

**ORDINANCE NO. 3644-01-2009**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, AMENDING CHAPTER 3, ANIMALS, OF THE LEWISVILLE CITY CODE; BY CLARIFYING THE DEFINITION OF AT LARGE OR RUNNING AT LARGE; BY PROHIBITING THE UNLAWFUL RESTRAINT OF DOGS; BY PROHIBITING THE SALE OF ANIMALS FROM PUBLIC PROPERTY AND ANY PROPERTY TO WHICH THE PUBLIC HAS ACCESS THAT DOES NOT HAVE A VALID CERTIFICATE OF OCCUPANCY ALLOWING THE SALE OF ANIMALS ON THE PROPERTY; BY PROHIBITING THE USE OF ANIMALS AS PRIZES, PROMOTIONS AND NOVELTIES; BY PROHIBITING THE TRANSPORTATION OF ANIMALS IN THE OPEN BED OF A VEHICLE; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lewisville has determined that for the health, welfare and safety of its citizens amendments to the Lewisville City Code, Chapter 3 are necessary.

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

**SECTION 1.** Chapter 3, Article I, Section 3-1 of the Lewisville City Code is hereby amended by deleting the current language of the definition of “*at large or running at large*” in its entirety and inserting the following new language:

*At large or running at large* shall mean an animal that is not physically confined or physically restrained at all times in one of the following methods:

- (1) Securely confined upon property lawfully occupied by its owner, within a fence, wall, kennel, corral, pen, or similar enclosure. The enclosure must be constructed, maintained, and secured in a manner which prevents the animal from leaving therefrom at any time or reaching beyond the boundaries of the

property at any time. For purposes of this chapter, the use of "invisible fences" or other similar containment system or device shall not be considered to be adequate physical confinement or restraint for an animal; or

(2) Securely confined upon property lawfully occupied by its owner within a house, garage, barn, or similar structure. The structure must be constructed, maintained, and secured in a manner which prevents the animal from leaving therefrom at any time and from reaching outside of the structure at any time; or

(3) Securely restrained upon property lawfully occupied by its owner with a rope, chain, leash, tie-out or other restraint as prescribed by this chapter. The animal shall be securely restrained upon the property in a manner which prevents the animal from leaving therefrom at any time or reaching beyond the boundaries of the property at any time; or

(4) Securely restrained upon any premises in the city with a rope, chain, leash, tie-out or other type of lead as prescribed by this chapter. One end of such lead shall be securely attached to a properly fitted collar, halter, harness, or similar device being worn by the animal; the other end shall be securely held in the grasp of a person who is able to effectively control the animal's actions; or

(5) Securely restrained by being held in the grasp of a person who is able to effectively control the animal's actions; or

(6) Securely confined within the enclosed compartment of a motor vehicle or trailer in a manner which prevents the animal from exiting or reaching outside of the vehicle or trailer at any time; or

(7) Securely confined within a carrier or other device sufficient to keep the animal from leaving or falling from the open bed of a pickup, flatbed, or similar vehicle in a manner which prevents the animal from exiting the vehicle or reaching outside of the vehicle at any time.

**SECTION 2.** Chapter 3, Article I, Section 3-64 of the Lewisville City Code is hereby amended by deleting the title and current language in its entirety and inserting the following title and language:

**Sec. 3-64. Unlawful Restraint of Dogs.**

(a) It shall be unlawful to leave a dog outdoors and unattended by use of a restraint that unreasonably limits the dog's movement during any time of the day or in the case of extreme weather conditions, including, but not limited to, conditions described in section 821.077 of the Health and Safety Code, as it now exists or may hereafter be amended.

(b) A dog that is restrained outdoors and left unattended must be restrained in a yard that is entirely enclosed by a fence or in an enclosed structure that prevents unauthorized access by any person into the area in which the dog is restrained and that protects the dog from attack by stray dogs or other animals.

(c) A restraint unreasonably limits a dog's movement if it meets the conditions set forth in section 821.077 of the Health and Safety Code, as it now exists or may hereafter be amended, unless otherwise excepted in section 821.078 of the Health and Safety Code, as it now exists or may hereafter be amended. The restraint being used shall have swivels affixed to each end.

(d) The definitions set forth in section 821.076 of the Health and Safety Code, as it now exists or may hereafter be amended, are hereby incorporated as if fully set forth herein.

**SECTION 3.** Chapter 3, Article I, Section 3-7 of the Lewisville City Code is hereby amended by deleting the title and current language in its entirety and inserting the following title and language:

**Sec. 3-7. Prohibited sales.**

(a) It shall be unlawful for any person to sell, offer for sale, lease, rent, or in any way transfer, barter, or give away chicks, ducklings, or other infant fowl less than eight weeks of age as pets or novelties; however, this subsection does not prohibit the display or sale of natural chicks, ducklings, or other infant fowl in proper brooder facilities for hatcheries or stores engaged in the business of selling the same to be raised for agricultural purposes. The sale of such animals shall consist of not less than 12 individual animals per transaction.

(b) It shall be unlawful for a person to sell, exchange, barter, or give away, or offer to sell, exchange, barter, or give away any live animal from:

- (1) any public property; or
- (2) any property to which the public has access that does not have a valid certificate of occupancy issued by the city allowing the sale of animals on the property.

(c) It is a defense to prosecution under Subsection (b) that the person is:

- (1) employed by the city animal services department; or
- (2) an animal welfare, rescue, and/or adoption agency this is a registered non-profit entity in compliance with section 501(c)(3) of the Internal Revenue Code.

**SECTION 3.** Chapter 3, Article I of the Lewisville City Code is hereby amended by adding the following section:

**Sec. 3-8. Animals as prizes, promotions and novelties.**

It shall be unlawful for any person to sell, exchange, raffle, auction, or give away or offer to sell, exchange, raffle, auction, or give away any live animal as:

- (1) a prize; or
- (2) an inducement to enter a place of amusement or a business establishment; or
- (3) an inducement to participate in a charitable fund-raising event.

**SECTION 4.** Chapter 3, Article I of the Lewisville City Code is hereby amended by adding the following section:

**Sec. 3-9. Transportation of an animal in an open bed of a vehicle.**

- (a) It shall be unlawful to carry or transport an animal within the open bed of any moving pickup, flatbed, or similar vehicle operated on any public roadway in the city.
- (b) It is a defense to prosecution under this section that the animal was in a carrier or other device sufficient to keep the animal from leaving or falling from the vehicle.

**SECTION 5. REPEALER.** Every ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, but they shall remain in effect.

**SECTION 7. PENALTY.** Any person, firm or corporation who violates any provisions of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof in the Municipal Court, shall be subject to a fine of not more than \$500.00 for each offense, and each and every day such offense is continued shall constitute a new and separate offense.

**SECTION 8. EFFECTIVE DATE.** This Ordinance shall take effect and be in full force and effect from and after the date of its passage and publication as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LEWISVILLE, TEXAS, BY A VOTE OF 3 TO 2, ON THIS THE 26TH DAY OF JANUARY, 2009.**

**APPROVED:**

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Gene Carey, MAYOR

**ATTEST:**

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Julie Heinze, CITY SECRETARY

**APPROVED AS TO FORM:**

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Ronald J. Neiman, CITY ATTORNEY

First Reading: December 15, 2008

Second Reading: January 5, 2009

Third and Final Reading: January 26, 2009

Effective Date: February 9, 2009