

ORDINANCE NO. 528- 9

An Ordinance of the City Council of the City of Pearland, Texas repealing Chapter 6, *Animals and Fowl*, of the City of Pearland Code of Ordinances in its entirety, as it may have been amended from time to time, and adopting a new Chapter 6, *Animals*; having a savings clause; severability clause; having a repealer clause; providing for codification; and providing an effective date and for publication.

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

Section 1. That Chapter 6, *ANIMALS*, of the Code of Ordinances, City of Pearland, Texas is hereby adopted to read as follows:

“Chapter 6 - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

Terms used in this chapter shall have the meanings ascribed to them in the Texas Health and Safety Code, Texas Agriculture Code, and the City of Pearland Unified Development Code. If the term is not defined herein or in those laws, it shall have its commonly understood meaning:

Animal: An animate being that is not human and has the power of voluntary action.

Animal control officer: The person designated by the City Council or its designee as “Animal Services Manager” to act as the local rabies control authority for the purposes of this chapter. The animal control officer or his/her designee is authorized to act in matters of animal control and safety as permitted by the Texas Health and Safety Code.

At large: Any dog, cat, or other domesticated animal present on any public or unfenced private property not belonging to the owner or under the control of the owner, and without the owner or caretaker having direct physical control over such animal. Further, any animal left unattended in any vehicle in such manner that such animal can extend his head beyond the physical bounds of such vehicle or outside such vehicle shall be considered to be at large.

Barnyard animal: A cow, calf, steer, bull or other ruminant; a chicken, goose or duck; a horse, mule, donkey or other animal of the equine family; a lamb; or a goat.

Caretaker: A person is subject to this chapter as the caretaker of an animal and is presumed to control the animal if the person (1) is the owner or lessee of the yard, pen, pasture, or other place in which the animal is located and has control of that place, or (2) exercises care or control over the animal. This section includes any person or persons owning, possessing, harboring, keeping, or sheltering any animal.

Department: The animal services section of the City of Pearland Police Department.

Humane organization: A nonprofit organization which provides for the care and custody of sick, injured, lost, abandoned or strayed animals and which may provide veterinary services for the care of the animals kept there, which services are provided by a licensed veterinarian.

Livestock: A cow, horse, swine, mule, ass, sheep, goat, llama, alpaca, exotic livestock, elk, hogs, bison, buffalo, and any hybrid thereof, unless otherwise defined.

Wild animal: Any mammal, amphibian, reptile or fowl which is of a species that is wild by nature and of a species which, due to size, vicious nature or other characteristics is dangerous to human beings but shall not include raptors and falcons that are licensed or that are properly permitted by the State of Texas. Such animals shall include, but not be limited to, lions, tigers, leopards, panthers, bears, wolves, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys, foxes, elephants, rhinoceroses, crocodiles, alligators and all forms of venomous reptiles, but such term shall not include animals expressly allowed in this chapter.

Sec. 6-2. - Culpable mental state.

It is the express intent of the City Council of the City of Pearland to dispense with the requirement of proof of a culpable mental state in the prosecution for the violation of any section in this chapter, unless said section expressly requires a culpable mental state.

Sec. 6-3. - Microchipping required.

- (a) The owner or caretaker of any equine, ferret, dog or cat must have the animal implanted with a registered microchip before the animal attains four (4) months of age.
- (b) The owner or caretaker of an equine, ferret, dog, or cat shall maintain current registration with a microchip registration company.
- (c) If there is a change in contact information of an owner or caretaker of a registered microchipped equine, ferret, dog, or cat, the owner or caretaker shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.
- (d) If there is a change in ownership of a registered equine, ferret, dog, or cat, the initial owner or caretaker shall be responsible for ensuring the microchip is no longer registered in the initial owner's or caretaker's name within thirty (30) days of the date of change in ownership. The new owner or caretaker, if keeping the animal in the territorial limits of Pearland, shall be responsible for re-registering the microchip to include any new address or telephone number and have the registration information transferred to the new owner's or caretaker's name within thirty (30) days after the change in ownership.
- (e) No person may use a registered microchip number for any animal other than the one for which it was issued.
- (f) An equine, ferret, dog, or cat is exempt from this requirement if the equine, ferret, dog, or cat is determined in writing to be medically unsuitable for microchipping by a licensed veterinarian. If the animal is determined to be medically unsuitable for microchipping, the owner shall have the animal permanently marked with an identifying tattoo by a licensed veterinarian. Proof of medical unsuitability for microchipping along with the identifying tattoo number and owner's or caretaker's name, address, and telephone number must be provided to the department within thirty (30) days of tattooing. If there

is a change in contact information, the owner or caretaker of a tattooed animal 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 animal the initial owner or caretaker shall be responsible for notifying the department of the change within (30) days of the date of change in ownership. The new owner or caretaker, if keeping the animal in the territorial limits of Pearland, shall be responsible for providing the department with the new owner's or caretaker's name, address and telephone number within thirty (30) days after the change in ownership.

(g) It is a defense to prosecution under this section that:

- (1) The equine, ferret, dog, or cat owner/caretaker is a nonresident of this city and is keeping the subject animal in the city for fewer than sixty (60) days;
- (2) The animal owner/caretaker has been a resident for fewer than thirty (30) days; or
- (3) The animal had been abandoned or lost and the temporary owner/caretaker has had the equine, ferret, dog, or cat for fewer than thirty (30) days.

Sec. 6-4. - Limitations on number of animals to be kept; exceptions.

- (a) *Dwelling/Dwelling Unit as defined by the City of Pearland Unified Development Code (UDC)*. It shall be unlawful for any person to keep, harbor, possess, maintain, or allow to be kept, harbored, possessed, or maintained more than five ferrets, dogs, cats, or rabbits or combination of said animals with the total number exceeding five, over four months old, upon or within any premises owned, occupied, or under the control of such person within the city, except where specifically exempt.
- (b) *Litters*. Only one litter from animals permitted under this section shall be allowed at a dwelling unit at any given time.
- (c) *Exceptions*. The provisions of this section limiting the number of animals shall not apply to the following:
 - a. *Veterinary hospitals;*
 - b. *Pet Care Facilities or Animal Kennels as defined by the Pearland UDC;*
 - c. *Traveling circuses;*
 - d. *Animal Shelters.*

Sec. 6-5. - Barnyard animals allowed.

Barnyard animals, as defined in this chapter, shall be allowed to be kept in the territorial limits of the City of Pearland, subject to the following conditions:

- (a) No cow, calf, steer, bull or other ruminant may be kept on property less than one (1) acre in size. No other barnyard animal may be kept on property less than one-half ($\frac{1}{2}$) acre in size.
- (b) No barnyard animal may be kept, possessed, or maintained, nor may any pens, enclosures, hutches, cages or other structures wherein any such animals are kept, possessed or maintained be, within one hundred fifty (150) feet of any actual residence or building used for human habitation not that of the owner or keeper of such animal.
- (c) There shall be an exemption to the distance restriction in subsection (b) if the keeping of any barnyard animal on a property was commenced prior to the construction within one hundred fifty (150) feet of any actual residence or building used for human habitation not that of the owner or keeper of such animal. This exemption shall cease to

exist if no barnyard animal is kept on the property for a continuous period of six (6) months or longer.

Sec. 6-6. - Method of measuring distances.

For the purpose of determining compliance with the provisions of this chapter, distances shall be measured in a straight line from the nearest point of the shed, stable, barn, pen or enclosure or area in which the animal is contained to the nearest point of such actual residence or building used for human habitation.

Sec. 6-7. - Density of barnyard animals.

(a) Barnyard animals are hereby assigned density values as follows:

- (1) One cow, calf, steer, bull or other ruminant = 5 Animal Units (AU).
- (2) A total of five (5) chickens, geese, or ducks, in any combination = 1 AU.
- (3) One horse, mule, donkey or another animal of the equine family = 3 AU.
- (4) One goat or sheep = 2 AU.

(b) It shall be unlawful to keep, possess or maintain within the territorial limits of the City of Pearland any number or combination of barnyard animals in a density that exceeds three (3) AU per one-half ($\frac{1}{2}$) acre of land.

Sec. 6-8. - Location restrictions on fowl.

It shall be unlawful for any person to keep, possess or maintain any variety or species of fowl not expressly mentioned herein, with the exception of parakeets, canaries or similar domesticated birds, unless the same are kept according to and in full compliance with section 6-5 of this chapter.

Sec. 6-9. - Animals prohibited.

It shall be unlawful for any person to keep, possess or maintain within the territorial limits of the City of Pearland:

- (a) Any hog, swine or pig, unless kept and maintained on property owned or leased by a public-school district for educational purposes;
- (b) An adult pair of any species or subspecies of ratites;
- (c) More than one (1) rooster per acre of land;
- (d) Any guinea hen, guinea fowl or peafowl, regardless of gender.

Sec. 6-10. - Permit for Future Farmers of America and 4-H projects.

(a) A member of a chapter of the Future Farmers of America (FFA) or the 4-H Club (4-H) that operates within the city limits may obtain a permit that exempts from the

restrictions contained in sections 6-5 and 6-7 the keeping or maintaining of livestock or fowl at the member's residence under the direction of FFA or 4-H.

(b) To obtain a permit, an application must be made to the department, and shall include:

- (1) The applicant's name, phone number, and physical address;
 - (2) The name, mailing address, and phone number of the applicant's parent or legal guardian;
 - (3) The name, mailing address, and phone number of the property owner;
 - (4) The number of livestock or fowl to be kept on the property;
 - (5) A site plan of the property showing pens, barns, stables, or other areas where such livestock or fowl will be maintained;
 - (6) A waiver signed by the owners of all property located within one hundred fifty (150) feet of the pen, barn, stable, or other area where such livestock or fowl will be maintained;
 - (7) Documentation from the FFA or 4-H chapter director confirming the applicant's membership; and
 - (8) No fee for the application or the permit if issued.
- (c) A permit may only be issued:
- (1) For a twelve-month term, which may be renewed each year by submitting a new application for a permit;
 - (2) After an inspection of the area by the department to confirm that the applicant complies with the application requirements and all applicable city ordinances; and
 - (3) Upon a finding by the department that the activity sought to be permitted will not create a health or nuisance hazard to the public.
- (d) A permit issued as provided herein may be revoked at any time if the department supervisor finds, in his/her sole discretion, that the permit requirements and/or applicable city ordinances have been violated.

Sec. 6-11. - Restrictions on keeping wild animals.

It shall be unlawful to keep, possess or maintain, or to cause to be kept, possessed or maintained, any wild animal within the city, unless such wild animal is:

- (a) Contained within a licensed and permitted zoo;
- (b) Is licensed by the State of Texas as a licensed raptor or falcon; or
- (c) Kept, possessed or maintained by a licensed and permitted wildlife rehabilitator.

Sec. 6-12. - Care and feeding of animals.

All animals shall be fed with a quantity of good, wholesome food sufficient to keep them in a good, well-nourished condition, and such food shall be served to such animals in a clean,

sanitary manner. All animals shall be provided with pure, clean water in sufficient quantities at all times and adequate shelter to protect them from the elements.

Sec. 6-13. - Storage, disposal of animal feces.

- (a) Every person owning or leasing any premises where animals are kept shall maintain a substantial and sufficient receptacle for feces, which shall be so constructed and kept so as to protect the contents from rain and so screened as to prevent access to flies, and all feces from any and all such animals shall be placed in such receptacle.
- (b) Every person owning or leasing such premises where animals are kept shall ensure feces not be allowed to accumulate and become or otherwise constitute a nuisance or health hazard.

Sec 6-14. – Defecation by Animal

Any caretaker shall promptly remove and sanitarily dispose of feces left on public or private property by an animal being handled by the caretaker, other than property owned by the caretaker.

Sec. 6-15. - Animal at large prohibited.

It shall be unlawful for any caretaker to allow or permit any animal to be at large within the territorial limits of the city.

Sec. 6-16. - Sale of animals prohibited.

- (a) It shall be unlawful to sell, offer for sale, barter, and lease or give away, or display for a commercial purpose a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market or similar event within the city's territorial limits.
- (b) This section shall not apply to an agent of a business that has a certificate of occupancy from the city authorizing the occupancy of the premises for the purposes of operating a business of selling pets.

Sec. 6-17. - Coloring of animals prohibited.

It shall be unlawful to dye, stain or otherwise alter the natural color of any animal or fowl within the city.

Sec. 6-18. - Attractive environment for unconfined animals, exceptions

It shall be unlawful for any person knowingly to cause or permit the maintenance of an attractive environment for any animal, which is not owned by said person, by the placement of food or other means. It is a defense to prosecution under this section the person placed the food or other attractive environment solely for the purpose of apprehending an animal for surrender

to a humane organization or to the animal control officer. Use of bird feeders designed for feeding wild birds is permitted under this section.

Sec. 6-19. - Bird sanctuary; shooting, catching birds prohibited.

- (a) The city is hereby declared to be a bird sanctuary.
- (b) It shall be unlawful for any person to kill, trap, ensnare, or otherwise catch any wild bird, regardless of age, within the city. It shall also be unlawful for any person to attempt to kill, trap, ensnare, or otherwise catch any wild bird, regardless of age, within the city.

Sec. 6-20. - Destruction of wounded animals.

When from any cause it may happen that any animal within the city shall be so wounded, maimed or injured as to render its recovery hopeless in the opinion of the animal control officer or police officer, such officer may cause such animal to be destroyed. Such destruction shall be in a manner as determined by the officer to be the most effective and least painful, considering attendant circumstances. Upon destruction, such officer shall cause the carcass of such destroyed animal to be lawfully removed and disposed of. Such officer shall thereafter file a written report with the department.

Sec. 6-21. – Waiver of Fees

The City Manager or his/her designee may implement fee waivers for animal services.

Sec. 6-22. - Penalty for violation.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding two thousand dollars (\$2,000.00); provided, however, that no penalty shall be greater than the penalty provided for the same or a similar offense under the laws of the State of Texas. Each day such violation or failure to be in compliance shall exist shall be deemed to constitute a separate offense. Provided, however, that where a specific penalty is provided within any of the sections hereof, such specific penalty will control over the general penalty.

Secs. 6-23 – 6-33. – Reserved.

ARTICLE II. - RABIES AND DISEASE CONTROL

Sec. 6-34. - Rabies control.

- (a) General provisions:

- (1) *Impoundment—By the animal control officer.* Except as provided in subsection (a)(2) below, every animal that has rabies or exhibits symptoms thereof, and every animal that bites, scratches or otherwise attacks any person within the city shall be impounded summarily and held under observation by the animal control officer for ten (10) days. If the owner desires, such animal may be confined for observation in a veterinary clinic approved by the animal control officer, at the owner's sole expense, for the required ten-day period. The veterinarian in charge of such clinic shall, prior to such approval, certify to the animal control officer that he is willing and able to care for and confine the animal as required herein.
 - (2) *Same—At home.* Any animal with a current rabies vaccination, as evidenced by a veterinarian's certification, that bites, scratches or otherwise attacks any person within the city limits may, upon approval by the animal control officer, be confined and quarantined on the owner's premises for the requisite ten-day period for rabies observation, provided the animal is examined by a veterinarian at the beginning of the quarantine period and again ten (10) days later, and provided further the veterinarian's written findings are submitted to the animal control officer within three (3) days after such examinations.
- (b) No animal which has rabies shall be allowed at any time on the public streets or ways of the city. No animal suspected of having rabies shall be allowed at any time on the public streets or ways of the city unless such animal has been released from observation by the animal control officer.
 - (c) The owner or caretaker of any animal that has rabies or has exhibited symptoms thereof, or that has been exposed to rabies, or that has bitten, scratched or otherwise attacked any person or another animal within the city shall, on demand, surrender such animal to the animal control officer or his designee.
 - (d) The body of any animal that has died of rabies shall not be disposed of except as directed by the animal control officer.
 - (e) The animal control officer shall investigate and document all cases of rabies and suspected rabies.
 - (f) No animals which are required by State law to be vaccinated for rabies and have been taken to the animal shelter and adoption center shall be redeemed or made available for adoption or foster unless they are vaccinated for rabies, except in such instances where the Animal Control Officer has been furnished with satisfactory proof and evidence that such animal has been inoculated with a rabies vaccine or on the advice of a veterinarian.

Sec. 6-35. - Veterinarians to report diseases.

Any veterinarian or other person who is called to examine or professionally attend to any animal within the city having glanders, farcy, rabies, leptospirosis, tuberculosis or other communicable diseases shall, within forty-eight (48) hours thereafter, report in writing to the department the following facts:

- (a) The location and identity of such animal;
- (b) The owner's name and address; and
- (c) The type and character of the disease.

Secs. 6-36. – 6-40. Reserved.

ARTICLE III. - IMPOUNDMENT

Sec. 6-41. - Redemption of impounded animals.

- (a) Animals brought to the animal shelter and adoption center will be held by the City for 72 hours, unless the Animal Control Officer determines one of the following criteria are met:
 - (1)When an animal is unhealthy and untreatable.
 - (2)When a feline is determined to be feral.
 - (3)When required by order of the courts.
 - (4)When otherwise required by law.
 - (5)When the animal is a Wild Animal or Dangerous Wild Animal.
 - (6)An animal may be transferred to a Humane Organization with an agreement for return should an owner claim the animal.
- (b) The person entitled to the possession of any animal delivered to the animal shelter and adoption center shall be entitled to the animal upon presentation of evidence of ownership and payment of charges and fees as applicable, provided such animal is not infected or reasonably believed to be infected with rabies or any other infectious or contagious disease:
 - (1) Except as otherwise provided in this chapter, a fee shall be charged for the impoundment of any animal as may from time to time be established by city council, as reflected in the fee schedule maintained in the office of the city secretary.
 - (2) Reasonable expenses for the treatment of the animal for injury or illness. Any veterinarian whose services are enlisted by the animal shelter and adoption center is hereby specifically authorized to treat an animal for injury or illness when such treatment is found to be reasonably necessary in his judgment.
- (c) The owners of all animals impounded in the animal shelter and adoption center shall be required to redeem the same as provided for in subsection (a) hereof and shall not be permitted to adopt such animal in lieu of paying the redemption fee.
- (d) It is hereby declared unlawful to remove animals from the animal shelter and adoption center except in accordance with the procedures established herein and the regulations established by the department.
- (e) Any dog or cat impounded in the animal shelter and adoption center that is claimed by the owner and has not been inoculated for rabies due to illness or injury, will be delivered to any veterinary hospital within the city, upon request of the owner thereof, for further treatment, provided
 - (1) the veterinarian operating such veterinary hospital agrees to vaccinate such animal for rabies prior to releasing the animal from the veterinary hospital, and

- (2) that such veterinarian also agrees to furnish a certificate evidencing the vaccination to the animal shelter and adoption center within ten (10) days of the release of the animal.

Sec. 6-42. - Disposition of animals not redeemed.

Animals taken up and impounded under the terms of this article which are not redeemed within 72 hours as provided in this article shall be disposed of by the city as follows:

- (a) Under no circumstances may an animal be sold or donated to any entity for testing, teaching, or research purposes.
- (b) Any animal deemed suitable for adoption, may be offered for adoption.
- (c) Any animal deemed suitable for adoption, may be placed in a foster.
- (d) Any animal deemed suitable for adoption that is not placed for adoption by the department may be transferred to a humane organization. The department shall establish uniform criteria for the transfer of animals to humane organizations and shall make surplus adoptable animals available to those organizations that meet the criteria. The criteria shall include requirements animals be vaccinated and sterilized in accordance with state law.
- (e) Felines not deemed suitable for adoption may be transferred to a Humane Organization which places the felines into Community Cat or Trap Neuter Release programs, so long as the Humane Organization agrees to vaccinate and sterilize the animal and agrees to only place the feline into a location where such a release is legal by local statute.
- (f) Animals not placed for adoption, placed in a foster, or transferred to a humane organization shall be destroyed by use of the humane euthanasia procedures approved by the State of Texas.
- (g) Animals which are adopted or transferred to a humane organization, may be redeemed by a person entitled to the possession of the animal upon paying the adopter or humane organization double the amount paid by him/her/it for such animal and reasonable expenses for keeping the same. Any animal not so redeemed within fifteen (15) days from the date of adoption or transfer to a humane organization shall become the absolute property of the person or organization who assumed caretaker status for the animal..

Sec. 6-43. - Destruction upon request.

The department may accept a dog or cat from the owner thereof for disposal upon payment by the owner of a fee. No fee shall be charged to a resident of Pearland who brings an injured cat or dog to the animal shelter and adoption center for euthanasia. The disposal of such animals shall be accomplished in the same manner as though the animals had been impounded and not redeemed.

Sec. 6-44. - Wild animals—Impoundment.

- (a) The animal control officer shall seize all animals found to be in violation of section 6-11 hereof and impound the same. Where city facilities are insufficient or otherwise

inadequate to impound any such animal, the animal control officer shall take any reasonable and necessary steps to secure the impoundment of such animal within or outside the city, in whatever facilities may be available at the time.

- (b) The owner of a seized wild animal may recover the same upon a showing of ownership to the animal control officer. Such will be evidenced by written documentation clearly denoting ownership of the animal in question and a document from the State permitting possession of the animal, if applicable. Prior to such recovery, the owner shall also provide to the animal control officer:
 - (1) An affidavit setting forth the location at which the animal will be kept, and that he will not allow such animal to be within the city;
 - (2) An agreement approved by the city attorney that he will indemnify and hold harmless the City of Pearland from all liability resulting in any way from the keeping of such animal; and
 - (3) A waiver form approved by the city attorney authorizing the disposal and/or destruction of the animal should any further impoundments occur or become necessary.
- (c) If recovery under subsection (b) hereof has not been effected within three (3) days after impoundment, the animal control officer shall be authorized to offer such animal to a zoo or wildlife refuge, or to destroy the animal if same remains unclaimed for an additional three (3) days.
- (d) In the event that a wild animal is seized and recovered by the owner as set forth in this section and such animal is thereafter found at large or in violation of this article, such animal shall be seized by the animal control officer and the city attorney shall, as soon as practicable, seek an order from a court of competent jurisdiction, for the destruction of such animal.

Secs. 6-44. – 6-50. Reserved.”

Section 2. Savings. All rights and remedies which have accrued in favor of the City under this Ordinance and amendments thereto shall be and are preserved for the benefit of the City.

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

Section 4. Repealer. All ordinances and parts of ordinances in conflict herewith are hereby repealed but only to the extent of such conflict.

Section 5. Codification. It is the intent of the City Council of the City of Pearland, Texas, that the provisions of this ordinance shall be codified in the City's official Code of Ordinances as provided hereinabove.

Section 6. Publication and Effective Date. The City Secretary shall cause this Ordinance, or its caption and penalty, to be published in the official newspaper of the City of Pearland, upon passage of such Ordinance. The Ordinance shall then become effective ten (10) days from and after its publication, or the publication of its caption and penalty, in the official City newspaper.

PASSED and APPROVED on First Reading this the 12th day of April, A. D., 2021.

J. KEVIN COLE
MAYOR

ATTEST:

CRYSTAL ROAN, TRMC, CMC
CITY SECRETARY

PASSED and APPROVED on Second and Final Reading this the 26th day of April, A. D., 2021.

J. KEVIN COLE
MAYOR

ATTEST:

CRYSTAL ROAN, TRMC, CMC
CITY SECRETARY

APPROVED AS TO FORM:

DARRIN M. COKER
CITY ATTORNEY