

## ORDINANCE NO.2013-9B

### AN ORDINANCE REPEALING AND REESTABLISHING IN ITS ENTIRETY AN ORDINANCE ENTITLED ANIMAL CONTROL, OF THE CITY CODE OF ORDINANCES.

**BE IT ORDAINED** by the City Council of the City of Dawson, Texas that the ordinances pertaining to animals and animal control be repealed and reestablished to hereafter read as follows;

#### **DEFINITIONS**

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

**Adequate Shelter:** means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

**Adequate Space:** means sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

**Adequate Water:** means provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, but at least once every twelve hours, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.

**Animal shelter** : means a facility which is used to house or contain animals and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, animal rescue group, or any other organization devoted to the welfare, protection, and humane treatment of animals.

**Cruel Manner**: Includes any manner that causes or permits unjustified or unwarranted pain or suffering.

**Cruelty to an Animal**: Shall include torturing or poisoning an animal; failing to reasonable provide food, water, care, or shelter; treating an animal in a cruel manner causing serious injury or death to the animal; unreasonably abandoning an animal in the person's custody; transporting or confining an animal in a cruel manner; causing bodily injury to an animal; fighting one animal with another; or seriously overworking the animal.

**Currently Vaccinated**: means 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 Animal**: means a dog or other animal that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog while the other dog is on the property or under the control of its owner.

However, a dangerous animal does not include any of the following:

- (i) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.
- (ii) An animal that bites or attacks a person who provokes or torments the animal.
- (iii) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

**Domestic Animal**: a relatively docile animal kept by humans for work or food or as a pet.

**Enclosure**: Any type of pen, fence or cage that would demonstrate a sufficient strength and heights to restrain the animal being contained. Including but not limited to a radio controlled wireless fence.

**Fowl**: Any and all fowl, domesticated and wild, male and female, including chickens, ducks, turkeys, pigeons and geese.

It shall be unlawful for any person to have a domestic animal not in an enclosure or on a leash or at the hands of the owner or keeper. If your domestic animal continues to run free and/or is a constant nuisance the animal shall be taken to an animal shelter by a Police officer or Animal control at the owners expense. The owner is subject to a class "C" fine not to exceed \$500.00 per animal.

All animals must be currently vaccinated for Rabies, and every animal owner shall provide the city office a copy of current vaccinations. Any person, organization, association or corporation to violate the Rabies vaccination ordinance shall be issued a summons to appear before the court.

For any animal known to have been, or suspected of being exposed to rabies, the following must apply:

1. Animals having current vaccination must be revaccinated immediately and confined away from other animals for a period of 45 days.
2. Animals not having current vaccinations should be humanely destroyed. However, if the owner of the animal elects, he or she may at their expense immediately vaccinate the animal and confine the animal away from all other animals for 90 days.

When a domestic animal has bitten a human, has been identified, the owner will be required to produce the animal for a 10 day quarantine period at the owners expense. Refusal to produce said animal will constitute a violation and a summons may be issued. The animal must be placed in a Texas Department of Health Quarantine approved facility or a veterinary clinic under the supervision of a veterinarian licensed in the State of Texas for this purpose.

Any dangerous animal found running at large may be destroyed by any peace officer or animal control officer in the interest of public safety.

B. All dangerous animals must be confined by a building, wall or fence of sufficient strength or construction to retain the animal and the enclosure/property housing the animal must be clearly marked with a clearly visible sign that the enclosure contains a dangerous animal. The enclosure must be reasonably constructed to keep the dog from escaping (all enclosures must have four sides, a top, a bottom and locks on the gates). Chains, ropes and/or leashes may not be used as the primary means of restraint (may be used as a secondary restraint inside the proper enclosure) for dangerous animals.

C. The following criteria must be met to retain ownership of a dangerous animal and the animal must be in compliance with this chapter:

1. Proof of liability insurance or financial responsibility of one-hundred thousand dollars must be provided to the Animal Services Manager or the Chief of Police;
2. The dangerous animal must also be registered with the city
3. The owner must purchase a florescent yellow collar for the animal that can be seen from fifty (50) feet away.

D. The owner of the dog must deliver the dog to animal control within five days of being deemed dangerous and the animal control will impound the dog for no longer than fifteen (15) days to allow the owner sufficient time to comply with requirements in this article.

E. The animal control authority or peace officer must notify in writing or by certified letter the owner of the animal in question that the animal has been deemed dangerous. The owner then has 15 days to appeal with the City's Municipal Court.

F. The owner must secure the animal with a muzzle that does not interfere with the animal's vision or respiration when the animal is removed from its secure enclosure.

G. If the requirements are not met within thirty (30) days, and the dog is not already in the possession of the animal control authority, the owner must give the dog to the animal control authority or the animal control authority or police may obtain a seizure warrant and seize the dangerous animal.

H. Owners of a dangerous animal commit a Class C Misdemeanor if the dangerous animal makes any unprovoked attack outside its enclosure or the owners do not comply with all requirements in this article.

I. Owners of a dangerous animal commit a Class B Misdemeanor if they have previously been convicted for not complying with the requirements in this article.

J. Owners of a dangerous animal commit a Class A Misdemeanor if their dangerous dog causes serious bodily injury or death to someone.

#### **RESTRAINT AND CONFINEMENT**

*Tying, staking or tethering animal.* Animals shall not be tied, staked or tethered during the hours of 10:00 p.m. and 6:00 a.m. and during extreme weather conditions. Animals shall not be inhumanely chained, tied fastened or otherwise tethered. The following conditions must be met:

(1) Only one animal may be tethered to each cable run.

(2) The tether must be attached to a properly fitting collar or harness worn by the animal, with enough room between the collar and the animal's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for purposes of tethering an animal to a cable run.

(3) There must be a swivel on at least one end of the tether to minimize tangling of the tether.

(4) The tether and cable run must be of adequate size and strength to effectively restrain the animal and must not weigh more than 1/8 of the animal's bodyweight.

(5) The cable run must be at least fifteen feet in length and mounted to either a swivel tie-out or to a cable/trolley/pulley system.

(6) The length of the tether from the cable run to the animal's collar should allow access to the maximum available exercise area and should allow continuous access to water, food, shelter, shade and a dry area. The animal must be able to have room to urinate or defecate in a separate area from the area where it must eat, drink or lie down. The tether system must be of appropriate configuration to confine the animal to the owner's property, to prevent the tether from extending over an object or an edge that could result in injury or strangulation of the animal, and to prevent the tether from becoming entangled with other objects or animals.

(7) Any animal tethered as described in subsections (1) through (6) above must be removed from the tether at least once a day for adequate exercise.

Confinement during Estrus. Any unspayed female dog or cat in the state of estrus (heat) shall be humanely confined during such period of time in a house, building or secure enclosure to ensure that an unwanted pregnancy will not occur. Owners who do not comply shall be ordered to remove the animal in heat to a veterinary hospital or boarding facility. All expenses incurred as a result of this confinement shall be paid by the owner.

#### **Requirements as to Enclosures**

A. All pens and enclosures wherein fowl are kept, shall be maintained and kept in such manner as notto become unsanitary, offensive or disagreeable to persons residing or working in the vicinity thereof, nor shall they be so maintained or kept as to breed flies or in any manner cause any injury to the health of the public or any person residing in the vicinity of the said pen or enclosure.

B. All pens and enclosures wherein one (1) or more cows, horses, goats, sheep or mules are kept shall be maintained and kept in such condition as not to become unsanitary, offensive or disagreeable to persons residing in the vicinity thereof, nor shall they be so maintained or kept as to permit the breeding of flies or in any manner cause injury to the health or comfort of the public or any person working or residing in the vicinity of the said pen or enclosure. Every cow lot, horse lot, goat, sheep or mule lot, wherein a cow, horse, sheep, goat or mule is kept or maintained shall be cleaned of droppings at least twice in each week, and the manure on such lot, pen or enclosure shall be promptly removed after each cleaning.

C. No person shall deposit any dead animal matter, offal, or any solid refuse animal matter in any sewer, watercourse, vacant lot, or pond in the city. The depositing of the refuse animal matter in any such place is declared a public nuisance.

## **ANIMAL NUISANCE**

The commission of any of the following acts, or permitting any of the following conditions to exist on or to one's property within the City of Dawson, shall constitute a nuisance to the health, safety, and general welfare of the City and its inhabitants and shall be unlawful, to-wit:

- A. The keeping of an animal enclosure that emits foul and offensive odors which are obnoxious to any person of ordinary sensitivity in the vicinity.
- B. The keeping of bees that endanger the health and welfare of persons in the vicinity.
- C. The keeping of a dog, cat, or other pet animal that enters the property of another and commits any act that disturbs any person of ordinary sensitivity.
- D. The parking on or along any highway, street, or alley within the City of Dawson, any vehicle used for hauling animals or fowl that emits odors obnoxious to any person of ordinary sensitivity in the vicinity.
- E. Whenever any complaint is made to the City as to the unsanitary condition or offensive odors resulting from the keeping of such livestock, fowl, or pet animal or if such shall come to the attention of the City without complaint, the City shall investigate the same, and if such unsanitary condition is found to exist, the same shall constitute a nuisance. The City may give the owner or possessor of such livestock or fowl instructions as to how to clean up such premises and abate the nuisance, and if such unsanitary condition is not remedied within twenty-four (24) hours thereafter, complaint shall be filed against such owner, keeper or possessor for maintaining a nuisance in the City of Dawson.

## **KEEPING OF FOWL**

- You cannot allow any fowl to go off of your property.
- You can not abandon your flock (or a single bird within that flock).
- Any peace officer, animal control officer, may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased, or suffering past recovery for any useful purpose.
- The housing facility must be kept sanitary and free of obnoxious odors.
- Proper disposal of animal waste is required.

## **ANIMALS GRAZING ON PUBLIC WAYS**

It shall be unlawful for any person to hitch, stake, or tether any domestic animal along or on any of the streets, alleys, or public ways of the city for the purpose of grazing.

**ANIMAL NOISE NUISANCES**

It shall be unlawful for any person to harbor or keep on his premises or in or about his premises, or premises under his control, any animal which, by making any loud, barking, growling, howling, whining and/or excessive noise shall cause the peace and quiet of the neighborhood or the occupants of adjacent premises to be disturbed. Such person shall be issued a summons of a misdemeanor and, upon conviction, shall be fined. Violations of this article on different days shall constitute separate offenses.

Every animal owner shall provide adequate shelter, adequate space and adequate water for every animal housed. If these provisions of this ordinance are not met the animal owner may be issued a summons to court.

**Penalty/Fine**

**1. Penalty for Ordinance violations**

**A. Sec. 54.001. General Enforcement Authority of Municipalities;**

**Penalty.**

(a) The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation.

(b) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500.00 except that:

1. a fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000.00; and

2. a fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000.00.

(c) This section applies to a municipality regardless of any contrary provision in a **municipal charter.**

Mayor, Stephen Sanders

City Secretary, Ronda Franks

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