

ORDINANCE NO. 1468-20-11-24

AN ORDINANCE OF THE CITY OF PFLUGERVILLE AMENDING TITLE IX, CHAPTER 90 ANIMALS BY REPEALING AND REPLACING SAID CHAPTER; REPLACING ALL ORDINANCES IN CONFLICT; CONTAINING SEVERABILITY AND REPEALER CLAUSES; PROVIDING FOR A PENALTY FOR A VIOLATION OF CHAPTER 90, AS A CLASS C MISDEMEANOR AND A FINE IN AN AMOUNT NOT TO EXCEED \$500.00; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council previously adopted animal regulations; and

WHEREAS, the City Council has determined that it is necessary to update and amend the codes from time to time to ensure the realization of its stated purposes and its compliance with applicable State law; and

WHEREAS, due to the extent of reorganization and substantial modifications to the animal regulations, the City has determined that it is necessary to repeal and replace the Animal Code; and

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

Section I. Findings.

That the foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section II. Repeal and Replace.

That the Code of Ordinances of the City of Pflugerville, Texas, is hereby amended by repealing and replacing Chapter 90, animals, in its entirety, to read as provided in Exhibit A, attached hereto and incorporated herein for all purposes.

Section III. Severability.

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

Section IV. Repealer.

This ordinance shall be cumulative of all other ordinances, resolutions or acts of the City of Pflugerville, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Pflugerville 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or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Section VI Violation.

That a violation of this Ordinance shall be an offense punishable upon conviction by fine in an amount not to exceed \$500.00 and as otherwise as prescribed in Chapter 10 of the City's Code of Ordinances.

Section VII. Effective Date.

This Ordinance will take effect upon its adoption by the City Council and publication of the caption hereof in accordance with Section 3.15(d) of the City Charter.

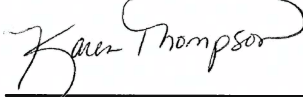
PASSED AND APPROVED this 24th day of November, 2020.

CITY OF PFLUGERVILLE, TEXAS

By: 

Victor Gonzales, Mayor

ATTEST:



Karen Thompson, City Secretary

APPROVED AS TO FORM:


Charles E. Zech, City Attorney

DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.

GENERAL PROVISIONS; DEFINITIONS

§ 90.01 TITLE

This chapter shall be known, and may be cited, as the Animal Welfare Ordinance of the City.

§ 90.02 DEFINITIONS

(a) Unless otherwise expressly stated, the following words, terms, and phrases shall have the following meanings when used in this chapter:

Abandon. To fail to adequately provide an animal with one (1) or more of the necessities of life, including but not limited to, air, food, potable water, sanitary conditions, shelter, protection from the heat, cold, or other environmental conditions, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal, for twenty-four (24) or more hours, or to leave an animal in the care, custody, or control of another person without his or her consent.

Animal. A nonhuman live, vertebrate creature, wild or domestic.

Animal housing enclosure. Any structure or other enclosure contained within the owner's property limits and designed, adapted, or used to segregate an animal to a smaller area or restrict an animal to a limited space, including, but not limited to, pens, kennels, dog runs, rooms, cages, compartments, hutches, coops, and fenced portions of a yard or property. This term does not include the term shelter as defined in this section.

Animal shelter. An establishment operated by the city for the temporary confinement, safekeeping, and control of animals which come into the custody of the city as prescribed under this chapter.

Animal services officer. An employee of animal welfare services to represent and act for the city in the impounding of animals, controlling of animals running at large, and enforcing the provisions of this chapter and all regulations relating to animals as authorized by state or federal law.

Assistance animal. As assigned in V.T.C.A., Human Resources Code, Ch. 121, as amended.

At large. An animal that meets at least one (1) of the following criteria:

- (1) An animal that is not confined to the premises of the owner by substantial physical or restraint of sufficient height, strength, and/or manner of construction to preclude the animal from leaving the premises of the owner or being able to come within six (6) feet of any public area;

- (2) An animal that is not under direct physical control of a person by of a tether of sufficient strength and of a length of not more than six (6) feet.

The term at large does not apply to an animal that is lawfully in any off-leash site or dog park authorized by the city or the Code, so long as the person with care, custody, or control of the animal is in compliance with all other requirements of the Code. This definition does not apply to an indigenous wild or feral animal.

Basic grooming. Maintaining the eyes, ears, beaks, hooves, feet, nails, coat, and skin of an animal in such a manner that is reasonably necessary for the health and safety of the animal.

Bodily injury. Physical pain, illness, or any impairment of physical condition that would cause a reasonably prudent person to seek treatment from a medical professional or veterinarian without regard to whether the person actually sought the treatment.

Business day. A day during which the city animal shelter is open for business.

Cat. A domesticated member of the feline family (*Felis domesticus*) other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other prohibited feline, or any hybrid thereof.

City. The City of Pflugerville.

City enforcement agent. any designee of the city's Director of Animal Welfare Services, any animal services officer, law enforcement officer that is employed by the city, or other persons as are designated by the city.

Conviction. Includes

- (1) An adjudication of guilt;
- (2) A sentence imposed by a court;
- (3) A court order of community supervision, including deferred adjudication.

Culpable mental states.

- (1) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result;
- (2) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result;

(3) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint;

(4) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Currently vaccinated. An animal that is considered to have a current anti-rabies vaccination according to the Texas State Rabies Control Act, as amended, and the minimum standards established by the appropriate state agency or rule-making board.

Dangerous dog. A dog that:

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

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

The term dangerous dog is construed to the definition as provided by Tex. Health and Safety Code Sec. 822.041, as amended and follows the state law definition.

Dangerous wild animal. Any animal not normally considered domesticated, regardless of the state or duration of captivity, or any animal that is restricted from ownership by any international, federal, or state law including, but not limited to, the following animals:

(1) lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, or gorilla; or

(2) any species illegal to own under federal or state law, or any animal which is, or may be hereafter, listed as a "high risk" animal in the Texas Rabies Control Act; or

- (3) any hybrid of any animal classified as a wild animal.

This definition mirrors Tex. Health and Safety Code Sec. 822.101, currently and in the future.

Department. The city animal welfare services department.

Designated caretaker. The provisional assumption of ownership for the purposes of administering preventative immunizations and treatment including emergent humane euthanasia as directed by a licensed veterinarian in the event of suffering during an animal's stray hold period at an impound facility.

Direct physical control. Having precautions in place so the person may exercise physical control over the animal in the event it should become necessary to do so to protect the animal, a human, or another animal from harm. For the purposes of this chapter, voice control, shock collars, e-collars, and collar-mounted electronic training devices, regardless of the animal's proximity or training status, shall not be considered direct physical control.

Director of Animal Welfare Services. The person designated by the City of Pflugerville as the director of Animal Welfare Services and the Animal Shelter.

Dog. A domesticated member of the canine family (*Canis familiaris*), other than a wolf, jackal, fox, dingo, coyote, or other prohibited canine, or any hybrid thereof.

Domestic animal. Any animal that lawfully may be kept as a pet or as livestock within the city so long as all of the required provisions of this chapter are met, ownership or possession of said animal is not prohibited by any international, federal, local or state law, and it is not a dangerous wild animal, as defined herein, including but not limited, to the following animals:

- (1) Reptiles: Any non-venomous reptile that does not typically reach total lengths greater than eight (8) feet;
- (2) Birds: Any birds commonly kept as pets, or any bird kept for falconry purposes by a state and federally permitted falconer;
- (3) Amphibians: Any frogs or toads commonly kept as pets;
- (4) Fish: Any fish commonly kept as pets; and
- (5) Mammals: Any mammals commonly kept as pets or livestock including, but not limited to, dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, sugar gliders, horses, cows, alpacas, and llamas.

Estray. Any branded or unbranded livestock, fowl, exotic livestock, or exotic fowl found running at large, including but not limited to a stray horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or head of any species of cattle.

Euthanasia. The termination of an animal by a person using methods authorized by state and federal laws.

Feral animal. Any unowned, untamed animal living in the wild that will not voluntarily accept handling by human beings despite usually being considered a domestic animal.

Humane trap. Any trap designed to capture an animal without injuring the animal.

Identification. Any acceptable method, such as microchipping, registration tag, or tattoo, which can be used to readily trace the current ownership of an animal.

Impound. The placing of an animal in the city's animal welfare services facility.

Inhumane treatment of animals. Any treatment of an animal prohibited by any provision of this chapter.

Intact. Any animal that has not been sterilized.

Livestock. Includes domesticated animals typically kept to provide food or fiber or perform work, whether or not they actually provide these functions, including but not limited to, regardless of age, sex, or breed: horses, consisting of all equine species including ponies, mules, donkeys, jackasses, and burros; cattle, consisting of all bovine species; sheep, consisting of all ovine species; llamas and alpacas; goats, consisting of all caprine species; roosters; and pigs or hogs, consisting of all swine species.

Local rabies control authority (LRCA). The person designated by the governing body of a municipality to enforce the Texas Health and Safety Code, as amended.

Local rabies control incident (LRCI). Any bite, scratch, or other injury to a person caused by a warm-blooded animal that breaks the victim's skin and/or causes him or her to bleed and potentially come into contact with the injuring animal's saliva and could therefore allow the rabies virus to be transmitted from the animal to the person.

Microchip implant. A passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners. The microchip implant shall be supplied with an exterior collar-type tag for purposes of an external of notifying others that the animal has been implanted with a microchip.

Microchip reader. An electronic scanner with an operating frequency that is able to detect a microchip that has been implanted in an animal, and displays the number of the microchip to its operator. The microchip reader shall be of a type that activates and displays the number of a microchip manufactured by multiple vendors.

Notice. By personal service, certified mail (return receipt requested), or a written notice left at the entrance to the premises where the animal is harbored.

Notify and notification. Unless otherwise defined in this chapter, a requirement to notify the department, to contact the department at (512) 990-6280 and speak with an employee of the department or leave a voicemail. Notification shall be made immediately, but only as soon as can be done so safely.

Offer to transfer ownership. To offer to convey ownership rights, in person, electronically, or by any other , of an animal from one (1) person to another by any, including, but not limited to, auctioning, selling, giving away, delivering, trading, or bartering.

Owner. Any person or persons, firm, partnership, corporation, association or entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of household of any premises where an animal remains for seventy-two (72) hours or more shall be presumed to be the owner of the animal. A property owner, occupant, or head of household of any premises on which a dog or cat remains or customarily returns to is an owner for purposes of this chapter. If a person under the age of seventeen (17) years owns an animal, the parent, legal guardian, or the head of the household shall be the owner for purposes of this chapter. There may be more than one (1) person who is the owner or responsible for an animal. This term shall include persons who are in temporary possession of the animal, including but not limited to, pet sitters, groomers, boarders, walkers, and trainers.

Owner's agent. A person who has been authorized by the owner to act on his behalf.

Person. A person who owns or harbors or has custody or has control of the animal. The term person shall include the term owner.

Public nuisance. Includes, but is not limited to, any animal that:

- (1) Molests passersby or passing vehicles;
- (2) Acts in a threatening manner in any location other than the property of its owner toward any person other than its owner;
- (3) Attacks or chases another animal, when the animal is on the property of its owner or custodian;
- (4) Causes trash or garbage to be removed from a trash or garbage container;
- (5) Defecates on the property of another person;
- (6) Trespasses on school grounds;
- (7) Is at large;

- (8) Damages private or public property;
- (9) Makes frequent or long continued noise which is disturbing to a person who has normal nervous sensibilities and ordinary tastes, habits, and modes of living; or
- (10) Causes an offensive odor which is detectable across its owner's property line.

Quarantine. To confine and isolate from human beings and other animals in a state-approved quarantine facility or in compliance with all stipulations of a home quarantine when allowed by the local rabies control authority. The quarantine period for a dog, cat, or a domestic ferret for rabies observation is two hundred forty (240) hours from the date and time of the bite, scratch or other exposure, or as specified by state law or rule.

Releasing agency. Any public or private animal pound, shelter, or humane organization. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

Restrain(t). To control an animal by the following: a leash or lead; by confinement in a structure, cage, vehicle, wall, or fence of sufficient strength or construction to prevent the animal from escaping; or by actual physical control by the owner or owner's agent.

Secure enclosure. An animal housing enclosure that meets all of the following criteria:

- (1) Is located inside a separate fenced area;
- (2) Is locked;
- (3) Is capable of preventing the entry of the general public, including children;
- (4) Is capable of preventing the escape or release of an animal in the enclosure;
- (5) Is clearly marked as containing a dangerous animal;
- (6) Has an attached, secure roof or top made of material preventing escape;
- (7) Has a concrete floor or sides and constructed to prevent the animal from digging under the secure enclosure and escaping;
- (8) Is located a minimum of five (5) feet from any fence line or wall that abuts private property or a public area; and
- (9) Complies with all additional requirements as established and provided in writing to the owner by the animal services department or this chapter.

Serious bodily injury. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Shelter. A structure that is capable of adequately providing cover and protection from heat, cold, and other environmental conditions. At minimum, a shelter must have three (3) sides, a top, and a bottom and must be adequately ventilated. It must have bedding material. It must be large enough so that the animal can enter, stand, turn around, and lie down, but small enough to prevent the loss of body heat during cold weather.

Sterilized. An animal rendered incapable of reproduction.

Tether. Any leash, chain, cord, rope, or other type of restraining an animal or the act of chaining, tying, fastening or otherwise securing an animal to a fixed point so that it can move or range only within certain limits.

Transfer ownership. To convey ownership rights of an animal from one (1) person to another by any.

Twelve (12) consecutive month period. The 12-month period immediately preceding the date of an event.

Unprovoked. That the animal was not hit, kicked, pulled, struck, pinched, poked, prodded, shocked, or squeezed by a person with an object or part of the person's body, or otherwise teased or tormented in any manner.

Vaccination. The inoculation of an animal with an anti-rabies vaccine that is licensed by the United States Department of Agriculture for use in that species and which is administered in accordance with the label's directions and all state and federal laws for the purpose of immunizing the animal against rabies.

Veterinary hospital. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of illnesses, diseases, and injuries of animals.

Wildlife educational center. An organization that has met all of the state and federal requirements to possess and display wild or domestic animals for educational purposes.

Wildlife rehabilitator. A person holding all current state and/or federal permits needed to temporarily house allowed native wild animal species in his or her possession with the goal of rehabilitating the animal(s) and releasing it back into its natural habitat in accordance with all state and federal laws.

Zoological educational outreach display. Any temporary spectacle, display, event, exhibition, or act where the operator has met all state and federal requirements to

possess and display domestic, wild, or wild Class I animals for educational purposes and is accredited through the American Zoological Association or Zoological Association of America. For this definition, temporary shall mean lasting seven (7) days or less.

Zoological park. A government-operated facility displaying or exhibiting one or more species of non-domesticated animals.

(A) Terms not defined herein shall be construed in accordance with customary usage.

ADMINISTRATION

§ 90.03 AUTHORITY; RECORDS; EXCLUSIONS.

(A) General authority. The procedures established in this chapter shall be administered by the Director of Animal Welfare Services, who may employ the personnel, equipment, and facilities of the Animal Welfare Services Department to hire or authorize persons, equipment, and facilities as necessary to implement and enforce the provisions of this chapter. If the Director of Animal Welfare Services position is vacant or she is unavailable, and her designee has not been identified, then the city manager shall designate the local rabies control authority.

(B) Records required. The Director of Animal Welfare Services shall maintain for each impounded animal coming under the purview of this chapter:

(1) A file that includes but is not limited to a record of all pertinent names, addresses, and dates; copies of all correspondence, notices, applications, permits and certificates; and a record of all other related activities; and

(2) An accurate accounting of all fees and charges and of funds and payments collected, including date of payment and identification of payee.

(C) Exempt. City facilities and operations are exempt from the requirements of this chapter.

§ 90.04 ANIMAL SHELTER ADVISORY COMMITTEE

(A) There is hereby created the animal shelter advisory committee ("the committee") to be appointed by the City Council on an annual basis.

(B) The committee shall perform the state law advisory committee functions contemplated in § 823.005 of the Health and Safety Code.

RABIES; QUARANTINE

§ 90.05 ADOPTION OF THE RABIES CONTROL ACT OF 1981

The Rabies Control Act of 1981, TEX. HEALTH & SAFETY CODE, Chapter 826, as amended, and the standards and regulations adopted by the Department of State Health Services pursuant to the act, are adopted and incorporated into this chapter as minimum standards; however, to the extent that this chapter provides standards that are compatible with, equal to, or more stringent than the act or the standards and regulations adopted by the Department of State Health Services, this chapter prevails over the act and the standards and regulations.

§ 90.06 LOCAL RABIES CONTROL AUTHORITY

For purposes of the Rabies Control Act of 1981, TEX. HEALTH & SAFETY CODE, Chapter 826, as amended, the Director of Animal Welfare Services is designated as the Local Rabies Control Authority.

§ 90.07 QUARANTINE

TEX. HEALTH & SAFETY CODE, Chapter 826, as amended, and TEX. ADMIN. CODE, Chapter 169, Subchapter A, as amended, are adopted and incorporated into this chapter.

ENFORCEMENT; AUTHORITY TO SEIZE; GENERAL FEES

§ 90.15 ENFORCEMENT

(A) The Director of Animal Welfare Services and her designees shall be responsible for the enforcement of this chapter and all other ordinances in the Code pertaining to animals, unless otherwise provided by law or this chapter.

(B) The Director of Animal Welfare Services and her designees shall be responsible for the enforcement of all laws and regulations of the State of Texas pertaining to animals that authorize the local health authority or animal services officers to enforce the same.

(C) Any person violating any provision of this chapter by committing a prohibited act or by failing to commit a required act may be issued a notice to appear or summons to appear for such violation, and upon conviction thereof, the person shall be deemed guilty of a misdemeanor and punished as provided in the Code.

(D) Each 24-hour period of violation, and each separate animal or condition in violation of any provision of this chapter, shall constitute a separate offense.

(E) For the purpose of proving violations of this chapter, the requirement of a culpable mental state is expressly waived, unless otherwise stated. If the definition of an offense under this chapter does not prescribe a culpable mental state, then a culpable mental state is not an element of the offense and is not required to be proven for

conviction of the offense. Such offense shall be punishable by a fine not to exceed five hundred dollars (\$500.00).

§ 90.16 AUTHORITY TO SEIZE

(A) City enforcement agents are authorized to seek a warrant or order from a court of competent jurisdiction to enforce this chapter, pursuant to all applicable local, state, and federal laws.

(B) City enforcement agents shall have the power to search, seize and impound an animal with a warrant or court order under one (1) or more of the following conditions:

(1) When the city enforcement agent has probable cause to believe that the animal has been abandoned or is being treated inhumanely as described in this chapter; or

(2) When the city enforcement agent has probable cause to believe that the animal has rabies or has been exposed to rabies; or

(3) When the city enforcement agent has probable cause to believe that the animal meets the definition of a dangerous animal as defined in this chapter; or

(C) City enforcement agents shall have the power to search, seize and impound an animal without a warrant or court order, with probable cause as set forth in subsection (b)(1)-(3) of this section under the following conditions:

(1) On public property, in all cases;

(2) On private property, including the backyard, if:

(a) The consent of the resident or property owner, or someone with apparent authority to consent, is obtained; or

(b) Exigent circumstances exist, the city enforcement agent reasonably believes that there is imminent danger of serious bodily injury or death to a human being, another animal, or the animal in question, and there is insufficient time to obtain a warrant; or

(c) The officer has reasonable belief that the issue requires immediate investigation to safeguard the animal, public health safety, whether or not permission to investigate has been obtained. If the property is occupied, the officer shall first present proper credentials to the occupant and demand entry, explaining the reasons and purpose for the investigation.

(3) Upon the request of a peace officer if the owner is not available and there is no one seventeen (17) years of age or older to accept responsibility for the animal.

(a) The city enforcement agent is authorized to use necessary force, including but not limited to breaking a vehicle's window, to make lawful seizures of animals pursuant to this chapter, subject to all local, state, and federal laws and court orders.

(b) Any city enforcement agent shall have the authority to issue notices to appear and file probable cause affidavits for any violations of this chapter, to file affidavits supporting search and/or seizure warrants, and any other power or duty stated within the terms of this chapter.

TREATMENT OF ANIMALS

§ 90.21 GENERAL OFFENSES

(A) A person commits an offense if, either through his action or omission, he:

(1) Docks the tail or removes the dew claws of an animal over five (5) days of age, or crops the ears of an animal of any age, unless he is licensed to practice veterinary medicine in the state;

(2) Transfers ownership or otherwise physically removes from its mother any dog, cat, ferret, or rabbit less than six (6) weeks old, or any other animal that is not yet weaned, except as advised by a licensed veterinarian;

(3) Abandons any animal that he or she has possession or ownership of at the animal services facility, at any other place of business, on public property, or with any person that has not consented or has revoked consent to be responsible for the care of the animal;

(4) Fails to notify the department within twenty-four (24) hours after a motor vehicle being operated by him strikes an animal;

(5) Carries or transports an animal in any unenclosed motor vehicle or trailer (including but not limited to convertibles, pickup trucks, and flatbed trucks), and fails to effectively restrain the animal by a vented container or cage, or by some other device cross-tied to prevent the animal from falling or jumping from the motor vehicle, convey or from strangling on a leash;

(6) Places or confines an animal, or allows an animal to be placed or confined, in a motor vehicle, conveyance, or trailer without providing adequately for the necessities of life, including air, food, potable water, sanitary conditions, shelter, or protection from the heat, cold, or other environmental condition, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal;

(7) Causes or allows an animal to remain in its own filth;

(8) Owns or has care, custody, or control of an animal having an infestation of ticks, fleas, or other parasites, without having the animal treated by a veterinarian or following a proper commercially available treatment regimen for the infestation;

(9) Own or has care, custody, or control of an animal having an obvious or diagnosed illness, injury, or communicable illness transmittable to animal or human, without having the animal treated by a veterinarian or following a proper treatment regimen for the injury or illness;

10) Fails to provide basic grooming for an animal;

11) Causes, allows, or trains an animal to fight another animal or possesses animal fighting paraphernalia or training equipment;

(12) Fails to adequately provide an animal owned by him or under his care, custody, or control with necessities of life, including food, potable water, sanitary conditions, shelter, or protection from the heat, cold, other environmental conditions, or other circumstances that may cause bodily injury, serious bodily injury or death of the animal;

(13) Attaches or allows to be attached a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;

(14) Attaches or allows to be attached a tether that is not appropriately sized for the animal or so heavy as to restrict or burden the animal's movements;

(15) Teases, taunts, or provokes an aggressive reaction from an animal.

(16) Maintain a public nuisance as defined by 90.02

(17) Allows an animal to run at large;

(18) Fail to keep an animal under restraint;

(19) Tamper with any trap or animal-catching device set out by the Animal Welfare Officer or designated representative;

(20) Keep within the city an animal subject to contracting rabies which is over the age of four months and fail to keep the animal currently vaccinated for rabies in accordance with state law;

(21) Interfere with, hinder, or molest any city employee in the performance of the employee's duties under this chapter; or

(22) Do any act which otherwise is proscribed in this chapter.

(B) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal services officer or other person authorized to enforce the provisions of this chapter.

(C) Animals seized pursuant to this section may be impounded and the city enforcement agent may petition the municipal court for a hearing to determine whether the animal was inhumanely treated and to determine the disposition of the animal. The petition shall be filed within seventy-two (72) hours of the seizure. If the court is not open during this 72-hour period, the petition shall be filed the next day the court is open for business. If a hearing is not requested, then the animal shall be returned to the owner upon request of the owner.

§ 90.22 ANIMAL HOUSING AND ENCLOSURES

(A) All animal housing enclosures must be securely built, adequately sized for the kind, size, and number of animals housed, maintained in a sanitary condition so that flies or mosquitoes are not allowed to breed and odors are not offensive to adjacent residences or businesses, in compliance with all other requirements of this chapter, city zoning laws, and the following minimum standards:

- (1) The shelter is large enough for the animal to enter, stand, turn around, and lie down in a natural manner;
- (2) The shelter keeps the animal dry;
- (3) The shelter provides the animal with natural or artificial shade from direct sunlight;
- (4) The shelter protects the animal from excessive heat and cold and other adverse weather conditions; and
- (5) The shelter is adequately ventilated.

(B) A person commits an offense if he fails to provide an enclosure or enclosures meeting the criteria set forth in this section.

IMPOUNDMENT, REDEMPTION AND DISPOSITION OF ANIMALS

§ 90.30 GENERAL AUTHORITY

(A) The Animal Services Officer, or a designated representative, may order impoundment in the city shelter of an animal, in the following circumstances:

(1) *Rabies*: The city enforcement agent shall impound and quarantine any animal that he has probable cause to believe was exposed to or infected with rabies. Any animal that exhibits symptoms of the rabies disease during quarantine shall be euthanized;

(2) *Owner's absence*: The city enforcement agent shall impound an animal at the request of a peace officer or owner of the property where the animal is located when the owner of the animal has been arrested, hospitalized, is missing, has died, or when the owner is being lawfully evicted from his premises and there is no person present seventeen (17) years of age or older who will assume responsibility for the animal;

(3) *Animal at large*: The city enforcement agent may impound an animal found to be at large;

(4) *Dangerous animal*: The city enforcement agent shall impound an animal if it is not securely confined in such a manner that it cannot come in contact with, or do harm to, any person or other animal;

(5) *Unauthorized possession*: The city enforcement agent may impound an animal if the city enforcement agent has probable cause to believe the animal is being possessed in violation of local, state, or federal law;

(6) *Inhumane treatment*: The city enforcement agent may impound an animal if the city enforcement agent has probable cause to believe the animal has been inhumanely treated as defined by this chapter; or

(7) *LRCI*: The city enforcement agent may impound and quarantine an animal the agent has probable cause to believe has been involved in a LRCI.

(B) Should the owner of an animal fail or refuse to allow the impoundment of the animal, or attempt to interfere with the impoundment, the Animal Services Officer may use reasonable means to accomplish the impoundment.

(C) Estrays within the city shall be reported to the County Sheriff for impoundment, pursuant to the provision of the Tex. Agricultural Code, Ch. 142.

(D) The Director of Animal Welfare Services shall be considered the designated caretaker of an impounded animal immediately upon intake at the shelter. After the expiration of any required holding period, the city shall become the full owner of the animal in question, the title of the animal transfers immediately at that time to the city, at which time the city may dispose of the animal in accordance with this chapter. If there is no required hold period, such as in voluntary surrenders, title transfers immediately upon possession by the city.

(E) Immediately upon intake, the Director of Animal Welfare Services, as the designated caretaker, is authorized to provide each impounded animal with appropriate immunizations and parasite treatment and to implant a microchip for permanent identification.

§90.31 NOTICE OF IMPOUNDMENT; REDEMPTION OF ANIMALS.

(A) In addition to, or in lieu of, impounding an animal, the Animal Services Officer, based on the reasonable belief that the owner is in violation of this chapter, may issue to the owner of the animal a notice of ordinance violation requiring appearance of the owner in the municipal court of the city for prosecution of the alleged violation or violations of this chapter.

(B) When the owner of an animal that is impounded is known, or reasonably thought by the Animal Services Officer to be identifiable, the Animal Services Officer must give written notice to the owner of the impoundment, provided, that no notice is required if the owner voluntarily retrieves the animal from impoundment prior to giving of the written notice.

(C) The notice must contain the following information for animals impounded:

(1) Date of notice;

(2) Date and location of an animal's impoundment;

(3) Reason for impoundment;

(4) Description of the animal, including identifying marks and characteristics;

(5) Location of impoundment facilities and hours during which an animal can be retrieved by the owner;

(D) In order for a person to redeem an impounded animal he must meet the following requirements:

(1) Rabies vaccination of the animal is required.

(a) For the purposes of this subsection, sufficient proof of an animal's current rabies vaccination shall be either a rabies vaccination certificate issued by a licensed veterinarian or verbal or written confirmation of a current rabies vaccination by the licensed veterinarian who administered the vaccination.

(b) If a vaccination cannot be given at the time of the redemption the owner shall have seven (7) business days to provide written proof of obtaining a current rabies vaccination to the city enforcement agent. The owner will be issued a citation for noncompliance.

(c) If, in the opinion of a licensed veterinarian, the rabies vaccination should not be given within the seven (7) business day period, the owner must

provide a signed statement from the veterinarian stating why the vaccine should be temporarily delayed and when the vaccine may be given. The owner shall provide written proof of the administering of the vaccination to a city enforcement agent within forty-eight (48) hours.

(2) A microchip implant in the animal is required. If the animal is not already identifiable by microchip, the owner shall pay a fee to have a microchip implanted into the animal prior to release.

(3) Payment of fees. The owner must pay all applicable fees before the animal is released. The Director of Animal Welfare Services is authorized to reduce or waive impoundment and/or boarding fees.

(4) Wild animals. Impounded wild animals kept in violation of this chapter may not be redeemed and may be placed with a wildlife rehabilitator or wildlife educational center or euthanized at the Director of Animal Welfare Services.

(5) A person commits an offense if he fails to provide the proof of rabies vaccination required in subsection (d)(1)(iii) or (iv).

(E) This section shall not apply if the animal was impounded:

(1) For being inhumanely treated as defined in this chapter and a hearing is pending or shall be pending to determine the disposition of the animal;

(2) As a dangerous animal as defined in this chapter and a hearing is pending or shall be pending to determine the disposition of the animal;

(3) For investigation of rabies and the quarantine period has not expired.

§90.33 DISPOSITION OF ANIMALS.

(A) Impounded animals, other than an animal being impounded for biting, shall be kept impounded for not less than three (3) business days. Written or oral notice shall be given to the owner of an impounded animal soon as reasonably practical. This section shall not apply to animals that have been determined to be terminally ill, terminally injured or suffering from a disease that is a threat to the public health or the health of other animals. An impoundment period is not required for an animal voluntarily released to the department by its owner. An impoundment period is not required for any wild animal.

(B) Dogs and cats that are adopted from the animal shelter shall be surgically altered to prevent reproduction. If a dog or cat has not been altered before it leaves the animal shelter, the person adopting the animal shall sign an adoption contract stating that he/she will have the animal surgically altered and agree to the date by which the surgery must be performed. The person adopting the animal shall provide proof of

alteration to the Animal Services Department within 30 days of the agreed surgery date. Persons adopting animals from the animal care services facility shall pay the applicable fees for adopting a dog or cat. As an incentive for the adoption of animals, the director is authorized to advertise and reduce or waive adoption fees.

(C) No animal may be released to a person other than the owner or the owner's authorized representative unless the requirements of the TEX. HEALTH & SAFETY CODE, Chapter 828, which relates to sterilization of dogs and cats, have been satisfied.

(D) Failure to comply with this Section or failure to comply with the terms of the adoption contract constitutes a violation of this Title and shall give the Animal Welfare Services Department the right to recover the adopted animal and revoke the adoption contract.

(E) After the expiration of any required impoundment period or immediately after being voluntarily released by its owner, the animal shall become the property of the city, all ownership rights for the animal shall transfer to the city, and the department may dispose of the animal by any of the following methods, taking into consideration factors that may include, but not be limited to, the animal's behavior, aggressive tendencies, feral characteristics, health, and housing space availability, within the sole discretion of the Director of Animal Welfare Services:

(1) *Adoption.* The department shall be authorized to place for adoption dogs or cats impounded by the city under the following conditions:

(a) The department shall evaluate all animals to determine if it is an adoption candidate based on its health, temperament, and appropriateness for vaccination. However, authorization to place a dog or cat for adoption shall not constitute a warranty of the health, temperament, or age of the animal;

(b) There will be an adoption fee for all dogs and cats at an amount set by City Council and listed in the Fee Schedule. The fee will include the cost of sterilization, vaccination, implantation of a microchip.

(c) All animals adopted from the animal services facility shall be implanted with a microchip, vaccinated against rabies according to state guidelines, and sterilized.

(d) If, in the opinion of a licensed veterinarian, there is a legitimate health risk justifying the delay of sterilization, the person adopting the animal must provide a signed statement from the veterinarian stating why the sterilization should be delayed and when the procedure may be performed. The owner shall provide written proof to the department of the completed sterilization in person or by mail not later than the seventh day after the date on which the animal was sterilized.

(e) If an adopted animal dies on or before the sterilization completion date, the adopting person must provide written documentation to the department that the animal has died.

(f) If an adopted animal is lost or stolen before the sterilization date, the adopting person must provide written documentation to the department stating that the animal is lost or stolen and a copy of the police report, if any, of the theft. In order to be sufficient, the letter shall be delivered to the department not later than the seventh (7th) business day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the date of disappearance.

(2) *Transfer to releasing agency or foster care.*

(a) The department may transfer ownership of the animal to a releasing agency that has a signed transfer agreement for dogs and cats on file with the department provided that the group sterilizes and microchips the animal prior to placing it into an adoptive home.

(b) The department may temporarily place the animal in a foster home that has a signed foster agreement for dogs and cats on file with the department.

(3) *Euthanasia.* The department may euthanize the animal due to the animal's health or temperament, space limitations, or as otherwise deemed necessary by the Director of Animal Welfare Services.

(F) All decisions related to the disposition of an animal pursuant to subsection (c) of this section shall be made at the sole discretion of the Director of Animal Welfare Services or her designee unless otherwise mandated by law or a court order.

(G) A person commits an offense if he fails to provide the proof required of this section.

DANGEROUS DOGS

§90.40 GENERAL

(A) The City of Pflugerville elects to be governed by and adopts the procedures in the Texas Health and Safety Code, Section 822, as amended, including Sec. 822.0422, regarding Dangerous Dog determinations.

DANGEROUS WILD ANIMALS

§90.50 DANGEROUS WILD ANIMALS

(A) A person commits an offense if he possesses any dangerous wild animal within the city, with the following exceptions:

- (1) A governmental agency or entity performing a governmental function;
- (2) A zoological park;
- (3) A wildlife educational center that is also in possession of all necessary state and federal permits to possess the animal and is in compliance with all restrictions of the state and/or federal permits;
- (4) A registered wildlife rehabilitator in possession of an allowed indigenous wild animal who holds all necessary state and federal permits to possess the animal and is in compliance with all restrictions of this section and their state and/or federal permits; or
- (5) A zoological educational outreach display that is also in possession of all necessary state and federal permits to possess the animal and is in compliance with all restrictions of this section and their state and/or federal permits.
- (6) For the purposes of this chapter, the Director of Animal Welfare Services shall make the determination of whether any animal in question is a domestic animal or a wild animal and whether any wild animal is indigenous or allowed pursuant to the definitions of this chapter.

(B) A person commits an offense if he is aware of a wild animal being possessed in the city and fails to notify the department.

§90.51 SALE OF DANGEROUS WILD ANIMALS

(A) A person commits an offense if he transfers ownership or offers to transfer ownership of any wild animal, unless allowed by another provision of this chapter.

(B) This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a registered wildlife rehabilitator or to a permitted wildlife educational center. This section shall not be interpreted to restrict a permitted wildlife educational center from transferring wild animals to another educational center, zoological park, or other facility capable of legally caring for the animal.

§90.52 IMPOUND OF A DANGEROUS WILD ANIMAL

(A) An Animal Services Officer, or designated representative, may impound a dangerous animal kept in violation of this section or found at large. The Animal Services Officer or designated representative may use reasonable force to safely secure and impound a dangerous animal.

(B) An Animal Services Officer may obtain a search warrant and impound a dangerous animal that the Officer has probable cause to believe is kept in violation of this title.

§90.53 DESTRUCTION OF A DANGEROUS WILD ANIMAL

An Animal Services Officer, or designated representative, may destroy a dangerous wild animal running at large if the Animal Services Officer or designee reasonably believes that the animal presents a threat to a person's life.

§90.54 RELEASE OF DANGEROUS WILD ANIMAL TO OWNER

- (A) Animal Welfare Services may not release a dangerous wild animal to its owner or handler unless the owner or handler:
- (1) Pays all fees and charges under this title, including the actual cost of care and feeding incurred by the animal shelter; and
 - (2) The owner or handler agrees:
 - (a) To immediately remove the animal from within Pflugerville city limits;
 - (b) To immediately confine the animal in a licensed veterinary clinic, zoo, shelter, museum, or education or medical institution; or
 - (c) To immediately give the animal to a person holding a valid license or permit authorizing an attempt to rehabilitate the dangerous wild animal.

ESTRAY; LIVESTOCK

§90.75 KEEPING LIVESTOCK; NUISANCE CONDITIONS

- (A) A person commits an offense if he keeps livestock within the corporate limits of the city, except in conformance with the zoning ordinances of the city, as amended.
- (B) An enclosure used to keep livestock must be located:
- (1) at least 50 feet from adjoining residentially zoned property; and
 - (2) at least 50 feet from a structure used for human habitation, other than a structure owned or occupied by the owner or handler of the livestock; and
 - (3) at least 50 feet from adjoining public park spaces and school properties.
- (C) A person commits an offense if he fails to dispose of manure and other excrement in such a manner as to prevent the odor from becoming offensive or causing unhealthy conditions to persons.

FEES

§ 90.100 GENERAL FEES.

(A) All fees for this chapter shall be reviewed, set, and included in the Master Fee Schedule, which is adopted by ordinance. The following is not intended to be an exhaustive listing of fees:

- (1) Implanting microchips in animals;
- (2) Adoption of animals;
- (3) Vaccination of animals;
- (4) Disposal of deceased animals;
- (5) Local rabies control authority incidents;
- (6) Livestock capture;
- (7) Impoundment
- (8) Charges for long distance telephone calls in connection with the administration of this chapter;
- (9) The cost of additional personnel and specialized equipment necessary during an animal's apprehension and impoundment;
- (10) Actual medical costs, including but not limited to veterinarian fees, vaccines, and other specialized care and equipment; and
- (11) Any other expenses incurred incidental to the impoundment of an animal hereunder.

(B) The Director of Animal Welfare Services or her designee shall have the authority to reduce, refund, or waive fees under this chapter.

(C) All fees and charges incurred under this section will be charged against and are the obligation of the owner of an impounded animal, regardless of the disposition of the animal. The Director of Animal Welfare Services has discretion to reduce or waive impoundment and/or boarding fees where the Director determines appropriate. A receipt for all fees paid under this chapter shall be furnished to the person paying.

(D) Except as otherwise specifically provided herein, the owner may not take possession of an impounded animal until the fees and charges incurred during the impoundment of the animal have been paid in full.

(E) All fees collected under this chapter shall be turned over to the Finance Department of the City.