Ordinances Governing

**ANIMALS**

in the

CITY OF ARLINGTON

TEXAS

Amended by Ordinance No. 14-054

(September 16, 2014)

(Chapter Designator: ANIMALS)

## ORDINANCE HISTORY

| Number | Date of Adoption | Comments |
|---|---|---|
| 90-86 | 08/28/90 | Repeal of the existing "Animals" Chapter and adoption of a new "Animals" Chapter. |
| 91-113 | 12/10/91 | Amendment of **Section 1.01**, Definitions, by the deletion of definitions of "provocation," "vicious animal" and "vicious conduct," **Subsections (29), (37) and (38)**, respectively; by the addition of definitions of "dangerous animal" and "secure enclosure," **Subsections (9) and (32)**, respectively; by the renumbering of the remaining subsections; repeal of the existing **Article VIII**, Vicious Animals, and the adoption of a new **Article VIII**, Dangerous Animals, relative to the reporting, registration and keeping of dangerous animals; deletion of **Section 10.02** Vicious Dog Inquest, and **Section 10.07**, Administrative Hearing - Vicious Animal, and renumbering of the remaining sections; and amendment of **Section 10.06**, Appeal to Appeals Officer, **Subsection (A)**, providing for appeals from administrative hearings on animals with revoked licenses, prohibited animals and exotic animals. |
| 91-114 | 12/17/91 | Amendment of **Section 3.05**, Adoption of Dogs or Cats, relative to adoption and sterilization of dogs and cats from the animal shelter. |
| 92-12 | 01/21/92 | Amendment of **Section 1.01**, Definitions, by the amendment of the definition of "pig" and by the addition of the definition of "potbellied pig", **Subsections (27) and (28)**, respectively, and by the renumbering of the **Section 5.03**, Livestock, allowing for the keeping of potbellied pigs. |
| 94-77 | 05/03/94 | Amend **Article I**, Definitions, **Section 1.01**, Definitions, by the addition of the definitions "control", "force vis major" and "intact animal"; amend **Article III,** Dogs and Cats, **Section 3.04(B)**, relative to impoundment fees; amend **Article IV**, Estrays and At Large, by the addition of **Section 4.14**, |

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| Number | Date of Adoption | Comments |
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| | | Spay/Neuter of Animals, relative to requirements for spaying and neutering animals. |
| 95-91 | 07/05/95 | Amend **Article I**, Definitions, **Section 1.01**, Definitions, by the addition of the definition "support dog"; amend **Article III,** Dogs and Cats, **Section 3.02**, Issuance of License, providing an exemption of licensing fees for support dogs. |
| 96-122 | 09/10/96 | Amend **Article I,** Definitions, **Section 1.01**, by the revision of the definition of "Dangerous Animal" to clarify and comply with State law; amend **Article VIII,** Dangerous Animals, at **Section 8.03**, Notification and Appeal, relative to notification process. |
| 97-21 | 02/18/97 | Amendment of **Section 2.06**, Animal Shelter Advisory Board, changing the name of the Animal Shelter Advisory Committee to the Animal Shelter Advisory Board. |
| 99-32 | 03/16/99 | Amend **Article I,** Definitions, Section 1.01, Definitions, relative to the amendment of the definition of "Hybrid"; Amend **Article II,** General Provisions, **Section 2.07**, Nuisances, **Subsection (D)**, relative to replacing the word vicious with the word dangerous to conform to state statutes; Amend **Article III,** Dogs and Cats, **Section 3.03**, Impoundment of Dogs and Cats, **Subsection (B)(3)**, relative to replacing the word vicious with the word dangerous to conform to state statutes; Amend **Article VI,** Rabies Control and Bite Procedures, **Section 6.04**, Disposition or Release of Quarantined Animal, **Subsection (A)(3)**, relative to replacing the word vicious with the word dangerous to conform to state statutes. |

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| Number | Date of Adoption | Comments |
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| 99-88 | 07/27/99 | Amend **Article II,** General Provisions, by the amendment of **Section 2.02**, Duties of Animal Control Supervisor, relative to the addition of the word "Zoning." |
| 00-134 | 11/28/00 | Amend **Article I,** Definitions, by the amendment of **Section 1.01**, Definitions, relative to the addition of the definitions of "Bodily Injury" and "Court", and the amendment of the definitions of "Administrator", "Control", "Dangerous Animal" and "Secure Enclosure"; through the deletion and replacement of **Article VIII,** Dangerous Animals, relative to establishing additional procedures for hearings to determine dangerous animals and to clarify dangerous animals regulation. |
| 01-026 | 03/27/01 | Amend **Article IX,** Miscellaneous, by the addition of **Section 9.05,** Defecation - Removal and Disposal Required; Implements Required, relative to the removal and disposal of animal defecation. |
| 01-027 | 03/27/01 | Amend **Article II,** General Provisions, **Section 2.02,** Duties of Animal Control Supervisor, **Subsection (B)**, relative to administering and enforcing ordinances. |
| 02-039 | 04/02/02 | Amend **Article VIII,** Dangerous Animals, **Section 8.03**, Dangerous Animal Determination, **Subsection (A)(2)**, relative to immediate surrender of an animal upon notification of a dangerous dog hearing; Amend **Section 8.05**, Requirements for Owners of Dangerous Animals, **Subsection (C)**, relative to immediate surrender of a dangerous animal; Amend **Section 8.05**, **Subsection (D)**, relative to immediate surrender of a previously declared dangerous animal if the owner falls out of compliance with the ordinance; Amend **Section 8.05**, **Subsection (G)**, relative to humane destruction of a previously declared dangerous animal; Amend **Section 8.12**, Status of |

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| Number | Date of Adoption | Comments |
|---|---|---|
| | | Animal, relative to immediate surrender of a previously declared dangerous animal. |
| 02-109 | 10/01/02 | Amend **Article I**, Definitions, **Section 1.01**, relative to the amendment of the definitions of "Administrator", "At Large", "Dangerous Animal", "Deputy", "Estray book" "Estray handling fees", "Fowl", "Impound", "Notice of estray", "Secure enclosure", "Support Dog", and "Unreasonable odor", and the addition of the definitions of "Common Pigeon", "Fancy Pigeon", "He," "His" and "Him", "Loft", "Manager", "Mature Pigeon", "Pigeon", "Racing Pigeon", and "Sporting Pigeon", and the deletion of the definition of "Supervisor"; Amend **Article II**, General Provisions, relative to the correction of position titles, department name, and the name of the Animal Services Center and Board; Amend **Article III**, Dogs and Cats, **Section 3.02**, relative to the correction of position titles; **Section 3.03**, relative to the correction of position titles and impoundment of dogs and cats; **Section 3.05**, relative to the correction of position titles and the addition of the core vaccine and microchip fee; Amend **Article IV**, Estrays and At Large, **Sections 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.10, 4.12, 4.13, and 4.14**, relative to the correction of position titles and animal impoundment at police request; Amend **Article V**, Sale and Breeding of Animals, **Sections 5.01, 5.02, and 5.03**, relative to the sale of animals, regulation of fowl and the distance requirement for the keeping of livestock; Amend **Article VI**, Rabies Control and Bite Procedures, **Sections 6.01, 6.02, 6.03, 6.04, and 6.06**, relative to the addition of coyotes as a high risk animal, the correction of position titles, and changes to rabies control and bite procedures; Amend **Article VII**, Prohibited and Exotic Animals, **Sections 7.01, 7.02, 7.03, 7.04, 7.05, 7.07, 7.09, 7.10, and 7.11** relative to the correction of position titles and update in accordance with state |

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| Number | Date of Adoption | Comments |
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| | | law; Amend **Article VIII,** Dangerous Animals, **Sections 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.09, 8.11, 8.12, and 8.13**, relative to the correction of position titles; Amend **Article IX,** Miscellaneous, relative to the correction of position titles and the addition of **Section 9.06**, Pigeons, and the addition of **Section 9.07**, Care and Humane Treatment of Animals; Amend **Article X,** Administrative Hearings and Inquests, **Sections 10.02, 10.03, 10.04, 10.05, and 10.06**, relative to the correction of position titles. |
| 03-003 | 01/07/03 | Amend **Article V**, Sale and Breeding of Animals, **Section 5.03**, Livestock, relative to distance for keeping of livestock away from another's habitation. |
| 03-043 | 04/08/03 | Amend **Article II,** General Provisions, **Section 2.06**, Animal Services Center Advisory Board, relative to increasing the membership of the Board. |
| 03-100 | 09/16/03 | Amend **Article I,** Definitions, relative to the amendment of the Definition of "At Large". |
| 04-041 | 05/11/04 | Amend **Article II**, General Provisions, **Section 2.06**, Animal Services Center Advisory Board, relative to the appointment of Board Members. |
| 06-080 | 08/22/06 | Amend **Article I**, Definitions, **Section 1.01**, Definitions, relative to the definition of "Administrator"; Amend **Article II**, General Provisions, **Section 2.01**, Establishment of Office of Animal Services Manager, **Subsection (D)**, and **Section 2.06**, Animal Services Center Advisory Board, **Subsection (B)(2)**, relative to updating the reference to the Community Services Department. |
| 07-095 | 12/18/07 | Amend **Article I**, Definitions, **Section 1.01**, Definitions, relative to the definitions of "Neuter," "Spay," "Sterilization," "Veterinarian" and "Veterinary Officer"; amend **Article III**, Dogs and |

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| Number | Date of Adoption | Comments |
|---|---|---|
| | | Cats, **Section 3.05**, Adoption of Dogs or Cats, by the amendment of the title of Section 3.05 and the addition of Section 3.05(B), relative to the Veterinary Officer's vaccination and sterilization services and offenses for failure to sterilize; amend **Article VIII**, Dangerous Animals, **Section 8.05**, Requirements for Owners of Dangerous Animals, relative to fees. |
| 09-065 | 10/13/09 | Amend **Article III**, Dogs and Cats, **Section 3.04**, Fees; the deletion of **Section 3.05(A)**, Adoption of Dogs or Cats that is Effective Through February 29, 2008; and the renumbering, renaming and amendment of **Section 3.05(B)**, Adoption of Dogs or Cats that is Effective Beginning March 1, 2008, relative to fees and updating the chapter. |
| 10-067 | 09/14/10 | Amend **Article III**, Dogs and Cats, **Section 3.03**, Impoundment of Dogs and Cats, **Subsection (B)(3)**, relative to microchip identification; amend **Article VIII**, Dangerous Animals, **Section 8.05**, Requirements for Owners of Dangerous Animals, **Subsection (A)(8)**, relative to compliance re-inspection fees; and by the addition of **Section 8.14**, Compliance Re-inspections, relative to compliance re-inspection fees. |
| 12-032 | 05/01/12 | Amend **Article I**, Definitions, **Section 1.01**, Definitions, relative to the addition of the definitions of "Abandon", "Animal establishment", and "Animal Services Manager", and the amendment of the definitions of "Administrator", "Appeals Officer," "Bodily Injury," "Dangerous animal," "Euthanize," "Force Vis Major" and "Harboring"; amend **Article II**, General Provisions, **Section 2.01**, Establishment of Office of Animal Services Manager, **Subsection (B)**; **Section 2.03**, Authority to Kill, Impound or Destroy Animals, **Subsection (C); Section 2.04**, Powers and Duties of Citizens; **Section 2.07**, |

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| Number | Date of Adoption | Comments |
|---|---|---|
| | | Nuisances, relative to amending nuisance provisions; amend **Article III**, Dogs and Cats, **Section 3.02**, Issuance of License, **Subsection (A); Section 3.03**, Impoundment of Dogs and Cats, **Subsection (B); Section 3.04**, Fees, **Subsections (B)** and **(E)**; **Section 3.05**, Adoption of Dogs or Cats; relative to revising vaccination and licensing procedures, adoption and impoundment standards; amend **Article IV**, Estrays and At Large, **Section 4.10**, Riding, Driving or Herding of Certain Animals, **Subsection (B); Section 4.11**, Animal At Large, **Subsection (B); Section 4.12**, Animal Impounded at Police Request, **Subsection (A)**; **Section 4.14**, Spay/Neuter of Animals, **Subsection (C)**; amend **Article V**, Sale and Breeding of Animals, **Section 5.01**, Sale and Care of Certain Animals, revising requirements of the sale and breeding of animals; **Section 5.02**, Keeping of Fowl, **Subsection (A)**; **Section 5.04**, Exceptions; amend **Article VI**, Rabies Control and Bite Procedures, **Section 6.03**, Quarantine, **Subsections (C)** and **(D); Section 6.04**, Disposition or Release of Quarantined Animal, **Subsection (B); Section 6.05**, Use and Sale of Rabies Vaccine; revising veterinarian record disclosure requirements; amend **Article VII**, Prohibited and Exotic Animals, **Section 7.02**, Ownership of Prohibited Animal, **Subsections (B)** and **(C)**, regarding prohibited animals; amend **Article VIII**, Dangerous Animals, **Section 8.03**, Dangerous Animal Determination, **Subsection (B)(4); Section 8.04**, Hearing, **Subsection (D); Section 8.05**, Requirements for Owners of Dangerous Animals, **Subsections (A)** and **(G); Section 8.06**, Registration; **Section 8.09**, Defenses; amending the dangerous animal determinations, standards, and procedures; **Section 8.11**, Additional Penalties for Violation of this Section, by the amendment of the title of the Section; amend **Article IX**, Miscellaneous, **Section 9.01**, Disposal of Dead Animals, **Subsection (A)(4);** |

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| Number | Date of Adoption | Comments |
|---|---|---|
| | | **Section 9.02**, Traps, amending trap provisions; **Section 9.05**, Defecation - Removal and Disposal Required; Implements Required, **Subsections (C)** and **(D)**, regarding affirmative defenses; **Section 9.06**, Pigeons, **Subsection (A)**, regarding a permit requirement for pigeons; **Section 9.07**, Care and Humane Treatment of Animals, referring to the standards of care and humane treatment of animals; by the addition of **Section 9.08**, Tethering, relative to regulations on tethering; amend **Article X**, Administrative Hearings and Inquests, amending the administrative hearing process and appeals to the Appeals Officer; amend **Article XI**, Penalty, revising the penalty provision. |
| 14-054 | 09/16/14 | Amend **Article II**, General Provisions, **Section 2.04**, Powers and Duties of Citizens, by the addition of **Subsection (C)**, relative to an owner surrendering an animal to the Animal Services Manager and the related fee. |

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# ARTICLE I

# DEFINITIONS

## Section 1.01 Definitions

Unless otherwise expressly stated, the following terms shall, for the purposes of this Chapter, have the meanings indicated in this Section:

**"Abandon"** means abandoning an animal owned by a person or in the person's care, custody or control without effectively transferring the animal to another person or into that other person's care, custody or control. (Amend Ord 12-032, 5/1/12)

**"Administrator"** shall mean the City Manager designated Directors or their designees that are responsible for enforcement of this chapter. (Amend Ord 12-032, 5/1/12)

**"Affidavit of ownership of estray"** means a document containing at least the following information:

1. The name and address of the owner;
2. The date the owner discovered that the animal was an estray;
3. The property from which the animal strayed; and
4. A description of the animal including its breed, its color, sex, age, size, all markings of any kind and any other identifying characteristics.

**"Affidavit of receipt of estray"** means a document containing at least the following information:

1. The name and address of person receiving the estray;
2. The date of receipt of estray;
3. The method of claim to estray (previous owner, purchaser at sale);
4. If purchased at sale, amount of gross purchase price;
5. Estray handling fees paid; and

6. Net proceeds of sale.

**"Animal"** shall mean any member of the kingdom Animalia, other than homo sapiens.

**"Animal establishment"** means any facility or business that has custody or control of animals including without limitation animal dealers, pet shops, pet grooming facilities, animal auction facilities and commercial kennels. This term does not include veterinary or animal medical facilities. (Amend Ord 12-032, 5/1/12)

**"Animal Services Manager"** means the supervisor of the Animal Services Division or his designee. (Amend Ord 12-032, 5/1/12)

**"Appeals Officer"** shall mean a municipal court judge or any person designated by the City Manager to conduct administrative hearings or hear appeals from administrative hearings. (Amend Ord 12-032, 5/1/12)

**"At large"** shall mean:

1. On Premises of Owner - Any animal not confined to the premises of the owner 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.

2. Off Premises of Owner - Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making any unsolicited contact with any person, their clothing, their property and/or their premises.

3. Provided, however, that any animal confined within a cage, automobile, truck or any other vehicle of its owner shall not be deemed at large.

4. Provided, however, that any dog lawfully allowed in an off-leash site as defined by the Parks Chapter of the Arlington Code of Ordinances shall not be deemed at large. (Amend Ord 03-100, 9/16/03)

**"Bodily injury"** shall mean physical pain, illness, or any impairment of physical condition that would cause a reasonably prudent person to seek medical treatment from a medical professional. The term also includes, but is not limited to, any bodily injury resulting from the victim attempting to escape or prevent contact with the injuring animal or animals. (Amend Ord 12-032, 5/1/12)

**"Cat"** shall mean Felis catus.

**"Common Pigeon"** means any pigeon not previously captured from the wild nor bred in captivity. (Amend Ord 02-109, 10/1/02)

**"Control"** shall mean leashed, penned, housed, held or sheltered in a closed structure. (Amend Ord 00-134, 11/28/00)

**"Court"** shall mean the Municipal Court of the City of Arlington, Tarrant County, Texas. (Amend Ord 00-134, 11/28/00)

**"Cow"** shall mean any domesticated bovine animal.

**"Dangerous animal"** shall mean a dog that:

1. makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

2. commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person. (Amend Ord 12-032, 5/1/12)

**"Deputy"** shall mean any animal services officer. (Amend Ord 02-109, 10/1/02)

**"Dog"** shall mean Canis familiaris.

**"Domestic animal"** shall mean dogs, cats, horses, cattle, swine, sheep, goats and llama.

**"Estray"** shall mean a stray domestic animal other than a dog or cat.

**"Estray book"** shall mean a book located in the office of the Animal Services Manager in which information on estrays is filed. (Amend Ord 02-109, 10/1/02)

**"Estray handling fees"** shall mean expenses incurred by a person or by the Animal Services Manager for the impounding, holding, selling or seeking the owner of an estray. (Amend Ord 02-109, 10/1/02)

**"Euthanize"** shall mean to cause the death of an animal by a method which:

1. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

2. Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness; and

3. Complies with all applicable state and federal laws. (Amend Ord 12-032, 5/1/12)

**"Fancy Pigeon"** means any pigeon not included in the categories of "Racing Pigeon" or "Common Pigeon" and shall include but not be limited to such birds as commonly called Fantails, Pouters, Trumpeters. (Amend Ord 02-109, 10/1/02)

**"Force Majeure"** (Act of God) shall mean an immediate loss which is the result of an irresistible natural cause without the intervention of man, and could not have been prevented by the exercise of prudence, diligence and care. (Amend Ord 12-032, 5/1/12)

**"Force Vis Major"** (Act of God) shall mean an immediate loss which is the result of an irresistible natural cause without the intervention of man, and could not have been prevented by the exercise of prudence, diligence and care. (Amend Ord 94-77, 5/3/94)

**"Fowl"** shall mean Order Anseriformes (such as ducks, geese and swans); Order Galliformes (such as chickens, pea-fowl, turkey and guinea fowl) and other wild or domesticated Gallinacceous birds. (Amend Ord 02-109, 10/1/02)

**"Goat"** shall mean any domesticated caprine animal.

**"Habitation"** shall mean a building or structure that is used or designed to be used for the overnight accommodation of human beings and includes each separately secured or occupied portion of the structure and each structure or building connected with the structure.

**"Harboring"** shall mean the act of keeping and caring for an animal at any time or providing a premise to which the animal returns for food, shelter or care for a period of two (2) days or longer. (Amend Ord 12-032, 5/1/12)

**"He," "His" and "Him"** are not intended to be gender-specific, but are used for convenience only, and refer to an individual of any gender. (Amend Ord 02-109, 10/1/02)

**"Horse"** shall mean any domestic equine animal.

**"Hybrid"** shall mean an offspring of two animals of different breeds, species or genera. (Amend Ord 99-32, 3/16/99)

**"Impound"** shall mean to take into custody or to place in the Animal Services Center of the City or other authorized confinement area. (Amend Ord 02-109, 10/1/02)

**"Intact Animal"** shall mean an animal which is sold without a spay/neuter contract. (Amend Ord 94-77, 5/3/94)

**"Loft"** means the structure(s) for the keeping or housing of pigeons. (Amend Ord 02-109, 10/1/02)

**"Manager"** shall mean the Animal Services Manager or his designee. (Amend Ord 02-109, 10/1/02)

**"Mature Pigeon"** means a pigeon aged six months or older. (Amend Ord 02-109, 10/1/02)

**"Neuter"** shall mean the permanent sterilization to render male animals incapable of impregnating female animals by means of either surgery performed to remove the testicles or chemical sterilization by which the animals are injected with a drug approved by the United States Food and Drug Administration for that purpose. (Amend Ord 07-095, 12/18/07)

**"Notice of estray"** shall mean a document containing at least the following information:

1. The name and address of the person who notified the Animal Services Manager of the estray;

2. The location of the estray when found;

3. The location of the estray until disposition; and

4. A description of the estray including its breed, if known, its color, sex, age, size, all markings of any kind and any other identifying characteristics. (Amend Ord 02-109, 10/1/02)

**"Observation period"** shall mean the ten (10) days following a bite or scratch of a human by a mammal, during which the mammal's health status must be monitored.

**"Owner"** shall mean any person or persons, firm, association, partnership or corporation, owning, keeping or harboring any animal or animals.

**"Pig"** shall mean any domesticated hog.

**"Pigeon"** means a member of the family Columbidae, and shall include but not be limited to "Racing Pigeons", "Fancy Pigeons", "Sporting Pigeons" and "Common Pigeons". (Amend Ord 02-109, 10/1/02)

**"Potbellied pig"** shall mean that breed of miniature pig meeting the standards established by the North American Potbelly Pig Association (NAPPA).

**"Premises"** shall mean a tract of land and the buildings thereon.

**"Primary enclosure"** shall mean any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment or hutch.

**"Public auction"** shall mean an auction that is licensed by the United States Department of Agriculture.

**"Quarantine period"** shall mean that portion of the observation period during which a biting or scratching mammal is physically confined for observation.

**"Racing Pigeon"** means a pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Also, commonly known as Racing Homes, Homing Pigeon, or Carrier Pigeon. This category shall include any pigeon held, kept or used for the purpose of flying with the intent being that it shall return to the loft or place of keeping controlled by its owner. (Amend Ord 02-109, 10/1/02)

**"Secure enclosure"** shall mean a securely enclosed area or structure that is:

1. Locked;

2. Capable of preventing the entry of the general public, including children;

3. Capable of preventing the escape or release of an animal;

4. Clearly marked as containing a dangerous animal;

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 secure enclosure and escaping;

6. Protected from the elements adequately for the animal's humane care; and

7. In conformance with the requirements for enclosures established by the Animal Services Manager or by this chapter.

A structure such as a house, mobile home, apartment, travel trailer, or other habitation or similar structure is not a secure enclosure when any window is open, or when a screen window or a screen door or other penetrable barrier is the only obstacle preventing the animal from exiting the structure, or when any door or other opening used for entry or exit by persons or animals is accessible to the dangerous animal. (Amend Ord 02-109, 10/1/02)

**"Sheep"** shall mean any domesticated ovine animal.

**"Spay"** shall mean the permanent sterilization to prevent female animals from having estrus (heat) cycles and eliminating the ability to become pregnant by means of either surgery performed on an animal to remove the ovaries and uterus or chemical sterilization by which female animals are injected with a drug approved by the United States Food and Drug Administration for that purpose. (Amend Ord 07-095, 12/18/07)

**"Sporting Pigeon"** means any pigeon which has developed or is used, displayed or involved in conduct related to its distinctive nature such as aerial acrobatics or endurance flying and shall include but not be limited to Rollers and Tipplers. (Amend Ord 02-109, 10/1/02)

**"Sterilization"** means to spay or neuter a dog or cat. (Amend Ord 07-095, 12/18/07)

**"Support Dog"** means a dog that is specifically trained or equipped to help a disabled person. This shall include the following:

"Guide Dog" - A dog trained to assist a visually impaired person.

"Hearing Dog" - A dog trained to alert a hearing impaired person to certain sounds.

"Service Dog" - A dog trained to assist a physically disabled person.

In addition, the dog must:

1. Be used by a disabled person who has satisfactorily completed a specific course of training in the use of the dog; and

2. Have been trained by a recognized organization involved in the rehabilitation of the disabled as reputable and competent to provide dogs with this type of training; and

3. Must carry an identification badge that identifies the agency that trained the dog. This badge must be attached to the dog at all times by means of a collar, harness or backpack. (Amend Ord 02-109, 10/1/02)

**"Unowned animal"** shall mean any animal for which an owner has not been identified.

**"Unreasonable odor"** shall mean the emission of a smell that is foul or offensive to a person of normal sensibilities. (Amend Ord 02-109, 10/1/02)

**"Vaccination"** shall mean an injection of a vaccine for rabies, approved by the State Veterinarian, and administered by a veterinarian licensed by the Texas Board of Veterinary Examiners.

**"Veterinarian"** means a doctor of veterinary medicine who holds a valid license to practice veterinary medicine in the State of Texas. (Amend Ord 07-095, 12/18/07)

**"Veterinary Officer"** shall mean the veterinarian officially designated by the Director. (Amend Ord 07-095, 12/18/07)

# ARTICLE II

# GENERAL PROVISIONS

## Section 2.01 Establishment of Office of Animal Services Manager

A. There shall be and is hereby created the office of Animal Services Manager for the City of Arlington.

B. The Animal Services Manager or, if none, the City Manager or his designee shall act as the local rabies control authority for the purposes of Chapter 826 of the Texas Health and Safety Code. (Amend Ord 12-032, 5/1/12)

C. The Animal Services Manager shall employ deputies to assist him in the carrying out of his duties.

D. The Animal Services Manager and his deputies shall be assigned to the Community Services Department. (Amend Ord 06-080, 8/22/06)

## Section 2.02 Duties of Animal Services Manager

It shall be the duty of the Animal Services Manager and his deputies to:

A. Administer and enforce all laws and regulations of the State of Texas pertaining to animals which authorize the local health authority or Animal Services Officers to enforce the same; and

B. Administer and enforce all ordinances pertaining to animals, including but not limited to those ordinances pertaining to animals found in the "Animals", "Health", "Nuisance", "Parks" and "Zoning" Chapters.

## Section 2.03 Authority to Kill, Impound or Destroy Animals

In addition to the authority to kill, impound or euthanize animals as otherwise granted in this Chapter, the Animal Services Manager, his deputies and any peace officer are authorized to:

A. Kill an animal which poses an imminent danger to a person or property or a real or apparent immediate necessity exists for destruction of the animal;

B. Impound an animal which is diseased or endangers the health of a person or another animal, or is at large.

C. Euthanize an impounded animal at the Animal Services Center if the Manager or Veterinary Officer determines that recovery of the animal from injury, disease, or sickness is unlikely. (Amend Ord 12-032, 5/1/12)

D. Kill any animal suspected of having rabies when such animal is found at large, after having made a reasonable, but unsuccessful effort to capture the animal.

**Section 2.04 <u>Powers and Duties of Citizens</u>**

A. Any citizen of the City of Arlington is hereby authorized to take control of and deliver to the office of the Animal Services Manager any animal that may be found running at large within the territorial limits of the City, other than prohibited animals or animals suspected of being rabid, subject to the applicable provisions of law.

B. A person commits an offense if he takes control of an animal under this Section and fails to deliver it to the Animal Services Manager within seventy-two (72) hours. (Amend Ord 12-032, 5/1/12)

C. Any citizen of the City of Arlington who owns an animal residing within the territorial limits of the City of Arlington may offer to surrender ownership of the animal to the Animal Services Manager. The Animal Services Manager may accept or refuse the animal in accordance with the procedures established and set forth by the Animal Services Manager. For each owner surrendered animal accepted by and released to the Animal Services Manager, the owner shall pay to the Animal Services Manager at the time of release an owner surrender fee unless the fee is waived. The owner surrender fee amount and requirements regarding waiver of the fee shall be set by resolution of City Council. Furthermore, when an adult nursing female animal is surrendered and accompanied by a litter of unweaned animals, the owner surrender fee does not apply to the litter of unweaned animals. This owner surrender fee also does not apply to citizens delivering to the Animal Services Manager animals found running at large within the territorial limits of the City of Arlington. (Amend Ord 14-054, 9/16/14)

**Section 2.05 <u>Inspections</u>**

The Animal Services Manager is hereby authorized to make inspections and secure warrants as set forth in the "Court" Chapter of the Code of the City of Arlington.

**Section 2.06 <u>Animal Services Center Advisory Board</u>**

A. As provided in Texas Health and Safety Code, Chapter 823, there is hereby created an Animal Services Center Advisory Board.

B. The Board shall be composed of nine (9) members. The Mayor and each City Council member shall nominate a member with confirmation by majority vote of the City Council in accordance with the City of Arlington Boards and Commissions Policy Statement. Board membership shall be composed of the following:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Community Services; (Amend Ord 06-080, 8/22/06)

3. Five (5) citizens at large;

4. A person whose duties include the daily operation of an animal services center; and

5. A representative from an animal welfare organization.

C. Each Board member shall serve a two (2) year term.

D. Board members shall serve at the will and pleasure of the City Council. (Amend Ord 04-041, 5/11/04)

E. The City Council shall appoint a suitable person to serve out the unexpired term of any Board member whose place becomes vacant for any reason. Appointees shall serve until the City Council designates a replacement for their Board place.

F. The Board shall meet at least once every three months at a time and place to be determined by the Chairperson of the Board.

G. It shall be the duty of the Board to assist the Arlington Animal Services Center in maintaining compliance with the requirements of Texas Health and Safety Code, Chapter 823. (Amend Ord 03-043, 4/8/03)

**Section 2.07 <u>Nuisances</u>**

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the territorial limits of the City of Arlington:

A. Any at large animal;

B. Any dog or cat over four (4) months of age that is not currently licensed with the City of Arlington and currently vaccinated against rabies;

C. Any prohibited animal as defined in this Chapter; or

D. Any dangerous animal as defined in this Chapter.

E. Harboring, keeping, breeding or raising animals in or about any place or premises in such numbers or in such manner that the same may become annoying, offensive or disturbing to the adjacent residents of or those passing by such places or premises or which by reason of numbers create filth in or about such premises or premises adjacent thereto; or

F. Harboring, breeding, keeping or raising any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities; or

G. Harboring, breeding, keeping or raising any pigeon that is not currently permitted with the City of Arlington. (Amend Ord 12-032, 5/1/12)

# ARTICLE III

# DOGS AND CATS

## Section 3.01 License and Vaccination Required

A. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently vaccinated against rabies.

B. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently licensed with the City of Arlington.

C. A person who owns a dog commits an offense if he fails to display on such dog both a current rabies vaccination tag furnished by a veterinarian and a current license tag furnished by the City of Arlington.

D. A person who owns a dog or cat commits an offense if he displays on such dog or cat a rabies or license tag issued to another animal.

E. Each animal in violation of this Section constitutes a separate offense.

## Section 3.02 Issuance of License

A. Written application for a dog or cat license and payment of the applicable license fee shall be made to the City. The application shall include:

1. The name, telephone number and address of the applicant;

2. A description of the animal, including name, breed, color, gender and age; and

3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months. (Amend Ord 12-032, 5/1/12)

B. The annual license fee shall be at an amount set by resolution of the City Council.

C. Support dogs which are professionally and specifically trained to assist disabled owners shall be exempt from the license fee.

D. If not revoked, such license will be effective for a period of one (1) year from the date of vaccination for rabies.

E. Upon acceptance of the license application, the Animal Services Manager shall issue the owner a metal license tag stamped with an identifying number for the dog or cat. The Animal Services Manager shall also issue the owner a license certificate which identifies the animal by age, gender, breed, color, name and owner, and which states the dates of issuance and expiration of the license.

F. In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee. (Amend Ord 02-109, 10/1/02)

**Section 3.03 <u>Impoundment of Dogs and Cats</u>**

A. Any dog or cat may be impounded by the Animal Services Manager in any of the following circumstances:

1. Any dog or cat running at large in the City of Arlington;

2. Any dog not having affixed to and wearing on a collar or harness a valid City license tag and a tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies; or

3. Any dog or cat whose license has been revoked,

4. A dog or cat that is suspected of having inflicted bodily injury on any human being or animal, or poses a threat to public safety; or

5. A dog or cat that has rabies or symptoms thereof, or that a person could suspect as having rabies, or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal.

B. <u>Disposition of Impounded Dogs and Cats</u>.

1. If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the

owner cannot be reasonably ascertained, the dog or cat shall be placed for adoption or euthanized.

2. If any dog or cat that is impounded by Animal Services, or brought to the Animal Services Center by a person other than the owner of that animal, and is wearing traceable identification; is readily observable as being sterilized or declawed in the best judgment of the Manager or his designee; or where an owner is known, such animal shall be held at the center for a minimum of seven (7) business days from the time the animal enters the Animal Services Center. Animal Services shall notify the owner, when known, of the impoundment. Unless the owner has notified Animal Services in writing of his intentions to claim the animal after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees and this arrangement has been approved by the Animal Services Manager, the animal shall be placed for adoption or euthanized after the seventh (7th) business day.

3. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the Animal Services Manager of the appropriate fees.

4. The owner of any impounded dog or cat, including those released from quarantine, shall have a microchip implanted in the animal by the Animal Services Manager prior to being permitted to repossess such dog or cat. There shall be a fee associated with the microchipping of all dogs and cases in an amount set by resolution of the City Council.

5. This subsection does not apply to any dog or cat placed in quarantine, that is the subject of a dangerous animal complaint, or whose license has been revoked. (Amend Ord 12-032, 5/1/12)

**Section 3.04 <u>Fees</u>**

A. All of the fees and refunds described herein shall be set by resolution of the City Council.

B. <u>Impoundment Fees</u>.

1. A pound fee will be charged for the impoundment of all dogs and cats.

2. The owner shall be required to purchase a spay-neuter coupon in addition to paying the impoundment fee. Said animal will be required to be spayed-neutered within thirty (30) days of receipt.

3. An additional fee will be required for the second and subsequent impoundment of the same dog or cat within the preceding twelve (12) month period.

4. The owner may request sterilization of any animal by Animal Services. There will be a fee associated with the requested sterilization of all dogs and cats in an amount set by resolution of the City Council. (Amend Ord 12-032, 5/1/12)

C. License or Vaccination Fee. If license or vaccination of an impounded dog or cat is not current, the owner shall be required to pay for these items. The owner shall be given a receipt for the vaccination payment which can be redeemed by his veterinarian by submitting the receipt. Failure to obtain the vaccination within forty-eight (48) hours of reclaiming shall authorize impoundment.

D. Boarding Fee. In addition to the above fee, if the dog or cat is not picked up within seventy-two (72) hours, an additional fee will be charged for each twenty-four (24) hour period thereafter.

E. All necessary veterinary and drug costs incurred by the animal while it is in custody shall be charged to the owner. (Amend Ord 12-032, 5/1/12)

**Section 3.05 Adoption of Dogs or Cats**

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Animal Services Manager or Veterinary Officer shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Animal Services Manager or the Veterinary Officer shall not constitute a warranty of the health or age of the animal.

B. After approval by the Administrator, the Animal Services Manager may place any animal that is suitable for adoption and is not placed for adoption through city facilities, to an approved private non-profit humane shelter or other non-profit

animal welfare organization. The Animal Services Manager shall establish an agreement and uniform criteria for the placement of adoptable animals through these organizations and may make surplus adoptable animals available to those animal welfare organizations that meet the criteria. The criteria shall include requirements that animals be vaccinated and sterilized in accordance with applicable law and that the animals be licensed in the jurisdiction where they will be kept, in accordance with applicable law.

C. There will be fees associated with the adoption of all dogs and cats in the amount set by resolution of the City Council. Fees may be reduced by the administrator for special events or for special groups such as senior citizens to encourage an increased rate of adoption.

D. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer a rabies vaccination. The vaccination shall be administered at the time of adoption unless the Veterinary Officer determines it is not medically safe to vaccinate the dog or cat at the time of adoption. If it is determined by the Veterinary Officer that it is not medically safe to vaccinate, the adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time for the person to return with the adopted dog or cat for vaccination. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older the person fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated if within three (3) days of the written agreement's noticed date and time of return the person has not presented proof

of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Services Manager the license fee authorized under this Article.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL), there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee in an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

E. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer the vaccination. The adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time to return with the adopted dog or cat for vaccination. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date the Veterinary Officer determines that the animal is at least three (3) months of age but no older than four (4) months of age. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person who adopts a dog or cat under this subsection commits an offense if the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within three (3) days of the written agreement's noticed date and time of return he has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee.

a. On the date of return of a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Animal Services Manager the original adoption receipt and proof of vaccination to receive the City license.

b. The adopting person shall pay the Animal Services Manager the license fee as authorized under this Article.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

c. In the event the adopted dog or cat is under six (6) weeks of age, the adopting person shall be provided with notice of the date and time to return with the adopted dog or cat for the core vaccination. The date of return shall be on or near the adopted dog or cat reaching six (6) weeks of age.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee at an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

F. Sterilization by the Veterinary Officer

1. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the terms of the written agreement. The Veterinary Officer shall provide services for the sterilization of an adopted animal in order to prevent reproduction in the animal. Each dog or cat adopted from Animal Services will be spayed or neutered prior to the release of the animal to the adopting person unless:

   a. the dog or cat is under two (2) months of age;

   b. the Veterinary Officer determines that the dog or cat should not be spayed or neutered for health reasons or the Veterinary Officer has determined the dog or cat has been previously spayed or neutered; or,

   c. the adopting person has signed a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the written agreement, which will provide notice of the date and time for the person to return with the adopted dog or cat for sterilization. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date Animal Services Manager estimates to be the date the dog or cat becomes eight (8) weeks of age or as soon as medically safe.

2. Fee.

   a. A person adopting an unsterilized animal shall pay the Animal Services Manager the sterilization fee in an amount set by resolution of the City Council.

3. Offense.

   a. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

   b. The Animal Services Manager may extend the sterilization deadline upon presentation of a written report by the Veterinary Officer, stating that the life or health of the adopted animal may be

jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

4. Confirmation of Sterilization.

a. The Veterinary Officer shall present a letter of certificate to the Animal Services Manager verifying that the animal was sterilized.

b. If an adopted animal dies on or before the sterilization completion date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death.

c. If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of disappearance. This letter shall be in lieu of the letter required above. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

5. Prosecution.

a. If the Animal Services Manager does not receive a letter under Subsection (F)(4) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

b. In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Animal Services Manager a letter required by Subsection (F)(4) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (F)(4).

6. Reclamation of Animal. The Animal Services Manager may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Animal Services Manager has not received a letter as outlined in Subsection (F)(4). In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City. (Amend Ord 12-032, 5/1/12)

**Section 3.06 Breeding of Dogs or Cats**

The owner of a female dog or cat in season commits an offense if he fails to confine such animal in an anti-escape house, building or enclosure constructed in such a manner that the animal cannot come into contact with another animal of the same species and opposite sex except for planned breeding.

# ARTICLE IV

# ESTRAYS AND AT LARGE

## Section 4.01 Estrays to be Impounded

It shall be the duty of the Animal Services Manager in the absence of action by the County Sheriff's office, to take up any and all estrays that may be found in and upon any street, alley, or in or upon any unenclosed lot, or otherwise to be found at large, and to confine them for safe keeping. After impounding an estray, the Animal Services Manager shall prepare a notice of estray and file the notice in the estray book. (Amend Ord 02-109, 10/1/02)

## Section 4.02 Fees and Costs

For each impounded estray, the owner shall pay the Animal Services Manager the following fees and costs. No estray shall be released to its owner before all fees and costs are paid:

A. An impound fee of a sum set by resolution of the City Council;

B. A boarding fee of a sum set by resolution of the City Council. Such fee shall be charged for each day the estray is in custody, excluding the date it is impounded; and

C. All necessary veterinary and drug costs incurred by the animal while it is in custody. (Amend Ord 02-109, 10/1/02)

## Section 4.03 Advertisement

When an estray has been impounded, the Animal Services Manager shall make a diligent search of the register of recorded brands in the County for the owner of the estray. If the search does not reveal the owner, the Animal Services Manager shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next fifteen (15) days and post a notice of the impoundment of the estray on the public notice board of the County Subcourthouse and City Hall. (Amend Ord 02-109, 10/1/02)

**Section 4.04 <u>Recovery by Owner</u>**

The owner of an estray may recover possession of the estray at any time before the estray is sold under the terms of this Article if:

A. The owner has provided the Animal Services Manager with an affidavit of ownership of estray;

B. The Animal Services Manager has approved the affidavit;

C. The approved affidavit has been filed in the estray book;

D. The owner has paid all estray handling fees to those entitled to receive them;

E. The owner has executed an affidavit of receipt of estray and delivered it to the Animal Services Manager; and

F. The Animal Services Manager has filed the affidavit of receipt of estray in the estray book. (Amend Ord 02-109, 10/1/02)

**Section 4.05 <u>Sale of Estray</u>**

A. If the ownership of an estray is not determined within fourteen (14) days following the final advertisement required by this Article, title to the estray rests in the City. The Animal Services Manager shall cause the estray to be sold at a public auction. Title to the estray shall be deemed vested in the Animal Services Manager for purposes of passing good title, free and clear of all claims, to the purchasers at the sale.

B. The purchasers of an estray at public auction shall take possession of the animal upon payment therefore.

C. The Animal Services Manager shall receive the proceeds from the sale of the estray and do the following:

1. Pay all estray handling fees to those entitled to receive them;

2. Execute a report of sale of impounded stock; and

3. Cause the report of sale of impounded stock to be filed in the estray book.

D. The net proceeds remaining from the sale of an estray after estray handling fees have been paid shall be delivered by the Animal Services Manager to the City treasury. These net proceeds shall be subject to claim by the original owner of the estray as provided herein.

E. If the bids are too low, the Animal Services Manager shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure. (Amend Ord 02-109, 10/1/02)

**Section 4.06 <u>Use of Estray</u>**

A person commits an offense if after impounding an estray he uses such estray for any purpose. (Amend Ord 02-109, 10/1/02)

**Section 4.07 <u>Death or Escape of Estray</u>**

A. If an estray dies or escapes while in custody:

1. The person who has custody shall report the death or escape to the Animal Services Manager;

2. Such report shall be in the form of a sworn affidavit and filed with the Animal Services Manager; and

3. The Animal Services Manager shall file the affidavit in the estray book.

B. A person commits an offense if he fails to report a death or escape as required by this Section. (Amend Ord 02-109, 10/1/02)

**Section 4.08 <u>Recovery by Owner of Proceeds Delivered to City Treasurer</u>**

Within twelve (12) months after the sale of an estray under the provisions of this Article the original owner of the estray may recover the proceeds of the sale of the estray that were delivered by the Animal Services Manager to the City Treasurer if:

A. The owner has provided the Animal Services Manager with an affidavit of ownership of estray;

B. The Animal Services Manager has approved the affidavit; and

C. The approved affidavit has been filed in the estray book. (Amend Ord 02-109, 10/1/02)

**Section 4.09 <u>Escheat of Sale Proceeds</u>**

After the expiration of twelve (12) months from the sale of an estray as provided by this Article, the sale proceeds shall escheat to the City.

**Section 4.10 <u>Riding, Driving or Herding of Certain Animals</u>**

A. A person commits an offense if he rides, herds or drives any horse, cow, sheep, goat, pig or llama:

1. On a public sidewalk; or

2. On any private or public property without the effective consent of the owner of such property.

B. It is an affirmative defense to prosecution under this section that the person was a peace officer or animal services officer in the performance of his official duties; or the person was assisting a peace officer or animal services officer in the performance of his official duties. (Amend Ord 12-032, 5/1/12)

**Section 4.11 <u>Animal At Large</u>**

A. A person commits an offense if he fails to keep an animal he owns from being at large.

B. It is an affirmative defense to prosecution under this section that: (Amend Ord 12-032, 5/1/12)

1. The animal was a police service animal under the supervision of a peace officer in the performance of his official duties; or

2. The animal was a water fowl at a municipally owned facility.

C. Each animal in violation of this Section constitutes a separate offense.

**Section 4.12 Animal Impounded at Police Request**

A. Impounding. The Animal Services Manager shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, evicted, is missing or has died, and there is no person present, sixteen (16) years of age or older, who will assume the duties of providing food, water and shelter for such animal. (Amend Ord 12-032, 5/1/12)

B. Disposition of Animal - Owner's Residence Known

1. If the animal is not reclaimed by the tenth day after the date it is impounded, the Animal Services Manager shall give notice to the owner if the owner's residence is known to him and it is in Texas. The notice shall be in writing, sent by certified mail with return receipt requested, and shall include the amount of the accrued charges and a demand for payment.

2. If the animal is not reclaimed and all accrued charges paid by the eleventh day after the date the notice is mailed, the Animal Services Manager shall send a second notice by certified mail, return receipt requested, to the owner. Such notice shall state that the animal will be euthanized, placed for adoption, or sold at public auction after the twentieth day after the date the second notice is sent.

C. Disposition of Animal - Owner's Residence Unknown. If the animal is not reclaimed by the thirtieth day after the date it is impounded, and the owner's residence is not in Texas or the Animal Services Manager does not know where the owner's residence is, the Animal Services Manager may euthanize the animal, place the animal for adoption, or sell the animal at public auction without notice to the owner.

D. The proceeds from the sale or adoption of an animal shall be applied against the accrued charges. If there are any excess proceeds, the funds shall be deposited into the animal services donation fund of the City of Arlington.

E. The fees for impounding and boarding dogs and cats under this Section shall be the same as those set under the authority of Section 3.04. The fees for

impounding all other domestic animals shall be the same as those set under the authority of Section 4.02.

F. This Section shall not apply to at large animals or prohibited animals. (Amend Ord 02-109, 10/1/02)

**Section 4.13 <u>Wild Animals</u>**

A. It shall be the duty of the Animal Services Manager, in the absence of action by State or Federal agencies, to take up any and all wild animals that are diseased or which endanger the health of a person or other animal.

B. The Animal Services Manager may at his discretion release a wild animal to a State agency, animal rehabilitation center, or an animal refuge. (Amend Ord 02-109, 10/1/02)

**Section 4.14 <u>Spay/Neuter of Animals</u>**

A. All animals within the City of Arlington are required to be spayed/neutered, unless they are under the control of an individual.

B. All impounded animals are required to be spayed/neutered within thirty (30) days of release from impoundment.

C. It is an affirmative defense to prosecution under subsection (B) above that the owner of the animal has provided proof to the satisfaction of the Animal Services Manager to establish that:

1. The owner of the animal is a member of a club which is associated with a national registry, a national breed club, or a local all-breed club; and the owner does not sell twelve (12) or more intact animals per year. Proof may be provided in the form of a sworn affidavit from an officer, director, or person of similar managerial authority in the organization, indicating that the organization falls under the criteria of the affirmative defense in this subsection, and that the owner does not sell twelve (12) or more intact animals per year.

2. The animal was at large and impounded due to force majeure.

3. The animal was at large and impounded due to fire, criminal or negligent acts of a third party who does not reside at the animal owner's residence. Additionally, verification of the incident must be presented to the Animal Services Manager in the form of a police or fire report, or the sworn testimony or affidavit of police or fire personnel. (Amend Ord 12-032, 5/1/12)

# ARTICLE V

## SALE AND BREEDING OF ANIMALS

### Section 5.01 Sale and Care of Certain Animals

A. A person commits an offense if he sells, offers for sale, gives as a prize, barters or displays any living chickens, ducks, goslings, rabbits or hamsters that have been artificially colored or any other fowl or animal which has been dyed, colored or otherwise treated so as to impart to them an artificial color.

B. A person commits an offense if he sells, offers for sale, gives as a prize, or commercially displays any chick, duckling or gosling younger than four (4) weeks of age.

C. A person commits an offense if he offers for sale or as a prize, or displays any chick, gosling or duck without providing such animal with a brooder or heating device as necessary to keep such animal in good health.

D. A person commits an offense if he fails to provide any animal described in this Section with adequate food and water at all times.

E. A person commits an offense if he sells or delivers live chickens, ducklings, goslings, or rabbits less than eight weeks of age to any person in quantities of less than five (5).

F. A person commits an offense if a person gives away any live animal as a prize or inducement for the purposes of attracting trade or business. (Amend Ord 02-109, 10/1/02)

G. A person commits an offense if a person sells, exchanges, trades, barters, leases, rents, gives away, or displays, without a valid permit, any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, flea market, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

H. It is an affirmative defense to prosecution under subsection (G) that the person is an employee of or is acting in his or her capacity as an employee of: a veterinary clinic; an animal hospital; a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for

purposes of operating a business selling pets; an animal shelter; an animal welfare, rescue, or adoption agency that is a registered non-profit entity; a bona fide zoological park; an educational institution; a museum; an event being conducted primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; a licensed laboratory; a publicly owned nature center; a bona fide member of an educational or scientific association or society approved by the Animal Services Manager; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; an animal establishment in compliance with the this Chapter; or a person caring for animals in his or her private residence in compliance with this Chapter.

I. All Animal Establishments shall, in addition to the other requirements of this ordinance, comply with the minimum standards of applicable city ordinances and state and federal requirements.

J. It shall be a violation for any business or person to sell, offer for sale, give away, offer to give away, or otherwise transfer ownership of any animal without first complying with all applicable city ordinances and state and federal regulations, unless such activity is authorized by some other section of this Chapter.

K. It shall be a violation for any business or person to refuse, upon request, to make animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment’s regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with this Chapter. (Amend Ord 12-032, 5/1/12)

**Section 5.02 <u>Keeping of Fowl</u>**

A person commits an offense if he:

A. Keeps or maintains more than four (4) fowl on one-half (1/2) acre or less or at a distance closer than fifty feet (50') from any habitation located on another's property. (Amend Ord 12-032, 5/1/12)

B. Keeps or maintains more than ten (10) fowl on more than one-half (1/2) acre but less than one (1) acre at a distance closer than fifty feet (50') from any habitation located on another's property.

C. Keeps or maintains twenty-five (25) fowl or more on one (1) acre or more at a distance closer than fifty feet (50’) from any habitation located on another’s property.

D. Fails to keep any fowl of the Order Anseriformes from being at large; or

E. Fails to keep any fowl of the Order Galliformes contained within a coop or pen.

F. Keeps or maintains roosters except in an area zoned as agricultural. (Amend Ord 02-109, 10/1/02)

**Section 5.03 <u>Livestock</u>**

A person commits an offense if he:

A. Keeps or stakes any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

B. Keeps or stakes any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

C. Erects or maintains a structure, pen, corral or other enclosure for any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

D. Erects or maintains a structure, pen, corral or other enclosure for any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

E. Keeps or stakes three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property;

F. Erects or maintains a structure, pen, corral or other enclosure for three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property; or

G. Keeps or stakes up to two (2) potbellied pigs at a distance closer than five hundred feet (500') from a habitation located on another person's property, when the animal's primary habitat is located outdoors. (Amend Ord 03-003, 1/7/03)

**Section 5.04 <u>Affirmative Defenses.</u>**

It is an affirmative defense to prosecution under Sections 5.02 and 5.03 that: (Amend Ord 12-032, 5/1/12)

A. The animal or structure was at a veterinary clinic or hospital, pet store, feed store, farm store or any similar establishment properly zoned for keeping such animals;

B. The structure, pen, corral or other enclosure was in existence at the time the premises on which it is located were annexed by the City of Arlington. However, if the ownership or primary use of the premises changes, this exception shall not apply; or

C. The structure, pen, corral or other enclosure was in existence prior to the time a habitation was erected on another's property.

# ARTICLE VI

# RABIES CONTROL AND BITE PROCEDURES

## Section 6.01 Definitions

The following words and terms when used in this Article shall have the following meanings unless the context clearly indicates otherwise:

1. Animal shall mean any live or dead mammal, domesticated or wild, excluding homo sapiens.

2. Bite or scratch shall mean a bite or scratch that breaks the skin and is capable of transmitting rabies.

3. High Risk Animal shall mean any animal that has a high probability of transmitting rabies (including foxes, bats, skunks, coyotes, and raccoons).

4. Low Risk Animal shall mean any animal that has a low probability of transmitting rabies (including animals of the orders Marsupialia, Insectivora, Rodentia, Lagomorpha and Xenarthra). (Amend Ord 02-109, 10/1/02)

## Section 6.02 Report of Rabies

A. A person commits an offense if he has knowledge of an animal bite or scratch of a human and fails to report said bite or scratch to the Animal Services Manager within twenty-four (24) hours from the time of the incident.

B. A person commits an offense if he knows of an animal that he suspects is rabid and fails to report such animal to the Animal Services Manager.

C. A report shall be written or oral and include if known, the name and address of the victim and of the animal's owner, and any information which could lead to locating the victim, the animal, and the animal's owner.

D. The Animal Services Manager shall investigate all reports made under this Section. (Amend Ord 02-109, 10/1/02)

**Section 6.03 <u>Quarantine</u>**

A. The owner of an animal that has bitten or scratched a human commits an offense if he fails to submit the animal to the Manager for quarantine immediately upon notification by the Manager of a biting or scratching incident.

B. The owner of an animal that is suspected of being rabid commits an offense if he fails to submit the animal to the Manager for quarantine immediately when ordered by the Manager to do so.

C. The Animal Services Manager shall follow these procedures for quarantining and testing:

1. When a dog or cat has bitten or scratched a human, the dog or cat shall be placed in quarantine, in a facility specified by the Animal Services Manager and approved by the Texas Department of Health.

2. Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Animal Services Manager, the Animal Services Manager may permit home quarantine for the animal if the following criteria can be met:

a. The animal was currently vaccinated against rabies at the time of the bite or scratch;

b. The animal was currently licensed with the City of Arlington at the time of the bite or scratch;

c. The animal was not at large at the time of the bite or scratch;

d. The animal's owner has secure facilities at his home for the animal which have been approved by the Animal Services Manager;

e. The Animal Services Manager or a licensed veterinarian must observe the animal on at least the first and eighth days of the quarantine period;

f. If the animal becomes ill during the observation period, the person with possession of the animal must notify the Animal Services Manager;

g. The owner must sign an agreement to abide by the quarantine rules; and

h. At the end of the quarantine period, the animal shall be observed by a licensed veterinarian and the veterinarian will generate a letter authorizing the release of the animal from quarantine.

3. If the Animal Services Manager is in possession of a dog or cat which has bitten or scratched a human, and such animal is designated as unowned, the Animal Services Manager may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

4. If the animal which has bitten or scratched a human is a high risk animal, the Animal Services Manager shall cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

5. If the animal which has bitten or scratched a human is a low risk animal, the Animal Services Manager shall cause the animal to be euthanized, and shall submit its brain for rabies diagnosis by a Texas Department of Health certified laboratory if the Animal Services Manager has cause to believe the animal is rabid. If the Animal Services Manager has no cause to believe the animal is rabid, then neither quarantining nor testing will be required.

6. If the animal, including a dog or cat, which has bitten or scratched a human inflicted multiple bite wounds, lacerations or punctures to a person, the Animal Services Manager may cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

7. If the animal which has bitten or scratched a human is not included in (1), (2), (3), (4), (5), or (6) of this subsection, the Animal Services Manager shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

8. The Animal Services Manager shall cause to be euthanized any animal required to be quarantined under this subsection which cannot be maintained in a secure quarantine, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

9. The Animal Services Manager shall follow the rules promulgated by the Texas Department of Health when submitting an animal brain for testing.

10. The Animal Services Manager may euthanize an unowned animal prior to the end of the quarantine, and have the brain tested for rabies.

11. All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals. (Amend Ord 12-032, 5/1/12)

D. The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement. In such case, the animal may be removed to a quarantine facility at the sole discretion of the Animal Services Manager for the remainder of the quarantine, at the owner's expense. (Amend Ord 12-032, 5/1/12)

**Section 6.04 <u>Disposition or Release of Quarantined Animal</u>**

A. At the conclusion of the quarantine, the Animal Services Manager shall release the quarantined animal to its owner if a veterinarian has determined that a quarantined animal shows no clinical signs of rabies, and

1. If the owner presents an unexpired rabies vaccination certificate for the animal to the Animal Services Manager; or

2. If the animal is vaccinated against rabies by a licensed veterinarian at the owner's expense, and the owner presents a rabies vaccination certificate for the animal to the Animal Services Manager; and

3. If the animal is not the subject of a dangerous animal complaint.

B. The Animal Services Manager shall humanely euthanize any animal that displays, to a veterinarian, the clinical signs of rabies while in quarantine. (Amend Ord 12-032, 5/1/12)

C. If an animal dies, is killed or euthanized while in quarantine, the Animal Services Manager shall submit the head or brain of the animal to a Texas Department of Health certified laboratory for rabies diagnosis.

D. The owner of a quarantined animal shall pay to the Animal Services Manager all costs of quarantine and disposition of the animal, by fee set by resolution of the Council. No quarantined animal shall be released until all fees have been paid.

E. If the owner of an animal fails to take possession of the animal before the fourth day following the final day of the quarantine period, the Animal Services Manager shall at his option place the animal for adoption or cause it to be euthanized. (Amend Ord 02-109, 10/1/02)

**Section 6.05 <u>Use and Sale of Rabies Vaccine</u>**

A. Rabies vaccine for animals shall be administered only by or under the direct supervision of a veterinarian.

B. A veterinarian shall not administer or directly supervise the administration of rabies vaccine in this State unless he is:

1. Licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine; or

2. Practicing veterinary medicine on an installation of the armed forces or National Guard.

C. A person commits an offense if he administers or attempts to administer rabies vaccine in a manner not authorized by this Section.

D. A person commits an offense if he dispenses or attempts to dispense rabies vaccine in a manner not authorized by this Section.

E. A person commits an offense if he sells or distributes rabies vaccine for animals to any person except a licensed veterinarian or to a person working in a veterinarian clinic who accepts the vaccine on behalf of the veterinarian.

F. Every veterinarian whose office or place of business is located within the City shall issue to the owner of the animal a current rabies tag and a certificate of vaccination as required by law, and may send a copy of the certificate of vaccination to Animal Services, in accordance with chapter 826 of the Texas Health and Safety Code and chapter 801 of the Texas Occupations Code. (Amend Ord 12-032, 5/1/12)

**Section 6.06 <u>Animal Exposed to Rabies</u>**

A. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to report such bite or exposure to the Animal Services Manager within twenty-four hours of the incident.

B. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to submit his animal to the Animal Services Manager for quarantine or euthanization immediately when requested to do so by the Animal Services Manager.

C. If the animal which has been bitten or exposed has not been vaccinated against rabies and is an animal for which an approved vaccine exists, the Animal Services Manager:

1. Shall cause such animal to be euthanized; or

2. Shall, if sufficient justification for preserving the animal exists, cause the animal to be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and given booster vaccinations during the third and eighth weeks of isolation. If the animal is under three (3) months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three (3) months of age.

D. If the animal which has been bitten or exposed was currently vaccinated against rabies at the time of the bite or exposure, and is an animal for which an approved vaccine exists, the Animal Services Manager:

1. Shall cause such animal to be euthanized; or

2. Shall, if sufficient justification for preserving the animal exists, cause the animal to be given an immediate booster rabies vaccination and placed in strict isolation for forty-five (45) days.

E. If the animal which has been bitten or exposed is an animal for which no approved rabies vaccine exists, the Animal Services Manager shall cause such animal to be euthanized.

F. The procedures for disposition or release of the animal following isolation shall be the same as those for disposition of an animal following quarantine set forth in Section 6.04 of this Article. (Amend Ord 02-109, 10/1/02)

# ARTICLE VII

# PROHIBITED AND EXOTIC ANIMALS

## Section 7.01 Definition of Prohibited Animals

Prohibited animal shall mean:

A. Class Mammalia:

1. Order Carnivora:

   a. Family Mustelidae (such as weasels, skunks, otters, badgers, mink and martens) EXCEPT ferrets;

   b. Family Procyonidae (such as raccoons and coati);

   c. Family Ursidae (bears);

   d. Family Felidae (such as bobcats, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, lynxs, servals, caracals), EXCEPT domestic cats;

   e. Family Canidae ( such as coyotes, foxes and jackals); EXCEPT domestic dogs; and

   f. Family Hyaenidae (hyenas).

2. Order Primate:

   a. Family Cercopithecidae (such as baboons); and

   b. Family Hominidae (such as chimpanzees, gorillas, orangutans);

B. Class Reptilia:

1. Family Helodermatidae (venomous lizards);

2. Family Hydrophiidae (venomous marine snakes);

3. Family Crotalidae (rattlesnakes, fer-de-lance, water moccasins, copperheads);

4. Family Viperidae (Old World Vipers);

5. Family Elapidae (coral snakes, cobras and mambas);

6. Family Colubridae:

   a. Dispholidus typus (boomslang);

   b. Cyclagras gigas (false water cobra);

   c. Boiga dendrophila (mangrove snake); and

   d. Thelotornis kirtlandii (bird snake); and

7. Order Crocodilia (crocodiles, alligators and gavials);

8. Family Chelydridae:

   a. Macroclemys temmincki (alligator snapping turtle); and

   b. Chelydra serpentina (common snapping turtle).

C. Class Amphibia:

Family Dendrobatidae: Phyllobates terribilis; and

D. Any hybrid of an animal listed in this Section.

E. All parenthetical references in this Section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described. (Amend Ord 02-109, 10/1/02)

**Section 7.02 Ownership of Prohibited Animal**

A. Definitions.

Being transported shall mean the act of being conveyed within a vehicle upon a public street.

B. A person commits an offense if he owns, transports, possesses, controls, permits, allows or harbors a prohibited animal. (Amend Ord 12-032, 5/1/12)

C. It is an affirmative defense to prosecution that:

1. The person is or is acting on behalf of:

a. A county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

b. A research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act; or

c. An organization that is an accredited member of the American Zoo and Aquarium Association.

2. The prohibited animal is:

a. injured, infirm, orphaned, or abandoned, and is being transported for care or treatment;

b. injured, infirm, orphaned, or abandoned, and is being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

c. owned by and in the custody and control of a licensed circus, carnival, or zoo, acting in compliance with all city ordinances including but not limited to, the Zoning Chapter of the City Code of Ordinances;

d. in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

e. owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

f. being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

g. a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; or

h. owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species, and is an integral part of that species survival plan. (Amend Ord 12-032, 5/1/12)

**Section 7.03 <u>Impoundment of Prohibited Animals</u>**

A. The Animal Services Manager shall immediately impound all prohibited animals found in violation of this Chapter, and place them in the Animal Services Center or other suitable facility.

B. Any person owning a prohibited animal shall submit it to the Animal Services Manager immediately upon his request.

C. A person commits an offense if he fails to submit a prohibited animal to the Animal Services Manager after having been ordered by the Animal Services Manager to do so.

D. An order under this Section shall be in writing, signed by the Animal Services Manager and served in person by the Animal Services Manager or a peace officer upon the owner of the prohibited animal. (Amend Ord 02-109, 10/1/02)

**Section 7.04 <u>Maintenance and Disposition of Prohibited Animal</u>**

A. The Animal Services Manager shall maintain any prohibited animal impounded under this Chapter for five (5) days, except:

1. If the owner of a prohibited animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a prohibited animal requests a hearing (in which case the Animal Services Manager shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Animal Services Manager shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of a prohibited animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing it is determined that the animal was not a prohibited animal or was an exception to prohibited animals. Such fees shall be of a sum set by resolution of the City Council. (Amend Ord 02-109, 10/1/02)

**Section 7.05 <u>Definition of Exotic Animals</u>**

Exotic animal shall mean:

A. <u>Class Mammalia</u>:

1. Order Marsupialia: Subfamily Macropodinae (wallabies, kangaroos, padmelons and wallaroos);

2. Order Perissodactyla:

a. Family Tapiridae (tapirs);

b. Family Equidae (zebra, wild asses and wild horses) except domestic equine;

c. Family Rhinocerotidae (rhinoceros);

3. Order Artiodactyla (such as hippopotamus, camels, giraffes, bison, antelope and deer) except domestic goats, oxen, sheep, cattle, pigs and llama;

4. Order Chiroptera (bats);

5. Family Ailuridae (Pandas and lesser pandas);

6. Family Viverridae (such as civets, mongoose and binturongs);

7. Family Protelidae (aardwolves);

8. Order Proboscidea (elephants);

9. Order Primates:

a. Family Cebidae:

(1) Genus Cebus (Capuchin monkeys);

(2) Genus Ateles (Spider monkeys);

(3) Genus Brachyteles (Wooly Spider monkeys);

b. Family Callimiconidae: Genus Callimico (Goeldi's monkey);

c. Family Callithricidae:

(1) Genus Callithrix (marmoset);

(2) Genus Leontideus (maned tamarin);

(3) Genus Saguinus (tamarins);

(4) Genus Oedipomidas (crested bare-faced tamarin);

B. Class Aves:

1. Order Rheiformes (such as the rhea);

2. Order Struthioniformes (such as the ostrich);

3. Order Casuariiformes (such as the emu); and

C. Any hybrid of an animal listed in this Section;

D. All parenthetical references in this section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described. (Amend Ord 02-109, 10/1/02)

**Section 7.06 Application of Other Laws**

The requirements in this Chapter regarding exotic animals shall be in addition to Federal laws and regulations, and Texas laws and regulations governing ownership of these animals.

**Section 7.07 Primary Enclosures**

A person commits an offense if he harbors or maintains an exotic animal unless the animal is confined to a primary enclosure which meets the following minimum construction specifications:

A. Orders Rheiformes, Struthioniformes, and Casuariiformes: A fence of not less than six feet (6′) in height, constructed of not less than eleven and one-half (11½) gauge chain link fence or its strength equivalent.

B. Family Ailuridae: a cage of not less than nine (9) gauge chain link or its strength equivalent.

C. Families Protelidae and Viverridae: A cage of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

D. Order Primates:

1. Gibbons, monkeys and other primates: a cage consisting of not less than nine (9) gauge chain link or its strength equivalent.

E. Elephants, rhinoceros and hippopotamus: a cage of steel bars, masonry block, or its strength equivalent.

F. Order Marsupialia: a cage consisting of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

G. Order Perissodactyla (except rhinoceros) and Order Artiodactyla (except hippopotamus): a fence of not less than eight feet (8′) in height, constructed of not less than nine (9) gauge chain link or its strength equivalent.

H. Order Chiroptera (bats): a cage with no openings that will allow passage of a sphere larger than three-eighths inch (3/8”), excluding the door. Any door to such a cage shall have no openings which will allow passage of a sphere greater than three-eighths inch (3/8”), and shall be kept secured when not in use.

I. All cages and fences constructed of chain link shall be well braced and securely anchored at ground level and shall utilize metal corners, clamps, ties and braces of equivalent strength to other materials prescribed for cage construction for that order, family or species.

J. Frames for cages and fences, including corners, braces, top and bottom rails, shall be securely bolted or welded to provide maximum strength.

K. Cages and fences shall be sufficiently strong to prevent escape.

L. Cages and fences shall be equipped with locks and locking mechanism to prevent opening by unauthorized persons.

M. All cages shall be covered at the top to prevent escape. In lieu of this requirement, facilities provided for rhinoceros, elephants, and hippopotami may be constructed at sufficient height and in such a manner to prevent escape. (Amend Ord 02-109, 10/1/02)

**Section 7.08 <u>Transportation of Exotic Animals</u>**

A person commits an offense if he transports an exotic animal unless such animal is transported in a cage which meets the minimum construction and strength requirements for primary holding facilities as required in Section 7.07.

**Section 7.09 <u>Distance Requirements</u>**

A. A person commits an offense if with criminal negligence he houses, maintains, keeps or stakes an exotic animal at a distance closer than five hundred feet (500′) from any habitation located on another's property.

B. Bats shall be exempt from this distance requirement. (Amend Ord 02-109, 10/1/02)

**Section 7.10 <u>Impoundment of Exotic Animals</u>**

A. The Animal Services Manager shall immediately impound all exotic animals that are at large or that are being maintained, harbored or transported in violation of this Article, and place them in the Animal Services Center or other suitable facility.

B. A person maintaining, harboring or transporting an exotic animal in violation of this Chapter shall submit it to the Animal Services Manager immediately upon his request.

C. A person commits an offense if he fails to submit an exotic animal to the Animal Services Manager after having been ordered by the Animal Services Manager to do so.

D. An order under this Section shall be in writing, signed by the Animal Services Manager and served in person by the Animal Services Manager or a peace officer upon the owner of the prohibited animal. (Amend Ord 02-109, 10/1/02)

**Section 7.11 <u>Maintenance and Disposition of Exotic Animal</u>**

A. The Animal Services Manager shall maintain any exotic animal impounded under this Chapter for five (5) days, except:

1. If the owner of a exotic animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a exotic animal requests a hearing (in which case the Animal Services Manager shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Animal Services Manager shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of an exotic animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing, it is determined that the animal was not in violation of this Article. Such fees shall be set by resolution of the City Council. (Amend Ord 02-109, 10/1/02)

# ARTICLE VIII

# DANGEROUS ANIMALS

## Section 8.01 Knowledge of Dangerous Animal

For purposes of this article, a person learns he is the owner of a dangerous animal when:

A. The owner knows of an attack described in the Section 1.01 definition of "dangerous animal;" or

B. The owner is notified by the Animal Services Manager that the animal is a dangerous animal; or

C. The owner is notified by the Court that the dog is a dangerous dog; or

D. The owner is notified by the Court that, after appeal, the Court has upheld the Animal Services Manager's determination that the animal is a dangerous animal. (Amend Ord 02-109, 10/1/02)

## Section 8.02 Dangerous Animal Report

A. The Animal Services Manager may receive a report concerning a dangerous animal. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Animal Services Manager.

B. The Animal Services Manager shall investigate all reports filed under this section and may issue sworn reports based on the Animal Services Manager's investigation or observation. (Amend Ord 02-109, 10/1/02)

## Section 8.03 Dangerous Animal Determination

The Arlington Municipal Court may determine that a dog is a dangerous dog under Section 8.03(A). The Animal Services Manager may declare that an animal, including a dog, is a dangerous animal under Section 8.03(B). Regarding a dangerous dog incident, the Animal Services Manager has discretion to proceed under either Section 8.03(A) or 8.03(B).

A. Municipal Court:

1. The Arlington Municipal Court may determine that a dog is a dangerous dog in compliance with Texas Health and Safety Code, Section 822.0422. The Animal Services Manager may file a sworn report describing a dangerous dog incident with the Court. The sworn report shall present probable cause that the dog described in the report committed an attack described in Section 1.01, "Dangerous Animal."

2. The Animal Services Manager shall furnish written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the animal immediately to the Animal Services Manager upon receiving the notice, provided that the Animal Services Manager may, in his discretion, accept proof that the animal is impounded with a licensed veterinarian according to the terms of Section 8.13(B). The notice to the owner shall have attached to it a copy of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing.

3. Notice to the owner by the Animal Services Manager shall be provided as required by Section 8.03(B)(3).

4. If the owner fails to deliver the dog as required by Subsection (B)(2), the Court shall order the Animal Services Manager to seize the dog and shall issue a warrant authorizing the seizure. The Animal Services Manager shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions at the owner's expense until the Court orders the disposition of the dog. The Court shall determine, after notice and hearing as provided in Section 8.04, whether the dog is a dangerous dog.

B. Animal Services Manager:

1. The Animal Services Manager may determine that an animal is a dangerous animal after investigation of a dangerous animal incident. The Animal Services Manager shall furnish written notice to the owner of the animal as identified in the complaint to inform the owner that a dangerous animal report has been received. The owner will have five (5) calendar days from the date the owner is notified to provide the Animal Services

Manager information regarding the report. The Animal Services Manager may consider additional information from other sources in the course of the investigation.

2. If, after investigating a dangerous animal report, the Animal Services Manager finds that the animal is a dangerous animal, the Animal Services Manager shall provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal and shall have attached to it a copy of this article.

3. Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Services Manager. If the notice is mailed to the owner and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.

4. An owner, not later than fifteen (15) calendar days after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Animal Services Manager to the Arlington Municipal Court or as otherwise allowed by law. An owner may appeal the decision of the Municipal Court as allowed by law. (Amend Ord 12-032, 5/1/12)

**Section 8.04 <u>Hearing</u>**

A. After the Court receives a sworn report of an incident involving a dangerous dog under Section 8.03(A)(1) or a report of a dangerous animal owner's non-compliance with requirements under Section 8.05, the Court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of a dangerous animal has not complied with the requirements of Section 8.05. The hearing must be held not later than ten (10) calendar days after the date on which the dog or animal is seized or delivered.

B. The Court shall give written notice of the time and place of the hearing to:

1. The owner of the dog or the person from whom the dog was seized; and

2. The person who made the report; and

3. The Animal Services Manager.

C. Any interested party, including the city attorney, is entitled to present evidence at the hearing.

D. An owner or the person who made the report may appeal the decision of the Municipal Court as allowed by law. (Amend Ord 12-032, 5/1/12)

**Section 8.05 <u>Requirements for Owners of Dangerous Animals</u>**

A. Not later than fifteen (15) calendar days after a person learns that he is the owner of a dangerous animal, the owner shall:

1. Register the dangerous animal with the Animal Services Manager and maintain current registration at all times;

2. Restrain the animal in a secure enclosure inspected and approved by the Animal Services Manager;

3. Acquire and maintain liability insurance coverage that includes coverage for animal attacks in an amount of at least One Hundred Thousand Dollars and No Cents ($100,000.00) to cover damages resulting from an attack by the dangerous animal and provide proof of the required liability insurance coverage to the Animal Services Manager. The owner shall notify the Animal Services Manager immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the Animal Services Manager not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the City of Arlington Animal Services as a certificate holder; (Amend Ord 12-032, 5/1/12)

4. Microchip and register the dangerous animal for its life with a national registry, and present proof to the Animal Services Manager. The cost shall

be at the owner's expense. The owner of the dangerous animal shall microchip the animal by implanting a microchip identification device on the animal within seven (7) calendar days after being notified by the Animal Services Manager or the Court that such animal is dangerous or within forty-eight (48) hours of an unsuccessful appeal;

5. Present proof to the Animal Services Manager that the animal has been sterilized so as to prevent reproduction;

6. Comply with all applicable regulations, requirements, and restrictions on dangerous animals; and

7. Obtain written extension from the Animal Services Manager to complete the registration requirements if necessary. All requests for extension shall be in writing and, if granted by the Animal Services Manager, shall total no more than 30 additional days.

8. The owner shall pay any cost or fee assessed by the City in the amount set by resolution of City Council that is related to the seizure, acceptance, impoundment, compliance inspection or re-inspection, or destruction of the dangerous animal. (Amend Ord 12-032, 5/1/12)

B. An appeal of a dangerous dog determination by the Court under 8.03(A) or of a dangerous animal declaration by the Animal Services Manager under Section 8.03(B) shall not act to stay the requirements of Subsection (A) except regarding implantation of a microchip as noted in Subsection (A)(4).

C. The owner of a dangerous animal shall deliver the animal to the Animal Services Manager immediately upon learning that the animal is a dangerous animal, if the animal is not already impounded.

D. The owner of a dangerous animal who falls out of compliance with an owner's requirement of Subsection (A) shall deliver the animal to the Animal Services Manager immediately.

E. The Court may issue a warrant to seize the subject animal at any time the Court finds that probable cause of violation or non-compliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the Animal Services Manager, the Court finds, after notice and hearing as provided by Section 8.04, that the owner of a dangerous animal has failed to comply with or has fallen out of compliance with an owner's requirement of Subsection (A), the

Court shall order the Animal Services Manager to seize the animal and shall issue a warrant authorizing the seizure.

F. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner has not timely complied with Subsection (A) and no perfected appeal is pending.

G. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10) calendar days after the animal is seized or delivered to the Animal Services Manager and no perfected appeal is pending. The Court may order the Animal Services Manager to return the dangerous animal to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days or the Court may order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection 8.05, 8.07, or 8.08. No dangerous animal shall be returned to its owner after renewed compliance more than one (1) time. (Amend Ord 12-032, 5/1/12)

**Section 8.06 <u>Registration</u>**

A. The Animal Services Manager shall annually register a dangerous animal if the owner is in compliance with the owner's requirements of Section 8.05. The owner shall present proof of compliance satisfactory to the Animal Services Manager and shall pay an annual registration fee of Fifty Dollars and No Cents ($50.00).

B. The Animal Services Manager shall provide to the owner registering a dangerous animal a dangerous animal registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous animal registration shall be valid for one (1) year from the date of issuance.

C. The owner of a registered dangerous animal shall attach the tag to the animal's collar, or similar device, and shall place such collar or device on the animal. The owner of a registered dangerous animal shall display current registration on the animal in this manner at all times.

D. If the owner of a registered dangerous animal sells or gives away the animal or moves the animal to a new address, the owner, not later than the fourteenth day

after the date of the sale, gift or move, shall notify the Animal Services Manager of the animal's new address and new owner if applicable.

E. If the owner of a registered dangerous animal sells or gives the animal to another person, the owner shall notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

F. If a new owner keeps the animal within Arlington, he shall register the animal with the Animal Services Manager within ten (10) calendar days after receiving it.

G. The owner of an animal, which has been deemed dangerous in another jurisdiction, shall not harbor the animal within the territorial limits of the City of Arlington.

H. The Animal Services Manager shall re-register a dangerous animal with a new owner if such owner is in compliance with this Chapter. Such owner shall present proof of compliance satisfactory to the Animal Services Manager and shall pay a re-registration fee of $25.00.

I. If a dangerous animal's registration is expired when a new owner attempts to re-register it, the new owner shall follow the owner's requirements of Subsection (A).

J. A re-registration shall be valid only for the time remaining on the prior registration.

K. When the Animal Services Manager is informed that a dangerous animal has been moved to another jurisdiction, he should notify the animal control authority for such jurisdiction of this information. (Amend Ord 12-032, 5/1/12)

L. In the event that a registered dangerous animal dies, the owner must present dispositive proof to the satisfaction of the Animal Services Manager or his designee or present written verification by a licensed veterinarian, in order to verify the identity of the dangerous animal by microchip. (Amend Ord 12-032, 5/1/12)

**Section 8.07 <u>Owner Notification of Attacks</u>**

A. The owner of a registered dangerous animal shall notify the Animal Services Manager of all attacks the animal makes on humans.

B. Additionally, the owner of a registered dangerous dog shall notify the Animal Services Manager of all attacks made by the dog on domestic animals and domestic fowl. (Amend Ord 02-109, 10/1/02)

**Section 8.08 <u>Offenses</u>**

A. A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on another person outside the animal's enclosure, and the attack causes bodily injury to the other person.

B. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.

C. A person commits an offense if the person is the owner of a dangerous animal or the new owner of a dangerous animal and performs an act prohibited or fails to perform an act required by this Article.

**Section 8.09 <u>Defenses and Affirmative Defenses</u>**

A. It is an affirmative defense to prosecution under Section 8.08 that the person is a veterinarian, a peace officer, a person employed by a recognized animal services center or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.

B. It is an affirmative defense to prosecution under Section 8.08 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

C. It is an affirmative defense to prosecution under Section 8.08 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

D. It is a defense to prosecution under Section 8.08 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal.

E. It is a defense to prosecution under Section 8.08 that the person injured was committing or attempting to commit a crime.

F. It is a defense to prosecution under Section 8.08 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault. (Amend Ord 12-032, 5/1/12)

**Section 8.10 <u>Muzzle and Restraint of Dangerous Animals</u>**

An owner of a dangerous animal shall not permit a dangerous animal to be outside the secure enclosure unless the animal is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash. Such animal shall not be leashed to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

**Section 8.11 <u>Additional Penalties for Violation of this Article</u>**
(Amend Ord 12-032, 5/1/12)

A. If a person is found guilty of an offense under Section 8.08(A) or 8.08(B), the Court may order the Animal Services Manager to impound and destroy the animal immediately in addition to other penalties in Article XI.

B. The Animal Services Manager may obtain a search and seizure warrant if the owner of a registered dangerous animal falls out of compliance with the owner's requirements of Section 8.05. The animal will remain impounded until proof as required by Section 8.05 has been satisfied and is approved by the Animal Services Manager or the animal is destroyed.

C. If impoundment of a dangerous animal is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a dangerous animal from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given

twenty-four (24) hours notice that if said animal is not surrendered to Animal Services within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premise where the dangerous animal is harbored will be considered valid notice as of the date and time of posting. In lieu of surrendering the animal to Animal Services, an owner may permanently remove said animal from the City, if written proof of destination is provided to the Animal Services Manager and transport is made in compliance with this Article.

D. A dangerous animal impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned and, at the discretion of the Animal Services Manager, euthanized in a humane manner.

E. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed $10,000. An attorney having civil jurisdiction for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the municipality. (Amend Ord 02-109, 10/1/02)

**Section 8.12 <u>Status of Animal</u>**

A. The owner shall deliver the dog to the Animal Services Manager immediately upon notification that a dangerous dog report has been filed with the Court under Section 8.03(A)(2).

B. The owner shall deliver the dangerous animal to the Animal Services Manager immediately upon notification that the Animal Services Manager has declared that the animal is a dangerous animal under Section 8.03(B)(2).

C. The owner shall deliver the dangerous animal to the Animal Services Manager immediately upon notification that the animal is a dangerous animal, as required by Section 8.05(C).

D. The owner shall deliver the dangerous animal to the Animal Services Manager immediately when the owner falls out of compliance with any requirement of an owner of a dangerous animal, as required by Section 8.05(D).

E. If the owner fails to deliver the subject animal as required in this Article, the Court shall order the Animal Services Manager to seize the animal and shall issue a warrant authorizing the seizure, as provided in Section 8.05(E).

F. No dangerous animal shall be returned to its owner at any time unless authorized by this Article and all owner's requirements are fulfilled. (Amend Ord 02-109, 10/1/02)

**Section 8.13 <u>Impoundment and Destruction of Animal</u>**

A. The Animal Services Manager shall seize the subject animal according to a warrant or shall order such seizure and shall accept the animal into custody when delivered by the owner.

B. The Animal Services Manager shall provide for impoundment of the subject animal in secure and humane conditions until the Court orders the disposition of the subject animal. The Animal Services Manager may accept proof of impoundment from a licensed veterinarian if such proof and impoundment are satisfactory to the Animal Services Manager.

C. The owner shall pay any costs and fees incurred by the City related to the seizure, impoundment, and destruction of a dangerous animal.

D. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner of the animal has not been located within ten (10) calendar days after the seizure and impoundment of the animal and if no other statute or ordinance has allowed or required the animal's earlier destruction.

E. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner has not timely complied with the owner's requirements, according to Section 8.05(F).

F. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement and fails to renew compliance within ten (10) calendar days, according to Section 8.05(G).

G. The Court shall order the Animal Services Manager to humanely destroy a dangerous animal that can no longer be returned to its owner under this Article. (Amend Ord 02-109, 10/1/02)

**Section 8.14 <u>Compliance Re-inspections</u>**

The owners of dangerous animals shall comply with all applicable regulations, requirements and restrictions on dangerous animals and may be re-inspected four (4) times per year by the Animal Services Manager for compliance. For each inspection, the owner shall pay to the City a compliance re-inspection fee. The compliance re-inspection fee shall be in an amount set by resolution of City Council and is due to the City within thirty (30) days from the date of billing. (Amend Ord 10-067, 9/14/10)

# ARTICLE IX

# MISCELLANEOUS

## Section 9.01 Disposal of Dead Animals

A. Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:

1. Animals weighing fifty (50) pounds or less may be buried on the owner's premises at a depth of not less than twelve inches (12″).

2. Animals weighing twenty (20) pounds or less may be placed for trash collection if they are first wrapped securely in newspaper and put in a bag of a type approved by the Administrator of the "Health" Chapter of this Code.

3. Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery.

4. If requested by the owner, dogs and cats will be picked up by the City, and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council. (Amend Ord 12-032, 5/1/12)

5. The Landfill Manager shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk.

6. The Animal Services Manager shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Animal Services Center.

B. A person commits an offense if he disposes of a dead animal in a manner other than as provided by this Section.

C. The owner of an animal which has died commits an offense if he fails to properly dispose of such animal within twenty-four (24) hours of its death.

**Section 9.02 <u>Traps</u>**

A. A person commits an offense if he releases or removes an animal from a trap set by the Animal Services Manager.

B. A person may set up on his own property humane traps used to capture dogs, cats, and other small animals. Trapped animals must be sheltered and shall be checked at least once every two hours or every eight hours if left overnight by the individual setting the trap. Humane care shall be provided for any trapped animals, including the provision of food, water, and protection from extremes of the environment including heat, cold, and precipitation.

C. It is a defense to prosecution under this section that the trap was designed to kill common rodents, including but not limited to rats, mice, and gophers. A person shall not place rodent traps on his property in such a manner as is likely to trap animals other than common rodents. (Amend Ord 12-032, 5/1/12)

**Section 9.03 <u>Interfering with Manager</u>**

A person commits an offense if he knowingly prevents, interferes with, or obstructs the Animal Services Manager in the performance of his duties.

**Section 9.04 <u>Filing of False Claims and Reports</u>**

A. A person commits an offense if he knowingly initiates, communicates or circulates a claim of ownership for an animal with the Animal Services Manager that he knows is false or baseless.

B. A person commits an offense if he knowingly initiates, communicates or circulates a report of a violation of City ordinance or State law with the Animal Services Manager that he knows is false or baseless.

**Section 9.05 <u>Defecation - Removal and Disposal Required; Implements Required</u>**

A. Offense: An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to defecate on private property not his own or on property located in a public place

without immediately removing and disposing of the defecation material in a sanitary and lawful manner.

B. Offense: An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to enter or remain on private property not his own or on property located in a public place without having in his possession materials or implements that, either alone or in combination with each other, can be used immediately in a sanitary and lawful manner to remove and dispose of defecation the animal may deposit on such property.

C. It is an affirmative defense to prosecution under this section that:

1. The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or

2. The animal is a "service dog" performing duties of assisting the disabled.

3. The animal is a waterfowl at a municipality owned facility.

4. The owner of the private property has given consent or permission for the animal to defecate on his property.

D. Penalty: A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed One Hundred ($100.00) dollars. (Amend Ord 12-032, 5/1/12)

**Section 9.06 <u>Pigeons</u>**

A. The harboring, breeding, maintenance and flying of pigeons shall be permitted under the following conditions:

1. The loft or other structure used or employed for the purpose of housing pigeons shall be maintained in such a manner that no feces, food, water or other waste or natural material is accumulated on any surface within or outside of the loft or structure.

2. A person harboring pigeons in a loft or other structure shall collect and dispose of stored pigeon wastes in a closed fly-proof and rat proof

container, and in a manner that prevents the escape of odors from the container and prevents the breeding of flies.

3. A person harboring pigeons in a loft or other structure used for the purpose of housing pigeons shall ensure the structure is designed such that the area housing pigeons provides a minimum of one cubic foot for each mature pigeon kept therein. If any pigeon housed in a loft or other structure is not permitted to fly free outside said loft or other structure a minimum of two times each week, the loft or other structure shall be of such construction as to provide a minimum of three cubic feet of floor space for each pigeon housed within said loft or structure.

4. The construction of the loft shall not conflict with the requirements of any ordinance, including but not limited to, the Construction or Zoning Chapters of the City of Arlington.

5. Any person harboring pigeons in a loft or other structure shall store pigeon feed in such containers as to protect against intrusion by rodents and other vermin.

6. In addition to any requirements of this ordinance the loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City of Arlington and no person may harbor pigeons in such a manner as to constitute a nuisance.

7. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition.

8. Any person keeping pigeons in a loft or other structure shall provide fresh and clean food and water daily.

9. The loft or other structure employed for the purpose of harboring pigeons shall be constructed in such a manner as to provide adequate ventilation which shall mean that fresh air may flow both in and out of the loft or structure at all times unless enclosed in the winter time for a limited period to ensure adequate heat.

10. The pigeon loft shall be constructed in such a manner that it will be rodent-proof and shall be kept free from rodents.

11. No loft or other structure housing pigeons shall be constructed, placed, or maintained within fifty feet (50′) from any habitation; restaurant, café, or other eating establishment; church, school, hospital, child daycare center, convalescent home, nursing home, residential treatment facility, library, park, playground, community center, or other public building property line. This provision shall not apply to any structure in existence at the time of the effective date of this ordinance amendment.

12. Annual Pigeon Permit

    a. No person shall sponsor, own, keep or harbor pigeons within the City without first obtaining a pigeon permit from the Administrator.

    b. No person shall keep or harbor pigeons in a loft or other building or structure unless the person obtains an annual permit from the Administrator that specifies the location of the pigeons and other details as described below. Each permit issued shall expire one year after issuance unless revoked earlier. A permit shall be renewed annually by the permit holder. There will be a fee required with the requested permit in an amount set by resolution of the City Council.

    c. The Administrator shall prescribe: procedures for obtaining such permits, regulations for the keeping or harboring of pigeons under such permits with provision for inspection subject to the payment of applicable fees, and procedures for the revocation of such permits.

    d. The Administrator shall charge a fee for a pigeon permit and a fee for inspecting the loft or structure or building where the pigeons are kept.

    e. The applicant shall complete a pigeon permit application form provided by the City. The application shall include the following information:

        1) a site plan showing the location and size of the premises as well as the location, size, and type of all pigeon lofts;

2) a statement indicating the maximum number of pigeons to be kept on the premises at one time; and

3) an agreement by the applicant that the premises may be inspected by the City at all reasonable times so as to ensure compliance with the conditions in this Chapter, the City Code and any other relevant law.

4) In determining whether to issue a permit, the Administrator may consider: the person's compliance with the provisions of this Chapter as well as complaints from neighbors.

13. Pigeon Permit Denial or Revocation

a. A pigeon permit may be revoked, or renewal denied, if the permit holder fails to comply with any condition or requirement in this Chapter or the City Code.

b. In deciding whether or not to issue, renew, revoke, or deny a permit, the Animal Services Manager may consider two or more verified nuisance complaints from at least two different people.

c. If any pigeon loft or structure or building within the City is not being maintained in compliance with this Chapter or the City Code, the Animal Services Manager may revoke the permit upon determination that it is in the best interest of the pigeons or the health and safety of the citizens of Arlington.

d. If the Animal Services Manager revokes or denies renewal of a permit, the owner may request a hearing before the Administrator to establish whether the decision of the Animal Services Manager should be affirmed or reversed. The hearing is requested and conducted under Article X. (Amend Ord 12-032, 5/1/12)

B. The Animal Services Manager, upon determination that any loft situated within the City of Arlington, is not being maintained in compliance with this section, may order the pigeons removed from the City or obtain an order to seize such pigeons if he determines it is in the best interest of the birds or the health and safety of the citizens of Arlington.

**Section 9.07 <u>Care and Humane Treatment of Animals</u>**

A. A person commits an offense if he fails to continuously and routinely provide an animal, which is in his care, custody or control or which is owned or harbored by him, with:

1. good and wholesome food and potable water sufficient to maintain good health;

2. adequate housing consisting of a three or more sided structure with a cover or roof, shelter and protection from the weather;

3. veterinary care when needed to prevent suffering; and

4. with humane care and treatment.

B. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk of being:

1. beaten, tormented, mentally abused, overloaded, overworked, maimed, disfigured, burned or scalded, mutilated or needlessly killed; or

2. carried or transported in any vehicle or other conveyance in a cruel or inhumane manner; or

3. kept in its own filth; or

4. neglected or purposefully disregarded to the extent that the animal is significantly at risk for injury, illness, suffering or cruel treatment.

C. A person commits an offense if he crops a dog's ears, docks a tail, removes dew claws or performs other surgical procedures on a dog or cat except as provided by the Veterinary Licensing Act.

D. A person commits an offense if he uses a steel jaw or leg-hold trap to hold or capture an animal. The Animal Services Manager or designee may confiscate the trap or traps to be held as evidence in the case for the offense.

E. A person commits an offense if he abandons an animal which had been in his care, custody or control or owned or harbored by him. The offense of

abandonment occurs at the location where the animal was abandoned and includes, but is not limited to, a residence after the person was evicted or from which the person has moved.

F. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk for being trained or used for combat between animals or between animals and humans or if he has access to dog fighting or cockfighting equipment or paraphernalia causing the animal to be at risk for such combat.

G. A person commits an offense if he transports or carries on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks), the animal is safely confined by a vented container or cage, by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

H. A person commits an offense if he leaves any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. (Amend Ord 12-032, 5/1/12)

**Section 9.08 <u>Tethering</u>**

A. A person commits an offense if he uses a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system. This section does not prohibit a person from walking a dog with a hand-held leash.

B. It is a defense to prosecution under this section that:

1. the dog is being tethered during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or

2. the dog tethering is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog; or

3. the dog tethering is due to force majeure and the dog is tethered for less than one hour within a twenty-four period; or

4. the dog tethering:

   a. occurs while the dog is within the owner's direct physical control; and

   b. prevents the dog from advancing to the edge of any public right-of way.

C. The defenses under this section are only available if the following specifications are met:

1. The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;

2. The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;

3. The chain, rope, tether, leash, cable, or other device does not exceed 1/20th of the dog's body weight;

4. The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and

5. The dog has access to adequate shelter and clean and wholesome water. (Amend Ord 12-032, 5/1/12)

# ARTICLE X

# ADMINISTRATIVE HEARINGS

## Section 10.01 General Provisions

A. When notice is required to be given to a person under this Article, it shall be in writing and mailed certified mail or by a signature confirmation service to that person's last known mailing address.

B. Notice shall specify the date, time and place of the hearing.

C. Notice shall be deemed received five days after it is placed in a mail receptacle of the United States Postal Service.

D. For purposes of this Article, the Administrator shall be empowered to administer oaths and to promulgate procedural rules for the conduct of hearings.

E. Whenever any deadline specified in this Article falls upon a Saturday, Sunday or a City recognized holiday, the deadline shall be the next regular City business day.

F. An order or ruling required to be made under this Article shall be final on the date that it is signed.

G. The administrative remedies set forth in this Article shall be in addition to any criminal penalties provided in the ordinances of this City or the laws of this State.

## Section 10.02 Administrative Hearing for License Revocation

A. The Animal Services Manager shall apply to the Administrator for an administrative hearing to determine whether a dog or cat license issued by the City of Arlington should be revoked if:

1. The dog or cat has been impounded by the City three (3) or more times during a twelve (12) month period;

2. The owner has been convicted, placed on deferred disposition, or received a dismissal for completion of the Animal Awareness and Safety Program,

in the Arlington Municipal Court three (3) or more times during a twelve (12) month period for violations of Article III involving the dog or cat; or

3. There is a combination of (1) and (2) totaling three (3) or more incidents in the same twelve (12) month period.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which revocation is sought shall be attached to the application.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

E. The sole issue to be decided at the hearing is whether the license should be revoked.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay stating that the license is either revoked or not revoked. A copy of such order shall be sent to the owner by certified mail, return receipt requested.

G. Upon the license being revoked, the owner shall have ten (10) days to remove the dog or cat from the City.

**Section 10.03 <u>Abatement of Animal Related Nuisances</u>**

A. The owner of an animal is subject to all provisions of the Nuisance Chapter and this Chapter to ensure that his animal or animals do not constitute a nuisance. The City may take action pursuant to the Nuisance Chapter, Animal Chapter or other relevant law to abate any animal related nuisance.

B. The Animal Services Manager shall apply to the Administrator to determine whether an animal constitutes a nuisance and should be abated under the Nuisance Chapter or Animal Chapter if:

1. The animal has been impounded by the City two (2) or more times during a twelve (12) month period;

2. The owner has been convicted, placed on deferred disposition or probation, or received a dismissal for completion of the Animal Awareness and Safety Program in the Arlington Municipal Court two (2) or more times during a twelve (12) month period for violations of this Chapter.

3. There is a combination of incidents under subsections (1) and (2) totaling two (2) or more incidents in the same twelve (12) month period.

C. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which nuisance abatement is sought shall be attached to the application.

D. Upon application of the Animal Services Manager, the Administrator shall follow the procedures for nuisance abatement in the Nuisance Chapter, including but not limited to notice of abatement, administrative hearings, and notice to the animal's owner.

**Section 10.04 <u>Administrative Hearing - Pigeons, Prohibited and Exotic Animals</u>**

A. The owner of pigeons or an impounded prohibited or an impounded exotic animal may request an administrative hearing before the Administrator to establish:

1. the animal is not a prohibited or exotic animal;

2. the animal was not in violation of the exotic or prohibited animal provisions of this chapter;

3. the animal falls within one of the affirmative defenses to owning prohibited or exotic animals; or

4. whether the decision of the Animal Services Manager to deny or revoke a pigeon permit should be affirmed or reversed.

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal or decision of the Animal Services Manager on a pigeon permit.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

G. At the conclusion of the hearing, the Administrator shall issue a written order without undue delay.

1. In an administrative hearing to determine if an animal is a prohibited animal:

a. If the Administrator finds that the animal is not a prohibited animal or is an animal that falls within an affirmative defense to prohibited animals, he shall order the animal released to the owner.

b. If the Administrator finds that the animal is a prohibited animal that does not fall within an affirmative defense criteria, he shall order it humanely euthanized and disposed of according to the provisions relating to disposition of prohibited animals under this Chapter. In such case, the owner may appeal to the Appeals Officer.

2. In an administrative hearing to determine if an animal is an exotic animal:

a. If the Administrator finds that the animal is not an exotic animal, was not in violation of the exotic animal provisions of this Chapter and was not at large, he shall order the animal released to the owner.

b. If the Administrator finds that the animal was in violation of Article VII or at large, he shall order it disposed of according to the provisions relating to disposition of exotic animals under this Chapter. In such case, the owner may appeal to the Appeals Officer.

3. In an administrative hearing to determine whether a pigeon permit should be denied or revoked:

   a. If the Administrator finds that the permit was improperly revoked or denied, he shall order the permit to be reissued or reinstated.

   b. If the Administrator finds that the permit was properly revoked or denied, he shall order the permit to remain revoked or denied. In such case, the owner may appeal to the Appeals Officer.

**Section 10.05 <u>Appeal to Appeals Officer</u>**

A. The owner of an animal the subject of a hearing under Section 10.04 may appeal a ruling to the Appeals Officer.

B. Notice of appeal shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the date of the Administrator's order.

C. Notice of appeal shall be in writing and shall specify the grounds upon which the appeal is based.

D. The Administrator shall immediately transmit to the Appeals Officer all papers and any other items constituting the record of the action from which the appeal is taken.

E. An appeal to the Appeals Officer shall stay the disposition of the animal, unless the Administrator certifies through written affidavit that a stay would cause imminent peril to life or property. In such a case, disposition shall not be stayed otherwise than by a restraining order granted by a court of record.

F. An appeal shall be conducted no later than the tenth calendar day following the date the appeal is filed.

G. The Appeals Officer shall make a written ruling following the appeal finding that the order of the Administrator is either upheld or reversed.

H. If the order of the Administrator is reversed the Animal Services Manager shall release the animal to the owner. If the order of the Administrator is upheld, the Animal Services Manager shall proceed with disposition of the animal as provided for in this Chapter.

I. This appeal shall exhaust all administrative remedies of the owner.

(Amend Ord 12-032, 5/1/12)

# ARTICLE XI

# PENALTY

## Section 11.01 Penalty

A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense.

1. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents ($500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00).

2. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00).

(Amend Ord 12-032, 5/1/12)

Published 9/1 & 8/90 ADN

ORDINANCE NO. 90-86

AN ORDINANCE AMENDING THE "ANIMALS" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, BY THE REPEAL OF THE EXISTING "ANIMALS" CHAPTER AND BY THE ADOPTION OF A NEW "ANIMALS" CHAPTER; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the repeal of the existing "Animals" Chapter and by the adoption of a new "Animals" Chapter, so that hereafter said Chapter shall be and read as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions

Unless otherwise expressly stated, the following terms shall, for the purposes of this Chapter, have the meanings indicated in this Section:

1. Administrator shall mean the Assistant Director of Community Development - Health, or his designee.

2. Affidavit of ownership of estray means a document containing at least the following information:

a. The name and address of the owner;

b. The date the owner discovered that the animal was an estray;

c. The property from which the animal strayed; and

d. A description of the animal including its breed, its color, sex, age, size, all markings of any kind and any other identifying characteristics.

3. Affidavit of receipt of estray means a document containing at least the following information:

a. The name and address of person receiving the estray;

b. The date of receipt of estray;

c. The method of claim to estray (previous owner, purchaser at sale);

d. If purchased at sale, amount of gross purchase price;

e. Estray handling fees paid; and

f. Net proceeds of sale.

4. Animal shall mean any member of the kingdom Animalia, other than homo sapiens.

5. Appeals Officer shall mean any person designated by the City Manager to hear appeals from administrative hearings.

6. At large shall mean:

a. On Premises of Owner - Any animal not confined to the premises of the owner 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.

b. Off Premises of Owner - Any animal which is not physically and continually restrained by some

person by means of a leash or chain of proper strength and length that precludes the animal from making any unsolicited contact with any person, their clothing, their property and/or their premises.

c. Provided, however, that any animal confined within a cage, automobile or other vehicle of its owner shall not be deemed at large.

7. Cat shall mean Felis catus.

8. Cow shall mean any domesticated bovine animal.

9. Deputy shall mean any animal control officer.

10. Dog shall mean Canis familiaris.

11. Domestic animal shall mean dogs, cats, horses, cattle, swine, sheep, goats and llama.

12. Estray shall mean a stray domestic animal other than a dog or cat.

13. Estray book shall mean a book located in the office of the Animal Control Supervisor in which information on estrays is filed.

14. Estray handling fees shall mean expenses incurred by a person or by the Animal Control Supervisor for the impounding, holding, selling or seeking the owner of an estray.

15. Euthanize shall mean to cause the death of an animal by a method which:

a. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

b. Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.

16. Fowl shall mean chickens, ducks, turkeys, geese or any other wild or domesticated gallinaceous birds.

17. Goat shall mean any domesticated caprine animal.

18. Habitation shall mean a building or structure that is used or designed to be used for the overnight accommodation of human beings and includes each separately secured or occupied portion of the structure and each structure or building connected with the structure.

19. Harboring shall mean the act of keeping and caring for an animal or of providing a premise to which the animal returns for food, shelter or care for a period of two (2) days or longer.

20. Horse shall mean any domestic equine animal.

21. Hybrid shall mean an animal formed of the union of different species.

22. Impound shall mean to take into custody or to place in the animal shelter of the City or other authorized confinement area.

23. Notice of estray shall mean a document containing at least the following information:

    a. The name and address of the person who notified the Animal Control Supervisor of the estray;

    b. The location of the estray when found;

    c. The location of the estray until disposition; and

    d. A description of the estray including its breed, if known, its color, sex, age, size, all markings of any kind and any other identifying characteristics.

24. Observation period shall mean the ten (10) days following a bite or scratch of a human by a mammal, during which the mammal's health status must be monitored.

25. Owner shall mean any person or persons, firm, association, partnership or corporation, owning, keeping or harboring any animal or animals.

26. Pig shall mean any domesticated hog. Pig shall include Vietnamese potbellied pigs.

27. Premises shall mean a tract of land and the buildings thereon.

28. Primary enclosure shall mean any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment or hutch.

29. Provocation shall mean any purposeful act that causes an animal to bite, scratch or attack in protection of self, owner or owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with City ordinances would be considered provocation, irrespective of the reason for such entrance.

30. Public auction shall mean an auction that is licensed by the United States Department of Agriculture.

31. Quarantine period shall mean that portion of the observation period during which a biting or scratching mammal is physically confined for observation.

32. Sheep shall mean any domesticated ovine animal.

33. Supervisor shall mean the Animal Control Supervisor or any of his deputies.

34. Unowned animal shall mean any animal for which an owner has not been identified.

35. Unreasonable odor shall mean the emission of a smell that is foul or offensive to a person of normal sensibilities.

36. Vaccination shall mean an injection of a vaccine for rabies, approved by the State Veterinarian, and administered by a veterinarian licensed by the Texas Board of Veterinary Examiners.

37. Vicious animal shall mean any animal, other than a dog, that has engaged in vicious conduct.

38. Vicious conduct shall mean an attack made by an animal, other than a dog, on a human when:

a. The attack was without provocation;

b. The attack resulted directly or indirectly in bodily injury to the human; and

c. The attack did not occur in a pen or other enclosure in which the animal was being kept.

## ARTICLE II

## GENERAL PROVISIONS

### Section 2.01 Establishment of Office of Animal Control Supervisor

A. There shall be and is hereby created the office of Animal Control Supervisor for the City of Arlington.

B. The Animal Control Supervisor shall act as the local health authority for the purposes of Chapter 826 of the Health and Safety Code of the State of Texas.

C. The Animal Control Supervisor shall employ deputies to assist him in the carrying out of his duties.

D. The Animal Control Supervisor and his deputies shall be assigned to the Health Department.

### Section 2.02 Duties of Animal Control Supervisor

It shall be the duty of the Animal Control Supervisor and his deputies to:

A. Administer and enforce all laws and regulations of the State of Texas pertaining to animals which authorize the local health authority or Animal Control Officers to enforce the same; and

B. Administer and enforce the "Animals", "Nuisance" and "Health" Chapters of the Code of the City of Arlington when a nuisance or health problem is caused by one or more animals.

Section 2.03 Authority to Kill, Impound or Destroy Animals

In addition to the authority to kill, impound or euthanize animals as otherwise granted in this Chapter, the Animal Control Supervisor, his deputies and any peace officer are authorized to:

A. Kill an animal which poses an imminent danger to a person or property or a real or apparent immediate necessity exists for destruction of the animal;

B. Impound an animal which is diseased or endangers the health of a person or another animal, or is at large.

C. Euthanize an impounded animal at the City Shelter if the Supervisor determines that recovery of the animal from injury, disease, or sickness is unlikely.

D. Kill any animal suspected of having rabies when such animal is found at large, after having made a reasonable, but unsuccessful effort to capture the animal.

Section 2.04 Powers and Duties of Citizens

A. Any citizen of the City of Arlington is hereby authorized to take control of and deliver to the office of the Animal Control Supervisor any animal that may be found running at large within the corporate limits of the City, other than prohibited animals or animals suspected of being rabid, subject to the applicable provisions of law.

B. A person commits an offense if he knowingly takes control of an animal under this Section and fails to deliver it to the Supervisor within forty-eight (48) hours.

Section 2.05 Inspections

The Supervisor is hereby authorized to make inspections and secure warrants as set forth in the "Court" Chapter of the Code of the City of Arlington.

Section 2.06 Animal Shelter Advisory Committee

A. As provided in Texas Health and Safety Code, Chapter 823, there is hereby created an Animal Shelter Advisory Committee.

B. The Committee shall be composed of five (5) members:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Community Development;

3. A citizen at large;

4. A person whose duties include the daily operation of an animal shelter; and

5. A representative from an animal welfare organization.

C. Each Committee member shall be appointed by the City Council, and serve a two (2) year term:

1. Committee members in places 1, 3 and 5 shall be appointed in odd-numbered years.

2. Committee members in places 2 and 4 shall be appointed in even-numbered years.

D. Committee members may be removed from office for cause by the City Council.

E. The City Council shall appoint a suitable person to serve out the unexpired term of any Committee member whose place becomes vacant for any reason. Appointees shall serve until the City Council designates a replacement for their Committee place.

F. The Committee shall meet once every three months at a time and place to be determined by the Chairperson of the Committee.

G. It shall be the duty of the Committee to assist the Arlington Animal Shelter in maintaining compliance with

the requirements of Texas Health and Safety Code, Chapter 823.

Section 2.07 Nuisances

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the corporate limits of the City of Arlington:

A. Any at large animal;

B. Any dog or cat over four (4) months of age that is not currently licensed with the City of Arlington and currently vaccinated against rabies;

C. Any prohibited animal as defined in this Chapter; or

D. Any vicious animal as defined in this Chapter.

## ARTICLE III

## DOGS AND CATS

Section 3.01 License and Vaccination Required

A. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently vaccinated against rabies.

B. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently licensed with the City of Arlington.

C. A person who owns a dog commits an offense if he fails to display on such dog both a current rabies vaccination tag furnished by a veterinarian and a current license tag furnished by the City of Arlington.

D. A person who owns a dog or cat commits an offense if he displays on such dog or cat a rabies or license tag issued to another animal.

E. Each animal in violation of this Section constitutes a separate offense.

Section 3.02 Issuance of License

A. Written application for a dog or cat license and payment of the applicable license fee shall be made to the Supervisor. The application shall include:

1. The name, telephone number and address of the applicant;

2. A description of the animal, including name, breed, color, gender and age; and

3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months.

B. The annual license fee shall be at an amount set by resolution of the City Council.

C. If not revoked, such license will be effective for a period of one (1) year from the date of vaccination for rabies.

D. Upon acceptance of the license application, the Supervisor shall issue the owner a metal license tag stamped with an identifying number for the dog or cat. The Supervisor shall also issue the owner a license certificate which identifies the animal by age, gender, breed, color, name and owner, and which states the dates of issuance and expiration of the license.

E. In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee.

Section 3.03 Impoundment of Dogs and Cats

A. Any dog or cat may be impounded by the Supervisor in any of the following circumstances:

1. Any dog or cat running at large in the City of Arlington;

2. Any dog not having affixed to and wearing on a collar or harness a valid City license tag and a tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies; or

3. Any dog or cat whose license has been revoked.

B. Disposition of Impounded Dogs and Cats.

1. If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be euthanized or placed for adoption. If, by a license tag or other means, the owner of an impounded animal can be identified, the Supervisor shall as soon as practicable after impoundment notify the owner by telephone, if reasonably possible, and, if not, then by mail.

2. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the Supervisor of the appropriate fees.

3. This subsection does not apply to any dog or cat: placed in quarantine, that is the subject of a vicious animal complaint, or whose license has been revoked.

Section 3.04 Fees

A. All of the fees and refunds described herein shall be set by resolution of the City Council.

B. Impoundment Fees

1. A pound fee will be charged for the impoundment of all dogs and cats.

2. An additional fee will be required for the second impoundment of the same dog or cat within the preceding twelve (12) month period.

3. There will be an additional fee for the third impoundment of the same dog or cat within the preceding twelve (12) month period.

4. In the case of an unspayed or unneutered dog or cat, a prorated refund will be processed upon the presentation of proof of spaying, neutering or otherwise permanent sterilizing within the thirty (30) days of release from impoundment. If said dog or cat is under four (4) months of age at the time it is released, a prorated refund will be processed upon the presentation of proof that said dog or cat was neutered within thirty (30) days from the date it became of age to be spayed or neutered as determined by a veterinarian; and such proof must be presented to the Supervisor within thirty (30) days of the date of such spaying or neutering. If the veterinarian is unable to verify the same, the owner shall sign an affidavit stating the veterinarian or clinic, the address, date and owner of animal at the time the alteration occurred.

C. License or Vaccination Fee. If license or vaccination of an impounded dog or cat is not current, the owner shall be required to pay for these items. The owner shall be given a receipt for the vaccination payment which can be redeemed by his veterinarian by submitting the receipt. Failure to obtain the vaccination within forty-eight (48) hours of reclaiming shall authorize impoundment.

D. Boarding Fee. In addition to the above fee, if the dog or cat is not picked up within seventy-two (72) hours, an additional fee will be charged for each twenty-four (24) hour period thereafter.

E. All necessary veterinary and drug costs incurred by the animal while it is in custody shall be charged to the owner.

Section 3.05 Adoption of Dogs or Cats

The Supervisor shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Supervisor shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Supervisor shall not constitute a warranty of the health or age of the animal.

B. There will be an adoption fee for all dogs and cats at an amount set by resolution of the City Council.

C. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the issuance of a vaccination certificate which the adopting person is to present to any veterinarian in Tarrant or Dallas County within forty-eight (48) hours for vaccination of the adopted dog or cat. The veterinarian may present the certificate with a statement verifying the vaccination to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older he knowingly fails to obtain the vaccination for such animal within forty-eight (48) hours of the adoption date.

c. It shall be presumed that the person failed to have the animal vaccinated if within seven (7) days of the adoption date he has not presented the Supervisor with proof of the vaccination. Such proof shall be in the form of a receipt

from the veterinarian administering the vaccination.

d. The Supervisor shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. Spaying or Neutering Fee.

a. In the event said adopted dog or cat age four (4) months or older is unspayed or unneutered, a fee in an amount set by resolution of the City Council shall be paid for the issuance of a spaying or neutering certificate. The adopting person shall present such certificate to any veterinarian in Tarrant or Dallas County within thirty (30) days for the spaying or neutering of the adopted dog or cat. The veterinarian may present the certificate with a statement verifying the spaying or neutering to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for spaying or neutering the animal, whichever is less.

b. A person who adopts a cat or dog under this subsection commits an offense if with criminal negligence he fails to have such animal spayed or neutered within thirty (30) days of the adoption date.

c. It shall be presumed that a person failed to have the animal spayed or neutered if within forty-five (45) days of the adoption date he has not presented the Supervisor with proof of such procedure. Said proof shall be in the form of a receipt from the veterinarian performing the procedure.

d. The Supervisor shall be authorized to reimpound the adopted dog or cat under this subsection if the animal is not spayed or neutered within the required time. In such

case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

3. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Control Supervisor the license fee as set forth in Section 2.01.

D. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the issuance of a vaccination certificate which the adopting person is to present to any veterinarian in Tarrant or Dallas County. The veterinarian may present the certificate with a statement verifying the vaccination to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person who adopts a dog or cat under this subsection commits an offense if he knowingly fails to obtain the vaccination for such animal within the age limits required in this subsection.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within seven (7) months of the adoption date he has not presented proof of the vaccination to the Supervisor. Proof shall be in the form of a receipt from the veterinarian administering the vaccine.

d. The Supervisor shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. Spaying or Neutering Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, spaying or neutering will not be required until the animal becomes of age to have spaying or neutering as determined by a veterinarian. Provided, however, that spaying or neutering shall be completed within six (6) months of the date of adoption.

b. A fee in an amount set by resolution of the City Council shall be paid for the issuance of a spaying or neutering certificate which the adopting person is to present to any veterinarian in Tarrant or Dallas County within six (6) months of the adoption date for the spaying or neutering of the adopted dog or cat. The veterinarian may present the certificate with a statement verifying the spaying or neutering to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for spaying or neutering the animal, whichever is less.

c. A person who adopts a dog or cat under four (4) months of age commits an offense if with criminal negligence he fails to have such animal spayed or neutered within six (6) months of the adoption date.

d. It shall be presumed that a person failed to have the animal spayed or neutered if within seven (7) months of the adoption date he has not presented the Supervisor with proof of such procedure. Said proof shall be in the form of a receipt from the veterinarian performing the procedure.

e. The Animal Control Supervisor shall be authorized to reimpound the adopted dog or cat under four (4) months of age if the animal is not spayed or neutered within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

3. License Fee.

a. At the time the spaying or neutering is accomplished for an adopted dog or cat under four (4) months of age, the owner shall furnish to the Supervisor the original adoption receipt, proof of vaccination and proof of spaying or neutering to receive the City license.

b. The adopting person shall present to the Animal Control Supervisor the license fee as set out in Section 2.01

Section 3.06 Breeding of Dogs or Cats

The owner of a female dog or cat in season commits an offense if he fails to confine such animal in an anti-escape house, building or enclosure constructed in such a manner that the animal cannot come into contact with another animal of the same species and opposite sex except for planned breeding.

## ARTICLE IV

## ESTRAYS AND AT LARGE

Section 4.01 Estrays to be Impounded

It shall be the duty of the Supervisor in the absence of action by the County Sheriff's office, to take up any and all estrays that may be found in and upon any street, alley, or in or upon any unenclosed lot, or otherwise to be found at large, and to confine them for safe keeping. After

impounding an estray, the Supervisor shall prepare a notice of estray and file the notice in the estray book.

Section 4.02 Fees and Costs

For each impounded estray, the owner shall pay the Supervisor the following fees and costs. No estray shall be released to its owner before all fees and costs are paid:

A. An impound fee of a sum set by resolution of the City Council;

B. A boarding fee of a sum set by resolution of the City Council. Such fee shall be charged for each day the estray is in custody, excluding the date it is impounded; and

C. All necessary veterinary and drug costs incurred by the animal while it is in custody.

Section 4.03 Advertisement

When an estray has been impounded, the Supervisor shall make a diligent search of the register of recorded brands in the County for the owner of the estray. If the search does not reveal the owner, the Supervisor shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next fifteen (15) days and post a notice of the impoundment of the estray on the public notice board of the County Subcourthouse and City Hall.

Section 4.04 Recovery by Owner

The owner of an estray may recover possession of the estray at any time before the estray is sold under the terms of this Article if:

A. The owner has provided the Supervisor with an affidavit of ownership of estray;

B. The Supervisor has approved the affidavit;

C. The approved affidavit has been filed in the estray book;

D. The owner has paid all estray handling fees to those entitled to receive them;

E. The owner has executed an affidavit of receipt of estray and delivered it to the Supervisor; and

F. The Supervisor has filed the affidavit of receipt of estray in the estray book.

Section 4.05 Sale of Estray

A. If the ownership of an estray is not determined within fourteen (14) days following the final advertisement required by this Article, title to the estray rests in the City. The Supervisor shall cause the estray to be sold at a public auction. Title to the estray shall be deemed vested in the Supervisor for purposes of passing good title, free and clear of all claims, to the purchasers at the sale.

B. The purchasers of an estray at public auction shall take possession of the animal upon payment therefor.

C. The Supervisor shall receive the proceeds from the sale of the estray and do the following:

1. Pay all estray handling fees to those entitled to receive them;

2. Execute a report of sale of impounded stock; and

3. Cause the report of sale of impounded stock to be filed in the estray book.

D. The net proceeds remaining from the sale of an estray after estray handling fees have been paid shall be delivered by the Supervisor to the City treasury. These net proceeds shall be subject to claim by the original owner of the estray as provided herein.

E. If the bids are too low, the Supervisor shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

Section 4.06 Use of Estray

A person commits an offense if after impounding an estray he with criminal negligence uses such estray for any purpose.

Section 4.07 Death or Escape of Estray

A. If an estray dies or escapes while in custody:

1. The person who has custody shall report the death or escape to the Supervisor;

2. Such report shall be in the form of a sworn affidavit and filed with the Supervisor; and

3. The Supervisor shall file the affidavit in the estray book.

B. A person commits an offense if with criminal negligence he fails to report a death or escape as required by this Section.

Section 4.08 Recovery by Owner of Proceeds Delivered to City Treasurer

Within twelve (12) months after the sale of an estray under the provisions of this Article the original owner of the estray may recover the proceeds of the sale of the estray that were delivered by the Supervisor to the City Treasurer if:

A. The owner has provided the Supervisor with an affidavit of ownership of estray;

B. The Supervisor has approved the affidavit; and

C. The approved affidavit has been filed in the estray book.

Section 4.09 Escheat of Sale Proceeds

After the expiration of twelve (12) months from the sale of an estray as provided by this Article, the sale proceeds shall escheat to the City.

Section 4.10 Riding, Driving or Herding of Certain Animals

A. A person commits an offense if, with criminal negligence, he rides, herds or drives any horse, cow, sheep, goat, pig or llama:

1. On a public sidewalk; or

2. On any private or public property without the effective consent of the owner of such property.

B. It is an exception to (A) that the person was a peace officer or animal control officer in the performance of his official duties; or the person was assisting a peace officer or animal control officer in the performance of his official duties.

Section 4.11 Animal At Large

A. A person commits an offense if he fails to keep an animal he owns from being at large.

B. It is an exception to (A) that:

1. The animal was a police service animal under the supervision of a peace officer in the performance of his official duties; or

2. The animal was a water fowl at a municipally owned facility;

C. Each animal in violation of this Section constitutes a separate offense.

Section 4.12 Animal Impounded at Police Request

A. Impounding

The Supervisor shall impound an animal at the request of a peace officer when the owner of the animal has been arrested or hospitalized, is missing or has died, and there is no person present, sixteen (16) years of age or older, who will assume the duties of providing food, water and shelter for such animal.

B. Disposition of Animal - Owner's Residence Known

1. If the animal is not reclaimed by the sixtieth day after the date it is impounded, the Supervisor shall give notice to the owner if the owner's residence is known to him and it is in Texas. The notice shall be in writing, sent by certified mail with return receipt requested, and shall include the amount of the accrued charges and a demand for payment.

2. If the animal is not reclaimed and all accrued charges paid by the eleventh day after the date the notice is mailed, the Supervisor shall send a second notice by certified mail, return receipt requested, to the owner. Such notice shall state that the animal will be euthanized, placed for adoption, or sold at public auction after the twentieth day after the date the second notice is sent.

C. Disposition of Animal - Owner's Residence Unknown

If the animal is not reclaimed by the sixtieth day after the date it is impounded, and the owner's residence is not in Texas or the Supervisor does not know where the owner's residence is, the Supervisor may euthanize the animal, place the animal for adoption, or sell the animal at public auction without notice to the owner.

D. The proceeds from the sale or adoption of an animal shall be applied against the accrued charges. If there are any excess proceeds, the Supervisor shall pay such to the owner.

E. The fees for impounding and boarding dogs and cats under this Section shall be the same as those set under the authority of Section 3.04. The fees for impounding all other domestic animals shall be the same as those set under the authority of Section 4.02.

F. This Section shall not apply to at large animals or prohibited animals.

Section 4.13 Wild Animals

A. It shall be the duty of the Supervisor, in the absence of action by State or Federal agencies, to take up any and all wild animals that are diseased or which endanger the health of a person or other animal.

B. The Supervisor may at his discretion release a wild animal to a State agency, animal rehabilitation center, or an animal refuge.

## ARTICLE V

## SALE AND BREEDING OF ANIMALS

Section 5.01 Sale and Care of Certain Animals

A. A person commits an offense if with criminal negligence he sells, offers for sale, gives as a prize or displays any live chick, duckling, gosling, rabbit or hamster that has been artificially colored.

B. A person commits an offense if with criminal negligence he sells, offers for sale, gives as a prize, or commercially displays any chick, duckling or gosling younger than four (4) weeks of age.

C. A person commits an offense if with criminal negligence he offers for sale or as a prize, or displays any chick, gosling or duck without providing such animal with a brooder or heating device as necessary to keep such animal in good health.

D. A person commits an offense if with criminal negligence he fails to provide any animal described in this Section with adequate food and water at all times.

E. It is an exception to this Section that the sale, offer or display was of natural chicks, goslings or ducklings in proper brooder facilities by a hatchery or other store engaged in the business of selling such animals to be raised for commercial purposes.

Section 5.02 Keeping of Fowl

A person commits an offense if with criminal negligence he:

A. Keeps or maintains ten (10) or more fowl at a distance closer than five hundred feet (500') from any habitation located on another's property; or

B. Erects a structure, fenced pen or other enclosure for the keeping of ten (10) or more fowl at a distance closer than five hundred feet (500') from any habitation located on another's property.

Section 5.03 Livestock

A person commits an offense if with criminal negligence he:

A. Keeps or stakes any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

B. Keeps or stakes any pig at a distance closer than five hundred feet (500') from any habitation located on another's property;

C. Erects or maintains a structure, pen, corral or other enclosure for any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property; or

D. Erects or maintains a structure, pen, corral or other enclosure for any pig at a distance closer than five

hundred feet (500') from any habitation located on another's property.

Section 5.04 Exceptions

It is an exception to Sections 5.02 and 5.03 that:

A. The animal or structure was at a veterinary clinic or hospital, pet store, feed store, farm store or any similar establishment properly zoned for keeping such animals;

B. The structure, pen, corral or other enclosure was in existence at the time the premises on which it is located were annexed by the City of Arlington. However, if the ownership or primary use of the premises changes, this exception shall not apply; or

C. The structure, pen, corral or other enclosure was in existence prior to the time a habitation was erected on another's property.

## ARTICLE VI

## RABIES CONTROL AND BITE PROCEDURES

Section 6.01 Definitions

The following words and terms when used in this Article shall have the following meanings unless the context clearly indicates otherwise:

1. Animal shall mean any live or dead mammal, domesticated or wild, excluding homo sapiens.

2. Bite or scratch shall mean a bite or scratch that breaks the skin and is capable of transmitting rabies.

3. High Risk Animal shall mean any animal that has a high probability of transmitting rabies (including foxes, bats, skunks and raccoons).

4. Low Risk Animal shall mean any animal that has a low probability of transmitting rabies (including animals of the orders Marsupialia, Insectivora, Rodentia, Lagomorpha and Xenarthra).

Section 6.02 Report of Rabies

A. A person commits an offense if he has knowledge of an animal bite or scratch of a human and fails to report said bite or scratch to the Supervisor within twenty-four (24) hours from the time of the incident.

B. A person commits an offense if he knows of an animal that he suspects is rabid and fails to report such animal to the Supervisor.

C. A report shall be written or oral and include if known, the name and address of the victim and of the animal's owner, and any information which could lead to locating the victim, the animal, and the animal's owner.

D. The Supervisor shall investigate all reports made under this Section.

Section 6.03 Quarantine

A. The owner of an animal that has bitten or scratched a human commits an offense if he fails to submit the animal to the Supervisor within twenty-four (24) hours from the time of the bite or scratch.

B. The owner of an animal that is suspected of being rabid commits an offense if he fails to submit the animal to the Supervisor within twenty-four (24) hours from the time he is ordered by the Supervisor to do so.

C. The Supervisor shall follow these procedures for quarantining and testing:

1. When a dog or cat has bitten or scratched a human, the dog or cat shall be placed in quarantine for the observation period, in a facility specified by the Supervisor and approved by the Texas Department of Health.

2. When an animal that has not bitten or scratched a human is suspected of having rabies, it shall be placed in quarantine for ten (10) days, in a facility specified by the Supervisor and approved by the Texas Department of Health.

3. Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Supervisor, the Supervisor may permit home quarantine for the animal if the following criteria can be met:

   a. The animal was currently vaccinated against rabies at the time of the bite or scratch;

   b. The animal was currently licensed with the City of Arlington at the time of the bite or scratch;

   c. The animal was not at large at the time of the bite or scratch;

   d. The animal's owner has secure facilities at his home for the animal which have been approved by the Supervisor;

   e. The Supervisor or a licensed veterinarian must observe the animal on at least the first and last days of the quarantine period;

   f. If the animal becomes ill during the observation period, the person with possession of the animal must notify the Supervisor;

   g. The owner must sign an agreement to abide by the quarantine rules; and

   h. The release from quarantine must be in writing.

4. If the Supervisor is in possession of a dog or cat which has bitten or scratched a human, and such animal is designated as unowned, the Supervisor may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

5. If the animal which has bitten or scratched a human is a high risk animal, the Supervisor shall cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

6. If the animal which has bitten or scratched a human is a low risk animal, the Supervisor shall cause the animal to be euthanized, and shall submit its brain for rabies diagnosis by a Texas Department of Health certified laboratory if the Supervisor has cause to believe the animal is rabid. If the Supervisor has no cause to believe the animal is rabid, then neither quarantining nor testing will be required.

7. If the animal, including a dog or cat, which has bitten or scratched a human inflicted multiple bite wounds, lacerations or punctures to the face, head or neck of the human, the Supervisor shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

8. If the animal which has bitten or scratched a human is not included in (1), (2), (3), (4), (5), (6) or (7) of this subsection, the Supervisor shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

9. The Supervisor shall cause to be euthanized any animal required to be quarantined under this subsection which cannot be maintained in a secure quarantine, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

10. The Supervisor shall follow the rules promulgated by the Texas Department of Health when submitting an animal brain for testing.

11. The Supervisor may euthanize an unowned animal prior to the end of the quarantine, and have the brain tested for rabies.

12. All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

D. The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement.

Section 6.04 Disposition or Release of Quarantined Animal

A. At the conclusion of the quarantine, the Supervisor shall release the quarantined animal to its owner if a veterinarian has determined that a quarantined animal shows no clinical signs of rabies, and

1. If the owner presents an unexpired rabies vaccination certificate for the animal to the Supervisor; or

2. If the animal is vaccinated against rabies by a licensed veterinarian at the owner's expense, and the owner presents a rabies vaccination certificate for the animal to the Supervisor; and

3. If the animal is not the subject of a vicious animal complaint.

B. The Supervisor shall euthanize any animal which at the end of the quarantine period is determined by a veterinarian to show clinical signs of rabies.

C. If an animal dies, is killed or euthanized while in quarantine, the Supervisor shall submit the head or brain of the animal to a Texas Department of Health certified laboratory for rabies diagnosis.

D. The owner of a quarantined animal shall pay to the Supervisor all costs of quarantine and disposition of the animal, by fee set by resolution of the Council. No quarantined animal shall be released until all fees have been paid.

E. If the owner of an animal fails to take possession of the animal before the fourth day following the final day of the quarantine period, the Supervisor shall at his

option place the animal for adoption or cause it to be euthanized.

Section 6.06 Use and Sale of Rabies Vaccine

A. Rabies vaccine for animals shall be administered only by or under the direct supervision of a veterinarian.

B. A veterinarian shall not administer or directly supervise the administration of rabies vaccine in this State unless he is:

1. Licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine; or

2. Practicing veterinary medicine on an installation of the armed forces or National Guard.

C. A person commits an offense if he administers or attempts to administer rabies vaccine in a manner not authorized by this Section.

D. A person commits an offense if he dispenses or attempts to dispense rabies vaccine in a manner not authorized by this Section.

E. A person commits an offense if he sells or distributes rabies vaccine for animals to any person except a licensed veterinarian or to a person working in a veterinarian clinic who accepts the vaccine on behalf of the veterinarian.

Section 6.07 Animal Exposed to Rabies

A. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to report such bite or exposure to the Supervisor within twenty-four hours of the incident.

B. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to submit his

animal to the Supervisor for quarantine or destruction within twenty-four (24) hours from the time of the bite or exposure.

C. If the animal which has been bitten or exposed has not been vaccinated against rabies and is an animal for which an approved vaccine exists, the Supervisor:

1. Shall cause such animal to be euthanized; or

2. Shall, if sufficient justification for preserving the animal exists, cause the animal to be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and given booster vaccinations during the third and eighth weeks of isolation. If the animal is under three (3) months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three (3) months of age.

D. If the animal which has been bitten or exposed was currently vaccinated against rabies at the time of the bite or exposure, and is an animal for which an approved vaccine exists, the Supervisor:

1. Shall cause such animal to be euthanized; or

2. shall, if sufficient justification for preserving the animal exists, cause the animal to be given an immediate booster rabies vaccination and placed in strict isolation for forty-five (45) days.

E. If the animal which has been bitten or exposed is an animal for which no approved rabies vaccine exists, the Supervisor shall cause such animal to be euthanized.

F. The procedures for disposition or release of the animal following isolation shall be the same as those for disposition of an animal following quarantine set forth in Section 6.04 of this Article.

## ARTICLE VII

## PROHIBITED AND EXOTIC ANIMALS

Section 7.01 Definition of Prohibited Animals

Prohibited animal shall mean:

A. Class Mammalia:

1. Order Carnivora:

a. Family Mustelidae (such as weasels, skunks, otters, badgers, mink and martens) EXCEPT ferrets;

b. Family Procyonidae (such as raccoons and coati);

c. Family Ursidae (bears);

d. Family Felidae (such as bobcats, lions and tigers), EXCEPT cats;

B. Class Reptilia:

1. Family Helodermatidae (venomous lizards);

2. Family Hydrophiidae (venomous marine snakes);

3. Family Crotalidae (rattlesnakes, fer-de-lance, water moccasins, copperheads)

4. Family Viperidae (Old World Vipers);

5. Family Elapidae (coral snakes, cobras and mambas);

6. Family Colubridae:

a. Dispholidus typus (boomslang);

b. Cyclagras gigas (false water cobra);

c. Boiga dendrophila (mangrove snake); and

d. Thelotornis kirtlandii (bird snake);

7. Order Crocodilia (crocodiles, alligators and gavials);

8. Family Chelydridae:

a. Macroclemys temmincki (alligator snapping turtle); and

b. Chelydra serpentina (common snapping turtle);

C. Class Amphibia:

Family Dendrobatidae: Phyllobates terribilis; and

D. Any hybrid of an animal listed in this Section.

E. All parenthetical references in this Section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

Section 7.02 Ownership of Prohibited Animal

A. Definitions

Institution shall mean an established society or corporation, public or private, that utilizes animals in medical or scientific research, testing or experimentation, or for educational programs. The term shall include: public or private hospitals, laboratories and research facilities; public or private technical institutes, junior colleges, senior colleges or universities or any medical or dental unit thereof; any "other agency of higher education" as defined in Section 61.003 of the Texas Education Code; and public and private elementary and secondary schools. The term shall exclude a dwelling, the land surrounding such dwelling, and any outbuildings belonging thereto.

Being transported shall mean the act of being conveyed within a vehicle upon a public street.

B. A person commits an offense if he owns a prohibited animal.

C. It is an exception that:

1. The animal was in a medical or scientific research project, or educational program under institutional supervision, and on the premises of such institution or being transported by an employee or agent of such institution;

2. The animal was on the premises of or being transported by a circus, carnival, zoo or amusement park:

a. That is licensed under the Federal Animal Welfare Act, and that is inspected annually, or

b. That is licensed under Chapter 824 of the Texas Health and Safety Code;

3. The animal was on the premises of an animal rehabilitation facility licensed by the State of Texas or by the United States of America, or being transported by an employee or agent of such facility.

4. The animal was being transported through Arlington from a point outside the City to a point outside the City; or

5. The person was a licensed veterinarian who was providing veterinary care for a sick or injured prohibited animal.

D. A person who owns a prohibited animal on the date this Article becomes effective shall have thirty (30) days from said date to come into compliance with this Section.

E. It is an affirmative defense to prosecution that:

1. The defendant lawfully owned the animal prior to the effective date of this Section, and harbored or maintained it within the City; and

2. The animal poses no significant risk to the health or safety of the community.

Section 7.03 Impoundment of Prohibited Animals

A. The Supervisor shall immediately impound all prohibited animals found in violation of this Chapter, and place them in the Animal Shelter or other suitable facility.

B. Any person owning a prohibited animal shall submit it to the Supervisor immediately upon his request.

C. A person commits an offense if he fails to submit a prohibited animal to the Supervisor after having been ordered by the Supervisor to do so.

D. An order under this Section shall be in writing, signed by the Supervisor and served in person by the Supervisor or a peace officer upon the owner of the prohibited animal.

Section 7.04 Maintenance and Disposition of Prohibited Animal

A. The Supervisor shall maintain any prohibited animal impounded under this Chapter for five (5) days, except:

1. If the owner of a prohibited animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a prohibited animal requests a hearing (in which case the Supervisor shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Supervisor shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of a prohibited animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing it is determined that the animal was not a prohibited animal or was an exception to prohibited animals. Such fees shall be of a sum set by resolution of the City Council.

Section 7.05 Definition of Exotic Animals

Exotic animal shall mean:

A. Class Mammalia:

1. Order Marsupialia: Subfamily Macropodinae (wallabies, kangaroos, padmelons and wallaroos);

2. Order Perissodactyla:

   a. Family Tapiridae (tapirs);

   b. Family Equidae (zebra, wild asses and wild horses) except domestic equine;

   c. Family Rhinocerotidae (rhinoceros);

3. Order Artiodactyla (such as hippopotamus, camels, giraffes, bison, antelope and deer) except domestic goats, oxen, sheep, cattle, pigs and llama;

4. Order Chiroptera (bats);

5. Family Ailuridae (Pandas and lesser pandas);

6. Family Viverridae (such as civets, mongoose and binturongs);

7. Family Protelidae (aardwolves);

8. Family Hyaenidae (hyenas);

9. Family Canidae (such as jackals, foxes and wolves), EXCEPT dogs;

10. Order Proboscidea (elephants);

11. Order Primates (such as apes, monkeys and lemurs) EXCEPT:

    a. Family Cebidae:

        (1) Genus Cebus (Capuchin monkeys);

        (2) Genus Ateles (Spider monkeys);

        (3) Genus Brachyteles (Wooly Spider monkeys);

    b. Family Callimiconidae: Genus Callimico (Goeldi's monkey);

    c. Family Callithricidae:

        (1) Genus Callithrix (marmoset);

        (2) Genus Leontideus (maned tamarin);

        (3) Genus Saguinus (tamarins);

        (4) Genus Oedipomidas (crested bare-faced tamarin);

B. Class Aves:

1. Order Rheiformes (such as the rhea);

2. Order Struthioniformes (such as the ostrich);

3. Order Casuariiformes (such as the emu); and

C. Any hybrid of an animal listed in this Section;

D. All parenthetical references in this section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

Section 7.06 Application of Other Laws

The requirements in this Chapter regarding exotic animals shall be in addition to Federal laws and regulations, and Texas laws and regulations governing ownership of these animals.

Section 7.07 Primary Enclosures

A person commits an offense if he harbors or maintains an exotic animal unless the animal is confined to a primary enclosure which meets the following minimum construction specifications:

A. Orders Rheiformes, Struthioniformes, and Casuariiformes. A fence of not less than six feet (6') in height, constructed of not less than eleven and one-half (11½) gauge chain link fence or its strength equivalent.

B. Family Ailuridae: a cage of not less than nine (9) gauge chain link or its strength equivalent.

C. Families Canidae, Protelidae, Hyaenidae, and Viverridae: A cage of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

D. Order Primates:

1. Chimpanzees, orangutans and gorillas: A cage consisting of steel bars, two-inch (2") galvanized pipe, masonry block, or their strength equivalent.

2. Gibbons, monkeys and other primates: a cage consisting of not less than nine (9) gauge chain link or its strength equivalent.

E. Elephants, rhinoceros and hippopotamus: a cage of steel bars, masonry block, or its strength equivalent.

F. Order Marsupialia: a cage consisting of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

G. Order Perissodactyla (except rhinoceros) and Order Artiodactyla (except hippopotamus): a fence of not less

than eight feet (8') in height, constructed of not less than nine (9) gauge chain link or its strength equivalent.

H. Order Chiroptera (bats): a cage with no openings that will allow passage of a sphere larger than three-eighths inch (3/8"), excluding the door. Any door to such a cage shall have no openings which will allow passage of a sphere greater than three-eighths inch (3/8"), and shall be kept secured when not in use.

I. All cages and fences constructed of chain link shall be well braced and securely anchored at ground level and shall utilize metal corners, clamps, ties and braces of equivalent strength to other materials prescribed for cage construction for that order, family or species.

J. Frames for cages and fences, including corners, braces, top and bottom rails, shall be securely bolted or welded to provide maximum strength.

K. Cages and fences shall be sufficiently strong to prevent escape.

L. Cages and fences shall be equipped with locks and locking mechanism to prevent opening by unauthorized persons.

M. All cages shall be covered at the top to prevent escape. In lieu of this requirement, facilities provided for rhinoceros, elephants, and hippopotami may be constructed at sufficient height and in such a manner to prevent escape.

Section 7.08 <u>Transportation of Exotic Animals</u>

A person commits an offense if he transports an exotic animal unless such animal is transported in a cage which meets the minimum construction and strength requirements for primary holding facilities as required in Section 7.07.

Section 7.09 Distance Requirements

A. A person commits an offense if with criminal negligence he houses, maintains, keeps or stakes an exotic animal at a distance closer than one hundred feet (100') from any habitation located on another's property.

B. Bats shall be exempt from this distance requirement.

Section 7.10 Impoundment of Exotic Animals

A. The Supervisor shall immediately impound all exotic animals that are at large or that are being maintained, harbored or transported in violation of this Article, and place them in the Animal Shelter or other suitable facility.

B. A person maintaining, harboring or transporting an exotic animal in violation of this Chapter shall submit it to the Supervisor immediately upon his request.

C. A person commits an offense if he fails to submit an exotic animal to the Supervisor after having been ordered by the Supervisor to do so.

D. An order under this Section shall be in writing, signed by the Supervisor and served in person by the Supervisor or a peace officer upon the owner of the prohibited animal.

Section 7.11 Maintenance and Disposition of Exotic Animal

A. The Supervisor shall maintain any exotic animal impounded under this Chapter for five (5) days, except:

1. If the owner of a exotic animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a exotic animal requests a hearing (in which case the Supervisor shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Supervisor shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of an exotic animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing, it is determined that the animal was not in violation of this Article. Such fees shall be set by resolution of the City Council.

## ARTICLE VIII

## VICIOUS ANIMALS

### Section 8.01 Ownership of Vicious Animal

A person commits an offense if he knowingly owns a vicious animal.

### Section 8.02 Reporting of Vicious Animal

A. The Supervisor may receive a complaint concerning a vicious animal. Such complaint shall be in writing and sworn to by the complainant on a form prescribed by the Supervisor.

B. Such sworn complaint shall not be required if the animal is the subject of an investigation under the "Rabies Control and Bite Procedures" Article of this Chapter.

C. The Supervisor shall investigate all complaints filed under this Section.

Section 8.03 Impoundment of Vicious Animal

A. The Supervisor shall immediately impound any animal which he has reason to believe has engaged in vicious conduct.

B. The owner of a vicious animal shall submit it to the Supervisor immediately upon his request.

C. A person commits an offense if he fails to submit to the Supervisor an animal the subject of a vicious animal investigation after having been ordered by the Supervisor to do so.

D. An order under this Section shall be in writing, signed by the Supervisor and served in person by the Supervisor or a peace officer upon the owner of the animal.

Section 8.04 Maintenance and Disposition of Vicious Animal

A. The Supervisor shall maintain any animal impounded under this Article:

1. Until the owner has exhausted his administrative remedies; or

2. Until the owner signs an agreement abandoning all rights, claims or title to the animal.

B. Upon the exhausting of remedies in (A)(1) or the signing of an agreement in (A)(2), the Supervisor shall euthanize the animal.

C. The owner of an animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding and disposition of the animal, unless, after hearing, it is determined that the animal is not a vicious animal.

D. The right of the Supervisor to destroy an animal as set forth in the "Rabies Control and Bite Procedures" Article shall supercede his duty to maintain the animal as set forth in this Section.

## ARTICLE IX

## MISCELLANEOUS

### Section 9.01 Disposal of Dead Animals

A. Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:

1. Animals weighing fifty (50) pounds or less may be buried on the owner's premises at a depth of not less than twelve inches (12").

2. Animals weighing twenty (20) pounds or less may be placed for trash collection if they are first wrapped securely in newspaper and put in a bag of a type approved by the Administrator of the "Health" Chapter of this Code.

3. Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery.

4. If requested by the owner, dogs and cats will be picked up by the Supervisor and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.

5. The Landfill Supervisor shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk.

6. The Supervisor shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Shelter.

B. A person commits an offense if he disposes of a dead animal in a manner other than as provided by this Section.

C. The owner of an animal which has died commits an offense if with criminal negligence he fails to properly dispose

of such animal within twenty-four (24) hours of its death.

Section 9.02 Traps

A person commits an offense if he knowingly releases or removes an animal from a trap set by the Supervisor.

Section 9.03 Interfering with Supervisor

A person commits an offense if he knowingly prevents, interferes with, or obstructs the Supervisor in the performance of his duties.

Section 9.04 Filing of False Claims and Reports

A. A person commits an offense if he knowingly initiates, communicates or circulates a claim of ownership for an animal with the Supervisor that he knows is false or baseless.

B. A person commits an offense if he knowingly initiates, communicates or circulates a report of a violation of City ordinance or State law with the Supervisor that he knows is false or baseless.

## ARTICLE X

## ADMINISTRATIVE HEARINGS AND INQUESTS

Section 10.01 General Provisions

A. When notice is required to be given to a person under this Article, it shall be in writing and mailed certified mail return receipt requested to that person's last known mailing address.

B. Notice shall specify the date, time and place of the hearing or inquest.

C. Notice shall be deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

D. For purposes of this Article, the Administrator shall be empowered to administer oaths and to promulgate procedural rules for the conduct of hearings and inquests.

E. Whenever any deadline specified in this Article falls upon a Saturday, Sunday or a City recognized holiday, the deadline shall be the next regular City business day.

F. The date of an order or ruling required to be made under this Article shall be deemed to be the date it is signed.

G. The administrative remedies set forth in this Article shall be in addition to any criminal penalties provided in the ordinances of this City or the laws of this State.

Section 10.02 Vicious Dog Inquest

A. After investigating an attack made by a dog on a human as provided in the "Rabies Control and Bite Procedures" Article of this Chapter, the Supervisor shall apply to the Administrator for a vicious dog inquest if it appears to him that the attack constituted vicious conduct as defined by the Texas Penal Code.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the investigation shall be attached to the application.

C. The Administrator shall schedule the inquest for a time no later than ten (10) days following the date he receives the application.

D. The Administrator shall send notice of the inquest to the owner of the dog, the victim of the attack, and all witnesses listed in the reports submitted by the Supervisor. He shall further inform the Supervisor of the inquest.

E. The Administrator shall conduct the inquest informally. The sole issue to be determined is whether the dog engaged in vicious conduct.

F. At the conclusion of the inquest, the Administrator shall make written findings of fact and conclusions of law.

G. If the Administrator determines that the dog engaged in vicious conduct he shall send to the owner by certified mail, return receipt requested, a certified copy of his findings and conclusions attached to a copy of Texas Penal Code, Section 42.12. He shall further forward a copy of his findings and conclusions to the records division of the Arlington Police Department.

Section 10.03 Administrative Hearing for License Revocation

A. The Supervisor shall apply to the Administrator for an administrative hearing to determine whether a dog or cat license issued by the City of Arlington should be revoked if:

1. The dog or cat has been impounded by the City three (3) or more time during a twelve (12) month period;

2. The owner has been convicted in the Arlington Municipal Court three (3) or more times during a twelve (12) month period for violations of Article III involving the dog or cat; or

3. There is a combination of (1) and (2) totalling three (3) or more incidents in the same twelve (12) month period.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which revocation is sought shall be attached to the application.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner, and shall inform the Supervisor of the hearing.

E. The sole issue to be decided at the hearing is whether the license should be revoked.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay stating that the license is either revoked or not revoked. A copy of such order shall be sent to the owner by certified mail, return receipt requested.

G. Upon the license being revoked, the owner shall have ten (10) days to remove the dog or cat from the City.

Section 10.04 Administrative Hearing - Ownership of Animal with Revoked License

A. After impounding a dog or cat whose license has been revoked and which has not been removed from the City, the Supervisor shall apply to the Administrator for an administrative hearing to determine the disposition of the animal.

B. The application shall be on a form prescribed by the Administrator.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner of the animal, and further shall inform the Supervisor of the hearing.

E. The sole issue to be determined at the hearing is whether the animal should be euthanized or placed for adoption.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal should be euthanized, he shall order the animal euthanized by the Supervisor.

2. If the Administrator finds that the animal should be placed for adoption, he shall order the Supervisor to place it for adoption.

3. If the Administrator finds that the animal should be euthanized or placed for adoption, the owner may appeal to the Appeals Officer.

Section 10.05 Administrative Hearing - Prohibited Animal

A. The owner of an impounded prohibited animal may request an administrative hearing before the Administrator to establish:

1. That the animal is not a prohibited animal;

2. That the animal falls within one of the exceptions to owning prohibited animals; or

3. That the animal meets the criteria of the affirmative defense set forth in Section 7.02(E).

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Supervisor of the hearing.

G. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal is not a prohibited animal, is an animal which falls within an exception to prohibited animals, or is an animal which meets the criteria of the affirmative defense set forth in Section 7.02(E), he shall order the animal released to the owner.

2. If the Administrator finds that the animal is a prohibited animal not covered by the exceptions or affirmative defense criteria, he shall order it disposed of as provided for in Article VII, Section 7.05.

3. If the Administrator finds that the animal is a prohibited animal not covered by the exceptions or affirmative defense criteria, the owner may appeal to the Appeals Officer.

Section 10.06 Administrative Hearing - Exotic Animal

A. The owner of an impounded exotic animal may request an administrative hearing before the Administrator to establish:

1. That the animal is not an exotic animal, or

2. That the animal was not in violation of Article VII.

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Supervisor of the hearing.

G. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal is not an exotic animal, was not in violation of Article VII and was not at large, he shall order the animal released to the owner.

2. If the Administrator finds that the animal was in violation of Article VII or at large, he shall order it disposed of as provided for in Article VII, Section 7.11.

3. If the Administrator finds that the animal was in violation of Article VII or at large, the owner may appeal to the Appeals Officer.

Section 10.07 <u>Administrative Hearing - Vicious Animal</u>

A. After investigating and impounding a vicious animal, the Supervisor shall apply to the Administrator for an administrative hearing to determine whether an animal is vicious.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the investigation of the vicious animal shall be attached to the application.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner of the animal and all witnesses named in the

report of the Supervisor, and further shall inform the Supervisor of the hearing.

E. The sole issue to be determined at the hearing is whether the animal is a vicious animal.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal is not a vicious animal, he shall order the animal released to the owner.

2. If the Administrator finds that the animal is a vicious animal, he shall order it disposed of as provided for in Article VIII, Section 8.04.

3. If the Administrator finds that the animal is a vicious animal, the owner may appeal to the Appeals Officer.

Section 10.08 Appeal to Appeals Officer

A. The owner of an animal the subject of a hearing under Section 10.04, 10.05, 10.06, and 10.07 may appeal an adverse ruling to the Appeals Officer.

B. Notice of appeal shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the date of the Administrator's order.

C. Notice of appeal shall be in writing and shall specify the grounds upon which the appeal is based.

D. The Administrator shall immediately transmit to the Appeals Officer all papers and any other items constituting the record of the action from which the appeal is taken.

E. An appeal to the Appeals Officer shall stay the disposition of the animal, unless the Administrator certifies through written affidavit that a stay would cause imminent peril to life or property. In such a case,

disposition shall not be stayed otherwise than by a restraining order granted by a court of record.

F. An appeal shall be conducted no later than the tenth calendar day following the date the appeal is filed.

G. The Appeals Officer shall make a written ruling following the appeal finding that the order of the Administrator is either upheld or reversed.

H. If the order of the Administrator is reversed the Supervisor shall release the animal to the owner. If the order of the Administrator is upheld, the Supervisor shall proceed with disposition of the animal as provided for in this Chapter.

I. This appeal shall exhaust all administrative remedies of the owner.

## ARTICLE XI

## PENALTY

### Section 11.01 Penalty

Any person adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00). Each day that a violation continues shall constitute a separate offense.

### Section 11.02 Culpability

If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required and the offense is one of strict liability.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be

guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 21st day of August, 1990, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 28th day of August, 1990, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

RICHARD E. GREENE, Mayor

ATTEST:

BOBBYE RAY, City Secretary

APPROVED AS TO FORM:

JAY DOEGEY, City Attorney

BY

# Staff Report to Mayor and City Council

| Date | Reference Number | Subject |
|---|---|---|
| 08-17-90 | 90-A-501 | "Animals" Chapter Revision |

## INTRODUCTION

The purpose of this staff report is to present a newly revised prohibited animals article to the proposed "Animals" Chapter of the Code of the City of Arlington.

## DISCUSSION

Many animals are no longer regulated under Article VII of the "Animals" Chapter. These animals include squirrels, porcupines, armadillos and oppossums. The remaining animals have been divided into two (2) lists, "Prohibited" and "Exotic". Possession of prohibited animals will be unlawful with certain exceptions. Possession of exotic animals will be permitted but with strict enclosure requirements. Such animals also will not be permitted within one hundred feet (100') of a habitation on another's property.

## RECOMMENDATION

The City Attorney's Office respectfully recommends that the City Council approve the "Animals" Chapter of the Code of the City of Arlington as amended.

| | | |
|---|---|---|
| Originating Department Head | Jay Doegey<br>City Attorney | Disposition by Council<br>Approved |
| For Additional Information Contact 459-6878 | Kathryn Hansen<br>Asst. City Attorney | Other (Describe) |

Published AN 12/15 & 22/91

ORDINANCE NO. 91-113

AN ORDINANCE AMENDING THE "ANIMALS" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF ARTICLE I THEREOF, BY THE AMENDMENT OF SECTION 1.01, ENTITLED DEFINITIONS, BY THE DELETION OF DEFINITIONS OF "PROVOCATION," "VICIOUS ANIMAL" AND "VICIOUS CONDUCT," SUBSECTIONS (29), (37) AND (38), RESPECTIVELY; BY THE ADDITION OF DEFINITIONS OF "DANGEROUS ANIMAL" AND "SECURE ENCLOSURE," SUBSECTIONS (9) AND (32), RESPECTIVELY; AND BY THE RENUMBERING OF THE REMAINING SUBSECTIONS; THROUGH THE REPEAL OF THE EXISTING ARTICLE VIII, ENTITLED VICIOUS ANIMALS, AND THE ADOPTION OF A NEW ARTICLE VIII, ENTITLED DANGEROUS ANIMALS, RELATIVE TO THE REPORTING, REGISTRATION AND KEEPING OF DANGEROUS ANIMALS; THROUGH THE AMENDMENT OF ARTICLE X, ENTITLED ADMINISTRATIVE HEARINGS AND INQUESTS, BY THE DELETION OF SECTION 10.02, ENTITLED VICIOUS DOG INQUEST, AND SECTION 10.07, ENTITLED ADMINISTRATIVE HEARING - VICIOUS ANIMAL, AND BY THE RENUMBERING OF THE REMAINING SECTIONS; AND BY THE AMENDMENT OF SECTION 10.06, ENTITLED APPEAL TO APPEALS OFFICER, SUBSECTION (A), PROVIDING FOR APPEALS FROM ADMINISTRATIVE HEARINGS ON ANIMALS WITH REVOKED LICENSES, PROHIBITED ANIMALS AND EXOTIC ANIMALS; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I thereof, by the amendment of Section 1.01, entitled Definitions, by the deletion of definitions of "provocation," "vicious animal" and "vicious conduct," Subsections (29), (37) and (38), respectively; by the addition of definitions of "dangerous animal" and "secure enclosure," Subsections (9) and (32), respectively; and by the renumbering of the remaining subsections, so that hereafter the definitions of "dangerous animal" and "secure enclosure" shall be and read as follows:

9. Dangerous animal shall mean:

   a. An animal that makes an unprovoked attack on a human, that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

   b. An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or

   c. A dog that makes an unprovoked attack on a domestic animal or domestic fowl that causes bodily injury or death, and which occurs when such dog is at large.

32. Secure enclosure shall mean a fenced area or structure that is:

a. Locked;

b. Capable of preventing the entry of the general public, including children;

c. Capable of preventing the escape or release of an animal;

d. Clearly marked as containing a dangerous animal; and

e. In conformance with the requirements for enclosures established by the Supervisor or by this chapter.

Further, that the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the repeal of the existing Article VIII, entitled Vicious Animals, and by the adoption of a new Article VIII, entitled Dangerous Animals, so that hereafter said article shall be and read as follows:

ARTICLE VIII

DANGEROUS ANIMALS

Section 8.01 Knowledge of Dangerous Animal

For purposes of this article, a person learns he is the owner of a dangerous animal when:

A. The owner knows of an attack described in the Section 1.01 definition of "dangerous animal;" or

B. The owner is notified by the Supervisor that the animal is a dangerous animal.

Section 8.02 Reporting of Dangerous Animal

A. The Supervisor may receive a report concerning a dangerous animal. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Supervisor.

B. The Supervisor shall investigate all reports filed under this section.

Section 8.03 Notification and Appeal

A. If, after investigating a report of a dangerous animal, the Supervisor determines the animal is a dangerous animal, he shall notify the owner of that fact.

B. The notice required in Subsection (A) shall be in writing, shall contain a statement that the owner has a right to appeal and shall be attached to a copy of this article.

C. Notice shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Supervisor. Notice that is mailed is deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

D. An owner, not later than the thirtieth day after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Supervisor to the Arlington Municipal Court. An owner may appeal the decision of the Municipal Court to a county court-at-law, in the same manner as an appeal of a civil case.

Section 8.04 Requirements for Owners of Dangerous Animals

Not later than the thirtieth day after a person learns that he is the owner of a dangerous animal, he shall:

A. Register the dangerous animal with the Supervisor;

B. Restrain the animal at all times in a secure enclosure; and

C. Acquire and maintain liability insurance coverage in an amount of at least One Hundred Thousand Dollars and No Cents ($100,000.00) to cover damages resulting from an attack by the dangerous animal.

D. An appeal of a dangerous animal determination shall not act to stay these requirements.

Section 8.05 Registration

A. The Supervisor shall annually register a dangerous animal if the owner:

1. Presents proof of liability insurance as required by Section 8.04;

2. Presents proof of a current rabies vaccination of the dangerous animal if it is a dog or cat;

3. Presents proof satisfactory to the Supervisor that the enclosure in which the animal will be kept is a secure enclosure; and

4. Pays an annual registration fee of Fifty Dollars and No Cents ($50.00).

B. The Supervisor shall provide to the owner registering a dangerous animal a dangerous animal registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous animal registration shall be valid for one (1) year from the date of issuance.

C. The owner of a registered dangerous animal shall attach the tag to the animal's collar, or similar device, and shall place such collar or device on the animal.

D. If the owner of a registered dangerous animal sells or gives away the animal or moves the animal to a new address, the owner, not later than the fourteenth day

after the date of the sale, gift or move, shall notify the Supervisor of the animal's new address and new owner if applicable.

E. If a new owner keeps the animal within Arlington, he shall register the animal with the Supervisor within fourteen (14) days after receiving it.

F. When the owner of an animal registered as a dangerous animal in another jurisdiction becomes a resident of Arlington, he shall register the animal with the Supervisor within fourteen (14) days after becoming a new resident.

G. The Supervisor shall reregister a dangerous animal with a new owner or owner who is a new Arlington resident if such owner:

1. Presents proof of liability insurance as required by Section 8.04;

2. Presents proof satisfactory to the Supervisor that the enclosure in which the animal will be kept is a secure enclosure;

3. Relinquishes the animal's unexpired dangerous animal registration tag to the Supervisor; and

4. Pays a reregistration fee of $25.00.

H. If a dangerous animal's registration is expired when a new resident or new owner attempts to reregister it, the new owner or new resident shall follow the registration requirements of Subsection (A).

I. A reregistration shall be valid only for the time remaining on the prior registration.

J. When the Supervisor is informed that a dangerous animal has been moved to another jurisdiction, or when the Supervisor reregisters a dangerous animal previously registered in another jurisdiction, he should notify the animal control authority for such jurisdiction of this information.

Section 8.06 Owner Notification of Attacks

A. The owner of a registered dangerous animal shall notify the Supervisor of all attacks the animal makes on humans.

B. Additionally, the owner of a registered dangerous dog shall notify the Supervisor of all attacks made by the dog on domestic animals and domestic fowl.

Section 8.07 Offenses

A. A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on another person outside the animal's enclosure, and the attack causes bodily injury to the other person.

B. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.

C. A person who owns or keeps custody or control of a dangerous animal commits an offense if the person fails to comply with Section 8.04.

D. A person commits an offense if he owns or keeps custody or control of a dangerous animal without having such animal currently registered with the City of Arlington.

E. The owner of a registered dangerous animal commits an offense if he fails to comply with Section 8.05(D).

F. The new owner of a registered dangerous animal commits an offense if he fails to comply with Section 8.05(E).

G. The owner of an animal registered as a dangerous animal in another jurisdiction commits an offense if he fails to comply with Section 8.05(F).

H. The owner of a registered dangerous animal commits an offense if he fails to comply with Section 8.06.

I. The owner of a registered dangerous animal commits an offense if he sells or gives the animal to another person and fails to notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

J. The owner of a registered dangerous animal commits an offense if he fails to display on such animal a current dangerous animal registration tag issued by the City of Arlington.

Section 8.08 Defenses

A. It is a defense to prosecution under Section 8.07 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.

B. It is a defense to prosecution under Section 8.07 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

C. It is a defense to prosecution under Section 8.07 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

Section 8.09 Destruction of Animal

If a person is found guilty of an offense under Section 8.07(A) or 8.07(B), the court may order the Supervisor to impound and destroy the animal immediately.

Further, that the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the

amendment of Article X, entitled Administrative Hearings and Inquests, by the deletion of Section 10.02, entitled Vicious Dog Inquest, and Section 10.07, entitled Administrative Hearing - Vicious Animal, and by the renumbering of the remaining sections.

Further, that Article X of the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of Section 10.06, entitled Appeal to Appeals Officer, Subsection (A), so that hereafter said subsection shall be and read as follows:

A. The owner of an animal the subject of a hearing under Sections 10.03, 10.04 and 10.05 may appeal an adverse ruling to the Appeals Officer.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 3rd day of December, 1991, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 10th day of December, 1991, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:

JAY DOEGEY, City Attorney

BY

# Staff Report to Mayor and City Council

| Date | Reference Numbe | Subject |
|---|---|---|
| 12/03/91 | 91-A-790 | Animal Ordinance Changes |

PURPOSE:

The purpose of this report is to seek City Council approval of proposed changes to the Animal Control Ordinance regarding dangerous animals.

DISCUSSION:

In response to changes made to the State laws governing dangerous animals, the City Attorney's Office and the Community Development Department have drafted ordinance revisions for Council review regarding the identification, registration, and disposition of such animals.

The proposed revision repeals the existing regulations regarding vicious animals and establishes the following criteria pertaining to dangerous animals.

The proposed ordinance structure identifies as a dangerous animal as (1) any animal that makes an unprovoked attack on a human; (2) any dog that makes an unprovoked attack on a domestic animal; or (3) any animal that commits unprovoked acts which could cause a person to believe that the danger of an attack exists.

Comments regarding animals believed to be dangerous would be reported to the Animal Control Supervisor who would determine if the animal falls under the definition of a dangerous animal. Once an animal has been determined to be dangerous, the owner is so notified. The owner has the right to appeal the determination of the supervisor to the Municipal Court.

The owner of a dangerous animal must register the animal as such with Animal Control and obtain $100,000 of liability insurance to cover any damages resulting from an attack by the animal. Additionally, the dangerous animal must be kept in a secure enclosure and re-registered annually, or upon change of ownership/location.

If a dangerous animal makes an unprovoked attack on a human or another animal the Arlington Municipal Court may order the destruction of the animal by Animal Control.

SUMMARY:

City Council consideration of the proposed change to the Animal Ordinance is respectfully requested. Staff is prepared to respond to any questions the Council may have regarding this issue.

| | |
|---|---|
| Originating Department Head: Charles Clawson | Disposition by Council: [ ] Approved |
| For Additional Information Contact: 459-6500 Charles Clawson 459-6500 | [ ] Other (Describe) |

Published AN 12/22 & 29/91

ORDINANCE NO. 91-114

AN ORDINANCE AMENDING THE "ANIMALS" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF ARTICLE III THEREOF, BY THE AMENDMENT OF SECTION 3.05, ENTITLED ADOPTION OF DOGS OR CATS, RELATIVE TO ADOPTION AND STERILIZATION OF DOGS AND CATS FROM THE ANIMAL SHELTER; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE JANUARY 1, 1992

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article III thereof, by the amendment of Section 3.05, entitled Adoption of Dogs or Cats, so that hereafter said section shall be and read as follows:

Section 3.05 Adoption of Dogs or Cats

The Supervisor shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Supervisor shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Supervisor shall not constitute a warranty of the health or age of the animal.

B. There will be an adoption fee for all dogs and cats at an amount set by resolution of the City Council.

C. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the issuance of a rabies vaccination certificate which the adopting person is to present to any veterinarian within one (1) week for vaccination against rabies of the adopted dog or cat. The veterinarian may present the certificate with a statement verifying the vaccination to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older he knowingly fails to obtain a rabies vaccination for such animal within one (1) week of the adoption date.

c. It shall be presumed that the person failed to have the animal vaccinated if within ten (10) days of the adoption date he has not presented the Supervisor with proof of the vaccination. Such proof shall be in the form of a receipt from the veterinarian administering the vaccination.

d. The Supervisor shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Control Supervisor the license fee as set forth in Section 3.02.

D. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the issuance of a rabies vaccination certificate which the adopting person is to present to any veterinarian in Tarrant or Dallas County. The veterinarian may present the certificate with a statement verifying the vaccination to the Supervisor for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person who adopts a dog or cat under this subsection commits an offense if he knowingly fails to obtain a rabies vaccination for such animal within the age limits required in this subsection.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within seven (7) months of the adoption date he has not presented proof of the vaccination to the Supervisor. Proof shall be in the form of a receipt from the veterinarian administering the vaccine.

d. The Supervisor shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained

within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee.

a. Within one (1) week after a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Supervisor the original adoption receipt and proof of vaccination to receive the City license.

b. The adopting person shall pay the Supervisor the license fee as set out in Section 3.02.

E. Sterilization.

1. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that they will have the animal sterilized:

a. By the thirtieth day after adoption if the dog or cat is an adult; or

b. By the thirtieth day after a specified date estimated by the Supervisor to be the date an adopted infant female dog or cat becomes six (6) months old or an adopted infant male dog or cat becomes eight (8) months old.

2. Fee.

a. A person adopting an unsterilized animal shall pay the Supervisor a sterilization fee in an amount set by resolution of the City Council, and shall receive a spaying or neutering certificate.

b. Within the sterilization date, the adopting person shall present the certificate to the licensed veterinarian in Dallas or Tarrant

County who performed the sterilization of the adopted animal.

c. The veterinarian may present the certificate to the Supervisor, along with a statement verifying that the animal was sterilized, for receipt of the prepaid fee or the veterinarian's fee, whichever is less.

3. Offense.

a. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

b. If the sterilization date falls on a Saturday, Sunday or legal holiday, the deadline is extended to the first day that is not a Saturday, Sunday or legal holiday.

c. The Animal Control Supervisor may extend the sterilization deadline for thirty (30) days upon presentation by the adopting person of a written report by a licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

4. Confirmation of Sterilization.

a. A person who signs a sterilization agreement shall deliver to the Supervisor a letter signed by the veterinarian who performed the surgery. The letter shall be delivered in person or by mail not later than the seventh day after the date on which the animal was sterilized. The letter shall state that the animal has been sterilized, briefly describe the animal and provide the date of sterilization.

b. If an adopted animal dies on or before the sterilization completion date, the adopting

person shall deliver to the Supervisor a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death. This letter shall be in lieu of the letter required in Subsection (E)(4)(a).

c. If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Supervisor a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of disappearance. This letter shall be in lieu of the letter required in subsection (E)(4)(a).

5. Prosecution.

a. If the Supervisor does not receive a letter under Subsection (E)(4) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

b. In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Supervisor a letter required by Subsection (E)(4) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (E)(4).

6. Reclamation of Animal. The Supervisor may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Supervisor has not received a letter as outlined in Subsection (E)(4). In such case

there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

F. Effective Date. This section shall become effective on January 1, 1992.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective January 1, 1992.

PRESENTED AND GIVEN FIRST READING on the 10th day of December, 1991, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 17th day of December, 1991, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:

JAY DOEGEY, City Attorney

BY

Published AN 01/30 & 02/06/92

ORDINANCE NO. 92-12

AN ORDINANCE AMENDING THE "ANIMALS" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF ARTICLE I THEREOF, BY THE AMENDMENT OF SECTION 1.01, ENTITLED DEFINITIONS, BY THE AMENDMENT OF THE DEFINITION OF "PIG" AND BY THE ADDITION OF THE DEFINITION OF "POTBELLIED PIG", SUBSECTIONS (27) AND (28), RESPECTIVELY, AND BY THE RENUMBERING OF THE REMAINING SUBSECTIONS; AND THROUGH THE AMENDMENT OF ARTICLE V, BY THE AMENDMENT OF SECTION 5.03, ENTITLED LIVESTOCK, ALLOWING FOR THE KEEPING OF POTBELLIED PIGS; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I thereof, by the amendment of Section 1.01, entitled Definitions, by the amendment of the definition of "pig" and by the addition of the definition of "potbellied pig", Subsections (27) and (28), respectively, and by the renumbering of the remaining subsections, so that hereafter Subsections (27) and (28) shall be and read as follows:

27. Pig shall mean any domesticated hog.

28. Potbellied pig shall mean that breed of miniature pig meeting the standards established by the North American Potbelly Pig Association (NAPPA).

Further, the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article V, by the amendment of Section 5.03, entitled Livestock, so that hereafter said section shall be and read as follows:

Section 5.03 Livestock

A person commits an offense if with criminal negligence he:

A. Keeps or stakes any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

B. Keeps or stakes any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

C. Erects or maintains a structure, pen, corral or other enclosure for any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

D. Erects or maintains a structure, pen, corral or other enclosure for any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

E. Keeps or stakes three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property; or

F. Erects or maintains a structure, pen, corral or other enclosure for three (3) or more potbellied pigs at a

distance closer than five hundred feet (500') from any habitation located on another's property.

G. Keeps or stakes up to two (2) potbellied pigs at a distance closer than five hundred feet (500') from a habitation located on another person's property, when the animal's primary habitat is located outdoors.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 14th day of January, 1992, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 21st day of January, 1992, by a vote of 6 ayes and 3 nays at a regular meeting of the City Council of the City of Arlington, Texas.

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:

JAY DOEGEY, City Attorney

BY

Published AN 05/08 & 15/94

ORDINANCE NO. 94-77

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I**, ENTITLED DEFINITIONS, BY THE AMENDMENT OF **SECTION 1.01**, DEFINITIONS, TO ADD DEFINITIONS FOR CONTROL, FORCE VIS MAJOR AND INTACT ANIMALS; THROUGH THE AMENDMENT OF **ARTICLE III**, ENTITLED DOGS AND CATS, BY THE AMENDMENT OF **SECTION 3.04**, FEES, AT **SUBSECTION 3.04(B)**, RELATIVE TO IMPOUNDMENT FEES; THROUGH THE AMENDMENT OF **ARTICLE IV**, ENTITLED ESTRAYS AND AT LARGE, BY THE ADDITION OF **SECTION 4.14**, SPAY/NEUTER OF ANIMALS, RELATIVE TO REQUIREMENTS FOR SPAYING AND NEUTERING ANIMALS; PROVIDING FOR A FINE OF UP TO **$2,000** FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, entitled Definitions, by the amendment of Section 1.01, Definitions, to add definitions for Control, Force Vis Major and Intact Animals, so that hereafter said definitions shall be and read as follows:

**"Control"** shall mean leased, penned, housed, held or sheltered in a closed structure.

**"Force Vis Major"** (Act of God) means an immediate loss which is the result of an irresistible natural cause without the

intervention of man, and could not have been prevented by the exercise of prudence, diligence and care.

**"Intact Animal"** shall mean an animal which is sold without a spay/neuter contract.

Further, the **"Animals"** Chapter is hereby amended through the amendment of **Article III**, entitled Dogs and Cats, by the amendment of Section 3.04, Fees, at Subsection B, so that hereafter said subsection shall be and read as follows:

B. Impoundment Fees.

1. A pound fee will be charged for the impoundment of all dogs and cats.

2. The owner shall be required to purchase a spay-neuter coupon in addition to paying the impoundment fee. Said animal will be required to be spayed-neutered within thirty (30) days of receipt.

3. An additional fee will be required for the second and subsequent impoundment of the same dog or cat within the preceding twelve (12) month period.

Further, the **"Animals"** Chapter is hereby amended through the amendment of **Article IV**, entitled Estrays and At Large, by the addition of Section 4.14, Spay/Neuter of Animals, so that hereafter said section shall be and read as follows:

**Section 4.14 Spay/Neuter of Animals**

A. All animals within the City of Arlington are required to be spayed/neutered, unless they are under the control of an individual.

B. All impounded animals are required to be spayed/neutered within thirty (30) days of release from impoundment.

C. It is an exception to (B) above that the Supervisor determines that:

1. The owner of the animal is a member of a club which is associated with a national registry, nation breed club or local all-breed club, and does not sell twelve (12) or more intact animals per year.

2. The animal was at large and impounded due to force vis major (Act of God).

3. The animal was at large and impounded due to fire, criminal or negligent acts of a third party who does not reside at the animal owner's residence. Additionally, verification of the incident must be presented to the Supervisor in the form of a police or fire report, or the sworn testimony or affidavit of police or fire personnel.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand Dollars and No Cents** ($2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN **FIRST READING** on the 26th day of April, 1994, at a regular meeting of the City Council of the **City of Arlington, Texas**; and GIVEN **SECOND READING**, passed and approved on the 3rd day of May, 1994, by a vote of 9 ayes and 0

nays at a regular meeting of the City Council of the City of Arlington, Texas.

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

**Published FWST 07/14 & 21/95**

ORDINANCE NO. 95-91

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I,** ENTITLED DEFINITIONS, BY THE AMENDMENT OF **SECTION 1.01,** DEFINITIONS, BY THE ADDITION OF THE DEFINITION OF "SUPPORT DOG"; BY THE AMENDMENT OF **ARTICLE III**, ENTITLED DOGS AND CATS, BY THE AMENDMENT OF **SECTION 3.02,** ISSUANCE OF LICENSE, PROVIDING AN EXEMPTION OF LICENSING FEES FOR SUPPORT DOGS; PROVIDING FOR A FINE OF UP TO **$2,000** FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Definitions, by the addition of the following definition:

**"Support Dog"** means a dog that is specifically trained or equipped to help a handicapped person. This shall include the following:

*"Guide Dog"* - A dog trained to assist a visually impaired person.

*"Hearing Dog"* - A dog trained to alert a hearing impaired person to certain sounds.

*"Service Dog"* - A dog trained to assist a physically disabled person.

In addition, the dog must:

1. Be used by a handicapped person who has satisfactorily completed a specific course of training in the use of the dog; and

2. Have been trained by a recognized organization involved in the rehabilitation of the handicapped as reputable and competent to provide dogs with this type of training; and

3. Must carry an identification badge that identifies the agency that trained the dog. This badge must be attached to the dog at all times by means of a collar, harness or backpack.

Further, Article III, Dogs and Cats, is hereby amended through the amendment of **Section 3.02**, Issuance of License, so that hereafter said section shall be and read as follows:

**Section 3.02 Issuance of License**

A. Written application for a dog or cat license and payment of the applicable license fee shall be made to the supervisor. The application shall include:

1. The name, telephone number and address of the applicant;

2. A description of the animal, including name, breed, color, gender and age; and

3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months.

B. The annual license fee shall be at an amount set by resolution of the City Council.

C. Support dogs which are professionally and specifically trained to assist disabled owners shall be exempt from the license fee.

D. If not revoked, such license will be effective for a period of one (1) year from the date of vaccination for rabies.

E. Upon acceptance of the license application, the supervisor shall issue the owner a metal license tag stamped with an identifying number for the dog or cat. The supervisor shall also issue the owner a license certificate which identifies the animal by age, gender, breed, color, name and owner, and which states the dates of issuance and expiration of the license.

F. In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand and No/100 Dollars ($2,000)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with

the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **27th** day of **June**, **1995**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **5th** day of **July**, **1995**, by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas.**

Richard Greene

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Published FWST 09/16 & 23/96

ORDINANCE NO. 96-122

AN ORDINANCE AMENDING THE "**ANIMALS**" CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I,** ENTITLED DEFINITIONS, BY THE AMENDMENT OF **SECTION 1.01**, DEFINITIONS, BY THE REVISION OF THE DEFINITION OF "DANGEROUS ANIMAL" TO CLARIFY AND COMPLY WITH STATE LAW; BY THE AMENDMENT OF **ARTICLE VIII**, ENTITLED DANGEROUS ANIMALS, AT SECTION 8.03, NOTIFICATION AND APPEAL, RELATIVE TO THE NOTIFICATION PROCESS; PROVIDING FOR A FINE OF UP TO **$2,000** FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "**Animals**" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Definitions, at Section 1.01, by the revision of the definition of "dangerous animal" so that hereafter the same shall be and read as follows:

**"Dangerous animal"** shall mean:

1. An animal that makes an unprovoked attack on a human, which causes bodily injury and occurs in a place other than an enclosure in which the animal was kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

2. An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably

to believe that the animal will attack and cause bodily injury to that person; or

3. A dog that makes an unprovoked attack on a domestic animal or domestic fowl which occurs when the attacking animal is at large. For purposes of this subsection only, the Administrator may take under consideration any or all of the following circumstances to determine whether or not the attacking animal is dangerous:

   a. The seriousness and/or extent of the injury to the attacked animal;

   b. Territorial issues associated with the location of the attack; and

   c. Restraints of the attacking animal which were in place at the time of, or immediately prior to, the attack.

Further, Article VIII, Dangerous Animals, is hereby amended through the amendment of **Section 8.03**, Notification and Appeal, so that hereafter said section shall be and read as follows:

**Section 8.03 Notification and Appeal**

A. The Administrator shall furnish to the owner of the animal as identified in the complaint written notice that a bite report has been received. The owner will have ten (10) working days from the date of mailing to provide the Supervisor information regarding the report.

B. If after investigating a report of a dangerous animal, the Administrator determines the animal is a dangerous animal, he or she shall notify the owner of that fact.

C. The notice required in Subsection (B) shall be in writing, shall contain a statement that the owner has a right to appeal and shall have attached to it a copy of this article.

D. All notices as required by Section 8.03 shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Supervisor. Notice that is mailed is

deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

E. An owner, not later than the thirtieth day after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Supervisor to the Arlington Municipal Court. An owner may appeal the decision of the Municipal Court to a county court-at-law, in the same manner as an appeal of a civil case.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand and No/100 Dollars ($2,000)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result

of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **3rd** day of **September**, **1996**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **10th** day of **September**, **1996**, by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas.**

RICHARD E. GREENE, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

# *Staff Report to Mayor and City Council*

120

Subject: **ANIMALS ORDINANCE REVISION - 2ND READING** Agenda No. VII-B-3

Council Meeting Date: **9/10/96** Reference No. **96-A-550** Pages: **5**

Attached for Council consideration is the Animals Ordinance which includes minor revisions made after the First Reading for clarification. Changes were made to Section 8.03 to clarify that the notice of a bite report must be in writing and all notices required by Section 8.03 will be sent by certified mail.

Jay Doegey, City Attorney
459-6878

# *Staff Report to Mayor and City Council*

Subject: **ANIMAL ORDINANCE CHANGE** Agenda No. **IX-A-2**

Council Meeting Date: **9-3-96** Reference No. **96-A-534** Pages: **5**

## PURPOSE

This report requests City Council approval of changes to the Dangerous Dog Section of the City's Animal Ordinance.

## DISCUSSION

As a result of Council discussion last week, the following changes are proposed to the Dangerous Dog Section of the City's Animal Ordinance.

- Change notification procedures to require that the supervisor notify the owner by certified mail that a complaint has been received and provide the owner ten working days to furnish information to the supervisor regarding the incident.
- Change the investigation criteria to allow the consideration of the extent of injury inflicted, the restraints in place at the time of the attack, and any territorial issues associated with the complaint in making the determination if any animal is to be designated as dangerous.

The exemption proposed last week regarding animals which were previously designated dangerous from ordinance requirements has been removed from the revision. There is no change in the regulations which involve animal attacks on humans.

## RECOMMENDATION

City Council approval of the attached change to the Dangerous Dog Section of the City's Animal Ordinance is respectfully requested.

Robert S. Byrd
Assistant Director of Community
Development/Health
459-6767

# *Staff Report to Mayor and City Council*

Subject: ANIMAL ORDINANCE CHANGE | Agenda No. **IX-C**

Council Meeting Date: 8-27-96 | Reference No. **96-A-496** | Pages: **5**

## PURPOSE

This report requests City Council approval of changes to the dangerous dog section of the City's Animal Ordinance.

## DISCUSSION

In May, the City Council requested that the Animal Shelter Advisory Committee study the dangerous dog section of the animal ordinance after a citizen indicated a concern over the procedures used to declare an animal dangerous and the resulting restrictions. The Committee met three times during the month of July taking public input regarding the issue and has proposed the following changes:

- Change the definition of dangerous dog to include only attacks on other domestic animals that result in the death of the animal attacked.

- Change notification procedures to require that the supervisor notify the owner by certified mail that a complaint has been received and provide the owner ten working days to furnish information to the supervisor regarding the incident.

The change also exempts any animals previously found to be dangerous as a result of attacks on other animals which did not result in death from the requirements of the ordinance. There is no change in the regulations which involve animal attacks on humans.

The major impact of the proposed change removes animals which attack other animals and inflict non fatal injury from the hearing process. Citizens involved in such disputes will be encouraged to seek civil relief.

## RECOMMENDATION

City Council approval of the attached change to the dangerous dog section of the animal ordinance is respectfully requested.

Charles Clawson
Director of Community Development
459-6500

ORDINANCE NO. 97-21

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE II,** ENTITLED GENERAL PROVISIONS, BY THE AMENDMENT OF **SECTION 2.06**, **ANIMAL SHELTER ADVISORY COMMITTEE**, CHANGING THE NAME OF THE ANIMAL SHELTER ADVISORY COMMITTEE TO THE ANIMAL SHELTER ADVISORY BOARD; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article II, General Provisions, by the amendment of **Section 2.06**, Animal Shelter Advisory Committee, so that hereafter the same shall be and read as follows:

**Section 2.06 Animal Shelter Advisory Board**

A. As provided in Texas Health and Safety Code, Chapter 823, there is hereby created an Animal Shelter Advisory Board.

B. The Board shall be composed of five (5) members:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Community Development;

3. A citizen at large;

4. A person whose duties include the daily operation of an animal shelter; and

5. A representative from an animal welfare organization.

C. Each Board member shall be appointed by the City Council, and serve a two (2) year term:

1. Board members in places 1, 3 and 5 shall be appointed in odd-numbered years.

2. Board members in places 2 and 4 shall be appointed in even-numbered years.

D. Board members may be removed from office for cause by the City Council.

E. The City Council shall appoint a suitable person to serve out the unexpired term of any Board member whose place becomes vacant for any reason. Appointees shall serve until the City Council designates a replacement for their Board place.

F. The Board shall meet once every three months at a time and place to be determined by the Chairperson of the Board.

G. It shall be the duty of the Board to assist the Arlington Animal Shelter in maintaining compliance with the requirements of Texas Health and Safety Code, Chapter 823.

2.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

3.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitu

tional, such holding shall not affect the validity of the remaining portions of this ordinance.

4.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

5.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

6.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

7.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 11th day of February, **1997**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND

READING, passed and approved on the 18th day of February, **1997**, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

_____
RICHARD E. GREENE, Mayor

ATTEST:

_____
CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY_____

ORDINANCE NO. 99-32

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I,** ENTITLED DEFINITIONS, BY THE AMENDMENT OF **SECTION 1.01**, DEFINITIONS, RELATIVE TO THE AMENDMENT OF THE DEFINITION OF "HYBRID"; THROUGH THE AMENDMENT OF **ARTICLE II,** ENTITLED GENERAL PROVISIONS, BY THE AMENDMENT OF **SECTION 2.07**, NUISANCES, SUBSECTION (D), RELATIVE TO REPLACING THE WORD VICIOUS WITH THE WORD DANGEROUS TO CONFORM TO STATE STATUTES; THROUGH THE AMENDMENT OF **ARTICLE III,** ENTITLED DOGS AND CATS, BY THE AMENDMENT OF **SECTION 3.03**, IMPOUNDMENT OF DOGS AND CATS, SUBSECTION (B)(3), RELATIVE TO REPLACING THE WORD VICIOUS WITH THE WORD DANGEROUS TO CONFORM TO STATE STATUTES; THROUGH THE AMENDMENT OF **ARTICLE VI,** ENTITLED RABIES CONTROL AND BITE PROCEDURES, BY THE AMENDMENT OF **SECTION 6.04**, DISPOSITION OR RELEASE OF QUARANTINED ANIMAL, SUBSECTION (A)(3), RELATIVE TO REPLACING THE WORD VICIOUS WITH THE WORD DANGEROUS TO CONFORM TO STATE STATUTES; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Definitions, by the amendment of **Section 1.01**, Definitions, at the definition of "Hybrid" so that said definition shall be and read as follows:

**"Hybrid"** shall mean an offspring of two animals of different breeds, species or genera.

Deleted: formed

Deleted: the union of

Further, Article II, General Provisions, is hereby amended through the amendment of **Section 2.07**, Nuisances, Subsection (D), so that hereafter said subsection shall be and read as follows:

D. Any dangerous animal as defined in this Chapter.

Deleted: vicious

Further, Article III, Dogs and Cats, is hereby amended through the amendment of **Section 3.03**, Impoundment of Dogs and Cats, Subsection (B)(3), so that hereafter said subsection shall be and read as follows:

3. This subsection does not apply to any dog or cat placed in quarantine, that is the subject of a dangerous animal complaint, or whose license has been revoked.

Deleted: vicious

Further, Article VI, Rabies Control and Bite Procedures, is hereby amended through the amendment of **Section 6.04**, Disposition or Release of Quarantined Animal, Subsection (A)(3), so that hereafter said subsection shall be and read as follows:

3. If the animal is not the subject of a dangerous animal complaint.

Deleted: vicious

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand and No/100 Dollars ($2,000)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provi-

sions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 9th day of March, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 16th day of March, **1999**, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 99-88

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE II,** ENTITLED GENERAL PROVISIONS, BY THE AMENDMENT OF **SECTION 2.02**, DUTIES OF ANIMAL CONTROL SUPERVISOR, RELATIVE TO THE ADDITION OF THE WORD "ZONING"; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article II, General Provisions, by the amendment of **Section 2.02**, Duties of Animal Control Supervisor, **Subsection (B)**, so that said Subsection shall be and read as follows:

B. Administer and enforce the "Animals", "Nuisance", "Zoning" and "Health" Chapters of the Code of the City of Arlington when a nuisance or health problem is caused by one or more animals.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed **Two Thousand and No/100 Dollars** (**$2,000**) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 20th day of July, **1999**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 27th day of July, **1999**, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 00-134

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I,** ENTITLED DEFINITIONS, BY THE AMENDMENT OF **SECTION 1.01**, DEFINITIONS, RELATIVE TO THE ADDITION OF THE DEFINITIONS OF "BODILY INJURY" AND "COURT", AND THE AMENDMENT OF THE DEFINITIONS OF "ADMINISTRATOR", "CONTROL", "DANGEROUS ANIMAL" AND "SECURE ENCLOSURE"; THROUGH THE DELETION AND REPLACEMENT OF **ARTICLE VIII,** ENTITLED DANGEROUS ANIMALS, RELATIVE TO ESTABLISHING ADDITIONAL PROCEDURES FOR HEARINGS TO DETERMINE DANGEROUS ANIMALS AND TO CLARIFY DANGEROUS ANIMALS REGULATION; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions, by the amendment of **Section 1.01**, Definitions, so that hereafter the definitions of "Administrator", "Bodily Injury", "Control", "Court", "Dangerous Animal" and "Secure Enclosure" shall be and read as follows:

**"Administrator"** shall mean the Assistant Director of Neighborhood Services or his designee.

**"Bodily injury"** shall mean injury to a human or animal which produces pain, trauma, loss of blood or tissue, or other injury to the injured human or animal, and which further causes or reasonably should cause an owner of the injured animal or the injured human to seek medical treatment, and shall include injury resulting from the victim, whether

human or animal, attempting to escape or prevent contact with the injuring animal(s).

**"Control"** shall mean leashed, penned, housed, held or sheltered in a closed structure.

**"Court"** shall mean the Municipal Court of the City of Arlington, Tarrant County, Texas.

**"Dangerous animal"** shall mean:

1. An animal, including a dog, that makes an unprovoked attack on a human, which causes bodily injury and occurs in a place other than an enclosure in which the animal was kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

2. An animal, including a dog, that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or

3. A dog that makes an unprovoked attack on a domestic animal or domestic fowl which occurs when the attacking dog is at large. For purposes of this subsection only, the Supervisor or Court may take under consideration any or all of the following circumstances to determine whether or not the attacking animal is dangerous:

    a. The seriousness and/or extent of the injury to the attacked animal or fowl;

    b. Territorial issues associated with the location of the attack; and

    c. Restraints of the attacking dog which were in place at the time of, or immediately prior to, the attack.

**"Secure enclosure"** shall mean a securely enclosed area or structure that is:

1. Locked;

2. Capable of preventing the entry of the general public, including children;

3. Capable of preventing the escape or release of an animal;

4. Clearly marked as containing a dangerous animal;

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 secure enclosure and escaping;

6. Protected from the elements adequately for the animal's humane care; and

7. In conformance with the requirements for enclosures established by the Supervisor or by this chapter.

A structure such as a house, mobile home, apartment, travel trailer, or other habitation or similar structure is <u>not</u> a secure enclosure when any window is open, or when a screen window or a screen door or other penetrable barrier is the only obstacle preventing the animal from exiting the structure, or when any door or other opening used for entry or exit by persons or animals is accessible to the dangerous animal.

Further, **Article VIII**, <u>Dangerous Animals</u>, is hereby amended so that hereafter said article shall be and read as follows:

## ARTICLE VIII

## DANGEROUS ANIMALS

### Section 8.01 <u>Knowledge of Dangerous Animal</u>

For purposes of this article, a person learns he is the owner of a dangerous animal when:

A. The owner knows of an attack described in the Section 1.01 definition of "dangerous animal;" or

B. The owner is notified by the Supervisor that the animal is a dangerous animal; or

C. The owner is notified by the Court that the dog is a dangerous dog; or

D. The owner is notified by the Court that, after appeal, the Court has upheld the Supervisor's determination that the animal is a dangerous animal.

**Section 8.02 <u>Dangerous Animal Report</u>**

A. The Supervisor may receive a report concerning a dangerous animal. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Supervisor.

B. The Supervisor shall investigate all reports filed under this section and may issue sworn reports based on the Supervisor's investigation or observation.

**Section 8.03 <u>Dangerous Animal Determination</u>**

The Arlington Municipal Court may determine that a dog is a dangerous dog under Section 8.03(A). The Supervisor may declare that an animal, including a dog, is a dangerous animal under Section 8.03(B). Regarding a dangerous dog incident, the Supervisor has discretion to proceed under either Section 8.03(A) or 8.03(B).

A. Municipal Court:

1. The Arlington Municipal Court may determine that a dog is a dangerous dog in compliance with Texas Health and Safety Code, Section 822.0422. The Supervisor may file a sworn report describing a dangerous dog incident with the Court. The sworn report shall present probable cause that the dog described in the report committed an attack described in Section 1.01, "Dangerous Animal."

2. The Supervisor shall furnish written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the animal to the Supervisor not later than three (3) calendar days after the date on which the owner receives the notice, provided that the Supervisor may, in his discretion, accept proof that the animal is impounded with a licensed

veterinarian according to the terms of Section 8.13(B). The notice to the owner shall have attached to it a copy of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing.

3. Notice to the owner by the Supervisor shall be provided as required by Section 8.03(B)(3).

4. If the owner fails to deliver the dog as required by Subsection (B)(2), the Court shall order the Supervisor to seize the dog and shall issue a warrant authorizing the seizure. The Supervisor shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions at the owner's expense until the Court orders the disposition of the dog. The Court shall determine, after notice and hearing as provided in Section 8.04, whether the dog is a dangerous dog.

B. Supervisor:

1. The Supervisor may determine that an animal is a dangerous animal after investigation of a dangerous animal incident. The Supervisor shall furnish written notice to the owner of the animal as identified in the complaint to inform the owner that a dangerous animal report has been received. The owner will have five (5) calendar days from the date the owner is notified to provide the Supervisor information regarding the report. The Supervisor may consider additional information from other sources in the course of the investigation.

2. If, after investigating a dangerous animal report, the Supervisor finds that the animal is a dangerous animal, the Supervisor shall provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal and shall have attached to it a copy of this article.

3. Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Supervisor. If the notice is mailed to the owner and the United States Postal Service returns

the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.

4. An owner, not later than ten (10) calendar days after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Supervisor to the Arlington Municipal Court. An owner may appeal the decision of the Municipal Court to a county court-at-law, in the same manner as an appeal of a civil case.

**Section 8.04 <u>Hearing</u>**

A. After the Court receives a sworn report of an incident involving a dangerous dog under Section 8.03(A)(1) or a report of a dangerous animal owner's non-compliance with requirements under Section 8.05, the Court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of a dangerous animal has not complied with the requirements of Section 8.05. The hearing must be held not later than ten (10) calendar days after the date on which the dog or animal is seized or delivered.

B. The Court shall give written notice of the time and place of the hearing to:

1. The owner of the dog or the person from whom the dog was seized; and

2. The person who made the report; and

3. The Supervisor.

C. Any interested party, including the city attorney, is entitled to present evidence at the hearing.

D. An owner or the person who made the report may appeal the decision of the Municipal Court in the manner provided for the appeal of cases from the Municipal Court.

**Section 8.05** **<u>Requirements for Owners of Dangerous Animals</u>**

A. Not later than fifteen (15) calendar days after a person learns that he is the owner of a dangerous animal, the owner shall:

1. Register the dangerous animal with the Supervisor and maintain current registration at all times;

2. Restrain the animal in a secure enclosure inspected and approved by the Supervisor;

3. Acquire and maintain liability insurance coverage in an amount of at least One Hundred Thousand Dollars and No Cents ($100,000.00) to cover damages resulting from an attack by the dangerous animal and provide proof of the required liability insurance coverage to the Supervisor. The owner shall notify the Supervisor immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the Supervisor not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the City of Arlington Animal Services Division as a certificate holder.

4. Microchip and register the dangerous animal for its life with a national registry, and present proof to the Supervisor. The cost shall be at the owner's expense. The owner of the dangerous animal shall microchip the animal by implanting a microchip identification device on the animal within seven (7) calendar days after being notified by the Supervisor or the Court that such animal is dangerous or within forty-eight (48) hours of an unsuccessful appeal;

5. Present proof to the Supervisor that the animal has been sterilized so as to prevent reproduction;

6. Comply with all applicable regulations, requirements, and restrictions on dangerous animals; and

7. Obtain written extension from the Supervisor to complete the registration requirements if necessary. All requests for extension shall be in writing and, if granted by the Supervisor, shall total no more than 30 additional days.

B. An appeal of a dangerous dog determination by the Court under 8.03(A) or of a dangerous animal declaration by the Supervisor under Section 8.03(B) shall not act to stay the requirements of Subsection (A) except regarding implantation of a microchip as noted in Subsection (A)(4).

C. The owner of a dangerous animal shall deliver the animal to the Supervisor not later than three (3) calendar days after the owner learns that the animal is a dangerous animal, if the animal is not already impounded.

D. The owner of a dangerous animal who falls out of compliance with an owner's requirement of Subsection (A) shall deliver the animal to the Supervisor not later than three (3) calendar days after the date of the non-compliance.

E. The Court may issue a warrant to seize the subject animal at any time the Court finds that probable cause of violation or non-compliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the Supervisor, the Court finds, after notice and hearing as provided by Section 8.04, that the owner of a dangerous animal has failed to comply with or has fallen out of compliance with an owner's requirement of Subsection (A), the Court shall order the Supervisor to seize the animal and shall issue a warrant authorizing the seizure.

F. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner has not timely complied with Subsection (A) and no perfected appeal is pending.

G. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10)

calendar days after the animal is seized or delivered to the Supervisor and no perfected appeal is pending. The Supervisor shall return the dangerous animal to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days. No dangerous animal shall be returned to its owner after renewed compliance more than two (2) times.

**Section 8.06 <u>Registration</u>**

A. The Supervisor shall annually register a dangerous animal if the owner is in compliance with the owner's requirements of Section 8.05. The owner shall present proof of compliance satisfactory to the Supervisor and shall pay an annual registration fee of Fifty Dollars and No Cents ($50.00).

B. The Supervisor shall provide to the owner registering a dangerous animal a dangerous animal registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous animal registration shall be valid for one (1) year from the date of issuance.

C. The owner of a registered dangerous animal shall attach the tag to the animal's collar, or similar device, and shall place such collar or device on the animal. The owner of a registered dangerous animal shall display current registration on the animal in this manner at all times.

D. If the owner of a registered dangerous animal sells or gives away the animal or moves the animal to a new address, the owner, not later than the fourteenth day after the date of the sale, gift or move, shall notify the Supervisor of the animal's new address and new owner if applicable.

E. If the owner of a registered dangerous animal sells or gives the animal to another person, the owner shall notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

F. If a new owner keeps the animal within Arlington, he shall register the animal with the Supervisor within ten (10) calendar days after receiving it.

G. When the owner of an animal registered as a dangerous animal in another jurisdiction becomes a resident of Arlington, he shall register the animal with the Supervisor within ten (10) calendar days after becoming a new resident.

H. The Supervisor shall reregister a dangerous animal with a new owner or owner who is a new Arlington resident if such owner is in compliance with this Chapter. Such owner shall present proof of compliance satisfactory to the Supervisor and shall pay a reregistration fee of $25.00.

I. If a dangerous animal's registration is expired when a new resident or new owner attempts to reregister it, the new owner or new resident shall follow the owner's requirements of Subsection (A).

J. A reregistration shall be valid only for the time remaining on the prior registration.

K. When the Supervisor is informed that a dangerous animal has been moved to another jurisdiction, or when the Supervisor reregisters a dangerous animal previously registered in another jurisdiction, he should notify the animal control authority for such jurisdiction of this information.

**Section 8.07** **<u>Owner Notification of Attacks</u>**

A. The owner of a registered dangerous animal shall notify the Supervisor of all attacks the animal makes on humans.

B. Additionally, the owner of a registered dangerous dog shall notify the Supervisor of all attacks made by the dog on domestic animals and domestic fowl.

**Section 8.08** **<u>Offenses</u>**

A. A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on another person outside the animal's enclosure, and the attack causes bodily injury to the other person.

B. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked

attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.

C. A person commits an offense if the person is the owner of a dangerous animal or the new owner of a dangerous animal and performs an act prohibited or fails to perform an act required by this Article.

**Section 8.09 <u>Defenses</u>**

A. It is a defense to prosecution under Section 8.08 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.

B. It is a defense to prosecution under Section 8.08 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

C. It is a defense to prosecution under Section 8.08 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

D. It is a defense to prosecution under Section 8.08 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal.

E. It is a defense to prosecution under Section 8.08 that the person injured was committing or attempting to commit a crime.

F. It is a defense to prosecution under Section 8.08 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault.

**Section 8.10 <u>Muzzle and Restraint of Dangerous Animals</u>**

An owner of a dangerous animal shall not permit a dangerous animal to be outside the secure enclosure unless the animal is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash. Such animal shall not be leashed to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

**Section 8.11 <u>Additional Penalties for Violation of this Section</u>**

A. If a person is found guilty of an offense under Section 8.08(A) or 8.08(B), the Court may order the Supervisor to impound and destroy the animal immediately in addition to other penalties in Article XI.

B. The Supervisor may obtain a search and seizure warrant if the owner of a registered dangerous animal falls out of compliance with the owner's requirements of Section 8.05. The animal will remain impounded until proof as required by Section 8.05 has been satisfied and is approved by the Supervisor or the animal is destroyed.

C. If impoundment of a dangerous animal is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a dangerous animal from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given twenty-four (24) hours notice that if said animal is not surrendered to the Animal Services Division within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premise where the dangerous animal is harbored will be considered valid notice as of the date and time of posting. In lieu of surrendering the animal to Animal Services, an owner may permanently remove said animal from the City, if written proof of destination is provided to the

Supervisor and transport is made in compliance with this Article.

D. A dangerous animal impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned and, at the discretion of the Supervisor, euthanized in a humane manner.

E. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed $10,000. An attorney having civil jurisdiction for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the municipality.

**Section 8.12 <u>Status of Animal</u>**

A. The owner shall deliver the dog to the Supervisor not later than three (3) calendar days after the date on which the owner is notified that a dangerous dog report has been filed with the Court under Section 8.03(A)(2).

B. The owner shall deliver the dangerous animal to the Supervisor not later than three (3) calendar days after the date on which the owner is notified that the Supervisor has declared that the animal is a dangerous animal under Section 8.03(B)(2).

C. The owner shall deliver the dangerous animal to the Supervisor not later than three (3) calendar days after the owner learns that the animal is a dangerous animal, as required by Section 8.05(C).

D. The owner shall deliver the dangerous animal to the Supervisor not later than three (3) calendar days after the date on which the owner falls out of compliance with any requirement of an owner of a dangerous animal, as required by Section 8.05(D).

E. If the owner fails to deliver the subject animal as required in this Article, the Court shall order the Supervisor to seize the animal and shall issue a warrant authorizing the seizure, as provided in Section 8.05(E).

F. No dangerous animal shall be returned to its owner at any time unless authorized by this Article and all owner's requirements are fulfilled.

**Section 8.13** **<u>Impoundment and Destruction of Animal</u>**

A. The Supervisor shall seize the subject animal according to a warrant or shall order such seizure and shall accept the animal into custody when delivered by the owner.

B. The Supervisor shall provide for impoundment of the subject animal in secure and humane conditions until the Court orders the disposition of the subject animal. The Supervisor may accept proof of impoundment from a licensed veterinarian if such proof and impoundment are satisfactory to the Supervisor.

C. The owner shall pay any costs and fees incurred by the City related to the seizure, impoundment, and destruction of a dangerous animal.

D. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner of the animal has not been located within ten (10) calendar days after the seizure and impoundment of the animal and if no other statute or ordinance has allowed or required the animal's earlier destruction.

E. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner has not timely complied with the owner's requirements, according to Section 8.05(F).

F. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement and fails to renew compliance within ten (10) calendar days, according to Section 8.05(G).

G. The Court shall order the Supervisor to humanely destroy a dangerous animal that can no longer be returned to its owner under this Article.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and

No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be

published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 21st day of November, 2000, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 28th day of November, 2000, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ELZIE ODOM, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Ord. 00-134

# *Staff Report to Mayor and City Council*

| | | | |
|---|---|---|---|
| Subject: | ANIMAL ORDINANCE REVISIONS – DANGEROUS ANIMALS | Agenda No. | **X-B-3** |
| Council Meeting Date: 11-21-00 | Reference No. 00-A-764 | Pages: | **18** |

## PURPOSE

The purpose of this report is to request Mayor and City Council approval of a proposed change to the Dangerous Animal section of the City's Animal Ordinance.

## DISCUSSION

Earlier this year, the Mayor and Council discussed procedures regarding dangerous dogs and the City's response to incidents involving potentially dangerous dogs. A dangerous dog is defined as one that makes an unprovoked attack on a human or another animal that results in injury. The definition also extends to address animals that commit unprovoked acts that do not necessarily result in injury. Since the inception of the ordinance, the Animal Services staff has only dealt with attacks resulting in injury.

The City Attorney's Office and the Neighborhood Services staff reviewed the existing procedures and recommend the following changes that:

- Provide an accelerated method to remove a potentially dangerous animal from the community – the current procedure can result in a potentially dangerous animal remaining in the community for as much as 30 days. The proposed change has the ability to remove an animal from the community within 3 days.
- Provide an established timeframe to conduct a hearing to determine if an animal is dangerous – hearing time is reduced from 15 days to 10 days.
- Decrease the compliance timeframe for owners of dangerous animals from 30 days to 15 days.

The proposed ordinance change also adds a provision that allows the Municipal Court to determine if a dog is dangerous. It is anticipated that this provision will allow a hearing to occur within ten days of a complaint from the community. Previously, the timeframe between complaint and hearing could extend to as much as three to four weeks, with the animal remaining in the community during this timeframe.

The revised procedure allows the removal of a potentially dangerous animal from the community within three days of receiving a complaint. At the same time, the hearing process is streamlined to allow the timely return of an animal alleged to be dangerous, but exonerated during the hearing process. In either case, the animal identified in the complaint will be in the custody of Animal Services or a licensed veterinarian until the process is completed.

In the event an animal is determined to be dangerous, the timeframe for complying with the following owner requirements has been reduced from 30 to 15 calendar days.

- Registration of the animal with Animal Services to include microchip identification
- Restraint of the animal at all times in a secured enclosure
- $100,000 of liability insurance
- Sterilization of the animal

Owners of animals found to be dangerous have appeal rights to the Municipal Court.

**RECOMMENDATION**

The Neighborhood Services Department recommends Mayor and City Council approval of the proposed changes to the Dangerous Animal section of the Animal Ordinance.

Trey Yelverton
Director of Neighborhood Services
817-459-6254

Robert S. Byrd
Assistant Director of Neighborhood Services
817-459-6774

ORDINANCE NO. 01-026

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE IX,** ENTITLED MISCELLANEOUS, BY THE ADDITION OF **SECTION 9.05**, DEFECATION – REMOVAL AND DISPOSAL REQUIRED; IMPLEMENTS REQUIRED, RELATIVE TO THE REMOVAL AND DISPOSAL OF ANIMAL DEFECATION; PROVIDING FOR A FINE OF UP TO $100 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article IX**, Miscellaneous, by the addition of **Section 9.05**, Defecation – Removal and Disposal Required; Implements Required, so that hereafter said subsection shall be and read as follows:

**Section 9.05** **Defecation – Removal and Disposal Required; Implements Required**

A. Offense: An owner or person who has care, custody or control of an animal commits an offense if, knowingly or with criminal negligence, he permits or by insufficient control allows an animal to defecate on private property not his own or on property located in a public place without immediately removing and disposing of the defecation material in a sanitary and lawful manner.

B. Offense: An owner or person who has care, custody or control of an animal commits an offense if, knowingly or with criminal negligence, he permits or by insufficient control allows an animal to enter or remain on private property not his own or on property located in a public place without having in his possession materials or implements that, either alone or in combination with each other, can be used immediately in a sanitary and lawful manner to remove and dispose of defecation the animal may deposit on such property.

C. It is an exception to Section 9.05 (A) and (B) that:

1. The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or

2. The animal is a “service dog” performing duties of assisting the disabled.

3. The animal is a waterfowl at a municipality owned facility.

4. The owner of the private property has given consent or permission for the animal to defecate on his property.

D. Penalty: A person who violates this section is guilty of an offense and, upon conviction, is punishable by a fine not to exceed One Hundred ($100.00) dollars.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed One Hundred ($100.00) dollars for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **13th** day of **March**, **2001**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **27th** day of **March**, **2001**, by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of Arlington, Texas.

ORDINANCE NO. 01-027

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE II,** ENTITLED GENERAL PROVISIONS, BY THE AMENDMENT OF **SECTION 2.02**, DUTIES OF ANIMAL CONTROL SUPERVISOR, SUBSECTION (B), RELATIVE TO ADMINISTERING AND ENFORCING ORDINANCES; PROVIDING FOR A FINE OF UP TO $2000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article II**, General Provisions, by the amendment of **Section 2.02**, Duties of Animal Control Supervisor, Subsection (B), so that hereafter said subsection shall be and read as follows:

B. Administer and enforce all ordinances pertaining to animals, including but not limited to those ordinances pertaining to animals found in the “Animals”, “Health”, “Nuisance”, “Parks” and “Zoning” Chapters.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **13th** day of **March**, **2001**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **27th** day of **March**, **2001**, by a vote of **8** ayes and **0** nays at a regular meeting of the City Council of the City of Arlington, Texas.

Published ST April 12 and 19, 2002

ORDINANCE NO. 02-039

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE VIII,** ENTITLED DANGEROUS ANIMALS, BY THE AMENDMENT OF **SECTION 8.03**, DANGEROUS ANIMAL DETERMINATION, SUBSECTION (A)(2), RELATIVE TO IMMEDIATE SURRENDER OF AN ANIMAL UPON NOTIFICATION OF A DANGEROUS DOG HEARING; BY THE AMENDMENT OF **SECTION 8.05**, REQUIREMENTS FOR OWNERS OF DANGEROUS ANIMALS, SUBSECTION (C), RELATIVE TO IMMEDIATE SURRENDER OF A DANGEROUS ANIMAL; BY THE AMENDMENT OF **SECTION 8.05**, SUBSECTION (D), RELATIVE TO IMMEDIATE SURRENDER OF A PREVIOUSLY DECLARED DANGEROUS ANIMAL IF THE OWNER FALLS OUT OF COMPLIANCE WITH THE ORDINANCE; BY THE AMENDMENT OF **SECTION 8.05**, SUBSECTION (G), RELATIVE TO HUMANE DESTRUCTION OF A PREVIOUSLY DECLARED DANGEROUS ANIMAL; BY THE AMENDMENT OF **SECTION 8.12**, STATUS OF ANIMAL, RELATIVE TO IMMEDIATE SURRENDER OF A PREVIOUSLY DECLARED DANGEROUS ANIMAL; PROVIDING FOR A FINE OF UP TO $2000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article VIII**, Dangerous Animals, by the amendment of **Section 8.03**, Dangerous Animal Determination, Subsection (A)(2), so that hereafter said subsection shall be and read as follows:

2. The Supervisor shall furnish written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the animal immediately to the Supervisor upon receiving the notice, provided that the Supervisor may, in his discretion, accept proof that the animal is impounded with a licensed veterinarian

according to the terms of Section 8.13(B). The notice to the owner shall have attached to it a copy of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing.

Further, **Article VIII** is hereby amended by the amendment of **Section 8.05**, Requirements for Owners of Dangerous Animals, Subsection (C), so that hereafter said subsection shall be and read as follows:

C. The owner of a dangerous animal shall deliver the animal to the Supervisor immediately upon learning that the animal is a dangerous animal, if the animal is not already impounded.

Further, **Article VIII** is hereby amended by the amendment of **Section 8.05**, Subsection (D), so that hereafter said subsection shall be and read as follows:

D. The owner of a dangerous animal who falls out of compliance with an owner's requirement of Subsection (A) shall deliver the animal to the Supervisor immediately.

Further, **Article VIII** is hereby amended by the amendment of **Section 8.05**, Subsection (G), so that hereafter said subsection shall be and read as follows:

G. The Court shall order the Supervisor to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10) calendar days after the animal is seized or delivered to the Supervisor and no perfected appeal is pending. The Court may order the Supervisor to return the dangerous animal to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days or the Court may order the Supervisor to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection 8.05 or 8.07 (A), or 8.07 (B) or 8.08 (A) or 8.08 (B). No dangerous animal shall be returned to its owner after renewed compliance more than two (2) times.

Further, **Article VIII** is hereby amended by the amendment of **Section 8.12**, Status of Animal, so that hereafter said section shall be and read as follows:

**Section 8.12 Status of Animal**

A. The owner shall deliver the dog to the Supervisor immediately upon notification that a dangerous dog report has been filed with the Court under Section 8.03(A)(2).

B. The owner shall deliver the dangerous animal to the Supervisor immediately upon notification that the Supervisor has declared that the animal is a dangerous animal under Section 8.03(B)(2).

C. The owner shall deliver the dangerous animal to the Supervisor immediately upon notification that the animal is a dangerous animal, as required by Section 8.05(C).

D. The owner shall deliver the dangerous animal to the Supervisor immediately when the owner falls out of compliance with any requirement of an owner of a dangerous animal, as required by Section 8.05(D).

E. If the owner fails to deliver the subject animal as required in this Article, the Court shall order the Supervisor to seize the animal and shall issue a warrant authorizing the seizure, as provided in Section 8.05(E).

F. No dangerous animal shall be returned to its owner at any time unless authorized by this Article and all owner's requirements are fulfilled.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **26th** day of **March**, **2002**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **2nd** day of **April**, **2002**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ELZIE ODOM, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Ord. 02-039

# *Staff Report to Mayor and City Council*

Subject: ANIMAL ORDINANCE CHANGES Agenda No. IX-A-1

Council Meeting Date: 3-26-02 Reference No. 02-A-136

**Ordinance**

**PURPOSE**

The purpose of this report is to request Mayor and City Council approval of changes to the City's Animal Ordinance regarding dangerous dogs.

**DISCUSSION**

Last month, the Mayor and City Council reviewed information on the City's Dangerous Dogs subchapter of the Animal Ordinance. At the February 19 presentation, Council endorsed immediate changes to the ordinance. These changes are:

- Section 8.03.A.(2) - The requirement for the owner of a dog that is the subject of a dangerous dog hearing, to surrender the animal immediately upon notification that a hearing will take place. The animal must be surrendered to Animal Services or to a licensed veterinarian. The current ordinance provides up to 72 hours for the surrender.

- Section 8.05.C – The requirement that the owner of a dangerous animal surrender the animal to Animal Services immediately upon learning that the animal is a dangerous animal. The current ordinance provides up to 72 hours for the surrender.

- Section 8.05.D - The requirement that the owner of a previously declared dangerous animal surrender the animal immediately to Animal Services if the owner falls out of compliance with the requirements of the ordinance. The current regulation allows up to 72 hours for the surrender.

- Section 8.05.G - The option for the Municipal Court to order the humane destruction of a previously declared dangerous dog if the owner of the animal falls out of compliance. The current ordinance allows for the animal to be returned to the owner up to three times in cases of non-compliance. This change does not preclude the return of the animal, but provides court discretion to order the dog's destruction based upon one case of non-compliance if circumstances warrant.

- Section 8.12 - Changes to this section, Status of Animal, are necessary to be consistent with the changes to sections 8.03 and 8.05.

As discussed with the City Council, the Livable Neighborhoods Committee is reviewing recommendations from the Animal Shelter Advisory Committee associated with proposed changes to the broader animal ordinance. Any suggested revisions will be brought forward after review by the Livable Neighborhoods Committee.

**RECOMMENDATION**

The Neighborhood Services Department recommends that the Mayor and City Council approve these revisions to the Dangerous Dogs subchapter of the Animal Ordinance.

Trey Yelverton
Director of Neighborhood Service
817-459-6254

Robert S. Byrd
Assistant Director of Neighborhood Services
817-459-5865

Published 31 October 7 & 14, 2002

ORDINANCE NO. **02-109**

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I**, DEFINITIONS, **SECTION 1.01**, RELATIVE TO THE AMENDMENT OF THE DEFINITIONS OF "ADMINISTRATOR", "AT LARGE", "DANGEROUS ANIMAL", "DEPUTY", "ESTRAY BOOK" "ESTRAY HANDLING FEES", "FOWL", "IMPOUND", "NOTICE OF ESTRAY", "SECURE ENCLOSURE", "SUPPORT DOG", AND "UNREASONABLE ODOR", THE ADDITION OF THE DEFINITIONS OF "COMMON PIGEON", "FANCY PIGEON", "HE," "HIS" AND "HIM", "LOFT", "MANAGER", "MATURE PIGEON", "PIGEON", "RACING PIGEON", AND "SPORTING PIGEON", AND THE DELETION OF THE DEFINITION OF "SUPERVISOR"; THROUGH THE AMENDMENT OF **ARTICLE II**, GENERAL PROVISIONS, RELATIVE TO THE CORRECTION OF POSITION TITLES, DEPARTMENT NAME, AND THE NAME OF THE ANIMAL SERVICES CENTER AND BOARD; THROUGH THE AMENDMENT OF **ARTICLE III**, DOGS AND CATS, **SECTION 3.02**, RELATIVE TO THE CORRECTION OF POSITION TITLES; **SECTION 3.03**, RELATIVE TO THE CORRECTION OF POSITION TITLES AND IMPOUNDMENT OF DOGS AND CATS; **SECTION 3.05**, RELATIVE TO THE CORRECTION OF POSITION TITLES AND THE ADDITION OF THE CORE VACCINE AND MICROCHIP FEE; THROUGH THE AMENDMENT OF **ARTICLE IV**, ESTRAYS AND AT LARGE, **SECTIONS 4.01, 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.10, 4.12, 4.13, AND 4.14**, RELATIVE TO THE CORRECTION OF POSITION TITLES AND ANIMAL IMPOUNDMENT AT POLICE REQUEST; THROUGH THE AMENDMENT OF **ARTICLE V**, SALE AND BREEDING OF ANIMALS, **SECTIONS 5.01, 5.02, AND 5.03**, RELATIVE TO THE SALE OF ANIMALS, REGULATION OF FOWL AND THE DISTANCE REQUIREMENT FOR THE KEEPING OF LIVESTOCK; THROUGH THE AMENDMENT OF **ARTICLE VI**, RABIES CONTROL AND BITE PROCEDURES, **SECTIONS 6.01, 6.02, 6.03, 6.04, AND 6.06**, RELATIVE TO THE ADDITION OF COYOTES AS A HIGH RISK ANIMAL, THE CORRECTION OF POSITION TITLES, AND CHANGES TO RABIES CONTROL AND BITE PROCEDURES; THROUGH THE AMENDMENT OF **ARTICLE VII**, PROHIBITED AND EXOTIC ANIMALS, **SECTIONS 7.01, 7.02, 7.03, 7.04, 7.05, 7.07, 7.09, 7.10, AND 7.11** RELATIVE TO THE

CORRECTION OF POSITION TITLES AND UPDATE IN ACCORDANCE WITH STATE LAW; THROUGH THE AMENDMENT OF **ARTICLE VIII,** DANGEROUS ANIMALS, **SECTIONS 8.01, 8.02, 8.03, 8.04, 8.05, 8.06, 8.07, 8.09, 8.11, 8.12, AND 8.13**, RELATIVE TO THE CORRECTION OF POSITION TITLES; THROUGH THE AMENDMENT OF **ARTICLE IX,** MISCELLANEOUS, RELATIVE TO THE CORRECTION OF POSITION TITLES AND THE ADDITION OF **SECTION 9.06**, PIGEONS, AND THE ADDITION OF **SECTION 9.07**, CARE AND HUMANE TREATMENT OF ANIMALS; THROUGH THE AMENDMENT OF **ARTICLE X,** ADMINISTRATIVE HEARINGS AND INQUESTS, **SECTIONS 10.02, 10.03, 10.04, 10.05, AND 10.06**, RELATIVE TO THE CORRECTION OF POSITION TITLES; PROVIDING FOR A FINE OF UP TO $2000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions, **Section 1.01**, by the **amendment** of the definitions of "Administrator", "At Large", "Dangerous Animal", "Deputy", "Estray Book" "Estray Handling Fees", "Fowl", "Impound", "Notice of Estray", "Secure Enclosure", "Support Dog", and "Unreasonable Odor"; by the **addition** of the definitions of "Common Pigeon", "Fancy Pigeon", "He," "His" and "Him", "Loft", "Manager", "Mature Pigeon", "Pigeon", "Racing Pigeon", and "Sporting Pigeon"; and the **deletion** of the definition of "Supervisor", so that hereafter these definitions shall be and read as follows:

**"Administrator"** shall mean the Director of Neighborhood Services or his designee.

**"At large"** shall mean:

1. On Premises of Owner - Any animal not confined to the premises of the owner 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.

2. Off Premises of Owner - Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making any

unsolicited contact with any person, their clothing, their property and/or their premises.

3. Provided, however, that any animal confined within a cage, automobile, truck or any other vehicle of its owner shall not be deemed at large.

**"Common Pigeon"** means any pigeon not previously captured from the wild nor bred in captivity.

**"Dangerous animal"** shall mean:

1. An animal, including a dog, that makes an unprovoked attack on a human, which causes bodily injury and occurs in a place other than an enclosure in which the animal was kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

2. An animal, including a dog, that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or

3. A dog that makes an unprovoked attack on a domestic animal or domestic fowl which occurs when the attacking dog is at large. For purposes of this subsection only, the Animal Services Manager or Court may take under consideration any or all of the following circumstances to determine whether or not the attacking animal is dangerous:

    a. The seriousness and/or extent of the injury to the attacked animal or fowl;

    b. Territorial issues associated with the location of the attack; and

    c. Restraints of the attacking dog which were in place at the time of, or immediately prior to, the attack.

**"Deputy"** shall mean any animal services officer.

**"Estray book"** shall mean a book located in the office of the Animal Services Manager in which information on estrays is filed.

**"Estray handling fees"** shall mean expenses incurred by a person or by the Animal Services Manager for the impounding, holding, selling or seeking the owner of an estray.

**"Fancy Pigeon"** means any pigeon not included in the categories of "Racing Pigeon" or "Common Pigeon" and shall include but not be limited to such birds as commonly called Fantails, Pouters, Trumpeters.

**"Fowl"** shall mean Order Anseriformes (such as ducks, geese and swans); Order Galliformes (such as chickens, pea-fowl, turkey and guinea fowl) and other wild or domesticated Gallinacceous birds.

**"He," "His" and "Him"** are not intended to be gender-specific, but are used for convenience only, and refer to an individual of any gender.

**"Impound"** shall mean to take into custody or to place in the Animal Services Center of the City or other authorized confinement area.

**"Loft"** means the structure(s) for the keeping or housing of pigeons.

**"Manager"** shall mean the Animal Services Manager or his designee.

**"Mature Pigeon"** means a pigeon aged six months or older.

**"Notice of estray"** shall mean a document containing at least the following information:

1. The name and address of the person who notified the Animal Services Manager of the estray;

2. The location of the estray when found;

3. The location of the estray until disposition; and

4. A description of the estray including its breed, if known, its color, sex, age, size, all markings of any kind and any other identifying characteristics.

**"Pigeon"** means a member of the family Columbidae, and shall include but not be limited to "Racing Pigeons", "Fancy Pigeons", "Sporting Pigeons" and "Common Pigeons".

**"Racing Pigeon"** means a pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Also, commonly known as Racing Homes, Homing Pigeon, or Carrier Pigeon. This category shall include any pigeon held, kept or used for the purpose of flying with the intent being that it shall return to the loft or place of keeping controlled by its owner.

**"Secure enclosure"** shall mean a securely enclosed area or structure that is:

1. Locked;

2. Capable of preventing the entry of the general public, including children;

3. Capable of preventing the escape or release of an animal;

4. Clearly marked as containing a dangerous animal;

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 secure enclosure and escaping;

6. Protected from the elements adequately for the animal's humane care; and

7. In conformance with the requirements for enclosures established by the Animal Services Manager or by this chapter.

A structure such as a house, mobile home, apartment, travel trailer, or other habitation or similar structure is not a secure enclosure when any window is open, or when a screen window or a screen door or other penetrable barrier is the only obstacle preventing the animal from exiting the structure, or when any door or other opening used for entry or exit by persons or animals is accessible to the dangerous animal.

**"Sporting Pigeon"** means any pigeon which has developed or is used, displayed or involved in conduct related to its distinctive nature such as aerial acrobatics or endurance flying and shall include but not be limited to Rollers and Tipplers.

**"Support Dog"** means a dog that is specifically trained or equipped to help a disabled person. This shall include the following:

"Guide Dog" - A dog trained to assist a visually impaired person.

"Hearing Dog" - A dog trained to alert a hearing impaired person to certain sounds.

"Service Dog" - A dog trained to assist a physically disabled person.

In addition, the dog must:

1. Be used by a disabled person who has satisfactorily completed a specific course of training in the use of the dog; and

2. Have been trained by a recognized organization involved in the rehabilitation of the disabled as reputable and competent to provide dogs with this type of training; and

3. Must carry an identification badge that identifies the agency that trained the dog. This badge must be attached to the dog at all times by means of a collar, harness or backpack.

**"Unreasonable odor"** shall mean the emission of a smell that is foul or offensive to a person of normal sensibilities.

Further, **Article II**, General Provisions, is hereby amended so that hereafter said Article shall be and read as follows:

## ARTICLE II

## GENERAL PROVISIONS

### Section 2.01 Establishment of Office of Animal Services Manager

A. There shall be and is hereby created the office of Animal Services Manager for the City of Arlington.

B. The Animal Services Manager shall act as the local health authority for the purposes of Chapter 826 of the Health and Safety Code of the State of Texas.

C. The Animal Services Manager shall employ deputies to assist him in the carrying out of his duties.

D. The Animal Services Manager and his deputies shall be assigned to the Neighborhood Services Department.

### Section 2.02 Duties of Animal Services Manager

It shall be the duty of the Animal Services Manager and his deputies to:

A. Administer and enforce all laws and regulations of the State of Texas pertaining to animals which authorize the local health authority or Animal Services Officers to enforce the same; and

B. Administer and enforce all ordinances pertaining to animals, including but not limited to those ordinances pertaining to animals found in the "Animals", "Health", "Nuisance", "Parks" and "Zoning" Chapters.

### Section 2.03 Authority to Kill, Impound or Destroy Animals

In addition to the authority to kill, impound or euthanize animals as otherwise granted in this Chapter, the Animal Services Manager, his deputies and any peace officer are authorized to:

A. Kill an animal which poses an imminent danger to a person or property or a real or apparent immediate necessity exists for destruction of the animal;

B. Impound an animal which is diseased or endangers the health of a person or another animal, or is at large.

C. Euthanize an impounded animal at the Animal Services Center if the Manager determines that recovery of the animal from injury, disease, or sickness is unlikely.

D. Kill any animal suspected of having rabies when such animal is found at large, after having made a reasonable, but unsuccessful effort to capture the animal.

**Section 2.04 Powers and Duties of Citizens**

A. Any citizen of the City of Arlington is hereby authorized to take control of and deliver to the office of the Animal Services Manager any animal that may be found running at large within the corporate limits of the City, other than prohibited animals or animals suspected of being rabid, subject to the applicable provisions of law.

B. A person commits an offense if he knowingly takes control of an animal under this Section and fails to deliver it to the Animal Services Manager within forty-eight (48) hours.

**Section 2.05 Inspections**

The Animal Services Manager is hereby authorized to make inspections and secure warrants as set forth in the "Court" Chapter of the Code of the City of Arlington.

**Section 2.06 Animal Services Center Advisory Board**

A. As provided in Texas Health and Safety Code, Chapter 823, there is hereby created an Animal Services Center Advisory Board.

B. The Board shall be composed of five (5) members:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Neighborhood Services ;

3. A citizen at large;

4. A person whose duties include the daily operation of an animal services center; and

5. A representative from an animal welfare organization.

C. Each Board member shall be appointed by the City Council, and serve a two (2) year term:

1. Board members in places 1, 3 and 5 shall be appointed in odd-numbered years.

2. Board members in places 2 and 4 shall be appointed in even-numbered years.

D. Board members may be removed from office for cause by the City Council.

E. The City Council shall appoint a suitable person to serve out the unexpired term of any Board member whose place becomes vacant for any reason. Appointees shall serve until the City Council designates a replacement for their Board place.

F. The Board shall meet once every three months at a time and place to be determined by the Chairperson of the Board.

G. It shall be the duty of the Board to assist the Arlington Animal Services Center in maintaining compliance with the requirements of Texas Health and Safety Code, Chapter 823.

**Section 2.07 Nuisances**

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the corporate limits of the City of Arlington:

A. Any at large animal;

B. Any dog or cat over four (4) months of age that is not currently licensed with the City of Arlington and currently vaccinated against rabies;

C. Any prohibited animal as defined in this Chapter; or

D. Any dangerous animal as defined in this Chapter.

Further, **Article III**, Dogs and Cats, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 3.01 License and Vaccination Required**

A. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently vaccinated against rabies.

B. A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently licensed with the City of Arlington.

C. A person who owns a dog commits an offense if he fails to display on such dog both a current rabies vaccination tag furnished by a veterinarian and a current license tag furnished by the City of Arlington.

D. A person who owns a dog or cat commits an offense if he displays on such dog or cat a rabies or license tag issued to another animal.

E. Each animal in violation of this Section constitutes a separate offense.

**Section 3.02 Issuance of License**

A. Written application for a dog or cat license and payment of the applicable license fee shall be made to the Animal Services Manager. The application shall include:

1. The name, telephone number and address of the applicant;

2. A description of the animal, including name, breed, color, gender and age; and

3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months.

B. The annual license fee shall be at an amount set by resolution of the City Council.

C. Support dogs which are professionally and specifically trained to assist disabled owners shall be exempt from the license fee.

D. If not revoked, such license will be effective for a period of one (1) year from the date of vaccination for rabies.

E. Upon acceptance of the license application, the Animal Services Manager shall issue the owner a metal license tag stamped with an identifying number for the dog or cat. The Animal Services Manager shall also issue the owner a license certificate which identifies the animal by age, gender, breed, color, name and owner, and which states the dates of issuance and expiration of the license.

F. In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee.

**Section 3.03 Impoundment of Dogs and Cats**

A. Any dog or cat may be impounded by the Animal Services Manager in any of the following circumstances:

1. Any dog or cat running at large in the City of Arlington;

2. Any dog not having affixed to and wearing on a collar or harness a valid City license tag and a tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies; or

3. Any dog or cat whose license has been revoked,

4. A dog or cat that is suspected of having inflicted bodily injury on any human being or animal, or poses a threat to public safety; or

5. A dog or cat that has rabies or symptoms thereof, or that a person could suspect as having rabies, or that bites, scratches or otherwise creates a

condition which may have exposed or transmitted the rabies virus to any human being or animal.

B. Disposition of Impounded Dogs and Cats.

1. If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be placed for adoption or euthanized .

2. If any dog or cat that is impounded by Animal Services, or brought to the Animal Services Center by a person other than the owner of that animal, and is wearing traceable identification; is readily observable as being sterilized or declawed in the best judgment of the Manager or his designee; or where an owner is known, such animal shall be held at the center for a minimum of seven (7) business days from the time the animal enters the Animal Services Center. Animal Services shall notify the owner, when known, of the impoundment. Unless the owner has notified Animal Services in writing of his intentions to claim the animal after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees and this arrangement has been approved by the Animal Services Manager, the animal shall be placed for adoption or euthanized after the seventh (7th) business day.

3. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the Animal Services Manager of the appropriate fees.

4. This subsection does not apply to any dog or cat placed in quarantine, that is the subject of a dangerous animal complaint, or whose license has been revoked.

**Section 3.04 Fees**

A. All of the fees and refunds described herein shall be set by resolution of the City Council.

B. Impoundment Fees.

1. A pound fee will be charged for the impoundment of all dogs and cats.

2. The owner shall be required to purchase a spay-neuter coupon in addition to paying the impoundment fee. Said animal will be required to be spayed-neutered within thirty (30) days of receipt.

3. An additional fee will be required for the second and subsequent impoundment of the same dog or cat within the preceding twelve (12) month period.

C. License or Vaccination Fee. If license or vaccination of an impounded dog or cat is not current, the owner shall be required to pay for these items. The owner shall be given a receipt for the vaccination payment which can be redeemed by his veterinarian by submitting the receipt. Failure to obtain the vaccination within forty-eight (48) hours of reclaiming shall authorize impoundment.

D. Boarding Fee. In addition to the above fee, if the dog or cat is not picked up within seventy-two (72) hours, an additional fee will be charged for each twenty-four (24) hour period thereafter.

E. All necessary veterinary and drug costs incurred by the animal while it is in custody shall be charged to the owner.

**Section 3.05 Adoption of Dogs or Cats**

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Animal Services Manager shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Animal Services Manager shall not constitute a warranty of the health or age of the animal.

B. There will be an adoption fee for all dogs and cats at an amount set by resolution of the City Council.

C. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the issuance of a rabies vaccination certificate which the adopting person is to present to any veterinarian within one (1) week for vaccination against rabies of the adopted dog or cat. The veterinarian may present the certificate with a statement verifying the vaccination to the Animal Services Manager for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older he knowingly fails to obtain a rabies vaccination for such animal within one (1) week of the adoption date.

c. It shall be presumed that the person failed to have the animal vaccinated if within ten (10) days of the adoption date he has not presented the Animal Services Manager with proof of the

vaccination. Such proof shall be in the form of a receipt from the veterinarian administering the vaccination.

d. The Animal Services Manager shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Services Manager the license fee as set forth in Section 3.02.

D. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the issuance of a rabies vaccination certificate which the adopting person is to present to any veterinarian in Tarrant or Dallas County. The veterinarian may present the certificate with a statement verifying the vaccination to the Animal Services Manager for receipt of the prepaid fee or the veterinarian's fee for administering the vaccination, whichever is less.

b. A person who adopts a dog or cat under this subsection commits an offense if he knowingly fails to obtain a rabies vaccination for such animal within the age limits required in this subsection.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within seven (7) months of the adoption date he has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a receipt from the veterinarian administering the vaccine.

d. The Animal Services Manager shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee.

a. Within one (1) week after a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Animal Services Manager the original adoption receipt and proof of vaccination to receive the City license.

b. The adopting person shall pay the Animal Services Manager the license fee as set out in Section 3.02.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager.

c. In the event the adopted dog or cat is under (6) weeks of age, a voucher will be presented to the adopting person which the person may present to Animal Services, for rendering such service, upon the adopted dog or cat reaching (6) weeks of age.

4. Microchip Fee

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee at an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager.

E. Sterilization.

1. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that they will have the animal sterilized:

a. By the thirtieth day after adoption if the dog or cat is an adult; or

b. By the thirtieth day after a specified date estimated by the Animal Services Manager to be the date an adopted infant female dog or cat becomes six (6) months old or an adopted infant male dog or cat becomes eight (8) months old.

2. Fee.

a. A person adopting an unsterilized animal shall pay the Animal Services Manager a sterilization fee in an amount set by resolution of the City Council, and shall receive a spaying or neutering certificate.

b. Within the sterilization date, the adopting person shall present the certificate to the licensed veterinarian in Dallas or Tarrant County who performed the sterilization of the adopted animal.

c. The veterinarian may present the certificate to the Animal Services Manager, along with a statement verifying that the animal was sterilized, for receipt of the prepaid fee or the veterinarian's fee, whichever is less.

3. Offense.

a. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

b. If the sterilization date falls on a Saturday, Sunday or legal holiday, the deadline is extended to the first day that is not a Saturday, Sunday or legal holiday.

c. The Animal Services Manager may extend the sterilization deadline for thirty (30) days upon presentation by the adopting person of a written report by a licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

4. Confirmation of Sterilization.

a. A person who signs a sterilization agreement shall deliver to the Animal Services Manager a letter signed by the veterinarian who performed the surgery. The letter shall be delivered in person or by mail not later than the seventh day after the date on which the animal was sterilized. The letter shall state that the animal has been sterilized, briefly describe the animal and provide the date of sterilization.

b. If an adopted animal dies on or before the sterilization completion date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death. This letter shall be in lieu of the letter required in Subsection (E)(4)(a).

c. If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of

disappearance. This letter shall be in lieu of the letter required in subsection (E)(4)(a).

5. Prosecution.

   a. If the Animal Services Manager does not receive a letter under Subsection (E)(4) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

   b. In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Animal Services Manager a letter required by Subsection (E)(4) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (E)(4).

6. Reclamation of Animal. The Animal Services Manager may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Animal Services Manager has not received a letter as outlined in Subsection (E)(4). In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

**Section 3.06 Breeding of Dogs or Cats**

The owner of a female dog or cat in season commits an offense if he fails to confine such animal in an anti-escape house, building or enclosure constructed in such a manner that the animal cannot come into contact with another animal of the same species and opposite sex except for planned breeding.

Further, **Article IV**, Estrays and at Large, is hereby amended by the amendment of **Section 4.01,** so that hereafter said Article shall be and read as follows:

**Section 4.01 Estrays to be Impounded**

It shall be the duty of the Animal Services Manager in the absence of action by the County Sheriff's office, to take up any and all estrays that may be found in and upon any street, alley, or in or upon any unenclosed lot, or otherwise to be found at large, and to confine them for safe keeping. After impounding an estray, the Animal Services Manager shall prepare a notice of estray and file the notice in the estray book.

**Section 4.02 Fees and Costs**

For each impounded estray, the owner shall pay the Animal Services Manager the following fees and costs. No estray shall be released to its owner before all fees and costs are paid:

A. An impound fee of a sum set by resolution of the City Council;

B. A boarding fee of a sum set by resolution of the City Council. Such fee shall be charged for each day the estray is in custody, excluding the date it is impounded; and

C. All necessary veterinary and drug costs incurred by the animal while it is in custody.

**Section 4.03 Advertisement**

When an estray has been impounded, the Animal Services Manager shall make a diligent search of the register of recorded brands in the County for the owner of the estray. If the search does not reveal the owner, the Animal Services Manager shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next fifteen (15) days and post a notice of the impoundment of the estray on the public notice board of the County Subcourthouse and City Hall.

**Section 4.04 Recovery by Owner**

The owner of an estray may recover possession of the estray at any time before the estray is sold under the terms of this Article if:

A. The owner has provided the Animal Services Manager with an affidavit of ownership of estray;

B. The Animal Services Manager has approved the affidavit;

C. The approved affidavit has been filed in the estray book;

D. The owner has paid all estray handling fees to those entitled to receive them;

E. The owner has executed an affidavit of receipt of estray and delivered it to the Animal Services Manager; and

F. The Animal Services Manager has filed the affidavit of receipt of estray in the estray book.

**Section 4.05 Sale of Estray**

A. If the ownership of an estray is not determined within fourteen (14) days following the final advertisement required by this Article, title to the estray rests in the City. The Animal Services Manager shall cause the estray to be sold at a public auction. Title to the estray shall be deemed vested in the Animal Services Manager for purposes of passing good title, free and clear of all claims, to the purchasers at the sale.

B. The purchasers of an estray at public auction shall take possession of the animal upon payment therefor.

C. The Animal Services Manager shall receive the proceeds from the sale of the estray and do the following:

1. Pay all estray handling fees to those entitled to receive them;

2. Execute a report of sale of impounded stock; and

3. Cause the report of sale of impounded stock to be filed in the estray book.

D. The net proceeds remaining from the sale of an estray after estray handling fees have been paid shall be delivered by the Animal Services Manager to the City treasury. These net proceeds shall be subject to claim by the original owner of the estray as provided herein.

E. If the bids are too low, the Animal Services Manager shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

**Section 4.06 Use of Estray**

A person commits an offense if after impounding an estray he uses such estray for any purpose.

**Section 4.07 Death or Escape of Estray**

A. If an estray dies or escapes while in custody:

1. The person who has custody shall report the death or escape to the Animal Services Manager;

2. Such report shall be in the form of a sworn affidavit and filed with the Animal Services Manager; and

3. The Animal Services Manager shall file the affidavit in the estray book.

B. A person commits an offense if he fails to report a death or escape as required by this Section.

**Section 4.08 Recovery by Owner of Proceeds Delivered to City Treasurer**

Within twelve (12) months after the sale of an estray under the provisions of this Article the original owner of the estray may recover the proceeds of the sale of the estray that were delivered by the Animal Services Manager to the City Treasurer if:

A. The owner has provided the Animal Services Manager with an affidavit of ownership of estray;

B. The Animal Services Manager has approved the affidavit; and

C. The approved affidavit has been filed in the estray book.

**Section 4.09 Escheat of Sale Proceeds**

After the expiration of twelve (12) months from the sale of an estray as provided by this Article, the sale proceeds shall escheat to the City.

**Section 4.10 Riding, Driving or Herding of Certain Animals**

A. A person commits an offense if he rides, herds or drives any horse, cow, sheep, goat, pig or llama:

1. On a public sidewalk; or

2. On any private or public property without the effective consent of the owner of such property.

B. It is an exception to (A) that the person was a peace officer or animal services officer in the performance of his official duties; or the person was assisting a peace officer or animal services officer in the performance of his official duties.

**Section 4.11 Animal At Large**

A. A person commits an offense if he fails to keep an animal he owns from being at large.

B. It is an exception to (A) that:

1. The animal was a police service animal under the supervision of a peace officer in the performance of his official duties; or

2. The animal was a water fowl at a municipally owned facility;

C. Each animal in violation of this Section constitutes a separate offense.

**Section 4.12 Animal Impounded at Police Request**

A. Impounding. The Animal Services Manager shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, is missing or has died, and there is no person present, sixteen (16) years of age or older, who will assume the duties of providing food, water and shelter for such animal.

B. Disposition of Animal - Owner's Residence Known

1. If the animal is not reclaimed by the tenth (10) day after the date it is impounded, the Animal Services Manager shall give notice to the owner if the owner's residence is known to him and it is in Texas. The notice shall be in writing, sent by certified mail with return receipt requested, and shall include the amount of the accrued charges and a demand for payment.

2. If the animal is not reclaimed and all accrued charges paid by the eleventh day after the date the notice is mailed, the Animal Services Manager shall send a second notice by certified mail, return receipt requested, to the owner. Such notice shall state that the animal will be euthanized, placed for adoption, or sold at public auction after the twentieth day after the date the second notice is sent.

C. Disposition of Animal - Owner's Residence Unknown. If the animal is not reclaimed by the thirtieth day after the date it is impounded, and the owner's residence is not in Texas or the Animal Services Manager does not know where the owner's residence is, the Animal Services Manager may euthanize the animal, place the animal for adoption, or sell the animal at public auction without notice to the owner.

D. The proceeds from the sale or adoption of an animal shall be applied against the accrued charges. If there are any excess proceeds, the funds shall be deposited into the animal services donation fund of the City of Arlington.

E. The fees for impounding and boarding dogs and cats under this Section shall be the same as those set under the authority of Section 3.04. The fees for impounding all other domestic animals shall be the same as those set under the authority of Section 4.02.

F. This Section shall not apply to at large animals or prohibited animals.

**Section 4.13 Wild Animals**

A. It shall be the duty of the Animal Services Manager, in the absence of action by State or Federal agencies, to take up any and all wild animals that are diseased or which endanger the health of a person or other animal.

B. The Animal Services Manager may at his discretion release a wild animal to a State agency, animal rehabilitation center, or an animal refuge.

**Section 4.14 Spay/Neuter of Animals**

A. All animals within the City of Arlington are required to be spayed/neutered, unless they are under the control of an individual.

B. All impounded animals are required to be spayed/neutered within thirty (30) days of release from impoundment.

C. It is an exception to (B) above that the Animal Services Manager determines that:

1. The owner of the animal is a member of a club which is associated with a national registry, nation breed club or local all-breed club, and does not sell twelve (12) or more intact animals per year.

2. The animal was at large and impounded due to force vis major (Act of God).

3. The animal was at large and impounded due to fire, criminal or negligent acts of a third party who does not reside at the animal owner's residence. Additionally, verification of the incident must be presented to the Animal Services Manager in the form of a police or fire report, or the sworn testimony or affidavit of police or fire personnel.

Further, **Article V**, Sale and Breeding of Animals, is hereby amended by the amendment of **Section 5.01,** so that hereafter said Article shall be and read as follows:

**Section 5.01 Sale and Care of Certain Animals**

A. A person commits an offense if he sells, offers for sale, gives as a prize, barters or displays any living chickens, ducks, goslings, rabbits or hamsters that have been artificially colored or any other fowl or animal which has been dyed, colored or otherwise treated so as to impart to them an artificial color.

B. A person commits an offense if he sells, offers for sale, gives as a prize, or commercially displays any chick, duckling or gosling younger than four (4) weeks of age.

C. A person commits an offense if he offers for sale or as a prize, or displays any chick, gosling or duck without providing such animal with a brooder or heating device as necessary to keep such animal in good health.

D. A person commits an offense if he fails to provide any animal described in this Section with adequate food and water at all times.

E. A person commits an offense if he sells or delivers live chickens, ducklings, goslings, or rabbits less than eight weeks of age to any person in quantities of less than five (5).

F. A person commits an offense if a person gives away any live animal as a prize or inducement for the purposes of attracting trade or business.

**Section 5.02 Keeping of Fowl**

A person commits an offense if he:

A. Keeps or maintains more than four (4) fowl on one-half (1/2) acre or less or at a distance closer than fifty feet (50') from any habitation located on another's property; or

B. Keeps or maintains more than ten (10) fowl on more than one-half (1/2) acre but less than one (1) acre at a distance closer than fifty feet (50') from any habitation located on another's property.

C. Keeps or maintains twenty-five (25) fowl or more on one (1) acre or more at a distance closer than fifty feet (50') from any habitation located on another's property.

D. Fails to keep any fowl of the Order Anseriformes from being at large; or

E. Fails to keep any fowl of the Order Galliformes contained within a coop or pen.

F. Keeps or maintains roosters except in an area zoned as agricultural.

**Section 5.03 <u>Livestock</u>**

A person commits an offense if he:

A. Keeps or stakes any horse, cow, sheep, goat or llama at a distance closer than five hundred feet (500') from any habitation located on another's property;

B. Keeps or stakes any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

C. Erects or maintains a structure, pen, corral or other enclosure for any horse, cow, sheep, goat or llama at a distance closer than five hundred feet (500') from any habitation located on another's property;

D. Erects or maintains a structure, pen, corral or other enclosure for any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

E. Keeps or stakes three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property; or

F. Erects or maintains a structure, pen, corral or other enclosure for three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property.

G. Keeps or stakes up to two (2) potbellied pigs at a distance closer than five hundred feet (500') from a habitation located on another person's property, when the animal's primary habitat is located outdoors.

**Section 5.04 Exceptions**

It is an exception to Sections 5.02 and 5.03 that:

A. The animal or structure was at a veterinary clinic or hospital, pet store, feed store, farm store or any similar establishment properly zoned for keeping such animals;

B. The structure, pen, corral or other enclosure was in existence at the time the premises on which it is located were annexed by the City of Arlington. However, if the ownership or primary use of the premises changes, this exception shall not apply; or

C. The structure, pen, corral or other enclosure was in existence prior to the time a habitation was erected on another's property.

Further, **Article VI**, Rabies Control and Bite Procedures, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 6.01 Definitions**

The following words and terms when used in this Article shall have the following meanings unless the context clearly indicates otherwise:

1. Animal shall mean any live or dead mammal, domesticated or wild, excluding homo sapiens.

2. Bite or scratch shall mean a bite or scratch that breaks the skin and is capable of transmitting rabies.

3. High Risk Animal shall mean any animal that has a high probability of transmitting rabies (including foxes, bats, skunks, coyotes, and raccoons).

4. Low Risk Animal shall mean any animal that has a low probability of transmitting rabies (including animals of the orders Marsupialia, Insectivora, Rodentia, Lagomorpha and Xenarthra).

**Section 6.02 Report of Rabies**

A. A person commits an offense if he has knowledge of an animal bite or scratch of a human and fails to report said bite or scratch to the Animal Services Manager within twenty-four (24) hours from the time of the incident.

B. A person commits an offense if he knows of an animal that he suspects is rabid and fails to report such animal to the Animal Services Manager.

C. A report shall be written or oral and include if known, the name and address of the victim and of the animal's owner, and any information which could lead to locating the victim, the animal, and the animal's owner.

D. The Animal Services Manager shall investigate all reports made under this Section.

**Section 6.03 Quarantine**

A. The owner of an animal that has bitten or scratched a human commits an offense if he fails to submit the animal to the Manager for quarantine immediately upon notification by the Manager of a biting or scratching incident .

B. The owner of an animal that is suspected of being rabid commits an offense if he fails to submit the animal to the Manager for quarantine immediately when ordered by the Manager to do so.

C. The Animal Services Manager shall follow these procedures for quarantining and testing:

1. When a dog or cat has bitten or scratched a human, the dog or cat shall be placed in quarantine, in a facility specified by the Animal Services Manager and approved by the Texas Department of Health.

2. When an animal that has not bitten or scratched a human is suspected of having rabies, it shall be placed in quarantine for ten (10) days, in a facility specified by the Animal Services Manager and approved by the Texas Department of Health.

3. Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Animal Services Manager, the Animal Services Manager may permit home quarantine for the animal if the following criteria can be met:

a. The animal was currently vaccinated against rabies at the time of the bite or scratch;

b. The animal was currently licensed with the City of Arlington at the time of the bite or scratch;

c. The animal was not at large at the time of the bite or scratch;

d. The animal's owner has secure facilities at his home for the animal which have been approved by the Animal Services Manager;

e. The Animal Services Manager or a licensed veterinarian must observe the animal on at least the first and eighth days of the quarantine period;

f. If the animal becomes ill during the observation period, the person with possession of the animal must notify the Animal Services Manager;

g. The owner must sign an agreement to abide by the quarantine rules; and

h. At the end of the quarantine period, the animal shall be observed by a licensed veterinarian and the veterinarian will generate a letter authorizing the release of the animal from quarantine.

4. If the Animal Services Manager is in possession of a dog or cat which has bitten or scratched a human, and such animal is designated as unowned, the Animal Services Manager may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

5. If the animal which has bitten or scratched a human is a high risk animal, the Animal Services Manager shall cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

6. If the animal which has bitten or scratched a human is a low risk animal, the Animal Services Manager shall cause the animal to be euthanized, and shall submit its brain for rabies diagnosis by a Texas Department of Health certified laboratory if the Animal Services Manager has cause to believe the animal is rabid. If the Animal Services Manager has no cause to believe the animal is rabid, then neither quarantining nor testing will be required.

7. If the animal, including a dog or cat, which has bitten or scratched a human inflicted multiple bite wounds, lacerations or punctures to a person, the Animal Services Manager may cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

8. If the animal which has bitten or scratched a human is not included in (1), (2), (3), (4), (5), (6) or (7) of this subsection, the Animal Services Manager shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

9. The Animal Services Manager shall cause to be euthanized any animal required to be quarantined under this subsection which cannot be maintained in a secure quarantine, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

10. The Animal Services Manager shall follow the rules promulgated by the Texas Department of Health when submitting an animal brain for testing.

11. The Animal Services Manager may euthanize an unowned animal prior to the end of the quarantine, and have the brain tested for rabies.

12. All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

D. The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement.

**Section 6.04 <u>Disposition or Release of Quarantined Animal</u>**

A. At the conclusion of the quarantine, the Animal Services Manager shall release the quarantined animal to its owner if a veterinarian has determined that a quarantined animal shows no clinical signs of rabies, and

1. If the owner presents an unexpired rabies vaccination certificate for the animal to the Animal Services Manager; or

2. If the animal is vaccinated against rabies by a licensed veterinarian at the owner's expense, and the owner presents a rabies vaccination certificate for the animal to the Animal Services Manager; and

3. If the animal is not the subject of a dangerous animal complaint.

B. The Animal Services Manager shall euthanize any animal which at the end of the quarantine period is determined by a veterinarian to show clinical signs of rabies.

C. If an animal dies, is killed or euthanized while in quarantine, the Animal Services Manager shall submit the head or brain of the animal to a Texas Department of Health certified laboratory for rabies diagnosis.

D. The owner of a quarantined animal shall pay to the Animal Services Manager all costs of quarantine and disposition of the animal, by fee set by resolution of the Council. No quarantined animal shall be released until all fees have been paid.

E. If the owner of an animal fails to take possession of the animal before the fourth day following the final day of the quarantine period, the Animal Services Manager shall at his option place the animal for adoption or cause it to be euthanized.

**Section 6.05 <u>Use and Sale of Rabies Vaccine</u>**

A. Rabies vaccine for animals shall be administered only by or under the direct supervision of a veterinarian.

B. A veterinarian shall not administer or directly supervise the administration of rabies vaccine in this State unless he is:

1. Licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine; or

2. Practicing veterinary medicine on an installation of the armed forces or National Guard.

C. A person commits an offense if he administers or attempts to administer rabies vaccine in a manner not authorized by this Section.

D. A person commits an offense if he dispenses or attempts to dispense rabies vaccine in a manner not authorized by this Section.

E. A person commits an offense if he sells or distributes rabies vaccine for animals to any person except a licensed veterinarian or to a person working in a veterinarian clinic who accepts the vaccine on behalf of the veterinarian.

**Section 6.06 <u>Animal Exposed to Rabies</u>**

A. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to report such bite or exposure to the Animal Services Manager within twenty-four hours of the incident.

B. The owner of an animal which has been bitten by a rabid animal or exposed by physical contact to its fresh tissues commits an offense if he fails to submit his animal to the Animal Services Manager for quarantine or euthanization immediately when requested to do so by the Animal Services Manager.

C. If the animal which has been bitten or exposed has not been vaccinated against rabies and is an animal for which an approved vaccine exists, the Animal Services Manager:

1. Shall cause such animal to be euthanized; or

2. Shall, if sufficient justification for preserving the animal exists, cause the animal to be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and given booster vaccinations during the third and eighth weeks of isolation. If the animal is under three (3) months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three (3) months of age.

D. If the animal which has been bitten or exposed was currently vaccinated against rabies at the time of the bite or exposure, and is an animal for which an approved vaccine exists, the Animal Services Manager:

1. Shall cause such animal to be euthanized; or

2. Shall, if sufficient justification for preserving the animal exists, cause the animal to be given an immediate booster rabies vaccination and placed in strict isolation for forty-five (45) days.

E. If the animal which has been bitten or exposed is an animal for which no approved rabies vaccine exists, the Animal Services Manager shall cause such animal to be euthanized.

F. The procedures for disposition or release of the animal following isolation shall be the same as those for disposition of an animal following quarantine set forth in Section 6.04 of this Article.

Further, **Article VII,** Prohibited and Exotic Animals, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 7.01 Definition of Prohibited Animals**

Prohibited animal shall mean:

A. Class Mammalia:

1. Order Carnivora:

a. Family Mustelidae (such as weasels, skunks, otters, badgers, mink and martens) EXCEPT ferrets;

b. Family Procyonidae (such as raccoons and coati);

c. Family Ursidae (bears);

d. Family Felidae (such as bobcats, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, lynxs, servals, caracals), EXCEPT domestic cats;

e. Family Canidae ( such as coyotes, foxes and jackals); EXCEPT domestic dogs; and

f. Family Hyaenidae (hyenas).

2. Order Primate:

a. Family Cercopithecidae (such as baboons); and

b. Family Hominidae (such as chimpanzees, gorillas, orangutans);

B. Class Reptilia:

1. Family Helodermatidae (venomous lizards);

2. Family Hydrophiidae (venomous marine snakes);

3. Family Crotalidae (rattlesnakes, fer-de-lance, water moccasins, copperheads);

4. Family Viperidae (Old World Vipers);

5. Family Elapidae (coral snakes, cobras and mambas);

6. Family Colubridae:

   a. Dispholidus typus (boomslang);

   b. Cyclagras gigas (false water cobra);

   c. Boiga dendrophila (mangrove snake); and

   d. Thelotornis kirtlandii (bird snake); and

7. Order Crocodilia (crocodiles, alligators and gavials);

8. Family Chelydridae:

   a. Macroclemys temmincki (alligator snapping turtle); and

   b. Chelydra serpentina (common snapping turtle).

C. Class Amphibia:

Family Dendrobatidae: Phyllobates terribilis; and

D. Any hybrid of an animal listed in this Section.

E. All parenthetical references in this Section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

**Section 7.02 Ownership of Prohibited Animal**

A. Definitions.

Being transported shall mean the act of being conveyed within a vehicle upon a public street.

B. A person commits an offense if he owns a prohibited animal.

C. It is an exception that:

1. A county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

2. A research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

3. An organization that is an accredited member of the American Zoo and Aquarium Association;

4. An injured, infirm, orphaned, or abandoned prohibited animal while being transported for care or treatment;

5. An injured, infirm, orphaned, or abandoned prohibited animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

6. A prohibited animal owned by and in the custody and control of a transient circus company that is not based in this state if:

   a. the animal is used as an integral part of the circus performances; and

   b. the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

7. prohibited animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

8. a prohibited animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

9. a prohibited animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

10. a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; and

11. a prohibited animal that is:

   a. owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

   b. an integral part of that species survival plan.

**Section 7.03 Impoundment of Prohibited Animals**

A. The Animal Services Manager shall immediately impound all prohibited animals found in violation of this Chapter, and place them in the Animal Services Center or other suitable facility.

B. Any person owning a prohibited animal shall submit it to the Animal Services Manager immediately upon his request.

C. A person commits an offense if he fails to submit a prohibited animal to the Animal Services Manager after having been ordered by the Animal Services Manager to do so.

D. An order under this Section shall be in writing, signed by the Animal Services Manager and served in person by the Animal Services Manager or a peace officer upon the owner of the prohibited animal.

**Section 7.04 Maintenance and Disposition of Prohibited Animal**

A. The Animal Services Manager shall maintain any prohibited animal impounded under this Chapter for five (5) days, except:

1. If the owner of a prohibited animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a prohibited animal requests a hearing (in which case the Animal Services Manager shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Animal Services Manager shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of a prohibited animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing it is determined that the animal was not a prohibited animal or was an exception to prohibited animals. Such fees shall be of a sum set by resolution of the City Council.

**Section 7.05 Definition of Exotic Animals**

Exotic animal shall mean:

A. Class Mammalia:

1. Order Marsupialia: Subfamily Macropodinae (wallabies, kangaroos, padmelons and wallaroos);

2. Order Perissodactyla:

   a. Family Tapiridae (tapirs);

   b. Family Equidae (zebra, wild asses and wild horses) except domestic equine;

   c. Family Rhinocerotidae (rhinoceros);

3. Order Artiodactyla (such as hippopotamus, camels, giraffes, bison, antelope and deer) except domestic goats, oxen, sheep, cattle, pigs and llama;

4. Order Chiroptera (bats);

5. Family Ailuridae (Pandas and lesser pandas);

6. Family Viverridae (such as civets, mongoose and binturongs);

7. Family Protelidae (aardwolves);

8. Order Proboscidea (elephants);

9. Order Primates:

   a. Family Cebidae:

      (1) Genus Cebus (Capuchin monkeys);

      (2) Genus Ateles (Spider monkeys);

      (3) Genus Brachyteles (Wooly Spider monkeys);

   b. Family Callimiconidae: Genus Callimico (Goeldi's monkey);

   c. Family Callithricidae:

      (1) Genus Callithrix (marmoset);

      (2) Genus Leontideus (maned tamarin);

      (3) Genus Saguinus (tamarins);

      (4) Genus Oedipomidas (crested bare-faced tamarin);

B. <u>Class Aves</u>:

1. Order Rheiformes (such as the rhea);

2. Order Struthioniformes (such as the ostrich);

3. Order Casuariiformes (such as the emu); and

C. Any hybrid of an animal listed in this Section;

D. All parenthetical references in this section are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

**Section 7.06 <u>Application of Other Laws</u>**

The requirements in this Chapter regarding exotic animals shall be in addition to Federal laws and regulations, and Texas laws and regulations governing ownership of these animals.

**Section 7.07 <u>Primary Enclosures</u>**

A person commits an offense if he harbors or maintains an exotic animal unless the animal is confined to a primary enclosure which meets the following minimum construction specifications:

A. Orders Rheiformes, Struthioniformes, and Casuariiformes: A fence of not less than six feet (6') in height, constructed of not less than eleven and one-half (11½) gauge chain link fence or its strength equivalent.

B. Family Ailuridae: a cage of not less than nine (9) gauge chain link or its strength equivalent.

C. Families Protelidae and Viverridae: A cage of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

D. Order Primates:

1. Gibbons, monkeys and other primates: a cage consisting of not less than nine (9) gauge chain link or its strength equivalent.

E. Elephants, rhinoceros and hippopotamus: a cage of steel bars, masonry block, or its strength equivalent.

F. Order Marsupialia: a cage consisting of not less than eleven and one-half (11½) gauge chain link or its strength equivalent.

G. Order Perissodactyla (except rhinoceros) and Order Artiodactyla (except hippopotamus): a fence of not less than eight feet (8') in height, constructed of not less than nine (9) gauge chain link or its strength equivalent.

H. Order Chiroptera (bats): a cage with no openings that will allow passage of a sphere larger than three-eighths inch (3/8"), excluding the door. Any door to such a cage shall have no openings which will allow passage of a sphere greater than three-eighths inch (3/8"), and shall be kept secured when not in use.

I. All cages and fences constructed of chain link shall be well braced and securely anchored at ground level and shall utilize metal corners, clamps, ties and braces of equivalent strength to other materials prescribed for cage construction for that order, family or species.

J. Frames for cages and fences, including corners, braces, top and bottom rails, shall be securely bolted or welded to provide maximum strength.

K. Cages and fences shall be sufficiently strong to prevent escape.

L. Cages and fences shall be equipped with locks and locking mechanism to prevent opening by unauthorized persons.

M. All cages shall be covered at the top to prevent escape. In lieu of this requirement, facilities provided for rhinoceros, elephants, and hippopotami may be constructed at sufficient height and in such a manner to prevent escape.

**Section 7.08 <u>Transportation of Exotic Animals</u>**

A person commits an offense if he transports an exotic animal unless such animal is transported in a cage which meets the minimum construction and strength requirements for primary holding facilities as required in Section 7.07.

**Section 7.09 <u>Distance Requirements</u>**

A. A person commits an offense if with criminal negligence he houses, maintains, keeps or stakes an exotic animal at a distance closer than five hundred feet (500') from any habitation located on another's property.

B. Bats shall be exempt from this distance requirement.

**Section 7.10 <u>Impoundment of Exotic Animals</u>**

A. The Animal Services Manager shall immediately impound all exotic animals that are at large or that are being maintained, harbored or transported in violation of this Article, and place them in the Animal Services Center or other suitable facility.

B. A person maintaining, harboring or transporting an exotic animal in violation of this Chapter shall submit it to the Animal Services Manager immediately upon his request.

C. A person commits an offense if he fails to submit an exotic animal to the Animal Services Manager after having been ordered by the Animal Services Manager to do so.

D. An order under this Section shall be in writing, signed by the Animal Services Manager and served in person by the Animal Services Manager or a peace officer upon the owner of the prohibited animal.

**Section 7.11 Maintenance and Disposition of Exotic Animal**

A. The Animal Services Manager shall maintain any exotic animal impounded under this Chapter for five (5) days, except:

1. If the owner of a exotic animal signs an agreement abandoning all rights, claims or title to the animal; or

2. If the owner of a exotic animal requests a hearing (in which case the Animal Services Manager shall maintain the animal until the owner has exhausted his administrative remedies).

B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Animal Services Manager shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.

C. The owner of an exotic animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal, unless, after hearing, it is determined that the animal was not in violation of this Article. Such fees shall be set by resolution of the City Council.

Further, **Article VIII,** Dangerous Animals, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 8.01 Knowledge of Dangerous Animal**

For purposes of this article, a person learns he is the owner of a dangerous animal when:

A. The owner knows of an attack described in the Section 1.01 definition of "dangerous animal;" or

B. The owner is notified by the Animal Services Manager that the animal is a dangerous animal; or

C. The owner is notified by the Court that the dog is a dangerous dog; or

D. The owner is notified by the Court that, after appeal, the Court has upheld the Animal Services Manager's determination that the animal is a dangerous animal.

**Section 8.02 Dangerous Animal Report**

A. The Animal Services Manager may receive a report concerning a dangerous animal. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Animal Services Manager.

B. The Animal Services Manager shall investigate all reports filed under this section and may issue sworn reports based on the Animal Services Manager's investigation or observation.

**Section 8.03 Dangerous Animal Determination**

The Arlington Municipal Court may determine that a dog is a dangerous dog under Section 8.03(A). The Animal Services Manager may declare that an animal, including a dog, is a dangerous animal under Section 8.03(B). Regarding a dangerous dog incident, the Animal Services Manager has discretion to proceed under either Section 8.03(A) or 8.03(B).

A. Municipal Court:

1. The Arlington Municipal Court may determine that a dog is a dangerous dog in compliance with Texas Health and Safety Code, Section 822.0422. The Animal Services Manager may file a sworn report describing a dangerous dog incident with the Court. The sworn report shall present probable cause that the dog described in the report committed an attack described in Section 1.01, "Dangerous Animal."

2. The Animal Services Manager shall furnish written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the animal immediately to the Animal Services Manager upon receiving the notice, provided that the Animal Services Manager may, in his discretion, accept proof that the animal is impounded with a licensed veterinarian according to the terms of Section 8.13(B). The notice to the owner shall have attached to it a copy of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing.

3. Notice to the owner by the Animal Services Manager shall be provided as required by Section 8.03(B)(3).

4. If the owner fails to deliver the dog as required by Subsection (B)(2), the Court shall order the Animal Services Manager to seize the dog and shall issue a warrant authorizing the seizure. The Animal Services Manager shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions at the owner's expense until the Court orders the disposition of the dog. The Court shall determine, after notice and hearing as provided in Section 8.04, whether the dog is a dangerous dog.

B. Animal Services Manager:

1. The Animal Services Manager may determine that an animal is a dangerous animal after investigation of a dangerous animal incident. The Animal Services Manager shall furnish written notice to the owner of the animal as identified in the complaint to inform the owner that a dangerous animal report has been received. The owner will have five (5) calendar days from the date the owner is notified to provide the Animal Services Manager information regarding the report. The Animal Services Manager may consider additional information from other sources in the course of the investigation.

2. If, after investigating a dangerous animal report, the Animal Services Manager finds that the animal is a dangerous animal, the Animal Services Manager shall provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal and shall have attached to it a copy of this article.

3. Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Services Manager. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.

4. An owner, not later than ten (10) calendar days after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Animal Services Manager to the Arlington Municipal Court. An owner may appeal the decision of the Municipal Court to a county court-at-law, in the same manner as an appeal of a civil case.

**Section 8.04 <u>Hearing</u>**

A. After the Court receives a sworn report of an incident involving a dangerous dog under Section 8.03(A)(1) or a report of a dangerous animal owner's non-compliance with requirements under Section 8.05, the Court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of a dangerous animal has not complied with the requirements of Section 8.05. The hearing must be held not later than ten (10) calendar days after the date on which the dog or animal is seized or delivered.

B. The Court shall give written notice of the time and place of the hearing to:

1. The owner of the dog or the person from whom the dog was seized; and

2. The person who made the report; and

3. The Animal Services Manager.

C. Any interested party, including the city attorney, is entitled to present evidence at the hearing.

D. An owner or the person who made the report may appeal the decision of the Municipal Court in the manner provided for the appeal of cases from the Municipal Court.

**Section 8.05 <u>Requirements for Owners of Dangerous Animals</u>**

A. Not later than fifteen (15) calendar days after a person learns that he is the owner of a dangerous animal, the owner shall:

1. Register the dangerous animal with the Animal Services Manager and maintain current registration at all times;

2. Restrain the animal in a secure enclosure inspected and approved by the Animal Services Manager;

3. Acquire and maintain liability insurance coverage in an amount of at least One Hundred Thousand Dollars and No Cents ($100,000.00) to cover damages resulting from an attack by the dangerous animal and provide proof of the required liability insurance coverage to the Animal Services Manager. The owner shall notify the Animal Services Manager immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the Animal Services Manager not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the City of Arlington Animal Services as a certificate holder.

4. Microchip and register the dangerous animal for its life with a national registry, and present proof to the Animal Services Manager. The cost shall be at the owner's expense. The owner of the dangerous animal shall microchip the animal by implanting a microchip identification device on the animal within seven (7) calendar days after being notified by the Animal Services Manager or the Court that such animal is dangerous or within forty-eight (48) hours of an unsuccessful appeal;

5. Present proof to the Animal Services Manager that the animal has been sterilized so as to prevent reproduction;

6. Comply with all applicable regulations, requirements, and restrictions on dangerous animals; and

7. Obtain written extension from the Animal Services Manager to complete the registration requirements if necessary. All requests for extension shall be in writing and, if granted by the Animal Services Manager, shall total no more than 30 additional days.

B. An appeal of a dangerous dog determination by the Court under 8.03(A) or of a dangerous animal declaration by the Animal Services Manager under Section 8.03(B) shall not act to stay the requirements of Subsection (A) except regarding implantation of a microchip as noted in Subsection (A)(4).

C. The owner of a dangerous animal shall deliver the animal to the Animal Services Manager immediately upon learning that the animal is a dangerous animal, if the animal is not already impounded.

D. The owner of a dangerous animal who falls out of compliance with an owner's requirement of Subsection (A) shall deliver the animal to the Animal Services Manager immediately.

E. The Court may issue a warrant to seize the subject animal at any time the Court finds that probable cause of violation or non-compliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the Animal Services Manager, the Court finds, after notice and hearing as provided by Section 8.04, that the owner of a dangerous animal has failed to comply with or has fallen out of compliance with an owner's requirement of Subsection (A), the Court shall order the Animal Services Manager to seize the animal and shall issue a warrant authorizing the seizure.

F. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner has not timely complied with Subsection (A) and no perfected appeal is pending.

G. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10) calendar days after the animal is seized or delivered to the Animal Services Manager and no perfected appeal is pending. The Court may order the Animal Services Manager to return the dangerous animal to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days or the Court may order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection 8.05 or 8.07(A), or 8.07(B) or 8.08(A) or 8.08(B). No dangerous animal shall be returned to its owner after renewed compliance more than two (2) times.

**Section 8.06 <u>Registration</u>**

A. The Animal Services Manager shall annually register a dangerous animal if the owner is in compliance with the owner's requirements of Section 8.05. The owner

shall present proof of compliance satisfactory to the Animal Services Manager and shall pay an annual registration fee of Fifty Dollars and No Cents ($50.00).

B. The Animal Services Manager shall provide to the owner registering a dangerous animal a dangerous animal registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face and shall be larger than a normal license tag issued to dogs and cats. A dangerous animal registration shall be valid for one (1) year from the date of issuance.

C. The owner of a registered dangerous animal shall attach the tag to the animal's collar, or similar device, and shall place such collar or device on the animal. The owner of a registered dangerous animal shall display current registration on the animal in this manner at all times.

D. If the owner of a registered dangerous animal sells or gives away the animal or moves the animal to a new address, the owner, not later than the fourteenth day after the date of the sale, gift or move, shall notify the Animal Services Manager of the animal's new address and new owner if applicable.

E. If the owner of a registered dangerous animal sells or gives the animal to another person, the owner shall notify the other person at the time of the sale or gift that the animal is a registered dangerous animal.

F. If a new owner keeps the animal within Arlington, he shall register the animal with the Animal Services Manager within ten (10) calendar days after receiving it.

G. When the owner of an animal registered as a dangerous animal in another jurisdiction becomes a resident of Arlington, he shall register the animal with the Animal Services Manager within ten (10) calendar days after becoming a new resident.

H. The Animal Services Manager shall reregister a dangerous animal with a new owner or owner who is a new Arlington resident if such owner is in compliance with this Chapter. Such owner shall present proof of compliance satisfactory to the Animal Services Manager and shall pay a reregistration fee of $25.00.

I. If a dangerous animal's registration is expired when a new resident or new owner attempts to reregister it, the new owner or new resident shall follow the owner's requirements of Subsection (A).

J. A reregistration shall be valid only for the time remaining on the prior registration.

K. When the Animal Services Manager is informed that a dangerous animal has been moved to another jurisdiction, or when the Animal Services Manager reregisters a dangerous animal previously registered in another jurisdiction, he should notify the animal control authority for such jurisdiction of this information.

**Section 8.07 Owner Notification of Attacks**

A. The owner of a registered dangerous animal shall notify the Animal Services Manager of all attacks the animal makes on humans.

B. Additionally, the owner of a registered dangerous dog shall notify the Animal Services Manager of all attacks made by the dog on domestic animals and domestic fowl.

**Section 8.08 Offenses**

A. A person commits an offense if the person is the owner of a dangerous animal and the animal makes an unprovoked attack on another person outside the animal's enclosure, and the attack causes bodily injury to the other person.

B. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.

C. A person commits an offense if the person is the owner of a dangerous animal or the new owner of a dangerous animal and performs an act prohibited or fails to perform an act required by this Article.

**Section 8.09 Defenses**

A. It is a defense to prosecution under Section 8.08 that the person is a veterinarian, a peace officer, a person employed by a recognized animal services center or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.

B. It is a defense to prosecution under Section 8.08 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

C. It is a defense to prosecution under Section 8.08 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

D. It is a defense to prosecution under Section 8.08 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal.

E. It is a defense to prosecution under Section 8.08 that the person injured was committing or attempting to commit a crime.

F. It is a defense to prosecution under Section 8.08 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault.

**Section 8.10 Muzzle and Restraint of Dangerous Animals**

An owner of a dangerous animal shall not permit a dangerous animal to be outside the secure enclosure unless the animal is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash. Such animal shall not be leashed to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

**Section 8.11 Additional Penalties for Violation of this Section**

A. If a person is found guilty of an offense under Section 8.08(A) or 8.08(B), the Court may order the Animal Services Manager to impound and destroy the animal immediately in addition to other penalties in Article XI.

B. The Animal Services Manager may obtain a search and seizure warrant if the owner of a registered dangerous animal falls out of compliance with the owner's requirements of Section 8.05. The animal will remain impounded until proof as required by Section 8.05 has been satisfied and is approved by the Animal Services Manager or the animal is destroyed.

C. If impoundment of a dangerous animal is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a dangerous animal from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given twenty-four (24) hours notice that if said animal is not surrendered to Animal Services within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premise where the dangerous animal is harbored will be considered valid notice as of the date and time of posting. In lieu of surrendering the animal to Animal Services, an owner may permanently remove said animal from the City, if written proof of destination is provided to the Animal Services Manager and transport is made in compliance with this Article.

D. A dangerous animal impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed abandoned and, at the discretion of the Animal Services Manager, euthanized in a humane manner.

E. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed $10,000. An attorney having civil jurisdiction for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the municipality.

**Section 8.12 <u>Status of Animal</u>**

A. The owner shall deliver the dog to the Animal Services Manager immediately upon notification that a dangerous dog report has been filed with the Court under Section 8.03(A)(2).

B. The owner shall deliver the dangerous animal to the Animal Services Manager immediately upon notification that the Animal Services Manager has declared that the animal is a dangerous animal under Section 8.03(B)(2).

C. The owner shall deliver the dangerous animal to the Animal Services Manager immediately upon notification that the animal is a dangerous animal, as required by Section 8.05(C).

D. The owner shall deliver the dangerous animal to the Animal Services Manager immediately when the owner falls out of compliance with any requirement of an owner of a dangerous animal, as required by Section 8.05(D).

E. If the owner fails to deliver the subject animal as required in this Article, the Court shall order the Animal Services Manager to seize the animal and shall issue a warrant authorizing the seizure, as provided in Section 8.05(E).

F. No dangerous animal shall be returned to its owner at any time unless authorized by this Article and all owner's requirements are fulfilled.

**Section 8.13 <u>Impoundment and Destruction of Animal</u>**

A. The Animal Services Manager shall seize the subject animal according to a warrant or shall order such seizure and shall accept the animal into custody when delivered by the owner.

B. The Animal Services Manager shall provide for impoundment of the subject animal in secure and humane conditions until the Court orders the disposition of the subject animal. The Animal Services Manager may accept proof of impoundment from a licensed veterinarian if such proof and impoundment are satisfactory to the Animal Services Manager.

C. The owner shall pay any costs and fees incurred by the City related to the seizure, impoundment, and destruction of a dangerous animal.

D. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner of the animal has not been located within ten (10)

calendar days after the seizure and impoundment of the animal and if no other statute or ordinance has allowed or required the animal's earlier destruction.

E. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner has not timely complied with the owner's requirements, according to Section 8.05(F).

F. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement and fails to renew compliance within ten (10) calendar days, according to Section 8.05(G).

G. The Court shall order the Animal Services Manager to humanely destroy a dangerous animal that can no longer be returned to its owner under this Article.

Further, **Article IX,** Miscellaneous, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 9.01 Disposal of Dead Animals**

A. Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:

1. Animals weighing fifty (50) pounds or less may be buried on the owner's premises at a depth of not less than twelve inches (12").

2. Animals weighing twenty (20) pounds or less may be placed for trash collection if they are first wrapped securely in newspaper and put in a bag of a type approved by the Administrator of the "Health" Chapter of this Code.

3. Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery.

4. If requested by the owner, dogs and cats will be picked up by the Animal Services Manager and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.

5. The Landfill Manager shall have the right to refuse a dead animal if placing such animal in the landfill would pose a health risk.

6. The Animal Services Manager shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Animal Services Center.

B. A person commits an offense if he disposes of a dead animal in a manner other than as provided by this Section.

C. The owner of an animal which has died commits an offense if he fails to properly dispose of such animal within twenty-four (24) hours of its death.

**Section 9.02 Traps**

A person commits an offense if he knowingly releases or removes an animal from a trap set by the Animal Services Manager.

**Section 9.03 Interfering with Manager**

A person commits an offense if he knowingly prevents, interferes with, or obstructs the Animal Services Manager in the performance of his duties.

**Section 9.04 Filing of False Claims and Reports**

A. A person commits an offense if he knowingly initiates, communicates or circulates a claim of ownership for an animal with the Animal Services Manager that he knows is false or baseless.

B. A person commits an offense if he knowingly initiates, communicates or circulates a report of a violation of City ordinance or State law with the Animal Services Manager that he knows is false or baseless.

**Section 9.05 Defecation - Removal and Disposal Required; Implements Required**

A. Offense: An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to defecate on private property not his own or on property located in a public place without immediately removing and disposing of the defecation material in a sanitary and lawful manner.

B. Offense: An owner or person who has care, custody or control of an animal commits an offense if, he permits or by insufficient control allows an animal to enter or remain on private property not his own or on property located in a public place without having in his possession materials or implements that, either alone or in combination with each other, can be used immediately in a sanitary and lawful manner to remove and dispose of defecation the animal may deposit on such property.

C. It is an exception to Section 9.05 (A) and (B) that:

1. The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or

2. The animal is a "service dog" performing duties of assisting the disabled.

3. The animal is a waterfowl at a municipality owned facility.

4. The owner of the private property has given consent or permission for the animal to defecate on his property.

D. Penalty: A person who violates this section is guilty of an offense and, upon conviction, is punishable by a fine not to exceed One Hundred ($100.00) dollars.

**Section 9.06 <u>Pigeons</u>**

A. The harboring, breeding, maintenance and flying of pigeons shall be permitted under the following conditions:

1. The loft or other structure used or employed for the purpose of housing pigeons shall be maintained in such a manner that no feces, food, water or other waste or natural material is accumulated on any surface within or outside of the loft or structure.

2. A person harboring pigeons in a loft or other structure shall collect and dispose of stored pigeon wastes in a closed fly-proof and rat proof container, and in a manner that prevents the escape of odors from the container and prevents the breeding of flies.

3. A person harboring pigeons in a loft or other structure used for the purpose of housing pigeons shall ensure the structure is designed such that the area housing pigeons provides a minimum of one cubic foot for each mature pigeon kept therein. If any pigeon housed in a loft or other structure is not permitted to fly free outside said loft or other structure a minimum of two times each week, the loft or other structure shall be of such construction as to provide a minimum of three cubic feet of floor space for each pigeon housed within said loft or structure.

4. The construction of the loft shall not conflict with the requirements of any ordinance, including but not limited to, the Construction or Zoning Chapters of the City of Arlington.

5. Any person harboring pigeons in a loft or other structure shall store pigeon feed in such containers as to protect against intrusion by rodents and other vermin.

6. In addition to any requirements of this ordinance the loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City of Arlington and no person may harbor pigeons in such a manner as to constitute a public health nuisance.

7. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition. No person harboring pigeons shall permit or allow pigeons to perch or linger on a habitation, building, power lines or property of others.

8. Any person keeping pigeons in a loft or other structure shall provide fresh and clean food and water daily.

9. The loft or other structure employed for the purpose of harboring pigeons shall be constructed in such a manner as to provide adequate ventilation which shall mean that fresh air may flow both in and out of the loft or structure at all times unless enclosed in the winter time for a limited period to ensure adequate heat.

10. The pigeon loft shall be constructed in such a manner that it will be rodent-proof and shall be kept free from rodents.

11. No loft or other structure housing pigeons shall be constructed, placed, or maintained within fifty feet (50') from any habitation; restaurant, café, or other eating establishment; church, school, hospital, child daycare center, convalescent home, nursing home, residential treatment facility, library, park, playground, community center, or other public building property line. This provision shall not apply to any structure in existence at the time of the effective date of this ordinance amendment. (Amend Ord 02-___, 09/___/02).

B. The Animal Services Manager, upon determination that any loft situated within the City of Arlington, is not being maintained in compliance with this section, may order the pigeons removed from the City or obtain an order to seize such pigeons if he determines it is in the best interest of the birds or the health and safety of the citizens of Arlington.

**Section 9.07 <u>Care and Humane Treatment of Animals</u>**

A. A person commits an offense if he fails to provide an animal with sufficient good and wholesome food or water, adequate housing consisting of a three-sided structure with a cover or roof, shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

B. A person commits an offense if he beats, torments, mentally abuses, overloads, overworks, maims, disfigures, burns or scalds, mutilates or needlessly kills an animal, or if he carries or transports an animal in any vehicle or other conveyance in a cruel or inhumane manner, or if he permits any animal to remain in its own filth or if he causes any of these acts to be done.

C. A person commits an offense if he crops a dog's ears, docks a tail, removes dew claws or performs other surgical procedures on a dog or cat except as provided by the Veterinary Licensing Act.

D. A person commits an offense if a person uses a steel jaw or leg-hold trap.

E. A person commits an offense if he is an owner or person having care and control of any animal and abandons said animal.

F. A person commits an offense if he causes, instigates, or permits any dog fight, cock fight, or other combat between animals or between animals and humans.

G. A person commits an offense if he transports or carries on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks), the animal is safely confined by a vented container or cage, by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

H. A person commits an offense if the person leaves any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare.

Further, **Article X,** Administrative Hearings and Inquests, is hereby amended so that hereafter said Article shall be and read as follows:

**Section 10.01 General Provisions**

A. When notice is required to be given to a person under this Article, it shall be in writing and mailed certified mail return receipt requested to that person's last known mailing address.

B. Notice shall specify the date, time and place of the hearing or inquest.

C. Notice shall be deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.

D. For purposes of this Article, the Administrator shall be empowered to administer oaths and to promulgate procedural rules for the conduct of hearings and inquests.

E. Whenever any deadline specified in this Article falls upon a Saturday, Sunday or a City recognized holiday, the deadline shall be the next regular City business day.

F. The date of an order or ruling required to be made under this Article shall be deemed to be the date it is signed.

G. The administrative remedies set forth in this Article shall be in addition to any criminal penalties provided in the ordinances of this City or the laws of this State.

**Section 10.02 Administrative Hearing for License Revocation**

A. The Animal Services Manager shall apply to the Administrator for an administrative hearing to determine whether a dog or cat license issued by the City of Arlington should be revoked if:

1. The dog or cat has been impounded by the City three (3) or more time during a twelve (12) month period;

2. The owner has been convicted in the Arlington Municipal Court three (3) or more times during a twelve (12) month period for violations of Article III involving the dog or cat; or

3. There is a combination of (1) and (2) totalling three (3) or more incidents in the same twelve (12) month period.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which revocation is sought shall be attached to the application.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

E. The sole issue to be decided at the hearing is whether the license should be revoked.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay stating that the license is either revoked or not revoked. A copy of such order shall be sent to the owner by certified mail, return receipt requested.

G. Upon the license being revoked, the owner shall have ten (10) days to remove the dog or cat from the City.

**Section 10.03 <u>Administrative Hearing - Ownership of Animal with Revoked License</u>**

A. After impounding a dog or cat whose license has been revoked and which has not been removed from the City, the Animal Services Manager shall apply to the Administrator for an administrative hearing to determine the disposition of the animal.

B. The application shall be on a form prescribed by the Administrator.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner of the animal, and further shall inform the Animal Services Manager of the hearing.

E. The sole issue to be determined at the hearing is whether the animal should be euthanized or placed for adoption.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal should be euthanized, he shall order the animal euthanized by the Animal Services Manager.

2. If the Administrator finds that the animal should be placed for adoption, he shall order the Animal Services Manager to place it for adoption.

3. If the Administrator finds that the animal should be euthanized or placed for adoption, the owner may appeal to the Appeals Officer.

**Section 10.04 <u>Administrative Hearing - Prohibited Animal</u>**

A. The owner of an impounded prohibited animal may request an administrative hearing before the Administrator to establish:

1. That the animal is not a prohibited animal;

2. That the animal falls within one of the exceptions to owning prohibited animals; or

3. That the animal meets the criteria of the affirmative defense set forth in Section 7.02(E).

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

G. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal is not a prohibited animal, is an animal which falls within an exception to prohibited animals, or is an animal which meets the criteria of the affirmative defense set forth in Section 7.02(E), he shall order the animal released to the owner.

2. If the Administrator finds that the animal is a prohibited animal not covered by the exceptions or affirmative defense criteria, he shall order it disposed of as provided for in Article VII, Section 7.04.

3. If the Administrator finds that the animal is a prohibited animal not covered by the exceptions or affirmative defense criteria, the owner may appeal to the Appeals Officer.

**Section 10.05 <u>Administrative Hearing - Exotic Animal</u>**

A. The owner of an impounded exotic animal may request an administrative hearing before the Administrator to establish:

1. That the animal is not an exotic animal, or

2. That the animal was not in violation of Article VII.

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

G. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay:

1. If the Administrator finds that the animal is not an exotic animal, was not in violation of Article VII and was not at large, he shall order the animal released to the owner.

2. If the Administrator finds that the animal was in violation of Article VII or at large, he shall order it disposed of as provided for in Article VII, Section 7.11.

3. If the Administrator finds that the animal was in violation of Article VII or at large, the owner may appeal to the Appeals Officer.

**Section 10.06 <u>Appeal to Appeals Officer</u>**

A. The owner of an animal the subject of a hearing under Sections 10.03, 10.04 and 10.05 may appeal an adverse ruling to the Appeals Officer.

B. Notice of appeal shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the date of the Administrator's order.

C. Notice of appeal shall be in writing and shall specify the grounds upon which the appeal is based.

D. The Administrator shall immediately transmit to the Appeals Officer all papers and any other items constituting the record of the action from which the appeal is taken.

E. An appeal to the Appeals Officer shall stay the disposition of the animal, unless the Administrator certifies through written affidavit that a stay would cause imminent peril to life or property. In such a case, disposition shall not be stayed otherwise than by a restraining order granted by a court of record.

F. An appeal shall be conducted no later than the tenth calendar day following the date the appeal is filed.

G. The Appeals Officer shall make a written ruling following the appeal finding that the order of the Administrator is either upheld or reversed.

H. If the order of the Administrator is reversed the Animal Services Manager shall release the animal to the owner. If the order of the Administrator is upheld, the Animal Services Manager shall proceed with disposition of the animal as provided for in this Chapter.

I. This appeal shall exhaust all administrative remedies of the owner.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member

of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **24th** day of **September**, **2002**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **1st** day of **October**, **2002**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ELZIE ODOM, Mayor

ATTEST:

CINDY KEMP, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

# *Staff Report to Mayor and City Council* Ord 02-109

Subject: ANIMAL ORDINANCE REVISIONS Agenda No. X-A-1

Council Meeting Date: 9-24-02 Reference No. 02-E-492

**ordinance**

**PURPOSE**

The purpose of this report is to request Mayor and City Council approval of an ordinance revising the "Animals" Chapter of the City Code.

**DISCUSSION**

Since late last year, the City's Animal Shelter Advisory Committee has been discussing and developing proposed changes to the City's "Animals" Chapter. The Livable Neighborhoods Committee reviewed these changes on March 19, August 6, and September 17, 2002. Changes to the Dangerous Dog section of the City's ordinance were submitted and approved in April. Additionally, the following changes have been developed and are included in the attached ordinance.

- Department/Title changes throughout the ordinance – Consistent with recommendations from the City Auditor, these changes will make the ordinance consistent, by replacing the Community Development Department with Neighborhood Services Department and will reflect position title changes since the last ordinance revision. The name of the Animal Services Advisory Committee has been changed to the Animal Services Center Advisory Committee.

- Reduction of the holding time for Police-requested impounds, from 60 days to 90 days – Animal Services responds to Police requests to impound animals that would otherwise be abandoned when the person caring for the animal is taken into police custody. Most common instances of this type of impound are DWIs or arrests where the individual is the only person on site capable of caring for the animal. Most animals impounded under this regulation are reclaimed within one week of the arrest. Reducing the holding time frame will allow unclaimed animals to be adopted or placed much sooner with rescue groups. Holding animals for an extended period of time in the shelter environment can have a negative impact on the health of the animal.

- Changes to rabies control and bite procedures –

  - The ordinance currently requires that any animal involved in a bite, or that is suspected of rabies, to be surrendered to Animal Services within a 24-hour time frame. The proposed change would enhance public health and safety by requiring the immediate surrender and/or quarantine of the animal (at home, shelter, or veterinarian). Additionally, the immediate surrender of animals considered a threat to public safety, or that have attacked humans or other animals, is required by the change.

  - Under certain conditions, animals involved in bite events can be quarantined in the home of the animal's owner. The current ordinance requires that the Animal Services Manager or designee observe any home-quarantined animal on two occasions during the home quarantine. The change will require three such observations; on the first, eighth, and tenth (last) day of the quarantine. On the tenth day, a veterinarian would be required to observe the

animal and provide a release letter indicating that the animal does not exhibit any signs or symptoms of the rabies virus.

- The current ordinance requires euthanasia of any animal biting a person in the head or neck area. By removing the requirement that the animal be euthanized, the Animal Services Manager would have discretion in the disposition of such an animal. This is consistent with recent changes to state law.

- State law lists bats and skunks as animals that are considered high risks for rabies. The state has added coyotes to the high risk list. The attached ordinance change reflects this addition to state law.

- Holding times - The required holding time for any animal impounded is currently three days. The ordinance change increases the holding time to seven days for any animal impounded with a license, veterinarian tag, or other form of identification, including evidence of previous altering surgery. The holding time for animals without identification will remain three days.

- Pigeons - The ordinance change also addresses the keeping of pigeons. Previously unregulated, standards for keeping pigeons were developed with assistance from the American Racing Pigeon Union. The regulations require loft spacing for the animals, minimal loft construction standards, and the requirement that these animals be provided food and water. A 50-foot separation of pigeon lofts from the nearest habitation is also established in the proposed ordinance.

- Care and treatment of animals - The ordinance change would require that all animals be provided food, water, and adequate shelter. Changes are also included that would prohibit the following:

  - Animal fighting

  - The overworking, abandonment, or surgical alteration (veterinarians excluded) of any animal

  - The use of steel jaw and leg traps

  - Leaving an animal unattended in a vehicle

  - Transporting an animal in a vehicle that is not enclosed (emergencies exempted)

- Fowl - The ordinance change adds the regulation of fowl and defines fowl as chickens, ducks, turkeys, geese or other wild or domesticated gallinaceous bird. The following stipulations for the keeping of fowl are included:
  - An individual may keep up to four fowl on ½ acre or less
  - An individual may keep up to ten fowl on properties of at least ½ acre, but less than one acre
  - An individual may keep up to, but no more than, 25 fowl on properties of one acre or more
  - A 50-foot separation from the nearest habitation would be required in all cases
  - Roosters would be prohibited in all areas except agricultural zoning
- Sale of animals - The bartering and coloring of chickens, ducks, goslings, rabbits, and hamsters, and the sale of these animals less than eight weeks of age is prohibited by the ordinance change. Individuals dealing in quantities of these animals greater than five are exempted.
- Livestock - The attached ordinance increases the distance requirement from the nearest habitation for livestock from 100 feet to 500 feet. If the property's current use involves the keeping of livestock, the property would be grandfathered.
- Prohibited animals – The ordinance has been changed to match the state list of prohibited animals.

**RECOMMENDATION**

The Neighborhood Services Department recommends Mayor and City Council approval of the attached change to the "Animals" Chapter of the City Code.

Trey Yelverton
Director of Neighborhood Services
817-459-6254

Robert S. Byrd
Assistant Director of Neighborhood Services
817-459-5865

ORDINANCE NO. 03-003

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE V**, SALE AND BREEDING OF ANIMALS, SECTION 5.03, LIVESTOCK, RELATIVE TO DISTANCE FOR KEEPING OF LIVESTOCK AWAY FROM ANOTHER'S HABITATION; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH VIOLATION, PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY, GOVERNMENTAL IMMUNITY, INJUNCTIONS, PUBLICATION AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended by the amendment of Article V, Sale and Breeding of Animals, **Section 5.03**, Livestock, to read as follows:

**Section 5.03 Livestock**

A person commits an offense if he:

A. Keeps or stakes any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

B. Keeps or stakes any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

C. Erects or maintains a structure, pen, corral or other enclosure for any horse, cow, sheep, goat or llama at a distance closer than one hundred feet (100') from any habitation located on another's property;

D. Erects or maintains a structure, pen, corral or other enclosure for any pig, except potbellied pigs, at a distance closer than five hundred feet (500') from any habitation located on another's property;

E. Keeps or stakes three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property;

F. Erects or maintains a structure, pen, corral or other enclosure for three (3) or more potbellied pigs at a distance closer than five hundred feet (500') from any habitation located on another's property; or

G. Keeps or stakes up to two (2) potbellied pigs at a distance closer than five hundred feet (500') from a habitation located on another person's property, when the animal's primary habitat is located outdoors.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **17th** day of **December**, **2002**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **7th** day of **January**, **2003**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of Arlington, Texas.

ORDINANCE NO. 03-043

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE II,** GENERAL PROVISIONS, **SECTION 2.06**, ANIMAL SERVICES CENTER ADVISORY BOARD, RELATIVE TO INCREASING THE MEMBERSHIP OF THE BOARD; PROVIDING FOR A FINE OF UP TO $2000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article II**, General Provisions, **Section 2.06**, Animal Services Center Advisory Board, so that hereafter said section shall be and read as follows:

**Section 2.06 Animal Services Center Advisory Board**

A. As provided in Texas Health and Safety Code, Chapter 823, there is hereby created an Animal Services Center Advisory Board.

B. The Board shall be composed of seven (7) members:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Neighborhood Services ;

3. Three (3) citizens at large;

4. A person whose duties include the daily operation of an animal services center; and

5. A representative from an animal welfare organization.

C. Each Board member shall be appointed by the City Council, and serve a two (2) year term:

1. Board members in places 1, 3, 5 and 7 shall be appointed in odd-numbered years.

2. Board members in places 2, 4 and 6 shall be appointed in even-numbered years.

D. Board members may be removed from office for cause by the City Council.

E. The City Council shall appoint a suitable person to serve out the unexpired term of any Board member whose place becomes vacant for any reason. Appointees shall serve until the City Council designates a replacement for their Board place.

F. The Board shall meet at least once every three months at a time and place to be determined by the Chairperson of the Board.

G. It shall be the duty of the Board to assist the Arlington Animal Services Center in maintaining compliance with the requirements of Texas Health and Safety Code, Chapter 823.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **1st** day of **April**, **2003**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **8th** day of **April**, **2003**, by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 03-100

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE I,** DEFINITIONS, RELATIVE TO THE AMENDMENT OF THE DEFINITION OF "AT LARGE"; PROVIDING FOR A FINE OF UP TO $2000 FOR EACH OFFENSE IN VIOLATION OF THE ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions, by the amendment of the definition of "At large" so that hereafter said definition shall be and read as follows:

**"At large"** shall mean:

1. On Premises of Owner - Any animal not confined to the premises of the owner 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.

2. Off Premises of Owner - Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making any unsolicited contact with any person, their clothing, their property and/or their premises.

3. Provided, however, that any animal confined within a cage, automobile, truck or any other vehicle of its owner shall not be deemed at large.

4. Provided, however, that any dog lawfully allowed in an off-leash site as defined by the Parks Chapter of the Arlington Code of Ordinances shall not be deemed at large.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section

15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **9th** day of **September**, **2003**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **16th** day of **September**, **2003,** by a vote of **9** ayes and **0** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

ORDINANCE NO. 04-041

AN ORDINANCE AMENDING THE **"ANIMALS"** CHAPTER OF THE CODE OF THE CITY OF ARLINGTON, TEXAS, 1987, THROUGH THE AMENDMENT OF **ARTICLE II**, ENTITLED GENERAL PROVISIONS, AT **SECTION 2.06**, ANIMAL SERVICES CENTER ADVISORY BOARD, RELATIVE TO THE APPOINTMENT OF BOARD MEMBERS; PROVIDING FOR A FINE OF UP TO $2,000 FOR EACH VIOLATION OF THIS ORDINANCE; PROVIDING THIS ORDINANCE BE CUMULATIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING FOR PUBLICATION AND BECOMING EFFECTIVE TEN DAYS AFTER FIRST PUBLICATION

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article II, General Provisions, by the amendment of **Section 2.06**, Animal Services Center Advisory Board, at Subsections (B), (C) and (D) so that said subsections shall be and read as follows:

B. The Board shall be composed of nine (9) members. The Mayor and each City Council member shall nominate a member with confirmation by majority vote of the City Council in accordance with the City of Arlington Boards and Commissions Policy Statement. Board membership shall be composed of the following:

1. A licensed veterinarian;

2. A City official other than an employee of the department of Neighborhood Services;

3. Five (5) citizens at large;

4. A person whose duties include the daily operation of an animal services center; and

5. A representative from an animal welfare organization.

C. Each Board member shall serve a two (2) year term.

D. Board members shall serve at the will and pleasure of the City Council.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the **27th** day of **April**, **2004**, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the **11th** day of **May**, **2004**, by a vote of **8** ayes and **1** nays at a regular meeting of the City Council of the City of **Arlington, Texas**.

Published ST 8-30-06 & 9-4-06

**Ordinance No.** 06-080

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions, Section 1.01, Definitions, relative to the definition of "Administrator"; and Article II, General Provisions, Section 2.01, Establishment of Office of Animal Services Manager, Subsection (D), and Section 2.06, Animal Services Center Advisory Board, Subsection (B)(2), relative to updating the reference to the Community Services Department; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I,** Definitions, **Section 1.01,** Definitions, so that the definition of "Administrator" shall be and read as follows:

**"Administrator"** shall mean the Director of Community Services or his designee.

Further, **Article II,** General Provisions, is hereby amended by the amendment of **Section 2.01,** Establishment of Office of Animal Services Manager, **Subsection (D),** relative to updating the reference to the Community Services Department so that said subsection shall be and read as follows:

D. The Animal Services Manager and his deputies shall be assigned to the Community Services Department.

Further, **Article II** is hereby amended by the amendment of **Section 2.06,** Animal Services Center Advisory Board, **Subsection (B)(2),** relative to updating the reference to the Community Services Department so that said subsection shall be and read as follows:

2. A City official other than an employee of the department of Community Services;

2.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

3.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

4.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

5.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

6.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

7.

This ordinance shall become effective ten (10) days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 8th day of August, 2006, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 22nd day of August, 2006, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

Barbara G Heptig

BARBARA G. HEPTIG, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY Eugene Kim

PUBLISHED ST 12-24-07 & 12-31-07

**Ordinance No. 07-095**

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions, Section 1.01, Definitions, relative to the definitions of "Neuter," "Spay," "Sterilization," "Veterinarian" and "Veterinary Officer"; through the amendment of Article III, Dogs and Cats, Section 3.05, Adoption of Dogs or Cats, by the amendment of the title of Section 3.05 and the addition of Section 3.05(B), relative to the Veterinary Officer's vaccination and sterilization services and offenses for failure to sterilize; and through the amendment of Article VIII, Dangerous Animals, Section 8.05, Requirements for Owners of Dangerous Animals, relative to fees; and providing for a fine of up to $2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication except that the new Section 3.05(B) shall become effective March 1, 2008**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of Article I, Definitions, Section 1.01, Definitions, so that the definitions of "Neuter," "Spay," "Sterilization," "Veterinarian" and "Veterinary Officer" shall be and read as follows:

**"Neuter"** shall mean the permanent sterilization to render male animals incapable of impregnating female animals by means of either surgery performed to remove the testicles or chemical sterilization by which the animals are injected with a drug approved by the United States Food and Drug Administration for that purpose.

**"Spay"** shall mean the permanent sterilization to prevent female animals from having estrus (heat) cycles and eliminating the ability to become pregnant by means of either surgery performed on an animal to remove the ovaries and uterus or chemical sterilization by which female animals are injected with a drug approved by the United States Food and Drug Administration for that purpose.

**"Sterilization"** means to spay or neuter a dog or cat.

**"Veterinarian"** means a doctor of veterinary medicine who holds a valid license to practice veterinary medicine in the State of Texas.

**"Veterinary Officer"** shall mean the veterinarian officially designated by the Director.

Further, **Article III**, Dogs and Cats, is hereby amended by the amendment of the Title of **Section 3.05**, Adoption of Dogs or Cats, so that said title shall be and read as follows:

**Section 3.05(A)** **Adoption of Dogs or Cats That Is Effective Through February 29, 2008**

Further, **Article III**, Dogs and Cats, is hereby amended by the addition of **Section 3.05(B)**, Adoption of Dogs or Cats That is Effective Beginning March 1, 2008, so that said section shall be and read as follows:

**Section 3.05(B)** **Adoption of Dogs or Cats That Is Effective Beginning March 1, 2008**

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Animal Services Manager or Veterinary Officer shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Animal Services Manager or the Veterinary Officer shall not constitute a warranty of the health or age of the animal.

B. There will be fees associated with the adoption of all dogs and cats in the amount set by resolution of the City Council.

C. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer a rabies vaccination. The vaccination shall be administered at the time of adoption unless the Veterinary Officer determines it is not medically safe to vaccinate the dog or cat at the time of adoption. If it is determined by the Veterinary Officer that it is not medically safe to vaccinate, the adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time for the person to return with the adopted dog or cat for vaccination. After vaccination, the Veterinarian Officer shall present a rabies

vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated if within three (3) days of the written agreement's noticed date and time of return the person has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Services Manager the license fee as set forth in Section 3.02.

Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee in an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

D. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer the vaccination. The adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time to return with the adopted dog or cat for vaccination. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date the Veterinary Officer determines that the animal is at least three (3) months of age but no older than four (4) months of age. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person who adopts a dog or cat under this subsection commits an offense if the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within three

(3) days of the written agreement's noticed date and time of return he has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee.

a. On the date of return of a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Animal Services Manager the original adoption receipt and proof of vaccination to receive the City license.

b. The adopting person shall pay the Animal Services Manager the license fee as set out in Section 3.02.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

c. In the event the adopted dog or cat is under six (6) weeks of age, the adopting person shall be provided with notice of the date and time to return with the adopted dog or cat for the core vaccination. The date of return shall be on or near the adopted dog or cat reaching six (6) weeks of age.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee at an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

E. Sterilization by the Veterinary Officer

1. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the terms of the written agreement. The Veterinary Officer shall provide services for the sterilization of an adopted animal in order to prevent reproduction in the animal. Each dog or cat adopted from Animal Services will be spayed or neutered prior to the release of the animal to the adopting person unless:

a. the dog or cat is under two (2) months of age;

b. the Veterinary Officer determines that the dog or cat should not be spayed or neutered for health reasons or the Veterinary Officer has determined the dog or cat has been previously spayed or neutered; or,

c. the adopting person has signed a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the written agreement, which will provide notice of the date and time for the person to return with the adopted dog or cat for sterilization. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date

Animal Services Manager estimates to be the date the dog or cat becomes eight (8) weeks of age or as soon as medically safe.

2. Fee.

a. A person adopting an unsterilized animal shall pay the Animal Services Manager the sterilization fee in an amount set by resolution of the City Council.

3. Offense.

a. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

b. The Animal Services Manager may extend the sterilization deadline upon presentation of a written report by the Veterinary Officer, stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

4. Confirmation of Sterilization.

a. The Veterinary Officer shall present a letter of certificate to the Animal Services Manager verifying that the animal was sterilized.

b. If an adopted animal dies on or before the sterilization completion date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death.

c. If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of disappearance. This letter shall be in lieu of the letter required in Subsection (E)(4)(a).

5. Prosecution.

a. If the Animal Services Manager does not receive a letter under Subsection (E)(4) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

b. In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Animal Services Manager a letter required by Subsection (E)(4) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (E)(4).

6. Reclamation of Animal. The Animal Services Manager may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Animal Services Manager has not received a letter as outlined in Subsection (E)(4). In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

Further, **Article VIII**, Dangerous Animals, **Section 8.05**, Requirements for Owners of Dangerous Animals, is hereby amended by the addition of **Subsection 8.05(A)(8),** so that said subsection shall be and read as follows:

8. The owner shall pay any cost or fee assessed by the City in the amount set by resolution of City Council that is related to the seizure, acceptance, impoundment or destruction of the dangerous animal.

2.

Any person, firm, corporation, agent or employee thereof who intentionally or knowingly violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above except that the new Section 3.05(B) shall become effective March 1, 2008.

PRESENTED AND GIVEN FIRST READING on the 4th day of December, 2007, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 18th day of December, 2007, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

KAREN BARLAR, Acting City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

**Ordinance No.** 09-065

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article III, Dogs and Cats, Section 3.04, Fees; the deletion of Section 3.05(A), Adoption of Dogs or Cats that is Effective Through February 29, 2008; and the renumbering, renaming and amendment of Section 3.05(B), Adoption of Dogs or Cats that is Effective Beginning March 1, 2008, relative to fees and updating the chapter; and providing for a fine of up to $2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article III**, Dogs and Cats, by the amendment of **Section 3.04**, Fees, Subsection (E), so that hereafter said subsection shall be and read as follows:

E. All necessary veterinary and drug costs incurred by the animal while it is in custody shall be charged to the owner including the Veterinary Officer's emergency and after hours veterinary care, which shall be charged in the amount set by resolution of the City Council.

Further, **Article III**, is hereby amended by the **deletion** of **Section 3.05(A)**.

Further, **Article III, Section 3.05(B)**, is hereby amended by **renumbering** the Section to Section 3.05, and amending the title from Adoption of Dogs or Cats that is Effective Beginning March 1, 2008 to Adoption of Dogs or Cats, so that the **title** and section shall be and read as follows:

**Section 3.05 Adoption of Dogs or Cats**

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

1. The Animal Services Manager or Veterinary Officer shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Animal Services Manager or the Veterinary Officer shall not constitute a warranty of the health or age of the animal. The Animal Services Manager or Veterinary Officer shall also determine the services to be offered by the Animal Services Manager or Veterinary Officer for the adoption of a cat or dog. Services may include sterilization, microchipping, vaccination, FeLV and FIV ELISA testing, heartworm testing, heartworm treatment, hernia repair, retained testicle treatment, dewclaw removal, retained deciduous teeth removal, repair of prolapsed gland of the third eyelid, and radiographs.

2. There will be fees associated with the adoption of all dogs and cats in the amount set by resolution of the City Council including additional fees for sterilization of a pregnant or in estrus dog or cat, heartworm treatment, hernia repair, retained testicle treatment, dewclaw removal, retained deciduous teeth removal, repair of prolapsed gland of the third eyelid, and radiographs.

3. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

   a. Vaccination Fee.

      (1) In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer a rabies vaccination. The vaccination shall be administered at the time of adoption unless the Veterinary Officer determines it is not medically safe to vaccinate the dog or cat at the time of adoption. If it is determined by the Veterinary Officer that it is not medically safe to vaccinate, the adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time for the person to return with the adopted dog or cat for vaccination. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

      (2) A person commits an offense if after adopting a dog or cat four (4) months of age or older the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

      (3) It shall be presumed that the person failed to have the animal vaccinated if within three (3) days of the written agreement's noticed date and time of return the person has not presented proof

of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

(4) The Animal Services Manager shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

b. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Services Manager the license fee as set forth in Section 3.02.

c. Core Vaccine Fee.

(1) In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

(2) Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

d. Microchip Fee.

(1) In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee in an amount set by resolution of the City Council.

(2) Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

e. Heartworm Antigen Test Fee

(1) An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council.

(2) Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

f. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

(1) An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

(2) Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

4. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

a. Vaccination Fee.

(1) In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer the vaccination. The adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time to return with the adopted dog or cat for vaccination. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date the Veterinary Officer determines that the animal is at least three (3) months of age but no older than four (4) months of age. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

(2) A person who adopts a dog or cat under this subsection commits an offense if the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

(3) It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within three (3) days of the written agreement's noticed date and time of return he has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

(4) The Animal Services Manager shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

b. License Fee.

(1) On the date of return of a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Animal Services Manager the original adoption receipt and proof of vaccination to receive the City license.

(2) The adopting person shall pay the Animal Services Manager the license fee as set out in Section 3.02.

c. Core Vaccine Fee.

(1) In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

(2) Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

(3) In the event the adopted dog or cat is under six (6) weeks of age, the adopting person shall be provided with notice of the date and time to return with the adopted dog or cat for the core vaccination. The date of return shall be on or near the adopted dog or cat reaching six (6) weeks of age.

d. Microchip Fee.

(1) In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee at an amount set by resolution of the City Council.

(2) Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

e. Heartworm Antigen Test Fee

(1) An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council

(2) Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

f. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

(1) An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

(2) Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

5. Sterilization by the Veterinary Officer

a. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the terms of the written agreement. The Veterinary Officer shall provide services for the sterilization of an adopted animal in order to prevent reproduction in the animal. Each dog or cat adopted from Animal Services will be spayed or neutered prior to the release of the animal to the adopting person unless:

(1) the dog or cat is under two (2) months of age;

(2) the Veterinary Officer determines that the dog or cat should not be spayed or neutered for health reasons or the Veterinary Officer has determined the dog or cat has been previously spayed or neutered; or,

(3) the adopting person has signed a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the written agreement, which will provide notice of the date and time for the person to return with the adopted dog or cat for sterilization. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date Animal Services Manager estimates to be the date the dog or cat becomes eight (8) weeks of age or as soon as medically safe.

b. Fee.

(1) A person adopting an unsterilized animal shall pay the Animal Services Manager the sterilization fee in an amount set by resolution of the City Council.

c. Offense.

(1) A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

(2) The Animal Services Manager may extend the sterilization deadline upon presentation of a written report by the Veterinary Officer, stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

d. Confirmation of Sterilization.

(1) The Veterinary Officer shall present a letter of certificate to the Animal Services Manager verifying that the animal was sterilized.

(2) If an adopted animal dies on or before the sterilization completion date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death.

(3) If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of disappearance. This letter shall be in lieu of the letter required in Subsection (5)(d)(1).

e. Prosecution.

(1) If the Animal Services Manager does not receive a letter under Subsection (5)(d) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

(2) In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Animal Services Manager a letter required by Subsection (5)(d) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (5)(d).

f. Reclamation of Animal. The Animal Services Manager may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Animal Services Manager has not received a letter as outlined in Subsection (5)(d). In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication as described above.

PRESENTED AND GIVEN FIRST READING on the 22nd day of September, 2009, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 13th day of October, 2009, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

KAREN BARLAR, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

**Ordinance No. 10-067**

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article III, Dogs and Cats, Section 3.03, Impoundment of Dogs and Cats, Subsection (B)(3), relative to microchip identification; through the amendment of Article VIII, Dangerous Animals, Section 8.05, Requirements for Owners of Dangerous Animals, Subsection (A)(8), relative to compliance re-inspection fees; and by the addition of Section 8.14, Compliance Re-inspections, relative to compliance re-inspection fees; and providing for a fine of up to $2000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective October 1, 2010**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article III**, Dogs and Cats, by the amendment of **Section 3.03**, Impoundment of Dogs and Cats, Subsection (B)(3), so that hereafter said subsection shall be and read as follows:

3. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City provided that:

   (a) in the event the impounded dog or cat, including those released from quarantine, does not have microchip identification, the owner has the Animal Services Manager implant microchip identification for a fee set by resolution of City Council; and,

   (b) the owner pays to the City all of the appropriate fees set by resolution of City Council.

Further, **Article VIII**, Dangerous Animals, **Section 8.05**, Requirements for Owners of Dangerous Animals, is hereby amended by the amendment of Subsection (A)(8) so that hereafter said section shall be and read as follows:

8. The owner shall pay any cost or fee assessed by the City in the amount set by resolution of City Council that is related to the seizure, acceptance, impoundment, compliance re-inspection or destruction of the dangerous animal.

Further, **Article VIII** is hereby amended by the addition of **Section 8.14**, Compliance Re-inspections, so that hereafter said section shall be and read as follows:

**Section 8.14 Compliance Re-inspections**

The owners of dangerous animals shall comply with all applicable regulations, requirements and restrictions on dangerous animals and may be re-inspected four (4) times per year by the Animal Services Manager for compliance. For each inspection, the owner shall pay to the City a compliance re-inspection fee. The compliance re-inspection fee shall be in an amount set by resolution of City Council and is due to the City within thirty (30) days from the date of billing.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington, and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this

ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective on October 1, 2010.

PRESENTED AND GIVEN FIRST READING on the 7th day of September, 2010, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 14th day of September, 2010, by a vote of 9 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

MARTHA GARCIA, Acting City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

Published ST. 05.07.12 and 05.14.12

**Ordinance No. 12-032**

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article I, Definitions, Section 1.01, Definitions, relative to the addition of the definitions of "Abandon", "Animal establishment", and "Animal Services Manager", and the amendment of the definitions of "Administrator", "Appeals Officer," "Bodily Injury," "Dangerous animal," "Euthanize," "Force Vis Major" and "Harboring"; through the amendment of Article II, General Provisions, Section 2.01, Establishment of Office of Animal Services Manager, Subsection (B); Section 2.03, Authority to Kill, Impound or Destroy Animals, Subsection (C); Section 2.04, Powers and Duties of Citizens; and Section 2.07, Nuisances, relative to amending nuisance provisions; through the amendment of Article III, Dogs and Cats, Section 3.02, Issuance of License, Subsection (A); Section 3.03, Impoundment of Dogs and Cats, Subsection (B); Section 3.04, Fees, Subsections (B) and (E); and Section 3.05, Adoption of Dogs or Cats; relative to revising vaccination and licensing procedures, adoption and impoundment standards; through the amendment of Article IV, Estrays and At Large, Section 4.10, Riding, Driving or Herding of Certain Animals, Subsection (B); Section 4.11, Animal At Large, Subsection (B); Section 4.12, Animal Impounded at Police Request, Subsection (A); and Section 4.14, Spay/Neuter of Animals, Subsection (C); through the amendment of Article V, Sale and Breeding of Animals, Section 5.01, Sale and Care of Certain Animals, revising requirements of the sale and breeding of animals; Section 5.02, Keeping of Fowl, Subsection (A); and Section 5.04, Exceptions; through the amendment of Article VI, Rabies Control and Bite Procedures, Section 6.03, Quarantine, Subsections (C) and (D); Section 6.04, Disposition or Release of Quarantined Animal, Subsection (B); Section 6.05, Use and Sale of Rabies Vaccine; revising veterinarian record disclosure requirements; through the amendment of Article VII, Prohibited and Exotic Animals, Section 7.02, Ownership of Prohibited Animal, Subsections (B) and (C), regarding prohibited animals; through the amendment of Article VIII, Dangerous**

**Animals, Section 8.03, Dangerous Animal Determination, Subsection (B)(4); Section 8.04, Hearing, Subsection (D); Section 8.05, Requirements for Owners of Dangerous Animals, Subsections (A) and (G); Section 8.06, Registration; Section 8.09, Defenses; amending the dangerous animal determinations, standards, and procedures; and Section 8.11, Additional Penalties for Violation of this Section, by the amendment of the title of the Section; through the amendment of Article IX, Miscellaneous, Section 9.01, Disposal of Dead Animals, Subsection (A)(4); Section 9.02, Traps, amending trap provisions; Section 9.05, Defecation - Removal and Disposal Required; Implements Required, Subsections (C) and (D), regarding affirmative defenses; Section 9.06, Pigeons, Subsection (A), regarding a permit requirement for pigeons; Section 9.07, Care and Humane Treatment of Animals, referring to the standards of care and humane treatment of animals; by the addition of Section 9.08, Tethering, relative to regulations on tethering; through the amendment of Article X, Administrative Hearings and Inquests, amending the administrative hearing process and appeals to the Appeals Officer; through the amendment of Article XI, Penalty, revising the penalty provision; and providing for a fine of up to $2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for injunctions; providing for publication and becoming effective ten days after first publication**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article I**, Definitions, **Section 1.01**, Definitions, by the addition of the definitions of "Abandon", "Animal establishment", and "Animal Services Manager", and the amendment of the definitions of "Administrator", "Appeals Officer," "Bodily Injury," "Dangerous animal," "Euthanize," "Force Vis Major" and "Harboring", so that said definitions shall be and read as follows:

**"Abandon"** means abandoning an animal owned by a person or in the person's care, custody or control without effectively transferring the animal to another person or into that other person's care, custody or control.

**"Administrator"** shall mean the City Manager designated Directors or their designees that are responsible for enforcement of this chapter.

**"Animal establishment"** means any facility or business that has custody or control of animals including without limitation animal dealers, pet shops, pet grooming facilities, animal auction facilities and commercial kennels. This term does not include veterinary or animal medical facilities.

**"Animal Services Manager"** means the supervisor of the Animal Services Division or his designee.

"**Appeals Officer**" shall mean a municipal court judge or any person designated by the City Manager to conduct administrative hearings or hear appeals from administrative hearings.

"**Bodily injury**" shall mean physical pain, illness, or any impairment of physical condition that would cause a reasonably prudent person to seek medical treatment from a medical professional. The term also includes, but is not limited to, any bodily injury resulting from the victim attempting to escape or prevent contact with the injuring animal or animals.

**"Dangerous animal"** shall mean a dog that:

1. makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or

2. commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.

"**Euthanize**" shall mean to cause the death of an animal by a method which:

1. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

2. Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness; and

3. Complies with all applicable state and federal laws.

"**Force Majeure**" (Act of God) shall mean an immediate loss which is the result of an irresistible natural cause without the intervention of man, and could not have been prevented by the exercise of prudence, diligence and care.

"**Harboring**" shall mean the act of keeping and caring for an animal at any time or providing a premise to which the animal returns for food, shelter or care for a period of two (2) days or longer.

Further, **Article II**, General Provisions, **Section 2.01**, Establishment of Office of Animal Services Manager, **Subsection (B),** is hereby amended so that said subsection shall be and read as follows:

B. The Animal Services Manager or, if none, the City Manager or his designee shall act as the local rabies control authority for the purposes of Chapter 826 of the Texas Health and Safety Code.

Further, **Article II**, **Section 2.03**, Authority to Kill, Impound or Destroy Animals, **Subsection (C),** is hereby amended so that said subsection shall be and read as follows:

C. Euthanize an impounded animal at the Animal Services Center if the Manager or Veterinary Officer determines that recovery of the animal from injury, disease, or sickness is unlikely.

Further, **Article II**, **Section 2.04**, Powers and Duties of Citizens, is hereby amended so that said Section shall be and read as follows:

**Section 2.04 Powers and Duties of Citizens**

A. Any citizen of the City of Arlington is hereby authorized to take control of and deliver to the office of the Animal Services Manager any animal that may be found running at large within the territorial limits of the City, other than prohibited animals or animals suspected of being rabid, subject to the applicable provisions of law.

B. A person commits an offense if he takes control of an animal under this Section and fails to deliver it to the Animal Services Manager within seventy-two (72) hours.

Further, **Article II**, **Section 2.07**, Nuisances, is amended so that said Section shall be and read as follows:

**Section 2.07** **Nuisances**

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the territorial limits of the City of Arlington:

A. Any at large animal;

B. Any dog or cat over four (4) months of age that is not currently licensed with the City of Arlington and currently vaccinated against rabies;

C. Any prohibited animal as defined in this Chapter; or

D. Any dangerous animal as defined in this Chapter.

E. Harboring, keeping, breeding or raising animals in or about any place or premises in such numbers or in such manner that the same may become annoying, offensive or disturbing to the adjacent residents of or those passing by such places or premises or which by reason of numbers create filth in or about such premises or premises adjacent thereto; or

F. Harboring, breeding, keeping or raising any animal or bird which, by causing frequent or long-continued noise disturbs the peace and quiet of persons in the neighborhood or the occupants of adjacent premises who have and possess normal nervous sensibilities; or

G. Harboring, breeding, keeping or raising any pigeon that is not currently permitted with the City of Arlington.

Further, **Article III**, Dogs and Cats, **Section 3.02**, Issuance of License, **Subsection (A),** is hereby amended so that said subsection shall be and read as follows:

A. Written application for a dog or cat license and payment of the applicable license fee shall be made to the City. The application shall include:

1. The name, telephone number and address of the applicant;

2. A description of the animal, including name, breed, color, gender and age; and

3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months.

Further, **Article III**, **Section 3.03**, Impoundment of Dogs and Cats, **Subsection (B),** is hereby amended by the addition of a new Subsection (4) and the renumbering of the remaining Subsection so that said Subsection shall be and read as follows:

B. Disposition of Impounded Dogs and Cats.

1. If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be placed for adoption or euthanized.

2. If any dog or cat that is impounded by Animal Services, or brought to the Animal Services Center by a person other than the owner of that animal, and is wearing traceable identification; is readily observable as being sterilized or declawed in the best judgment of the Manager or his designee; or where an owner is known, such animal shall be held at the center for a minimum of seven (7) business days from the time the animal enters the Animal Services Center. Animal Services shall notify the owner, when known, of the impoundment. Unless the owner has notified Animal Services in writing of his intentions to claim the animal after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees and this arrangement has been approved by the Animal Services Manager, the animal shall be placed for adoption or euthanized after the seventh (7th) business day.

3. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the Animal Services Manager of the appropriate fees.

4. The owner of any impounded dog or cat, including those released from quarantine, shall have a microchip implanted in the animal by the Animal Services Manager prior to being permitted to repossess such dog or cat. There shall be a fee associated with the microchipping of all dogs and cases in an amount set by resolution of the City Council.

5. This subsection does not apply to any dog or cat placed in quarantine, that is the subject of a dangerous animal complaint, or whose license has been revoked.

Further, **Article III**, **Section 3.04**, Fees, **Subsection (B)**, is hereby amended by the addition of **Subsection (4),** so that said Subsection shall be and read as follows:

4. The owner may request sterilization of any animal by Animal Services. There will be a fee associated with the requested sterilization of all dogs and cats in an amount set by resolution of the City Council.

Further, **Article III**, **Section 3.04**, **Subsection (E),** is hereby amended so that said Subsection shall be and read as follows:

E. All necessary veterinary and drug costs incurred by the animal while it is in custody shall be charged to the owner.

Further, **Article III**, **Section 3.05**, Adoption of Dogs or Cats, is hereby amended so that said Section shall be and read as follows:

**Section 3.05 Adoption of Dogs or Cats**

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

A. The Animal Services Manager or Veterinary Officer shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the Animal Services Manager or the Veterinary Officer shall not constitute a warranty of the health or age of the animal.

B. After approval by the Administrator, the Animal Services Manager may place any animal that is suitable for adoption and is not placed for adoption through city facilities, to an approved private non-profit humane shelter or other non-profit animal welfare organization. The Animal Services Manager shall establish an agreement and uniform criteria for the placement of adoptable animals through these organizations and may make surplus adoptable animals available to those animal welfare organizations that meet the criteria. The criteria shall include requirements that animals be vaccinated and sterilized in accordance with applicable law and that the animals be licensed in the jurisdiction where they will be kept, in accordance with applicable law.

C. There will be fees associated with the adoption of all dogs and cats in the amount set by resolution of the City Council. Fees may be reduced by the administrator for special events or for special groups such as senior citizens to encourage an increased rate of adoption.

D. Requirements for Adoption of Dog or Cat Age Four (4) Months or Older.

1. Vaccination Fee.

a. In the event said adopted dog or cat age four (4) months or older is not vaccinated, a fee in an amount set by resolution of the City Council shall be paid for the Veterinary Officer to administer a rabies vaccination. The vaccination shall be administered at the time of adoption unless the Veterinary Officer determines it is not medically safe to vaccinate the dog or cat at the time of adoption. If it is determined by the Veterinary Officer that it is not medically safe to vaccinate, the adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time for the person to return with the adopted dog or cat for vaccination. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person commits an offense if after adopting a dog or cat four (4) months of age or older the person fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated if within three (3) days of the written agreement's noticed date and time of return the person has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound any dog or cat adopted under this subsection if the vaccination is not obtained within the required time. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee. In the event the adopted dog or cat age four (4) months or older is not licensed, the adopting person shall present to the Animal Services Manager the license fee authorized under this Article.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus

(FCV), or Feline Panleukopenia (FPL), there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee in an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

E. Requirements for Adoption of a Dog or Cat Under Four (4) Months of Age.

1. Vaccination Fee.

a. In the event the dog or cat to be adopted is under four (4) months of age, the vaccination will not be required until the animal is at least three (3) months of age but no older than four (4) months of age. A fee in an amount set by resolution of the City Council shall

be paid for the Veterinary Officer to administer the vaccination. The adopting person shall sign a written agreement that the person will have the animal vaccinated by the Veterinary Officer in accordance with the written agreement. The written agreement will provide notice of the date and time to return with the adopted dog or cat for vaccination. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date the Veterinary Officer determines that the animal is at least three (3) months of age but no older than four (4) months of age. After vaccination, the Veterinarian Officer shall present a rabies vaccination certificate to the Animal Services Manager and the person who adopted the cat or dog.

b. A person who adopts a dog or cat under this subsection commits an offense if the person knowingly fails to obtain a rabies vaccination for such animal within three (3) days of the written agreement's noticed date and time of return.

c. It shall be presumed that the person failed to have the animal vaccinated before it turned four (4) months of age if within three (3) days of the written agreement's noticed date and time of return he has not presented proof of the vaccination to the Animal Services Manager. Proof shall be in the form of a vaccination certificate that meets the minimum standards approved by the Texas Board of Health.

d. The Animal Services Manager shall be authorized to reimpound the adopted dog or cat under this subsection if the vaccination is not obtained within the required age limits. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

2. License Fee.

a. On the date of return of a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall furnish to the Animal Services Manager the original adoption receipt and proof of vaccination to receive the City license.

b. The adopting person shall pay the Animal Services Manager the license fee as authorized under this Article.

3. Core Vaccine Fee.

a. In the event an adopted dog or cat age (6) weeks or older is not vaccinated against Canine Distemper (CDV), Infectious Canine Hepatitis (ICH), Canine Parvovirus (CPV), Canine Parainfluenza Virus, Feline Viral Rhinotracheitis (FVR), Feline Calicivirus (FCV), or Feline Panleukopenia (FPL) there will be a core vaccination fee at an amount set by resolution of the City Council.

b. Upon payment of the core vaccination fee, the dog or cat will be provided such service by the Animal Services Manager or Veterinary Officer.

c. In the event the adopted dog or cat is under six (6) weeks of age, the adopting person shall be provided with notice of the date and time to return with the adopted dog or cat for the core vaccination. The date of return shall be on or near the adopted dog or cat reaching six (6) weeks of age.

4. Microchip Fee.

a. In the event an adopted dog or cat does not have microchip identification there will be a microchip implantation at a fee at an amount set by resolution of the City Council.

b. Upon payment of the microchip fee, the dog or cat will be provided microchip implantation by the Animal Services Manager or Veterinary Officer.

5. Heartworm Antigen Test Fee

a. An adopted dog will be tested for heartworms. The heartworm antigen test fee shall be in the amount set by resolution of the City Council

b. Upon payment of the heartworm antigen test fee, the adopted dog will be provided such service by the Animal Services Manager or Veterinary Officer.

6. FeLV and FIV ELISA (Enzyme Linked-Immunosorbent Assay) Test Fee

a. An adopted cat will be tested for the Feline Leukemia Virus (FeLV) and the Feline Immundeficiency Virus (FIV). The ELISA combination testing fee shall be in the amount set by resolution of the City Council.

b. Upon payment of the fee, the adopted cat will be provided such service by the Animal Services Manager or Veterinary Officer.

F. Sterilization by the Veterinary Officer

1. Written Agreement. A person adopting a dog or cat that has not been sterilized shall sign a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the terms of the written agreement. The Veterinary Officer shall provide services for the sterilization of an adopted animal in order to prevent reproduction in the animal. Each dog or cat adopted from Animal Services will be spayed or neutered prior to the release of the animal to the adopting person unless:

a. the dog or cat is under two (2) months of age;

b. the Veterinary Officer determines that the dog or cat should not be spayed or neutered for health reasons or the Veterinary Officer has determined the dog or cat has been previously spayed or neutered; or,

c. the adopting person has signed a written agreement that the person will have the animal sterilized by the Veterinary Officer in accordance with the written agreement, which will provide notice of the date and time for the person to return with the adopted dog or cat for sterilization. The noticed date of return will be specified by the Animal Services Manager and shall be on or near the date Animal Services Manager estimates to be the date the dog or cat becomes eight (8) weeks of age or as soon as medically safe.

2. Fee.

a. A person adopting an unsterilized animal shall pay the Animal Services Manager the sterilization fee in an amount set by resolution of the City Council.

3. Offense.

a. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement.

b. The Animal Services Manager may extend the sterilization deadline upon presentation of a written report by the Veterinary Officer, stating that the life or health of the adopted animal may be

jeopardized by surgery. There is no limit to the number of extensions that may be granted under this subsection.

4. Confirmation of Sterilization.

   a. The Veterinary Officer shall present a letter of certificate to the Animal Services Manager verifying that the animal was sterilized.

   b. If an adopted animal dies on or before the sterilization completion date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is dead. The letter shall be delivered not later than the seventh day after the date of the animal's death, and shall describe the cause of death if known and provide the date of death.

   c. If an adopted animal is lost or stolen before the sterilization date, the adopting person shall deliver to the Animal Services Manager a signed letter stating that the animal is lost or stolen. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the approximate date of disappearance. This letter shall be in lieu of the letter required above. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

5. Prosecution.

   a. If the Animal Services Manager does not receive a letter under Subsection (F)(4) before the expiration of the seventh day after the sterilization completion date, he shall file a complaint against the adopting person in the Arlington Municipal Court.

   b. In a prosecution of a person for failing to sterilize an adopted animal by the sterilization completion date, it shall be presumed that the failure of such person to deliver to the Animal Services Manager a letter required by Subsection (F)(4) is the result of the person's refusal to have the adopted animal sterilized. The person may rebut this presumption at trial with the proof required by Subsection (F)(4).

6. Reclamation of Animal. The Animal Services Manager may reclaim an adopted animal after the expiration of the seventh day after the sterilization completion date, if the Animal Services Manager has not received a letter as outlined in Subsection (F)(4). In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert

to the City. In such case there shall be no refund of the adoption fee, and ownership of the animal shall revert to the City.

Further, **Article IV**, Estrays and At Large, **Section 4.10**, Riding, Driving or Herding of Certain Animals, Subsection (B), is hereby amended so that said Subsection shall be and read as follows:

B. It is an affirmative defense to prosecution under this section that the person was a peace officer or animal services officer in the performance of his official duties; or the person was assisting a peace officer or animal services officer in the performance of his official duties.

Further, **Article IV**, **Section 4.11**, Animal At Large, is hereby amended so that the **first sentence of Subsection (B)** shall be and read as follows:

B. It is an affirmative defense to prosecution under this section that:

Further, **Article IV**, **Section 4.12**, Animal Impounded at Police Request, is hereby amended by the amendment of **Subsection (A)**, so that said Subsection shall be and read as follows:

A. Impounding. The Animal Services Manager shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, evicted, is missing or has died, and there is no person present, sixteen (16) years of age or older, who will assume the duties of providing food, water and shelter for such animal.

Further, **Article IV**, **Section 4.14**, Spay/Neuter of Animals, is hereby amended by the amendment of Subsection (C), so that said Subsection shall be and read as follows:

C. It is an affirmative defense to prosecution under subsection (B) above that the owner of the animal has provided proof to the satisfaction of the Animal Services Manager to establish that:

1. The owner of the animal is a member of a club which is associated with a national registry, a national breed club, or a local all-breed club; and the owner does not sell twelve (12) or more intact animals per year. Proof may be provided in the form of a sworn affidavit from an officer, director, or person of similar managerial authority in the organization, indicating that the organization falls under the criteria of the affirmative defense in

this subsection, and that the owner does not sell twelve (12) or more intact animals per year.

2. The animal was at large and impounded due to force majeure.

3. The animal was at large and impounded due to fire, criminal or negligent acts of a third party who does not reside at the animal owner's residence. Additionally, verification of the incident must be presented to the Animal Services Manager in the form of a police or fire report, or the sworn testimony or affidavit of police or fire personnel.

Further, **Article V**, Sale and Breeding of Animals, **Section 5.01**, Sale and Care of Certain Animals, is hereby amended by the addition of Subsections (G) through (K) so that said Subsections shall be and read as follows:

G. A person commits an offense if a person sells, exchanges, trades, barters, leases, rents, gives away, or displays, without a valid permit, any live animal on any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, flea market, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized.

H. It is an affirmative defense to prosecution under subsection (G) that the person is an employee of or is acting in his or her capacity as an employee of: a veterinary clinic; an animal hospital; a business that has a certificate of occupancy from the building inspection division authorizing the occupancy of the premises for purposes of operating a business selling pets; an animal shelter; an animal welfare, rescue, or adoption agency that is a registered non-profit entity; a bona fide zoological park; an educational institution; a museum; an event being conducted primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products; a licensed laboratory; a publicly owned nature center; a bona fide member of an educational or scientific association or society approved by the Animal Services Manager; persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes; an animal establishment in compliance with the this Chapter; or a person caring for animals in his or her private residence in compliance with this Chapter.

I. All Animal Establishments shall, in addition to the other requirements of this ordinance, comply with the minimum standards of applicable city ordinances and state and federal requirements.

J. It shall be a violation for any business or person to sell, offer for sale, give away, offer to give away, or otherwise transfer ownership of any animal without first

complying with all applicable city ordinances and state and federal regulations, unless such activity is authorized by some other section of this Chapter.

K. It shall be a violation for any business or person to refuse, upon request, to make animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with this Chapter.

Further, **Article V**, **Section 5.02**, Keeping of Fowl, **Subsection (A)**, is hereby amended so that said Subsection shall be and read as follows:

A. Keeps or maintains more than four (4) fowl on one-half (1/2) acre or less or at a distance closer than fifty feet (50') from any habitation located on another's property.

Further, **Article V**, **Section 5.04,** Exceptions**,** is hereby amended so that said **title and first sentence** shall be and read as follows:

**Section 5.04 Affirmative Defenses.**

It is an affirmative defense to prosecution under Sections 5.02 and 5.03 that:

Further, **Article VI**, Rabies Control and Bite Procedures, **Section 6.03**, Quarantine, is hereby amended by the **deletion** of **Subsection (C)(2)** and the renumbering of the remaining subsections so that said Subsection (C) shall be and read as follows:

C. The Animal Services Manager shall follow these procedures for quarantining and testing:

1. When a dog or cat has bitten or scratched a human, the dog or cat shall be placed in quarantine, in a facility specified by the Animal Services Manager and approved by the Texas Department of Health.

2. Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Animal Services Manager, the Animal Services Manager may permit home quarantine for the animal if the following criteria can be met:

   a. The animal was currently vaccinated against rabies at the time of the bite or scratch;

b. The animal was currently licensed with the City of Arlington at the time of the bite or scratch;

c. The animal was not at large at the time of the bite or scratch;

d. The animal's owner has secure facilities at his home for the animal which have been approved by the Animal Services Manager;

e. The Animal Services Manager or a licensed veterinarian must observe the animal on at least the first and eighth days of the quarantine period;

f. If the animal becomes ill during the observation period, the person with possession of the animal must notify the Animal Services Manager;

g. The owner must sign an agreement to abide by the quarantine rules; and

h. At the end of the quarantine period, the animal shall be observed by a licensed veterinarian and the veterinarian will generate a letter authorizing the release of the animal from quarantine.

3. If the Animal Services Manager is in possession of a dog or cat which has bitten or scratched a human, and such animal is designated as unowned, the Animal Services Manager may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

4. If the animal which has bitten or scratched a human is a high risk animal, the Animal Services Manager shall cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

5. If the animal which has bitten or scratched a human is a low risk animal, the Animal Services Manager shall cause the animal to be euthanized, and shall submit its brain for rabies diagnosis by a Texas Department of Health certified laboratory if the Animal Services Manager has cause to believe the animal is rabid. If the Animal Services Manager has no cause to believe the animal is rabid, then neither quarantining nor testing will be required.

6. If the animal, including a dog or cat, which has bitten or scratched a human inflicted multiple bite wounds, lacerations or punctures to a person, the Animal Services Manager may cause the animal to be euthanized, and

shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

7. If the animal which has bitten or scratched a human is not included in (1), (2), (3), (4), (5), or (6) of this subsection, the Animal Services Manager shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

8. The Animal Services Manager shall cause to be euthanized any animal required to be quarantined under this subsection which cannot be maintained in a secure quarantine, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.

9. The Animal Services Manager shall follow the rules promulgated by the Texas Department of Health when submitting an animal brain for testing.

10. The Animal Services Manager may euthanize an unowned animal prior to the end of the quarantine, and have the brain tested for rabies.

11. All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

Further, **Article VI, Section 6.03, Subsection (D)**, is hereby amended so that said Subsection shall be and read as follows:

D. The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement. In such case, the animal may be removed to a quarantine facility at the sole discretion of the Animal Services Manager for the remainder of the quarantine, at the owner's expense.

Further, **Article VI, Section 6.04**, Disposition or Release of Quarantined Animal, **Subsection (B)**, is hereby amended so that said Subsection shall be and read as follows:

B. The Animal Services Manager shall humanely euthanize any animal that displays, to a veterinarian, the clinical signs of rabies while in quarantine.

Further, **Article VI, Section 6.05**, Use and Sale of Rabies Vaccine, is hereby amended by the addition of Subsection (F) so that said Subsection shall be and read as follows:

F. Every veterinarian whose office or place of business is located within the City shall issue to the owner of the animal a current rabies tag and a certificate of vaccination as required by law, and may send a copy of the certificate of vaccination to Animal Services, in accordance with chapter 826 of the Texas Health and Safety Code and chapter 801 of the Texas Occupations Code.

Further, **Article VII**, Prohibited and Exotic Animals, **Section 7.02**, Ownership of Prohibited Animal, **Subsection (B)**, is hereby amended so that said Subsection shall be and read as follows:

B. A person commits an offense if he owns, transports, possesses, controls, permits, allows or harbors a prohibited animal.

Further, **Article VII**, **Section 7.02**, **Subsection (C)**, is hereby amended so that said Subsection shall be and read as follows:

C. It is an affirmative defense to prosecution that:

1. The person is or is acting on behalf of:

   a. A county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

   b. A research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act; or

   c. An organization that is an accredited member of the American Zoo and Aquarium Association.

2. The prohibited animal is:

   a. injured, infirm, orphaned, or abandoned, and is being transported for care or treatment;

   b. injured, infirm, orphaned, or abandoned, and is being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

c. owned by and in the custody and control of a licensed circus, carnival, or zoo, acting in compliance with all city ordinances including but not limited to, the Zoning Chapter of the City Code of Ordinances;

d. in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

e. owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

f. being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

g. a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; or

h. owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species, and is an integral part of that species survival plan.

Further, **Article VIII**, Dangerous Animals, **Section 8.03**, Dangerous Animal Determination, **Subsection (B)(4)**, is hereby amended so that said Subsection shall be and read as follows:

4. An owner, not later than fifteen (15) calendar days after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Animal Services Manager to the Arlington Municipal Court or as otherwise allowed by law. An owner may appeal the decision of the Municipal Court as allowed by law.

Further, **Article VIII**, **Section 8.04**, Hearing, **Subsection (D)**, is hereby amended so that said Subsection shall be and read as follows:

D. An owner or the person who made the report may appeal the decision of the Municipal Court as allowed by law.

Further, **Article VIII, Section 8.05,** Requirements for Owners of Dangerous Animals, Subsections (A)(3) and (A)(8), are hereby amended so that said Subsections shall be and read as follows:

3. Acquire and maintain liability insurance coverage that includes coverage for animal attacks in an amount of at least One Hundred Thousand Dollars and No Cents ($100,000.00) to cover damages resulting from an attack by the dangerous animal and provide proof of the required liability insurance coverage to the Animal Services Manager. The owner shall notify the Animal Services Manager immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the Animal Services Manager not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the City of Arlington Animal Services as a certificate holder;

8. The owner shall pay any cost or fee assessed by the City in the amount set by resolution of City Council that is related to the seizure, acceptance, impoundment, compliance inspection or re-inspection, or destruction of the dangerous animal.

Further, **Article VIII, Section 8.05,** Subsection (G), is hereby amended so that said Subsection shall be and read as follows:

G. The Court shall order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection (A) and fails to renew compliance within ten (10) calendar days after the animal is seized or delivered to the Animal Services Manager and no perfected appeal is pending. The Court may order the Animal Services Manager to return the dangerous animal to the owner if the owner renews compliance with Subsection (A) within said ten (10) calendar days or the Court may order the Animal Services Manager to humanely destroy the dangerous animal if the owner falls out of compliance with an owner's requirement of Subsection 8.05, 8.07, or 8.08. No dangerous animal shall be returned to its owner after renewed compliance more than one (1) time.

Further, **Article VIII, Section 8.06**, Registration, Subsections (G) through (K), are hereby amended so that said Subsections shall be and read as follows:

G. The owner of an animal, which has been deemed dangerous in another jurisdiction, shall not harbor the animal within the territorial limits of the City of Arlington.

H. The Animal Services Manager shall re-register a dangerous animal with a new owner if such owner is in compliance with this Chapter. Such owner shall present proof of compliance satisfactory to the Animal Services Manager and shall pay a re-registration fee of $25.00.

I. If a dangerous animal's registration is expired when a new owner attempts to re-register it, the new owner shall follow the owner's requirements of Subsection (A).

J. A re-registration shall be valid only for the time remaining on the prior registration.

K. When the Animal Services Manager is informed that a dangerous animal has been moved to another jurisdiction, he should notify the animal control authority for such jurisdiction of this information.

Further, **Article VIII**, **Section 8.06**, is hereby amended by the addition of Subsection (L), so that said Subsection shall be and read as follows:

L. In the event that a registered dangerous animal dies, the owner must present dispositive proof to the satisfaction of the Animal Services Manager or his designee or present written verification by a licensed veterinarian, in order to verify the identity of the dangerous animal by microchip.

Further, **Article VIII**, **Section 8.09**, Defenses, is hereby amended so that said **title and Section** shall be and read as follows:

**Section 8.09 Defenses and Affirmative Defenses**

A. It is an affirmative defense to prosecution under Section 8.08 that the person is a veterinarian, a peace officer, a person employed by a recognized animal services center or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody or control of the animal in connection with that position.

B. It is an affirmative defense to prosecution under Section 8.08 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

C. It is an affirmative defense to prosecution under Section 8.08 that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agencies Act (Article 4413[29bb], Vernon's Texas Civil Statutes), and is not the actual owner of the dog.

D. It is a defense to prosecution under Section 8.08 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal.

E. It is a defense to prosecution under Section 8.08 that the person injured was committing or attempting to commit a crime.

F. It is a defense to prosecution under Section 8.08 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault.

Further, **Article VIII**, **Section 8.11**, **Additional Penalties for Violation of this Section**, is hereby amended so that the **title of the Section** shall be and read as follows:

**Section 8.11 Additional Penalties for Violation of this Article**

Further, **Article IX**, Miscellaneous, **Section 9.01**, Disposal of Dead Animals, Subsection (A)(4), is hereby amended so that said Subsection shall be and read as follows:

4. If requested by the owner, dogs and cats will be picked up by the City, and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.

Further, **Article IX**, **Section 9.02**, Traps, is hereby amended so that said Section shall be and read as follows:

**Section 9.02 Traps**

A. A person commits an offense if he releases or removes an animal from a trap set by the Animal Services Manager.

B. A person may set up on his own property humane traps used to capture dogs, cats, and other small animals. Trapped animals must be sheltered and shall be checked at least once every two hours or every eight hours if left overnight by the individual setting the trap. Humane care shall be provided for any trapped

animals, including the provision of food, water, and protection from extremes of the environment including heat, cold, and precipitation.

C. It is a defense to prosecution under this section that the trap was designed to kill common rodents, including but not limited to rats, mice, and gophers. A person shall not place rodent traps on his property in such a manner as is likely to trap animals other than common rodents.

Further, **Article IX, Section 9.05**, Defecation - Removal and Disposal Required; Implements Required, **Subsections (C) and (D)**, are hereby amended so that said Subsections shall be and read as follows:

C. It is an affirmative defense to prosecution under this section that:

1. The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or

2. The animal is a "service dog" performing duties of assisting the disabled.

3. The animal is a waterfowl at a municipality owned facility.

4. The owner of the private property has given consent or permission for the animal to defecate on his property.

D. Penalty: A person who violates this section is guilty of a misdemeanor punishable by a fine not to exceed One Hundred ($100.00) dollars.

Further, **Article IX, Section 9.06**, Pigeons, **Subsection (A)**, is hereby amended so that said Section shall be and read as follows:

A. The harboring, breeding, maintenance and flying of pigeons shall be permitted under the following conditions:

1. The loft or other structure used or employed for the purpose of housing pigeons shall be maintained in such a manner that no feces, food, water or other waste or natural material is accumulated on any surface within or outside of the loft or structure.

2. A person harboring pigeons in a loft or other structure shall collect and dispose of stored pigeon wastes in a closed fly-proof and rat proof container, and in a manner that prevents the escape of odors from the container and prevents the breeding of flies.

3. A person harboring pigeons in a loft or other structure used for the purpose of housing pigeons shall ensure the structure is designed such that the area housing pigeons provides a minimum of one cubic foot for each mature pigeon kept therein. If any pigeon housed in a loft or other structure is not permitted to fly free outside said loft or other structure a minimum of two times each week, the loft or other structure shall be of such construction as to provide a minimum of three cubic feet of floor space for each pigeon housed within said loft or structure.

4. The construction of the loft shall not conflict with the requirements of any ordinance, including but not limited to, the Construction or Zoning Chapters of the City of Arlington.

5. Any person harboring pigeons in a loft or other structure shall store pigeon feed in such containers as to protect against intrusion by rodents and other vermin.

6. In addition to any requirements of this ordinance the loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City of Arlington and no person may harbor pigeons in such a manner as to constitute a nuisance.

7. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition.

8. Any person keeping pigeons in a loft or other structure shall provide fresh and clean food and water daily.

9. The loft or other structure employed for the purpose of harboring pigeons shall be constructed in such a manner as to provide adequate ventilation which shall mean that fresh air may flow both in and out of the loft or structure at all times unless enclosed in the winter time for a limited period to ensure adequate heat.

10. The pigeon loft shall be constructed in such a manner that it will be rodent-proof and shall be kept free from rodents.

11. No loft or other structure housing pigeons shall be constructed, placed, or maintained within fifty feet (50') from any habitation; restaurant, café, or other eating establishment; church, school, hospital, child daycare center, convalescent home, nursing home, residential treatment facility, library, park, playground, community center, or other public building property line. This provision shall not apply to any structure in existence at the time of the effective date of this ordinance amendment.

12. Annual Pigeon Permit

a. No person shall sponsor, own, keep or harbor pigeons within the City without first obtaining a pigeon permit from the Administrator.

b. No person shall keep or harbor pigeons in a loft or other building or structure unless the person obtains an annual permit from the Administrator that specifies the location of the pigeons and other details as described below. Each permit issued shall expire one year after issuance unless revoked earlier. A permit shall be renewed annually by the permit holder. There will be a fee required with the requested permit in an amount set by resolution of the City Council.

c. The Administrator shall prescribe: procedures for obtaining such permits, regulations for the keeping or harboring of pigeons under such permits with provision for inspection subject to the payment of applicable fees, and procedures for the revocation of such permits.

d. The Administrator shall charge a fee for a pigeon permit and a fee for inspecting the loft or structure or building where the pigeons are kept.

e. The applicant shall complete a pigeon permit application form provided by the City. The application shall include the following information:

1) a site plan showing the location and size of the premises as well as the location, size, and type of all pigeon lofts;

2) a statement indicating the maximum number of pigeons to be kept on the premises at one time; and

3) an agreement by the applicant that the premises may be inspected by the City at all reasonable times so as to ensure compliance with the conditions in this Chapter, the City Code and any other relevant law.

4) In determining whether to issue a permit, the Administrator may consider: the person's compliance with the provisions of this Chapter as well as complaints from neighbors.

13. Pigeon Permit Denial or Revocation

a. A pigeon permit may be revoked, or renewal denied, if the permit holder fails to comply with any condition or requirement in this Chapter or the City Code.

b. In deciding whether or not to issue, renew, revoke, or deny a permit, the Animal Services Manager may consider two or more verified nuisance complaints from at least two different people.

c. If any pigeon loft or structure or building within the City is not being maintained in compliance with this Chapter or the City Code, the Animal Services Manager may revoke the permit upon determination that it is in the best interest of the pigeons or the health and safety of the citizens of Arlington.

d. If the Animal Services Manager revokes or denies renewal of a permit, the owner may request a hearing before the Administrator to establish whether the decision of the Animal Services Manager should be affirmed or reversed. The hearing is requested and conducted under Article X.

Further, **Article IX, Section 9.07**, Care and Humane Treatment of Animals, is hereby amended so that said Section shall be and read as follows:

**Section 9.07 Care and Humane Treatment of Animals**

A. A person commits an offense if he fails to continuously and routinely provide an animal, which is in his care, custody or control or which is owned or harbored by him, with:

1. good and wholesome food and potable water sufficient to maintain good health;

2. adequate housing consisting of a three or more sided structure with a cover or roof, shelter and protection from the weather;

3. veterinary care when needed to prevent suffering; and

4. with humane care and treatment.

B. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk of being:

1. beaten, tormented, mentally abused, overloaded, overworked, maimed, disfigured, burned or scalded, mutilated or needlessly killed; or

2. carried or transported in any vehicle or other conveyance in a cruel or inhumane manner; or

3. kept in its own filth; or

4. neglected or purposefully disregarded to the extent that the animal is significantly at risk for injury, illness, suffering or cruel treatment.

C. A person commits an offense if he crops a dog's ears, docks a tail, removes dew claws or performs other surgical procedures on a dog or cat except as provided by the Veterinary Licensing Act.

D. A person commits an offense if he uses a steel jaw or leg-hold trap to hold or capture an animal. The Animal Services Manager or designee may confiscate the trap or traps to be held as evidence in the case for the offense.

E. A person commits an offense if he abandons an animal which had been in his care, custody or control or owned or harbored by him. The offense of abandonment occurs at the location where the animal was abandoned and includes, but is not limited to, a residence after the person was evicted or from which the person has moved.

F. A person commits an offense if he causes or allows an animal, which is in his care, custody or control or which is owned or harbored by him, to be at risk for being trained or used for combat between animals or between animals and humans or if he has access to dog fighting or cockfighting equipment or paraphernalia causing the animal to be at risk for such combat.

G. A person commits an offense if he transports or carries on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle (including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks), the animal is safely confined by a vented container or cage, by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

H. A person commits an offense if he leaves any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare.

Further, **Article IX** is hereby amended by the addition of **Section 9.08**, Tethering, so that said Section shall be and read as follows:

**Section 9.08 <u>Tethering</u>**

A. A person commits an offense if he uses a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system. This section does not prohibit a person from walking a dog with a hand-held leash.

B. It is a defense to prosecution under this section that:

1. the dog is being tethered during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or

2. the dog tethering is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog; or

3. the dog tethering is due to force majeure and the dog is tethered for less than one hour within a twenty-four period; or

4. the dog tethering:

   a. occurs while the dog is within the owner's direct physical control; and

   b. prevents the dog from advancing to the edge of any public right-of way.

C. The defenses under this section are only available if the following specifications are met:

1. The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;

2. The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;

3. The chain, rope, tether, leash, cable, or other device does not exceed 1/20th of the dog's body weight;

4. The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and

5. The dog has access to adequate shelter and clean and wholesome water.

Further, **Article X**, Administrative Hearings and Inquests, is hereby amended so that the title and Article shall be and read as follows:

## ARTICLE X

## ADMINISTRATIVE HEARINGS

### Section 10.01 General Provisions

A. When notice is required to be given to a person under this Article, it shall be in writing and mailed certified mail or by a signature confirmation service to that person's last known mailing address.

B. Notice shall specify the date, time and place of the hearing.

C. Notice shall be deemed received five days after it is placed in a mail receptacle of the United States Postal Service.

D. For purposes of this Article, the Administrator shall be empowered to administer oaths and to promulgate procedural rules for the conduct of hearings.

E. Whenever any deadline specified in this Article falls upon a Saturday, Sunday or a City recognized holiday, the deadline shall be the next regular City business day.

F. An order or ruling required to be made under this Article shall be final on the date that it is signed.

G. The administrative remedies set forth in this Article shall be in addition to any criminal penalties provided in the ordinances of this City or the laws of this State.

### Section 10.02 Administrative Hearing for License Revocation

A. The Animal Services Manager shall apply to the Administrator for an administrative hearing to determine whether a dog or cat license issued by the City of Arlington should be revoked if:

1. The dog or cat has been impounded by the City three (3) or more times during a twelve (12) month period;

2. The owner has been convicted, placed on deferred disposition, or received a dismissal for completion of the Animal Awareness and Safety Program, in the Arlington Municipal Court three (3) or more times during a twelve (12) month period for violations of Article III involving the dog or cat; or

3. There is a combination of (1) and (2) totaling three (3) or more incidents in the same twelve (12) month period.

B. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which revocation is sought shall be attached to the application.

C. The Administrator shall schedule the hearing for a time no later than ten (10) days following the day he receives the application.

D. The Administrator shall send notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

E. The sole issue to be decided at the hearing is whether the license should be revoked.

F. At the conclusion of the hearing, the Administrator shall make written findings of fact and conclusions of law, and shall issue a written order without undue delay stating that the license is either revoked or not revoked. A copy of such order shall be sent to the owner by certified mail, return receipt requested.

G. Upon the license being revoked, the owner shall have ten (10) days to remove the dog or cat from the City.

**Section 10.03 <u>Abatement of Animal Related Nuisances</u>**

A. The owner of an animal is subject to all provisions of the Nuisance Chapter and this Chapter to ensure that his animal or animals do not constitute a nuisance. The City may take action pursuant to the Nuisance Chapter, Animal Chapter or other relevant law to abate any animal related nuisance.

B. The Animal Services Manager shall apply to the Administrator to determine whether an animal constitutes a nuisance and should be abated under the Nuisance Chapter or Animal Chapter if:

1. The animal has been impounded by the City two (2) or more times during a twelve (12) month period;

2. The owner has been convicted, placed on deferred disposition or probation, or received a dismissal for completion of the Animal Awareness and Safety Program in the Arlington Municipal Court two (2) or more times during a twelve (12) month period for violations of this Chapter.

3. There is a combination of incidents under subsections (1) and (2) totaling two (2) or more incidents in the same twelve (12) month period.

C. The application shall be on a form prescribed by the Administrator. A copy of all documents relating to the incidents for which nuisance abatement is sought shall be attached to the application.

D. Upon application of the Animal Services Manager, the Administrator shall follow the procedures for nuisance abatement in the Nuisance Chapter, including but not limited to notice of abatement, administrative hearings, and notice to the animal's owner.

**Section 10.04 <u>Administrative Hearing - Pigeons, Prohibited and Exotic Animals</u>**

A. The owner of pigeons or an impounded prohibited or an impounded exotic animal may request an administrative hearing before the Administrator to establish:

1. the animal is not a prohibited or exotic animal;

2. the animal was not in violation of the exotic or prohibited animal provisions of this chapter;

3. the animal falls within one of the affirmative defenses to owning prohibited or exotic animals; or

4. whether the decision of the Animal Services Manager to deny or revoke a pigeon permit should be affirmed or reversed.

B. The owner of the animal shall have the burden of proof at the hearing.

C. A request for a hearing shall be in writing and shall set forth with specificity the reasons for the hearing and what the owner expects to prove at the hearing. The request shall be signed and sworn to by the owner.

D. A request for a hearing shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the impoundment of the animal or decision of the Animal Services Manager on a pigeon permit.

E. The Administrator shall hold the hearing within five (5) business days from the date the request is filed.

F. The Administrator shall give notice of the hearing to the owner, and shall inform the Animal Services Manager of the hearing.

G. At the conclusion of the hearing, the Administrator shall issue a written order without undue delay.

1. In an administrative hearing to determine if an animal is a prohibited animal:

   a. If the Administrator finds that the animal is not a prohibited animal or is an animal that falls within an affirmative defense to prohibited animals, he shall order the animal released to the owner.

   b. If the Administrator finds that the animal is a prohibited animal that does not fall within an affirmative defense criteria, he shall order it humanely euthanized and disposed of according to the provisions relating to disposition of prohibited animals under this Chapter. In such case, the owner may appeal to the Appeals Officer.

2. In an administrative hearing to determine if an animal is an exotic animal:

   a. If the Administrator finds that the animal is not an exotic animal, was not in violation of the exotic animal provisions of this Chapter and was not at large, he shall order the animal released to the owner.

   b. If the Administrator finds that the animal was in violation of Article VII or at large, he shall order it disposed of according to the provisions relating to disposition of exotic animals under this Chapter. In such case, the owner may appeal to the Appeals Officer.

3. In an administrative hearing to determine whether a pigeon permit should be denied or revoked:

   a. If the Administrator finds that the permit was improperly revoked or denied, he shall order the permit to be reissued or reinstated.

   b. If the Administrator finds that the permit was properly revoked or denied, he shall order the permit to remain revoked or denied. In such case, the owner may appeal to the Appeals Officer.

**Section 10.05 <u>Appeal to Appeals Officer</u>**

A. The owner of an animal the subject of a hearing under Section 10.04 may appeal a ruling to the Appeals Officer.

B. Notice of appeal shall be filed with the Administrator no later than 5:00 p.m. on the fifth calendar day following the date of the Administrator's order.

C. Notice of appeal shall be in writing and shall specify the grounds upon which the appeal is based.

D. The Administrator shall immediately transmit to the Appeals Officer all papers and any other items constituting the record of the action from which the appeal is taken.

E. An appeal to the Appeals Officer shall stay the disposition of the animal, unless the Administrator certifies through written affidavit that a stay would cause imminent peril to life or property. In such a case, disposition shall not be stayed otherwise than by a restraining order granted by a court of record.

F. An appeal shall be conducted no later than the tenth calendar day following the date the appeal is filed.

G. The Appeals Officer shall make a written ruling following the appeal finding that the order of the Administrator is either upheld or reversed.

H. If the order of the Administrator is reversed the Animal Services Manager shall release the animal to the owner. If the order of the Administrator is upheld, the Animal Services Manager shall proceed with disposition of the animal as provided for in this Chapter.

I. This appeal shall exhaust all administrative remedies of the owner.

Further, **Article XI**, Penalty, is hereby amended so that said Article be and read as follows:

## ARTICLE XI

## PENALTY

**Section 11.01 Penalty**

A person who violates any provision of this Chapter by performing an act prohibited or by failing to perform an act required is guilty of a misdemeanor; each day the violation continues shall be a separate offense.

1. If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such

offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents ($500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00).

2. If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents ($2,000.00).

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand and No/100 Dollars ($2,000) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

This ordinance shall become effective ten days after first publication.

PRESENTED AND GIVEN FIRST READING on the 24th day of April, 2012, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 1st day of May, 2012, by a vote of 7 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY

**Ordinance No.** 14-054

**An ordinance amending the "Animals" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article II, entitled General Provisions, Section 2.04, Powers and Duties of Citizens, by the addition of Subsection (C), relative to an owner surrendering an animal to the Animal Services Manager and the related fee; providing this ordinance be cumulative; providing for severability; providing for governmental immunity; providing for publication and becoming effective upon publication**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the **"Animals"** Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article II**, General Provisions, **Section 2.04**, Powers and Duties of Citizens, by the addition of Subsection (C), which is a provision that is not subject to being an offense or any fine amount, so that said subsection shall be and read as follows:

C. Any citizen of the City of Arlington who owns an animal residing within the territorial limits of the City of Arlington may offer to surrender ownership of the animal to the Animal Services Manager. The Animal Services Manager may accept or refuse the animal in accordance with the procedures established and set forth by the Animal Services Manager. For each owner surrendered animal accepted by and released to the Animal Services Manager, the owner shall pay to the Animal Services Manager at the time of release an owner surrender fee unless the fee is waived. The owner surrender fee amount and requirements regarding waiver of the fee shall be set by resolution of City Council. Furthermore, when an adult nursing female animal is surrendered and accompanied by a litter of unweaned animals, the owner surrender fee does not apply to the litter of unweaned animals. This owner surrender fee also does not apply to citizens delivering to the Animal Services Manager animals found running at large within the territorial limits of the City of Arlington.

2.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

3.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

4.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

5.

The caption of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

6.

This ordinance shall become effective upon publication.

PRESENTED AND GIVEN FIRST READING on the 2nd day of September, 2014, at a special meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 16th day of September, 2014, by a vote of 5 ayes and 4 nays at a regular meeting of the City Council of the City of Arlington, Texas.

ROBERT N. CLUCK, Mayor

ATTEST:

MARY W. SUPINO, City Secretary

APPROVED AS TO FORM:
JAY DOEGEY, City Attorney

BY