properly fitted collar or harness with a current rabies tag fastened securely at all times while the animal is outdoors.
- (d) A person commits an offense if he/she uses a rabies tag for any animal other than the one for which it was issued.
- (e) Any licensed veterinarian who vaccinates an animal for rabies shall issue to the owner a current rabies tag and a certificate of rabies vaccination. The certificate shall contain the following information:
  - (1) Name, address and telephone number of the owner; and
  - (2) Name, address, telephone number of the veterinary clinic or service provider; and

- (3) Animal identification, including species, sex, age, weight, predominant breed and color; and
  - (4) Vaccine used, including whether it is a vaccine labeled for one-year or three-year, manufacturer, expiration date, and serial number; and
  - (5) Date the vaccination was administered; and
  - (6) Rabies tag number; and
  - (7) Veterinarian's signature and license number.
- (f) If a previously unvaccinated dog, cat or ferret bites or scratches a person, a rabies vaccine shall not be administered until the required observation period is complete, as defined in Section 6-20.
- (g) It is a defense to prosecution under this section if the animal is under four (4) months of age.

**Section 6-31. Reports of rabies.**

- (a) A person who knows of an animal bite or scratch to an individual in the City that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the Department as required by Texas Health and Safety Code, Title 10, § 826.041, as amended.
- (b) Any person who suspects an animal has rabies or has been exposed to rabies shall report such to the Department within 24 hours and shall provide information about where the animal may be found, if known.
- (c) Any person who knows or suspects that a rabid animal has bitten or scratched a domestic animal or livestock shall report the incident to the Department within 24 hours and shall provide information about where the rabid or suspected rabid animal may be found and shall provide a description of the bitten or scratched domestic animal or livestock and the location of where it may be found, if known.

**Section 6-32. Quarantine of biting, scratching animals.**

- (a) The local rabies control authority is authorized to quarantine an animal as provided in Texas Health and Safety Code, Title 10, Chapter 826, as amended, and the rules adopted by the Texas Board of Health under that chapter.
- (b) A person commits an offense if he/she owns, harbors or keeps any animal which has bitten or scratched a person and fails to submit such animal to the Department for rabies quarantine or testing within 24 hours.
- (c) A person commits an offense if he/she owns, harbors or keeps any animal which has rabies, is suspected of having rabies, or has been bitten or scratched by an animal suspected of having rabies and fails to submit such animal to the Department for rabies quarantine or testing within 24 hours.

- (d) If a person fails to submit an animal for quarantine as required in subsections (a) or (b), the animal may be seized by the City with a court order.
- (e) A person commits an offense if he/she conceals, sells, gives away, or otherwise disposes of or permits an animal to be removed from quarantine that has bitten or scratched a person until such animal has been released from quarantine by the local rabies control authority.
- (f) Any animal known or suspected of biting or scratching a person or to have been exposed to rabies will be quarantined in the city animal shelter, with a licensed veterinarian at a veterinary clinic or other rabies quarantine facility approved by the local rabies control authority unless an owner is approved by the local rabies control authority to assume personal responsibility for home confinement. The local rabies control authority may allow home confinement, provided the owner strictly complies with the following:
  - (1) The animal is kept in a secure enclosure, as defined in Section 6-1, and is kept away from other animals and people except as necessary to provide care for the duration of the observation period; and
  - (2) The animal is currently vaccinated against rabies; and
  - (3) The animal was not at large at the time of the bite or scratch; and
  - (4) The owner of the animal observes the animal at least twice a day and reports any health or behavior changes, or death, to the local rabies control authority immediately; and
  - (5) The owner allows the local rabies control authority or his/her designated representative to inspect the animal and the location of confinement as requested for compliance with these requirements.
- (g) At the local rabies control authority's sole discretion, the conditions in subsection (f)(1) of this section may not be required for service animals approved for home confinement.
- (h) A military or police service animal is exempt from the quarantine requirements of this section if the animal bites a person while the animal is under routine veterinary care or while the animal is in training or being used for law enforcement, corrections or investigative purposes, provided that any changes in health or behavior, or death are reported to the local rabies control authority immediately.
- (i) The local rabies control authority may require an animal that is showing clinical signs of rabies or any high-risk animal to be euthanized and tested for rabies.
- (j) The local rabies control authority may require an animal that cannot be safely maintained in quarantine or that has inflicted multiple bite wounds, punctures or lacerations to be euthanized and tested for rabies.
- (k) The local rabies control authority may require an unowned animal to be euthanized and tested for rabies.



**Section 6-33. Release from quarantine; Payment of fees; Unclaimed animals.**

If, after the required observation period has been completed for quarantine, the local rabies control authority determines, or a licensed veterinarian certifies in writing to the local rabies control authority that such animal is not showing signs of rabies, the local rabies control authority shall authorize the release of the animal if the following conditions are met:

- (a) The animal is currently vaccinated against rabies and the local rabies control authority has received a valid certificate of rabies vaccination for the animal or the animal is vaccinated for rabies by a licensed veterinarian, at the owner's expense; and
- (b) The animal is not subject to a pending hearing or court order; and
- (c) All fees authorized by this chapter are tendered to the City.

**Section 6-34. Sterilization requirements for biting dogs and cats.**

(a) Any dog or cat that bites a person, domestic animal or livestock while at large shall be required to be sterilized within thirty (30) days of the bite occurrence. For the purposes of this subsection, proof of sterilization shall be a sterilization certificate issued by a licensed veterinarian, or the owner of the animal may provide proof that one of the following conditions are met:

- (1) The animal is less than six (6) months of age;
- (2) A licensed veterinarian certifies in writing and on office letterhead that the dog or cat is not medically suitable to be spayed or neutered due to health condition(s) or is permanently non-fertile as confirmed by a health examination.

- (b) The Animal Services Manager may require an animal quarantined at the city animal shelter to be sterilized by the Department at the owner's expense prior to releasing the animal to the owner after the observation period has expired.
- (c) A person commits an offense if he/she fails to have a dog or cat sterilized as required in subsection (a).
- (d) A military or police service animal is exempt from the sterilization requirements of this section if the animal bites a person while the animal is in training or being used for law enforcement, corrections or investigative purposes.

**Section 6-35-6-39. Reserved.**

**ARTICLE V**

**AGGRESSIVE DOGS**

**Section 6-40. Report of aggressive dog; Notice of aggressive dog determination; Impoundment; Conditions for release.**

- (a) Upon report of an incident involving an aggressive dog, the Department may investigate and determine whether a dog is an aggressive dog as defined in Section 6-1.
- (b) The determination may be based on an investigation that includes observing the dog's behavior, statements or testimony about the dog's behavior and/or the owner's care and control of the dog, and any other relevant evidence as determined by the Department. No dog will be declared aggressive if the complaint filed is based solely on the dog's breed, size or physical appearance.
- (c) Statements and observations may be provided by any witness who personally observed the behavior, including Animal Services officers. Such reports and supporting witness statements shall be provided in writing and sworn to by the witness on a signed affidavit.
- (d) If, after completing an appropriate investigation supporting probable cause that the dog at issue is aggressive, the Animal Services Manager determines that the dog is an aggressive dog, the Animal Services Manager shall provide written notice to the owner in person or by certified mail, return receipt requested. The notice shall include:
  - (1) A statement that the dog has been determined to be an aggressive dog by the Animal Services Manager;
  - (2) A summary of the investigative findings supporting the determination;
  - (3) The time frame in which the owner has to comply with the requirements for owning or keeping an aggressive dog set forth in Section 6-43;
  - (4) A statement regarding the owner's right to appeal the aggressive dog determination to the Municipal Court within fifteen (15) business days after the owner is notified; and
  - (5) A copy of this article.
- (e) As a reasonable precaution, when determined necessary to protect public health and safety, the Department may, upon request and issuance of a seizure warrant, seize and impound the dog at the owner's expense pending an aggressive dog determination and completion of all appeals.
- (f) Any dog impounded under this section may not be released from impoundment until one of the following conditions are met:
  - (1) The Animal Services Manager or Municipal Court determines that the dog is not an aggressive dog, provided that all other requirements set forth in Section 6-22 for release of impounded animals are met; or
  - (2) The Animal Services Manager or Municipal Court determines that the dog is an aggressive dog and the owner has demonstrated compliance with:
    - i. All the requirements for owning or keeping an aggressive dog set forth in Section 6-

43; and

- ii. All applicable requirements for release of impounded animals set forth in Section 6-22; and
- iii. Any other requirements ordered by the Animal Services Manager or the Municipal Court.

**Section 6-41. Appeal of aggressive dog determination; Hearing; Compliance period.**

- (a) If the Animal Services Manager determines that the dog is an aggressive dog, that decision is final unless the owner or keeper files a written appeal, delivered in person or by certified mail to the Court Services Division of the Municipal Court, within fifteen (15) business days of receiving the notice of determination. The owner or keeper shall also provide a copy of the written appeal to the Animal Services Manager by delivering it to the Department in person or by certified mail.
- (b) The Municipal Court shall conduct a hearing within ten (10) calendar days after receipt of the notice of appeal.
  - (1) Any interested party, including the City Attorney or his/her designee, or the county, is entitled to present evidence at the hearing.
  - (2) The Municipal Court shall enter a judgment, based on a preponderance of the evidence presented, that the aggressive dog determination is either affirmed or reversed.
  - (3) If the owner or keeper of the dog does not appear at the hearing, the court may dismiss the appeal or proceed with evidentiary findings without the owner's or keeper's presence. If the appeal is dismissed, the aggressive dog determination is final.
  - (4) The result of the appeal hearing is final.
- (c) In the event that the decision of the Municipal Court affirms that the dog is an aggressive dog, the owner shall be required to comply with the requirements set forth in Section 6-43 and any other requirements set by the Municipal Court within the timeframe set by the Municipal Court.

**Section 6-42. Aggressive dog ownership divested for non-compliance.**

If the owner of an aggressive dog impounded under this article has not complied with the requirements for release under Section 6-40(f), after expiration of the applicable hold period pursuant to Section 6-20(d), all prior ownership interest in the dog is completely divested and the animal shall become property of the City. In the event that an appeal is timely filed to Municipal Court pursuant to Section 6-41, the applicable hold period shall be stayed until final adjudication by the Municipal Court.

**Section 6-43. Requirements for owning or keeping an aggressive dog.**

In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall comply with the following conditions not later than the thirtieth (30<sup>th</sup>) day after the person learns that he/she is the owner of an aggressive dog:

- (a) Provide the name, address and telephone number for person(s) owning, keeping or harboring the aggressive dog;
- (b) Register the aggressive dog with the Department and maintain current registration at all times. The owner or keeper must present proof of compliance satisfactory to the Animal Services Manager and pay the annual aggressive dog registration fee before registration will be issued or renewed;
- (c) Pay any other costs or fees related to the seizure, care or impoundment of the dog, if applicable;
- (d) Provide proof of current rabies vaccination as set forth in Section 6-30;
- (e) Provide proof of microchip and current microchip registration as set forth in Section 6-15;
- (f) Restrain the aggressive dog at all times, in a secure enclosure as defined in Section 6-1 or on a leash, not more than six (6) feet in length, in the immediate control of a person capable of controlling the dog while the dog is wearing a muzzle that will not cause injury to the dog and prevent the dog from biting any person or animal and does not interfere with the dog's vision or breathing;
- (g) Acquire and maintain liability insurance coverage in an amount of at least \$100,000 to cover damages resulting from an attack by the aggressive dog causing bodily injury to a person or other animal and provide proof of the required liability insurance coverage to the Animal Services Manager, the sufficiency of which shall be determined by the City of Irving Risk Manager. The owner or keeper shall include in the policy provisions a requirement that the insurance provider will provide notice to the City of Irving Risk Manager through the Animal Services Manager not less than thirty (30) days prior to cancellation or any material change in coverage;
- (h) Post a warning sign at each entrance to the premises in which the aggressive dog is being kept, stating "BEWARE OF DOG." The signs shall be no less than eight (8) inches by eleven (11) inches in size, with lettering no less than two (2) inches in height. Lettering shall be white on a red background and be of light-reflective material; and
- (i) Provide proof that the dog has been sterilized.
  - (1) For the purposes of this subsection, proof of sterilization shall be a sterilization certificate issued by a licensed veterinarian.
  - (2) Subsection (1) does not apply if the owner of the animal provides proof that one of the following conditions are met:
    - i. The dog is less than six (6) months of age;
    - ii. A licensed veterinarian certifies in writing and on office letterhead that the dog is not medically suitable to be spayed or neutered due to health condition(s) or is permanently non-fertile as confirmed by a health examination;
    - iii. The dog is a trained military or police service animal.

#### **Section 6-44. Aggressive dog reporting requirements.**

- (a) Any person who owns or keeps an aggressive dog in the City shall notify the Department in writing within twenty-four (24) hours if the dog:
  - (1) Escapes from confinement;
  - (2) Attacks a person or other animal causing bodily injury; or
  - (3) Dies. If the dog dies, the owner shall present the body to a licensed veterinarian or to the Department for verification of microchip identification before disposal of the body. If the owner presents the body to a licensed veterinarian, the owner shall provide written verification of the microchip reading to the Department within three (3) business days.
- (b) The owner or keeper of an aggressive dog shall notify the Animal Services Manager in writing within fourteen (14) days after moving the dog to a new address or transferring ownership and shall provide the Animal Services Manager with the dog's new address and new owner information, if applicable. If the new address is within the city limits of Irving, the owner must meet all the requirements in Section 6-43.

#### **Section 6-45. Offenses; Defenses to Prosecution**

- (a) A person commits an offense if he/she knowingly, intentionally or recklessly owns or keeps a dog that has been previously determined to be an aggressive dog by the Animal Services Manager or the Municipal Court and the dog makes an unprovoked attack on another legally restrained animal outside the dog's enclosure and causes bodily injury to that animal.
- (b) A person commits an offense if he/she owns or keeps a dog determined to be an aggressive dog by the Animal Services Manager or the Municipal Court in violation of any of the provisions of this chapter.
- (c) If a person is found guilty of an offense under subsection (a), the fine may be increased to up to \$2,000.00 per offense.
- (d) It is a defense to prosecution that the person:
  - (1) Is a licensed veterinarian, a peace officer, or a person employed by the Department, the state or a political subdivision of the state to deal with stray animals, and has temporary ownership, custody or control of the dog in connection with that position; or
  - (2) Is an employee of a law enforcement agency and is training or using the dog for law enforcement or corrections purposes.
- (e) It is a defense to prosecution that the dog was protecting or defending a person within the immediate vicinity of the dog from an unprovoked attack from another animal.

#### **Section 6-46. Declassification of Aggressive Dogs**

Aggressive dogs will be automatically be declassified and no longer considered an aggressive dog after one (1) year from the date of final determination that the dog is an aggressive dog so long as there have been no further incidents or violations of any of the provisions of this chapter.

**Section 6-47-6-49. Reserved.**

## **ARTICLE VI**

### **DANGEROUS DOGS**

**Section 6-50. State law incorporated; Controlling Effect.**

The provisions of the Texas Health and Safety Code, Title 10, Chapter 822 are incorporated into this article and dangerous dogs shall be determined and regulated in accordance with said chapter and this article. To the extent of a conflict between said chapter and this article, Texas Health and Safety Code, Title 10, Chapter 822 controls.

**Section 6-51. Report of dangerous dog; Notice of dangerous dog determination; Impoundment; Conditions for release.**

- (a) Upon receipt of a sworn affidavit of complaint of a dangerous dog as defined in Section 6-1, the Department shall investigate the complaint. The investigation may include observing the dog's behavior, examining the dog, and reviewing other relevant information including discussing the incident with the owner or keeper of the dog. No dog will be declared dangerous if the complaint filed is based solely on the dog's breed, size or physical appearance. The affidavit shall contain:
- (1) The name, address and telephone number of the complainant(s) and any other witnesses; and
  - (2) A description of the dog and the address where it resides, and if known, the name and telephone number of the owner of the dog; and
  - (3) The date, time and location of the incident; and
  - (4) A statement describing the facts upon which the complaint is based, including a description of the incident(s) which cause the complainant to believe the dog is a dangerous dog; and
  - (5) A description of the injuries sustained, whether medical treatment was sought and the outcome of such treatment; and
  - (6) Any other relevant facts.
- (b) After receiving a sworn affidavit of an incident involving a dangerous dog and completing an appropriate investigation supporting probable cause that the dog at issue is dangerous, as a reasonable precaution to protect public health and safety, the Department may, upon issuance of a seizure

warrant, seize and impound the dog at the owner's expense pending a dangerous dog determination and completion of all appeals.

(c) If, at the conclusion of an investigation, the Animal Services Manager determines that the dog is a dangerous dog as defined in Section 6-1, the Animal Services Manager shall provide written notice to the owner in person or by certified mail, return receipt requested. The notice shall include:

- (1) A statement that the dog has been determined to be a dangerous dog by the Animal Services Manager; and
- (2) A summary of the investigative findings supporting the determination; and
- (3) A statement regarding the owner's right to appeal the dangerous dog determination to the Municipal Court not later than the fifteenth (15<sup>th</sup>) day after the owner is notified; and
- (4) A copy of this article.

(d) Any dog impounded under this section may not be released from impoundment until one of the following conditions are met:

- (1) The Animal Services Manager or Municipal Court determines that the dog is not a dangerous dog, provided that all other requirements set forth in Section 6-22 for release of impounded animals are met; or
- (2) The Animal Services Manager or Municipal Court determines that the dog is a dangerous dog and the owner has demonstrated compliance with:
  - i. All the requirements for owning or keeping a dangerous dog set forth in Section 6-53; and
  - ii. All applicable requirements for release of impounded animals set forth in Section 6-22; and
  - iii. Any other requirements ordered by the Animal Services Manager or the Municipal Court.

**Section 6-52. Appeal of dangerous dog determination; Hearing; Compliance period.**

(a) If the Animal Services Manager determines that the dog is a dangerous dog, that decision is final unless the owner or keeper files a written appeal, delivered in person or by certified mail to the Court Services Division of the Municipal Court, within fifteen (15) days of receiving the notice of determination. The owner or keeper shall provide a copy of the written appeal to the Animal Services Manager by delivering it to the Department in person or by certified mail.

(b) The Municipal Court shall conduct a hearing within ten (10) calendar days after receipt of the notice of appeal.

- (1) Any interested party, including the City Attorney or his/her designee, or the county, is entitled

to present evidence at the hearing.

- (2) The Municipal Court shall enter a judgment, based on a preponderance of the evidence presented, that the dangerous dog determination is either affirmed or reversed.
  - (3) If the owner or keeper of the dog does not appear at the hearing, the court may proceed with evidentiary findings without the owner's or keeper's presence.
  - (4) The result of the hearing is final unless the owner or keeper files a written appeal in the manner described by the Texas Health and Safety Code § 822.0424, as amended, within ten (10) days after the decision was issued by the Municipal Court. During the pendency of such appeal, a dog that has been impounded by the Department shall remain impounded at the owner's expense. The Municipal Court shall determine the estimated costs to house and care for the dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
- (c) In the event that the decision of the Municipal Court affirms that the dog is a dangerous dog, the owner shall be required to comply with the requirements set forth in Section 6-53 and any other requirements set by the court within the timeframe set by the court.

**Section 6-53. Requirements for keeping or owning a dangerous dog.**

In addition to the other requirements of this chapter and the Texas Health and Safety Code, Chapter 822, Subchapter D, as amended, the owner or keeper of a dangerous dog shall comply with the following conditions not later than the thirtieth (30<sup>th</sup>) day after the person learns that he/she is the owner of a dangerous dog:

- (a) Provide the name, address and telephone number for person(s) owning, keeping or harboring the dangerous dog; and
- (b) Register the dangerous dog with the Department and maintain current registration at all times. The owner or keeper must present proof of compliance satisfactory to the Animal Services Manager and pay the annual dangerous dog registration fee before registration will be issued or renewed; and
- (c) Pay any other costs or fees assessed by the governing body, per state law, related to the seizure, care or impoundment of the dog, if applicable; and
- (d) Provide proof of current rabies vaccination as set forth in Section 6-30; and
- (e) Provide proof of microchip and current microchip registration as set forth in Section 6-15; and
- (f) Provide at least three (3) color photos of the dog and a description of the dog to include the dog's name, age, sex, weight, height, length, color(s), breed(s) and any other distinguishing features or marks; and
- (g) Restrain the dangerous dog at all times in a secure enclosure as defined in Section 6-1 or on a leash, no longer than six (6) feet in length, in the immediate control of a person capable of controlling the



dog while the dog is wearing a muzzle that will not cause injury to the dog and will prevent the dog from biting any person or animal and does not interfere with the dog's vision or breathing; and

- (h) Acquire and maintain liability insurance coverage in an amount of at least \$250,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person or other animal and provide proof of the required liability insurance coverage to the Animal Services Manager, the sufficiency of which shall be determined by the City of Irving Risk Manager. The owner or keeper shall include in the policy provisions a requirement that the insurance provider will provide notice to the City of Irving Risk Manager through the Animal Services Manager not less than thirty (30) days prior to cancellation or any material change in coverage; and
- (i) Provide the dog with a fluorescent yellow collar visible at fifty (50) feet in normal daylight to be worn at all times; and
- (j) Post a warning sign at each entrance to the premises in which the dangerous dog is being kept, stating "BEWARE OF DANGEROUS DOG." The signs shall be no less than eight (8) inches by eleven (11) inches in size, with lettering no less than two (2) inches in height. Lettering shall be white on a red background and be of light-reflective material; and
- (k) Provide proof that the dog has been sterilized.
  - (1) For the purposes of this subsection, proof of sterilization shall be a sterilization certificate issued by a licensed veterinarian.
  - (2) Subsection (1) does not apply if the owner of the animal provides proof that one or more of the following conditions are met:
    - i. The animal is less than six (6) months of age;
    - ii. A licensed veterinarian certifies in writing and on office letterhead that the dog or cat is not medically suitable to be spayed or neutered due to health condition(s) or is permanently non-fertile as confirmed by a health examination;
    - iii. The animal is a trained military or police service animal.
- (l) If the dog is not already impounded, the owner of a dangerous dog who does not comply with the requirements shall deliver the dog to the Animal Services Officer not later than the thirtieth (30<sup>th</sup>) day after the owner learns that the dog is a dangerous dog.

#### **Section 6-54. Dangerous dog reporting requirements.**

- (a) Any person who owns, harbors or keeps a dog determined to be a dangerous dog by the Animal Services Manager or Municipal Court in the City shall notify the Department in writing within twenty-four (24) hours if the dog:
  - (1) Escapes from confinement;
  - (2) Attacks a person or other animal causing bodily injury; or
  - (3) Dies. If the dog dies, the owner shall present the body to a licensed veterinarian or to the Department for verification of microchip identification before disposal of the body. If the

owner presents the body to a licensed veterinarian, the owner shall provide written verification of the microchip reading to the Department within three (3) business days.

- (b) The owner or keeper of a dangerous dog shall notify the Animal Services Manager in writing within fourteen (14) days after moving the dog to a new address or transferring ownership and shall provide the Animal Services Manager with the dog's new address and owner information, if applicable. If the new address is within the city limits of Irving, the owner must meet all the requirements in Section 6-53. If the new address is outside the city limits of Irving, the owner must provide, in writing to the Animal Services Manager, proof that the animal control authority in the new jurisdiction has been notified.

**Section 6-55. Non-compliance with dangerous dog requirements; Hearing.**

- (a) Upon receiving an application from any person, the Municipal Court shall conduct a hearing to determine compliance with dangerous dog requirements. The Municipal Court shall conduct a hearing within ten (10) calendar days after receipt of the application.
  - (1) Any interested party, including the City Attorney or his/her designee, or the county, is entitled to present evidence at the hearing.
  - (2) The Municipal Court shall enter a judgment, based on a preponderance of the evidence presented, whether the owner of the dog is or is not in compliance.
  - (3) If the owner or keeper of the dog does not appear at the hearing, the court may proceed with evidentiary findings without the owner's or keeper's presence.
  - (4) The result of the hearing is final unless the owner or keeper files a written appeal in the manner described by the Texas Health and Safety Code § 822.0424, as amended, within ten (10) days after the decision was issued by the Municipal Court. During the pendency of such appeal, the dog shall remain impounded at the owner's expense. The Municipal Court shall determine the estimated costs to house and care for the dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
- (b) Upon issuance of a seizure warrant, the Department may seize and impound a dangerous dog for a violation or non-compliance with any of the provisions of this chapter.

**Section 6-56. Dangerous dog ownership divested for non-compliance**

If the owner of a dangerous dog impounded under this article has not complied with the requirements for release under Section 6-51(d), after expiration of the applicable hold period pursuant to Section 6-20(d), all prior ownership interest in the dog is completely divested and the animal shall become property of the City. In the event that an appeal is timely filed to Municipal Court or a court of competent jurisdiction pursuant to Section 6-55, the applicable hold period shall be stayed until final adjudication by the court.

**Section 6-57. Offenses; Defenses to prosecution.**

- (a) A person commits an offense if he/she knowingly, intentionally or recklessly owns or keeps a dog previously determined to be a dangerous dog by the Animal Services Manager or Municipal Court and the dog makes an unprovoked attack on another person outside of the dog's enclosure and causes bodily injury to the other person.
- (b) A person commits an offense if he/she owns or keeps a dog determined to be a dangerous dog by the Animal Services Manager or Municipal Court in violation of any of the provisions of this chapter.
- (c) A person commits an offense if he/she fails to report an incident as required in Section 6-54.
- (d) A person commits an offense if he/she owns or keeps a dangerous dog on a porch, patio, or in any part of a residence or building that would allow the dog to exit such structure on its own volition, including inside a residence or building when the windows are open or screen windows, screen doors or other penetrable barriers are the only obstacle preventing the dog from exiting the residence or building.
- (f) If a person is found guilty of an offense under subsection (a), the fine may be increased to up to \$2,000.00 per offense.
- (e) It is a defense to prosecution that:
  - (1) The person is a licensed veterinarian, a peace officer, or a person employed by the Department, the state or a political subdivision of the state to deal with stray animals, and has temporary ownership, custody or control of the dog in connection with that position; or
  - (2) The person is an employee of a law enforcement agency and is training or using the dog for law enforcement or corrections purposes; or
  - (3) The person who was attacked was, at the time of the attack, teasing, tormenting, abusing, or assaulting the dog; or
  - (4) The person who was attacked was, at the time of the attack, committing or attempting to commit a crime.

**Section 6-58-6-59. Reserved.**

## **ARTICLE VII**

### **LIVESTOCK, DOMESTIC FOWL AND BEES**

**Section 6-60. Keeping livestock.**

- (a) A person commits an offense if he/she owns, harbors or keeps any livestock closer than fifty (50) feet from any building or structure used or intended for human occupancy or human habitation on

another's property.

(b) A person commits an offense if he/she owns, harbors or keeps any livestock other than a sheep or goat:

(1) On a lot or parcel of land that does not contain at least ten thousand (10,000) square feet of uninterrupted space for each animal; or

(2) Without at least one hundred fifty (150) square feet of overhead shelter for each animal.

(c) A person commits an offense if he/she owns, harbors or keeps any goat or sheep:

(1) On a lot or parcel of land that does not contain at least one thousand (1,000) square feet of uninterrupted space for each animal; or

(2) Without at least seventy-five (75) square feet of overhead shelter for each animal.

(d) A person commits an offense if he/she owns, harbors, or keeps any swine within the City.

(e) It is a defense to prosecution under subsection (d) if a person keeps or maintains not more than two (2) miniature pigs in any one (1) household and the miniature pig:

(1) Is not more than twenty (20) inches tall at the highest point of the front shoulder; and

(2) Weighs not more than one hundred and fifty (150) pounds; and

(3) Is spayed or neutered prior to four (4) months of age; and

(4) Is kept as a pet for personal enjoyment and not used for breeding, sale or for human consumption; and

(5) Is kept indoors at all times except as required for urination, defecation and exercise periods;

(6) Is not kept in violation of any applicable provision of this chapter;

(7) Is vaccinated for erysipelas and tetanus. For the purposes of this subsection, sufficient proof that an animal is vaccinated for erysipelas, leptospirosis and tetanus is a vaccination certificate issued by a licensed veterinarian that includes:

i. Name and address of the pet owner or harborer

ii. Name, license number and address of licensed veterinarian issuing certificate

iii. Description of animal, including species, breed, color(s), weight, and animal's name

iv. Date of vaccination, type of vaccination administered and expiration date

(f) It is a defense to prosecution under subsection (d) if a person keeps or maintains swine when it is:

- (1) Being exhibited at an animal exhibition approved by the Animal Services Manager and with the required animal exhibition permit;
- (2) Owned by and kept on the premises of a governmental agency or entity performing a governmental function;
- (3) Owned by or kept on the premises of a medical, educational, or research institution for educational or scientific purposes, operating in compliance with all other City ordinances and state and federal laws.

**Section 6-61. Riding or driving livestock on public property.**

- (a) A person commits an offense if he/she rides or drives any livestock on public property, provided however, that horses may be ridden on the unpaved or unimproved portion of the right-of-way.
- (b) This section does not apply to a person riding or driving livestock in a City-approved parade or event.

**Section 6-62. Keeping chickens.**

- (a) A person commits an offense if he/she keeps or maintains:
  - (1) More than one (1) rooster without having a minimum of six (6) hens or more than twenty-five (25) chickens total, including the rooster, on land of one (1) acre or less.
  - (2) More than one (1) rooster for every six (6) hens on land greater than one (1) acre.
- (b) A person commits an offense if he/she houses or keeps chickens in a structure or enclosure at a distance within twenty-five (25) feet from any building or structure used or intended for human occupancy or human habitation located on another's property.
- (c) A person commits an offense if he/she keeps or maintains chickens in an enclosure that is not:
  - (1) Designed, erected and maintained in accordance with applicable building and zoning requirements of the Code of Civil and Criminal Ordinances and the Land Development Code of the City;
  - (2) A three (3) or more sided structure with a minimum of one (1) square foot of roosting area per chicken with a roof or cover to allow the chickens to remain dry and protected from the elements and has direct access from the roosting area to an outdoor enclosure that is a minimum of ten (10) square feet per chicken;
  - (3) Constructed and maintained to reasonably prevent the accumulation of standing water;
  - (4) Easily accessed;
  - (5) Cleaned of droppings, uneaten feed, feathers and other waste weekly or more often as needed to prevent foul odor;
  - (6) Predator proof; or

(7) Thoroughly ventilated.

(d) It is a defense to prosecution if the person keeps or maintains a rooster when it is:

- (1) Being exhibited at an animal exhibition approved by the Animal Services Manager possessing the required permit;
- (2) Owned by and kept on the premises of a governmental agency or entity performing a governmental function;
- (3) Owned by or kept on the premises of a medical, educational, or research institution for educational or scientific purposes, operating in compliance with all other City ordinances and state and federal laws.

### **Section 6-63. Keeping domestic fowl.**

(a) A person commits an offense if he/she keeps or maintains:

- (1) More than one (1) male domestic fowl without having a minimum of six (6) female domestic fowl or more than twenty-five (25) domestic fowl total, on land of one (1) acre or less.
- (2) More than one (1) male domestic fowl for every six (6) female domestic fowl on land greater than one (1) acre.

(b) A person commits an offense if he/she houses or keeps domestic fowl in a structure or enclosure at a distance within twenty-five (25) feet from any building or structure used or intended for human occupancy or human habitation located on another's property.

(c) A person commits an offense if he/she keeps or maintains domestic fowl in an enclosure that is not:

- (1) Designed, erected and maintained in accordance with applicable building and zoning requirements of the Code of Civil and Criminal Ordinances and the Land Development Code of the City;
- (2) A three (3) or more sided structure with a minimum of six (6) square feet of roosting area per domestic fowl with a roof or cover to allow the domestic fowl to remain dry and protected from the elements and has direct access from the roosting area to an outdoor enclosure that is a minimum of twenty-five (25) square feet per domestic fowl;
- (3) Constructed and maintained to reasonably prevent the accumulation of standing water;
- (4) Easily accessed;
- (5) Cleaned of droppings, uneaten feed, feathers and other waste weekly or more often as needed to prevent foul odor;
- (6) Predator proof; or
- (7) Thoroughly ventilated.

- (d) A person commits an offense if he/she owns or keeps any ratite within the City.
- (e) It is a defense to prosecution if the person keeps or maintains a male domestic fowl or ratite when it is:
  - (1) Being exhibited at an animal exhibition approved by the Animal Services Manager possessing the required permit;
  - (2) Owned by and kept on the premises of a governmental agency or entity performing a governmental function;
  - (3) Owned by or kept on the premises of a medical, educational, or research institution for educational or scientific purposes, operating in compliance with all other City ordinances and state and federal laws.

**Section 6-64. Keeping bees.**

- (a) A person commits an offense if he/she keeps, maintains or possesses honeybees:
  - (1) At a distance of less than twenty-five (25) feet from any public or private property line; or
  - (2) Not in Langstroth-type hives with removable frames maintained in sound and usable condition; or
  - (3) Without establishing and maintaining a flyway barrier on all sides of each hive and at least ten (10) feet from the hive and at least eight (8) feet in height consisting of a solid wall, solid fence, dense vegetation or combination thereof so that all bees are forced to fly at an elevation of at least eight (8) feet above ground level over the adjacent property lines; or
  - (4) Without an adequate source of water within 20 feet of all hives; or
  - (5) Without marked queens; or
  - (6) Without maintaining all hives in a healthy state; or
  - (7) Without maintaining the grounds in a sanitary manner, ensuring that bee comb or other materials are promptly disposed of in a sealed container or placed within a bee-proof enclosure; or
  - (8) Without marking all hives with the name and telephone number of the beekeeper.
- (b) A person commits an offense if he/she keeps, maintains or possesses more than:
  - (1) Two (2) hives on land of one quarter (1/4) acre or less; or
  - (2) Four (4) hives on land more than one quarter (1/4) acre but less than one half (1/2) acre; or
  - (3) Six (6) hives on land more than one half (1/2) acre but less than one (1) acre.

- (c) A person commits an offense if he/she keeps, maintains or possesses any colony or hive which exhibits unusually aggressive characteristics by stinging or attempting to sting without provocation or exhibits an unusual disposition toward swarming. It shall be the duty of the beekeeper to monitor the colonies and promptly re-queen such colonies with a new, marked queen selected from stock bred for gentleness and non-swarming characteristics.

**Section 6-65-6-69. Reserved.**

**ARTICLE VIII**

**WILD ANIMALS**

**Section 6-70. Keeping, selling wild animals prohibited.**

- (a) A person commits an offense if he/she possesses or keeps any wild animal within the City.
- (b) A person commits an offense if he/she sells, offers for sale, barter, exchanges, trades, leases, rents, gives away, offers to give away or otherwise transfers ownership of any wild animal.
- (c) Nothing in this section shall be interpreted to restrict a person from giving ill, injured or orphaned wildlife to a zoological park, wildlife rehabilitator or wildlife education organization or to restrict a zoological park, wildlife rehabilitator or wildlife education organization from transferring animals to another such entity.
- (d) It is a defense to prosecution if the owner is:
- (1) A governmental agency or entity performing a governmental function; or
  - (2) A bona fide medical or research facility possessing all the required federal, state and local permits and in compliance with all the requirements of said permits; or
  - (3) A zoological park possessing all the required federal, state and local permits and in compliance with all the requirements of said permits; or
  - (4) A wildlife educational organization possessing all the required federal, state and local permits and in compliance with all the requirements of said permits; or
  - (5) A wildlife rehabilitator possessing all the required federal, state and local permits and in compliance with all the requirements of said permits; or
  - (6) Performing an animal exhibition possessing all the required federal, state and local permits and in compliance with all the requirements of said permits; or
  - (7) A licensed veterinarian who harbors the animal in a veterinary clinic for the purpose of treatment or veterinary care; or
  - (8) Transporting the animal in interstate commerce and possessing all the required state and



federal permits and in compliance with all the requirements of said permits; or

- (9) A commercial film or television studio possessing all the required federal, state, and local permits and in compliance with all the requirements of said permits, so long as the commercial or television studio notified the Animal Services Manager prior to bringing the wild animals into the City.

**Section 6-71-6-79. Reserved.**

**ARTICLE IX**

**ANIMAL NUISANCES AND PERMITS**

**Section 6-80. Animal Nuisances.**

The owner of any animal in the City is responsible for the behavior and conduct of that animal at all times, including conduct that creates a public nuisance. A person commits an offense if by act, omission or possession, he/she allows an animal to create a public nuisance. The following are public nuisances:

- (a) Animals at large
  - (1) A person commits an offense if he/she owns an animal and fails to prevent it from being at large within the City.
  - (2) A person commits an offense if he/she owns an animal and fails to provide an enclosure or system of restraint secure enough to prevent the animal from escaping and/or being at large.
- (b) A person commits an offense if he/she permits animal waste to accumulate in any pen, enclosure, yard, grounds, premises or structures belonging to, controlled by or occupied by him/her in a quantity sufficient to become nauseating, foul, offensive or disagreeable to a person of reasonable sensibilities residing in the vicinity, or which creates a condition conducive to the breeding or attraction of insects or other pests, or in any manner endangers the public health safety or welfare.
- (c) A person commits an offense if he/she allows his/her animal's feces to remain in any public place or on another's private property. It is the duty of such person to carry a container or bag to properly dispose of their animal's feces.
- (d) A person commits an offense if he/she owns any animal that makes or creates an animal noise disturbance of any type, in such a manner that it disturbs, distresses or annoys a person of reasonable sensibilities on any adjacent property not owned or controlled by the subject animal's owner or within the vicinity of hearing thereof.
- (e) A person commits an offense if he/she intentionally feeds any animal or makes food available for animal consumption in a manner that:
  - (1) Creates a danger to public health or safety;

(2) Destroys public or private property; or

(3) Causes more than ten (10) adult animals to congregate in one location at the same time.

A person is deemed to have fed an animal if he/she places any substance that meets the nutritional needs of the animal(s) within reach of animals.

(f) It is a defense to prosecution under Subsection (e) that the person is a licensed veterinarian, a peace officer, or a person employed by the Department, the state or a political subdivision of the state who is acting pursuant to a lawfully authorized program to manage animal populations and who is acting within the scope of the person's duties and authority.

(g) It is a defense to prosecution under Subsection (a) if:

(1) The animal is a feral or community cat that has been sterilized, vaccinated for rabies and ear notched; or

(2) The animal is a dog and is off leash in a dog park.

**Section 6-81. Permit required for animal exhibitions; fee required.**

(a) Any presenter, exhibitor, owner or operator of a circus, rodeo, animal exhibition or entertainment show must apply for an animal exhibition permit at least thirty (30) days prior to the exhibition, performance or display.

(b) The permit application shall contain information as to the exact dates, times, locations, transportation and animal containment arrangements, and records for each animal involved in such events showing that the animals are certified as healthy by a licensed veterinarian and all required local, state and federal requirements, including any licensing, have been met. The permit application shall also include the name, address and phone number of the person who will keep, confine and care for the animals during the exhibition and any other relevant information requested by the Department.

(c) A permit may be issued for an exhibition period of not more than seven (7) consecutive calendar days if the required animal exhibition fee is paid and the following conditions are met:

(1) The presenter, exhibitor, owner or operator allows inspection of the records, animals and facilities in which they are being kept before and during the exhibition at any reasonable time; and

(2) Written procedures are in place for any escape, injury or other emergency, including reporting bites or scratches to the local rabies control authority; and

(3) A licensed veterinarian is present at all such functions; and

(4) All areas used by the exhibitor, including facilities where animals are kept, are kept clean and all waste is properly disposed of; and

(5) The animals are kept in compliance with all the applicable provisions of this chapter.

- (d) The Animal Services Manager may deny or revoke an animal exhibition permit if he/she determines that the exhibition presents a risk to public safety or to the safety of the animals at the exhibition. The Animal Services Manager shall provide to the permit applicant written notice of his/her decision to deny or revoke a permit stating the reasons for the denial or revocation.
- (e) A permit shall not be required for any animal exhibition operated by a governmental entity, public zoological park, or a bona fide medical, educational or research institution.
- (f) A person commits an offense if he/she presents, exhibits, or shows any animals without a permit required by this section.
- (g) A person commits an offense if he/she presents, exhibits, owns or operates a circus, rodeo, animal exhibition or entertainment show in violation of any of the provisions of this section or fails to maintain the conditions specified in subsection (c).

**Section 6-82. Permit required for breeding dogs and cats.**

- (a) An owner commits an offense if he/she breeds or allows the breeding a dog or cat without a valid breeding permit.
- (b) An owner commits an offense if he/she allows or permits any female dog or cat to have more than one litter in any twelve (12) month period.
- (c) A breeding permit may only be issued for a dog or cat:
  - (1) That is currently vaccinated as required by Section 6-30 of this chapter; and
  - (2) That is currently microchipped and registered as required by Section 6-15 of this chapter; and
  - (3) That has been approved for breeding by a licensed veterinarian, and such is provided in writing and signed by the veterinarian, within ninety (90) days before the date of the breeding permit application; and
  - (4) Whose owner holds a license as required by Texas Occupations Code § 802.101, as amended.
- (d) To obtain a breeding permit, a person must submit an application to the Animal Services Manager and pay the required fee. The application must include:
  - (1) The name, address and telephone number of the applicant; and
  - (2) The location where the dog or cat is harbored; and
  - (3) A description of the dog or cat, including but not limited to, age, breed, sex, microchip number, distinguishing marks and a photograph of the animal; and
  - (4) Valid proof that all the requirements set forth in subsection (b) are met; and
  - (5) Any other information determined necessary by the Animal Services Manager for the enforcement and administration of this section.

- (e) A breeding permit is not transferable and shall be valid for one (1) year after the date of issuance, unless revoked.
- (f) A separate breeding permit is required for each dog or cat that is kept unsterilized for the purpose of breeding.
- (g) The Animal Services Manager may deny or revoke a breeding permit if it is determined that the applicant or permittee:
  - (1) Failed to comply with any of the provisions of this chapter; or
  - (2) Intentionally made a false statement as to a material matter on the breeding permit application.
- (h) If the Animal Services Manager denies or revokes a breeding permit, the Animal Services Manager shall provide to the permit applicant written notice of his/her decision to deny or revoke a permit stating the reasons for the denial or revocation.
- (i) It is a defense to prosecution under subsection (b) that the person has a valid breeding permit, and the person provides a signed, written statement from a licensed veterinarian that the first litter was euthanized or did not survive.

**Section 6-83-6-89. Reserved.**

**ARTICLE X**

**OTHER RESTRICTIONS AND LIMITATIONS**

**Section 6-90. Retention of animals found at large.**

A person commits an offense if he/she takes possession of, harbors or keeps an animal found at large without notifying the Department or returning the animal to the owner within forty-eight (48) hours after confirming ownership.

**Section 6-91. Sale of animals.**

- (a) A person commits an offense if he/she sells, offers for sale, barter, exchanges, trades, leases, rents, gives away, offers to give away or otherwise transfers ownership of any animal on any public property or any private property to which the public has access that does not have a valid certificate of occupancy or the requisite zoning for the sale of animals on the property.
- (b) A person commits an offense if he/she sells, exchanges, barter, gives away, or otherwise transfers ownership, or offers or advertises for sale, exchange, barter, give away or transfer any dog, cat or ferret four (4) months of age or older that is not currently vaccinated against rabies as required in Section 6-30.
- (c) A person commits an offense if he/she sells, exchanges, barter, gives away, or otherwise transfers

ownership of any dog or cat before at least eight (8) weeks of age.

- (d) A person commits an offense if he/she sells, exchanges, barter, gives away, or otherwise transfers ownership, regardless of compensation, any dog or cat that has not been vaccinated against common diseases in accordance with common veterinary practices.
- (e) Any animal being sold, offered for sale, bartered, traded, exchanged, leased, rented, given away or otherwise transferred in violation of this section may be seized and impounded pursuant to a seizure warrant.
- (f) It is a defense to prosecution under subsection (a) that the person or entity is an animal shelter maintained by a government entity or animal adoption agency that is a registered 501(c)(3) organization under the Internal Revenue Code.

**Section 6-92. Maximum number of companion animals.**

- (a) A person commits an offense if he/she owns more than eight (8) companion animals, four (4) months of age or older, on the premises of a single residence within the City at any given time.
- (b) A person commits an offense if he/she keeps on the premises of a single residence, more than two (2) litters or other groups of offspring of companion animals at the same time.
- (c) It is a defense to prosecution for an offense under subsection (b) if the person:
  - (1) Was in compliance with all applicable provisions of this chapter;
  - (2) Is an approved foster care provider for the Department or for another animal shelter maintained by a government entity or animal adoption agency that is a registered 501(c)(3) organization under the Internal Revenue Code; and
  - (3) Is or was not fostering more than three (3) litters or groups of offspring at the same time.

**Section 6-93-6-99. Reserved.**

SECTION 3. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in the ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

SECTION 4: Repealer/Savings. All provisions of any ordinance in conflict with this ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said

ordinances shall remain in full force and effect.

SECTION 5. Interpretation. Unless otherwise designated, the past, present, or future tense shall each include the other, the masculine, feminine, or neuter gender shall each include the other, and the singular and plural number shall each include the other where necessary for a correct interpretation of this ordinance.

SECTION 6. Effective Date. This ordinance shall take effect immediately upon passage and publication in accordance with the provisions of the Texas Local Government Code and the Irving City Charter, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS, on July 22, 2021.

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RICHARD H. STOPFER  
MAYOR

ATTEST:

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Shanae Jennings  
City Secretary

APPROVED AS TO FORM:

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Kuruvilla Oommen  
City Attorney