

ORDINANCE NO. 444

AN ORDINANCE ESTABLISHING COMPREHENSIVE LAWS CONCERNING ANIMALS IN THE CITY OF LUFKIN, TEXAS REPEALING THE CURRENT ANIMAL CONTROL ORDINANCE OF THE CITY OF LUFKIN, TEXAS, AND ALL OTHER INCONSISTENT ORDINANCES; DECLARING PENALTY NOT TO EXCEED FIVE HUNDRED (\$500.00); AND AMENDING THE FEE SCHEDULE OF THE CITY OF LUFKIN; AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City Council for the City of Lufkin, Texas, recognizes that a need exists to adopt new comprehensive laws concerning animals in the City of Lufkin, Texas; and

WHEREAS, the City Council for the City of Lufkin, Texas, seeks to adopt new comprehensive laws as allowed by the Texas Health and Safety Code, Texas Local Government Code, to promote the health, safety and welfare of the citizens of Lufkin, Texas, the constitution of the State of Texas and conform with other state and federal laws.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF LUFKIN, TEXAS, THAT:

CHAPTER 2

ANIMAL CONTROL

ARTICLE 2.01 GENERAL PROVISIONS

Sec. 2.01.001 Definitions

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Animal control officer. The person designated by the city manager to represent and act for the city in the impoundment of animals, controlling of animals at large and as otherwise provided and required in this chapter.

At large. Whether on or off the premises of the owner and not under the control of the owner or other persons authorized by the owner to care for the animal by leash, cord, chain or otherwise.

Cat. A domestic feline of either sex, including one spayed or neutered.

Dog. A domestic canine of either sex, including one spayed or neutered.

Harboring. The act of keeping and caring for an animal or of providing premises to which the animal returns for a period of three days.

Inhumane treatment. Any treatment to any animal which deprives the animal of necessary sustenance, including food, water, and protection from weather, or any treatment of any animal such as overloading, overworking, tormenting, beating, mutilating or teasing, or other abnormal treatment as may be determined by the animal control officer.

Livestock. An animal raised for human consumption or an equine animal.

Owner. Any person owning, possessing, harboring, keeping or sheltering any animal, or allowing an animal to remain about his premises for a period of three days.

Pet animal. This shall include dogs, cats, rabbits, rodents, birds, reptiles, and any other species of animal which is sold or retained as a household pet, but shall not include any species of wild, exotic, or carnivorous animal that may be further restricted in this chapter.

Restraint. An animal shall be deemed to be under restraint if tied in such a way that it cannot get off the premises of its owner, or within a totally enclosed fence constructed in such a way to prevent the animal from leaving or getting off the premises of its owner, or if accompanied by a responsible person and under that person's control with the use of a leash or similar type restraint. The use of a wireless fence that requires a dog to wear a special collar that transmits either a high frequency sound or a pulse stimulus shock and is intended to train the dog to stay on the premises will not be considered a means of restraint.

Stray animal. An animal that wanders upon a public street, alley, or property of another.

Vaccination. An injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian.

Vicious animal. Any animal that commits an unprovoked attack upon a person or other animal on public or private property or that attacks, threatens to attack or terrorizes a person on public property or property of another.

Inclement weather. Includes rain, hail, sleet, snow, high winds, extreme low temperatures or extreme high temperatures.

Sec. 2.01.002 Penalty

Any person violating any provision of this chapter for which no specific penalty is otherwise provided shall be subject to a fine not to exceed \$500.00; provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the State of Texas. (1995 Code, sec. 91.999(A))

Sec. 2.01.003 Interference with animal control officer

(a) It shall be unlawful for any person to interfere with, molest, hinder, or prevent the animal control officer or his or her authorized representatives in the discharge of his or her duties herein prescribed including, but not limited to, the failure to release an animal for impoundment or any manner of interference with such impoundment, or to violate any of the provisions of this chapter.

(b) It is a defense to prosecution under this section that the interference alleged consisted of speech only.

Sec. 2.01.004 Public Nuisance

(a) It shall be unlawful and constitute a public nuisance for the owner or any person to maintain any animal which roams at-large on public or private property, except a designated dog park; which attacks another animal or person; or damages public or private property.

(b) It shall be unlawful and constitute a public nuisance for any owner, occupant, or other person in control of a premises to knowingly suffer, permit or maintain the presence of a dead or decaying animal carcass upon any such premises within the city, whether public or private, for more than 24 hours.

(c) It shall be unlawful and constitute a public nuisance for any owner, occupant, or other person to allow any enclosure, yard, shed, pen, structure, or other similar place used for keeping of an animal or animals, or fowl to become unsanitary, or offensive by reason of odor, or create a condition due to the accumulation of animal waste that is a breeding place for fleas or vector, or which creates any health hazard or nuisance to adjacent property owners.

(d) It shall be unlawful and constitute a public nuisance for any owner or other person to harbor any animal, or fowl or bird which by any loud, frequent, long, continuous, or unusual sound or cry shall disturb the peace, comfort, or quiet of the neighborhood or the occupants of adjacent premises.

Sec. 2.01.005 Restraint of dogs

All dogs shall be kept under restraint.

State law reference—Restraint of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033.

Sec. 2.01.006 Animals injured on public property

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of the treatment and/or the impoundment.

The injured animal may be humanely euthanized if the injury is causing undue suffering, as determined by animal control authority.

Sec. 2.01.07 Inhumane treatment

It shall be unlawful for any person to fail, refuse or neglect to provide any animal in his or her charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, or veterinary care as may be necessary for diseased or injured animals.

- (a) To provide adequate shelter for a dog kept outdoors, a person must provide a shelter accessible to the dog meeting the following standards:
 - i. Must be sturdy and provide the dog with protection from inclement weather;
 - ii. The dimensions shall be such that allow the dog while in the shelter to stand erect, sit, turn around and lie down in a normal position;
 - iii. Plastic, air shipping containers, metal barrels and/or pet carriers shall not be used as outdoor shelters.
- (b) Water requirements. No person shall keep, use or maintain any animal on any premises unless the animal has access to clean, fresh water at all times. Clean potable water shall be available unless restricted for veterinary care.
 - i. If water is in a container, this container shall be designed, secured, placed and maintained in a manner that prevents tipping and spilling of water. Water containers shall be kept clean and sanitary, and shall be kept out of the sun and shall be emptied and refilled regularly with fresh water; or
 - ii. If the water provided by an automatic or demand device, the water supply connect to the device must function twenty-four (24) hours per day.

State law references—Cruelty to livestock animals, V.T.C.A., Penal Code, sec. 42.09; cruelty to nonlivestock animals, V.T.C.A., Penal Code, sec. 42.092.

Sec. 2.01.08 Harboring dangerous or vicious animal; impoundment or destruction

It shall be unlawful for any person, including the owner, to keep or harbor any dangerous or vicious animal within the corporate limits of the city. Such an animal shall be impounded as a public nuisance. If impoundment of the animal running at large cannot be made with safety to the animal warden or other persons, the animal may be destroyed without notice to the owner or harborer.

Sec. 2.01.09 Taking up of stray animals by individuals

If any animals named in this chapter are found upon the premises of anyone, the owner or occupant of such premises shall have the right to confine such animal until he can notify the animal control officer to come and impound such animal, provided that the same is done in a reasonable time [and] when so notified, it shall be the duty of such officers to at once cause such animal to be so impounded as provided in sections 2.03.001 and 2.03.002 of this chapter.

Sec. 2.01.010 Trapping of stray dogs and cats by individuals; prohibited traps

Any city resident that has a humane box type trap and wants to use that trap for trapping of stray and/or nuisance domesticated dogs and/or cats or wildlife within the corporate city limits, shall surrender any animal caught in the trap to the animal control authority. No steel jaw leg hold traps in the city limits shall be permitted.

Sec. 2.01.011 Animal shelter advisory committee

- (a) Creation and purpose. An animal shelter advisory committee (committee) is hereby established to assist the city in complying with section 823.005 of the Texas Health and Safety Code, as such may be amended thereafter.
- (b) Composition and terms. The committee shall be comprised of one (1) licensed veterinarian, one (1) municipal official, one (1) person whose duties include the daily operation of an animal shelter, and one (1) representative from an animal welfare organization. Members of the committee shall be appointed by and serve at the pleasure of the city council for a three-year term.
- (c) Responsibility and requirements.
 - (1) The committee will be charged with the responsibility to report annually to the city

council regarding compliance with the requirements of section 823 of the Texas Health and Safety Code.

(2) The committee shall meet at least three (3) times per year and produce an annual report for review by the city council each year.

Sec. 2.01.012 Sale of Animals in Public Place

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or convey the ownership of an animal, excluding livestock, on any roadside, public right-of-way, commercial parking lot, flea market, festival, park, community center or outdoor public place.
- (b) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any organization recognized by animal control authority.

Sec. 2.01.013 Safety of Animals in Motor Vehicles and Enclosed Spaces

- (a) A person may not transport an animal in a motor vehicle on a public roadway unless;
 - i. The animal is safely enclosed within the vehicle; or
 - ii. If the animal is transported in an unenclosed vehicle, including a convertible, pick-up truck, flatbed truck or motorcycle, the animal shall be confined in a secure and appropriately sized vented container or confined in a manner that prevents the animal from falling or jumping from the vehicle or otherwise being injured.
- (b) A person may not keep an animal in a motor vehicle or other enclosed space in which the animal's health or life is endangered by high temperature, low temperature, or inadequate ventilation.
 - i. A peace officer or animal control officer may, after attempting to locate the animal's owner, remove the animal from a vehicle or enclosed space using any reasonable means, including breaking a window or lock. If professional services are required to remove the animal, the owner is responsible for the cost.
 - ii. A peace officer or animal control officer who removes an animal from a vehicle or enclosed space in accordance with this subsection is not liable for any resulting property damage.

Sec. 2.01.014 Unlawful Tethering of Dogs

- (a) An owner of a dog commits an offense if the owner restrains a dog by a tethering device.
- (b) It is a defense to prosecution under subsection (a) that:
 - a. The dog was restrained by a tethering device while in the owner's immediate possession and accompanied by the dog's owner; and
 - b. The owner was in compliance with the requirements of subsection (c).
- (c) An owner of a dog may only tether a dog if the dog is in the owner's immediate possession and accompanied by the owner, as required by subsection (b). In addition, the owner of the tethered dog shall:
 - a. Not allow the dog to be tethered in any manner or by any method that allows the dog to become injured;
 - b. Use a properly fitted harness or collar that is specifically designed for the dog; and
 - c. Attach a tethering device to the dog's harness or collar and not directly to the dog's neck.
- (d) Nothing in this Ordinance prohibits a person from walking a dog with a hand-held leash.

ARTICLE 2.02 RABIES CONTROL

Sec.2.02.001 Local rabies control authority designated duties

- (a) The city council has designated the city animal control director as the local rabies control authority pursuant to state law.
- (b) In accordance with the Rabies Control Act of 1981, Tex. Health & Safety Code, section 826.001 et seq., the local rabies control authority shall be the reporting agent for the purpose of this law, whose duties shall consist of the following:
 - i. Receiving all reports of animal bites and scratches to humans.
 - ii. Receiving all reports of suspected rabid animals.
 - iii. Investigating all reported animals, bites and scratches and suspected rabid animals.
 - iv. Ordering quarantine, if appropriate, of any animal which has exposed an individual or which may be rabid.
 - v. Other duties as entailed by the text of this law.
- (c) The city may employ such animal control officers as are necessary to carry out the purposes of this ordinance.

Sec.2.02.002 Vaccinations.

- (a) An owner or handler of a dog or cat shall have the dog or cat inoculated with rabies vaccine as required by state law.
- (b) Upon vaccination, the veterinarian shall execute and furnish to the owner or person harboring the dog or cat, as evidenced thereof, a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy for three years. Such certificate shall contain the following information:
 - i. owner's name, address and telephone number;
 - ii. the animal's species, age, sex, size (in pounds), predominant breed and colors;
 - iii. vaccine used, producer, expiration date, and serial number;
 - iv. the date of vaccination;
 - v. the rabies tag number; and
 - vi. the veterinarian's signature or signature stamp and license number.
- (c) Concurrent with the issuance and delivery of the certificate of vaccination referred to herein, the veterinarian shall furnish a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance, the vaccination date, and the name and address of the issuing veterinarian. The owner or person harboring the animal shall cause the metal tag to be attached to the collar or harness of the vaccinated animal. In the event of the loss or destruction of the original tag, the owner or person harboring the animal shall obtain a duplicate tag from the issuing authority.
- (d) Proof of vaccination. It shall be unlawful for any person who owns or harbors a vaccinated animal to fail or refuse to exhibit the certificate of vaccination upon demand of any person charged with the enforcement of this ordinance.

Sec. 2.02.003. Duty to Report

- (a) A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident to the city animal control authority, or his or her designee within 12 hours of the bite or scratch.

- (b) The report must include the name and address of the victim and of the animal's owner, known; and any other information that may help in locating the victim or animal.

Sec. 2.02.004 Quarantine of Animals

- (a) Pursuant to state law, the animal control authority, or his or her designee is authorized to quarantine any animal when there is probable cause to believe that a person may have been bitten or otherwise exposed to rabies by that animal.
- (b) The owner of any animal that has been reported to have inflicted a bite or scratch that is reasonably capable of spreading rabies, on any person, shall submit said animal for quarantine, as prescribed in this article or state statute. Refusal to submit said animal constitutes a violation of law and each day of such refusal shall constitute a separate and individual violation. In the event the owner refuses or fails to quarantine the animal, the animal control authority may obtain a warrant to seize and impound the animal according to the provisions of this article and state law.
- (c) Any cost for quarantine or testing shall be the responsibility of the owner.
- (d) Any stray dog or cat, or those animals whose owner cannot be located shall be confined in the animal shelter for a reasonable time and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense or quarantined according to the provisions of this section.
- (e) Conditions of quarantine shall be determined by the animal control authority. The animal control authority shall determine whether confinement will be in the animal shelter, veterinary hospital, or on the premises of the owner. Such confinement will be at the owner's expense. During confinement, an animal may be inspected at any time by the animal control officer.
- (f) Home quarantine on the premises of the owner shall only be allowed in accordance with applicable state laws and regulations and when approved by the animal control authority. Conditions under which home quarantine will be considered are as follows:
 - i. the owner is a city resident;
 - ii. the owner possesses facilities adequate to restrain the animal so as to prevent exposure of persons or other animals;
 - iii. the animal was not at-large at the time of the exposure;
 - iv. adequate documentation exists that the animal was vaccinated against rabies in accordance with state law; and
 - v. the animal currently possesses no apparent symptoms of rabies.
- (g) Any violation of the conditions of home quarantine will require that the animal be immediately surrendered to the animal control authority for quarantine according to the provisions of this article.
- (h) It is unlawful for any person to kill or remove from the city limits any animal that has bitten a person or other animal, or that has been placed under quarantine without the animal control authority's approval, except when it is necessary to kill such animal to protect the life of any person or other animal.
- (i) The carcass of any dead animal exposed to rabies or suspected of having rabies; or any dead animal that has bitten or scratched a person or other animal, must upon demand, be surrendered to the animal control authority.

Sec. 2.02.005 Animals Exposed to Rabies

Any animal that has been bitten by a rabid animal shall be immediately confined by the owner who shall promptly notify the animal control authority where the animal is confined and the reason therefore. The owner shall not permit such animal to come in contact with any person or animal until such time as the requirements of state law regarding rabies control are met.

Sec. 2.02.006. Release or Disposition of Quarantined Animal

- (a) If, at the end of the quarantine period, the animal does not show the clinical sign of rabies, the animal control authority may release the animal from quarantine upon compliance with vaccination requirement pursuant to state law.
- (b) If during the quarantine period the animal displays symptoms compatible with rabies, the animal must be euthanatized and tested for rabies according to state law.
- (c) Licensed veterinarians must report the results of all rabies quarantine observations to the animal control officer immediately upon completion of the quarantine period or upon determination that the animal is showing signs of rabies.

State law reference—Reports of rabies, V.T.C.A., Health and Safety Code, sec. 826.041.

ARTICLE 2.03 IMPOUNDMENT

2.03.001 Disposition and treatment of dogs and cats; fees authorized

- (a) As soon as practicable after an impoundment of a dog or cat or other pet animal is known, reasonable attempts shall be made by the animal control authority to notify the owner. Any impounded dog or cat or pet animal may be redeemed by the payment of any applicable fees, including without limitation, if applicable, a microchipping fee, veterinary charges, if any, and rabies vaccination fee if the animal was unvaccinated at the time of impoundment. If such animal is not redeemed within 72 hours of its impoundment, it shall be the sole property of the City of Lufkin. Any impounded animal which appears to be seriously ill, injured, or visibly affected with any sign of communicable disease or to be a risk to other animals in the animal shelter before the end of the 72-hour waiting period, may be humanely euthanized. In addition, puppies and kittens under age unable to eat and drink on their own may be humanely euthanized to end suffering.
- (b) It shall be unlawful for any person to remove any animal from the animal shelter without the consent of the manager of the animal shelter.
- (c) An individual may adopt a dog or cat from the animal shelter under such terms and conditions as shall be established and approved by the city, this ordinance, and the animal control authority.
- (d) Any veterinary procedure, testing, or treatment for any animal in the custody of the animal control authority, shall be the expense of the owner or person maintaining the animal.
- (e) When a person reclaims a dog or cat that has been impounded for running at large on two or more occasions, and the dog or cat is intact the person shall provide proof of sterilization of the dog or cat to the Animal Services Division within 60 calendar days of reclaiming the animal. If such proof is not provided within 60 calendar days, the person reclaiming the animal shall be assessed a fine of \$250.00.
- (f) When a person reclaims a dog or cat that has been impounded for running at large on two or more occasions, and the dog or cat is intact, and the person failed to comply with subsection (e), the person reclaiming the animal shall be required to pay, a fine of \$500.00 for the second occasion and \$500.00 for any subsequent occasions.

- (g) Immediately upon intake, the animal control authority is authorized to provide each appropriately aged, impounded animal with core immunizations as defined by the Association of Shelter Veterinarian guidelines. Said immunizations shall be performed by a licensed veterinarian or by a person under the supervision of a licensed veterinarian.
- (h) Immediately upon intake, the animal control authority is authorized to provide or obtain for each impounded animal such treatment as a licensed veterinarian determines is appropriate for the animal.
- (i) For all impounded dogs and cats without a microchip on two or more occasions, the animal control authority is authorized to implant an identification microchip behind the shoulder blades in any impounded animal before it is released to its owner at the owner's expense, or alternatively, the owner must provide a pre-paid receipt to the City of Lufkin animal control authority from a licensed veterinarian for the purchase of, and implantation of the microchip.

Sec. 2.03.002 Animals other than dogs and cats

For any animal, other than dogs and cats, found within the city in violation of any of the provisions of this chapter shall immediately be impounded and kept for ten (10) days, unless earlier claimed by the owner, and then disposed of; provided, however, that the owner of any animal impounded under the terms of this section shall be allowed to take such animal from the place where impounded upon the following conditions:

- (1) Payment of a board fee in the amount provided in the fee schedule.
- (2) Payment of a pickup fee on all animals except dogs and cats in the amount provided in the fee schedule.
- (3) Payment of any veterinary charges.

Sec. 2.03.003 Impounded animal being held on complaint

If a complaint has been filed in municipal court in the city against the owner of an impounded animal for violation of this chapter, the animal shall not be released except on the order of the court, which may also direct the owner to pay any penalties for violation of this chapter in addition to all impoundment fees. The court may, upon making a finding that such animal is vicious or that it represents a clear and present danger or nuisance to the citizens or other animals in the community, order the animal to be euthanized in a humane manner. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this chapter. (1972 Code, sec. 5-53; Ordinance 359 adopted 1/5/1988; 1995 Code, sec. 91.047)

Sec. 2.03.004 Destruction of diseased animals

Any animal taken into custody by the animal control officer, except those animals which inflicted human bites during the preceding ten days, that are visibly affected with a sign of communicable disease other than rabies, which are being held at the impounding facility, may, instead of being impounded, be humanely destroyed, provided that:

- (1) Any animal which has inflicted any human bites during the preceding ten days have its head removed by the animal control officer and submitted to the laboratory for rabies examination.
- (2) Any animal exhibiting symptoms of rabies must be handled in a manner prescribed by the local health authority.

ARTICLE 2.04 LIVESTOCK AND FOWL

Sec. 2.04.001 Minimum space; fencing

No person shall maintain livestock or fowl within the city unless the following are met, which concern the space allotted to each animal or fowl:

- (1) Horses. There shall be a minimum space of 1,250 square feet for each horse kept within the city limits. The shed used for protection against the elements may be located on this plot. Each

individual horse that is kept on the same lot must be given an additional 1,250 square feet. The pen or stall will be enclosed with suitable fencing, as may be determined by the animal control officer.

(2) Goats and sheep. Any goats and sheep kept in the city limits will be allowed 375 square feet for stable and lot. Any additional goat and/or sheep kept at the same lot will be granted an additional 375 square feet. The shed used for protection against the elements may be located on this plot. The lot will be enclosed with suitable fencing, as may be determined by the animal control officer.

(3) Cows. There shall be a minimum space of 1,250 square feet for each cow kept within the city limits. The shed for protection against the elements may be located on this plot. Any additional cows will be given 1,250 square feet each. For purposes of this section, a calf shall have the same number of square feet that is required for a cow. The lot will be enclosed with suitable fencing, as may be determined by the animal control officer.

(4) Fowl.

(a) It shall be the duty of the owner of fowl to keep same enclosed in such a manner that the fowl cannot go upon public streets, highways, alleys, rights-of-way or parkways of the City, or upon private property of others.

(b) Any enclosure that houses fowl must be at least thirty feet (30') from any dwelling, other than the dwelling occupied by the owner of fowl.

i. Any enclosure at thirty to one-hundred feet (30'-100') from any dwelling, other than the dwelling occupied by the owner, may house up to 6 fowl.

ii. Any enclosure over 100' feet from any dwelling, other than the dwelling occupied by the owner, may house up to 12 fowl.

(c) The housing of roosters is prohibited within the city limits of Lufkin.

i. It is a defense to prosecution under subsection (c) that the rooster is exhibited at the Angelina County Fair, East Texas State Fair, the State Fair of Texas or at any special event that is conducted with prior written permission of the City.

Sec. 2.04.002 Keeping swine

It shall be unlawful for any person to keep on or about his premises or in any enclosure, pen or lot smaller than an acre of land, any hog or pig. When as much as an acre of land is allowed for each hog or pig, it shall not be a violation of this section.

Sec. 2.04.003 Distance of pens or other enclosures from dwellings for Livestock

No enclosure, pen, stall or other facility used for keeping livestock shall be so located as to allow the livestock confined therein to come within 100 feet of the exterior limits of any dwelling, including the dwelling occupied by the owner of the livestock.

Sec. 2.04.004 Livestock running at large

It shall be unlawful for any owner, keeper or person having in his possession any horse, mule, jack, cow, cattle, sheep or goat to permit such animal to run at large within the boundaries of the city.

ARTICLE 2.05 KEEPING OF PROHIBITED ANIMALS

Sec. 2.05.001 Definition

(a) For the purpose of this article, "prohibited animal" means an animal, other than a common domestic species and regardless of state or duration of captivity, that poses a potential physical or disease threat to the public or that is protected by international, federal, or state regulations, including, but not limited to, the following:

(1) Class Reptilia. Family Helodermatidea (venomous lizards); family Viperidae (rattlesnakes, copperheads, cottonmouths, other pit vipers and true vipers); family Elapidae (coral snakes, cobras, mambas, and other elapids); the following listed species of family Colubridae: Dispholidus typus (Boomslang), Hydronastes gigas (water cobra), Bolga (mangrove snake), and Thelotocals (African twig snake) only; order Phidla, family Boidae (racers, boas, water snakes and pythons); and order Crocodilia (crocodiles, alligators, caimans, and gavials);

(2) Class Aves. Order Falconiformes (such as hawks, eagles and vultures); subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus); and order Strigiformes (such as owls);

(3) Class Mammalia. Order Carnivora, family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats: family Canidae (such as wolves, or wolf hybrid, dingos, coyotes, and jackals), except domesticated dogs; family Mustelidae (such as weasels, skunks, ferrets, martins, mink, and badgers); family Procyonidae (raccoon); family Ursidae (such as bears); order Marsupialia (such as kangaroos and common opossums); order Edentata (such as sloths, anteaters, and armadillos); order Proboscidea (elephants); order Primata (such as monkeys, chimpanzees and gorillas); order Rodentia (such as porcupines); and order Ungulata (such as antelope, deer, bison, and camels).

The director may declare any species of animal not listed in this section as “prohibited” if the confinement of the animal within the city can be shown to constitute a threat to public health and safety.

(b) “Prohibited animal” does not include:

(1) A bird kept in a cage or aviary that is not regulated by international, federal, or state law; or

(2) A gerbil, hamster, guinea pig, or laboratory mouse or rat.

Sec. 2.05.002 Permit required

Any person or entity owning, keeping or harboring a prohibited animal shall obtain a permit from the city.

Sec. 2.05.003 Issuance of permit; eligibility; fee

(a) Offenses. A person commits an offense if he owns, possesses, exhibits, or harbors a prohibited animal within the city.

(b) Defenses. It is a defense to prosecution under subsection (a) that the owner or possessor:

(1) Holds a valid prohibited animal permit issued under this section; or

(2) Is a governmental entity.

(c) Eligibility for permit.

(1) A permit for the possession of a prohibited animal may be issued only to:

(A) A zoo open to the public except for Ellen Trout Zoo;

(B) A research institution;

(C) An individual researcher;

(D) A member of a nonprofit wildlife society involved in education or research;

(E) An individual or a nonprofit animal rehabilitation organization permitted by the state parks and wildlife department;

(F) A public or private primary or secondary school; or

(G) An animal exhibition, rodeo, or circus, of which the animal is an integral part;

(2) If the animal is restrained from inflicting injury upon persons, property, or other animals and adequate provision is made for the care and protection of the animal.

(d) Classifications of permits. Prohibited animal permits are classified as follows:

(1) A commercial prohibited animal permit may be issued to a person providing prohibited animals for animal exhibitions on two or more occasions during a 12-month period. The permit is valid for one year from the date of issuance.

(2) A temporary prohibited animal permit may be issued to a person providing prohibited animals for animal exhibitions on a one-time basis. The permit is valid for a designated period not to exceed 31 days.

(3) A noncommercial prohibited animal permit may be issued to a research institution, an individual researcher, or a member of a nonprofit wildlife society involved in education or research. The permit is valid for one year from the date of issuance.

(4) A special use prohibited animal permit may be issued to a zoo, a public or private learning institution, or an individual or a nonprofit animal rehabilitation organization permitted by

the state parks and wildlife department. The permit is valid for one year from the date of issuance.

(e) Permit issued for single location. A permit is issued for one or more animals of an owner or possessor at a single location.

(f) Notification of change in location. A person or entity holding a prohibited animal permit shall notify the manager of animal control in writing of any change in the permitted location for the animal. This requirement does not apply to the transporting of the animal:

- (1) In or out of the city; or
- (2) To or from a veterinary clinic.

(g) Fees. The fees for a prohibited animal permit are as established in the fee schedule.

(h) Transfer of permit; refund of fee. A prohibited animal permit is nontransferable, and the permit fee is nonrefundable.

Sec. 2.05.004 Revocation of permit

The manager of animal control shall revoke a permit to own, possess, exhibit or harbor a prohibited animal within the city if the permit holder fails to:

- (1) Properly restrain his animal;
- (2) Adequately care for or protect his animal; or
- (3) Meet all requirements specified on the prohibited animal permit.

Sec. 2.05.005 Appeal of action on permit

If the manager of animal control refuses to issue or renew a prohibited animal permit, or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to appeal. The applicant or permit holder may appeal the decision of the manager of animal control to the city council.

ARTICLE 2.06 DANGEROUS DOGS

Sec. 2.06.001 Definitions

A. For the purpose of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

B. Dangerous dog. A dog that:

- (1) Makes an unprovoked attack on a person that causes serious 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.

C. Secure enclosure. A fenced area or structure that is:

- i. Locked;
- ii. Capable of preventing the entry of the general public, including children;
- iii. Capable of preventing the escape or release of a dog;
- iv. Clearly marked as containing a dangerous dog; and
- v. In conformance with the requirements for enclosures established by the local animal control authority.

D. Owner. A person who owns or has custody or control of the dog.

Sec. 2.06.002 Requirements for ownership of Dangerous Dog

- (a) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:
 - (1) register the dangerous dog with the animal control authority for the area in which the dog is kept;
 - (2) restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure marked “dangerous dog”;
 - (3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept; and
- (b) The owner of a dangerous dog who does not comply with Subsection (a) shall deliver the dog to the animal control authority not later than the 30th day after the owner learns that the dog is a dangerous dog.
- (c) If, on application of any person, a justice court, county court, or municipal court finds, after notice and hearing as provided by Section 4 of this Article, that the owner of a dangerous dog has failed to comply with Subsection (a) or (b), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.
- (d) The owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, impoundment, or destruction of the dog. The governing body of the municipality or county may prescribe the amount of the fees.
- (e) Subject to Subsection (e-1), the court shall order the animal control authority to humanely destroy the dog if the owner has not complied with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority. The court shall order the authority to return the dog to the owner if the owner complies with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority.
- (e-1) Notwithstanding any other law or local regulation:
 - (1) any order to destroy a dog is stayed for a period of 10 calendar days from the date the order is issued, during which period the dog's owner may file a notice of appeal; and
 - (2) a court, including a justice court, may not order the destruction of a dog during the pendency of an appeal under Section 5.
- (f) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.
- (g) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:
 - (1) the owner knows of an attack described in Section 1(b)i and ii;
 - (2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under Section 4(b); or
 - (3) the owner is informed by the animal control authority that the dog is a dangerous dog under Section 3.

2.06.003 Determination that Dog is Dangerous

- (a) If a person reports an incident described by Section 1(b), the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, the animal control authority shall notify the owner in writing of the determination.
- (b) Notwithstanding any other law, including a municipal ordinance, an owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority to a justice, county, or municipal court of competent jurisdiction.
- (c) To file an appeal under Subsection (b), the owner must:
 - (1) file a notice of appeal of the animal control authority's dangerous dog determination with the court;
 - (2) attach a copy of the determination from the animal control authority; and
 - (3) serve a copy of the notice of appeal on the animal control authority by mailing the notice through the United States Postal Service.
- (d) An owner may appeal the decision of the justice or municipal court under Subsection (b) in the manner described by Section 5.

Sec. 2.06.004 Hearing

- (a) The court, on application under Section 2, shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with Section 2. The hearing must be held not later than the 10th day after the date on which the dog 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 complaint.
- (c) Any interested party, including the county or city attorney, is entitled to present evidence at the hearing.
- (c-1) The court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
- (d) An owner or person filing the action may appeal the decision of the municipal or justice court in the manner described by Section 5.

2.06.005 Appeal

- (a) A party to an appeal under Section 3(d) or a hearing under Section 4 may appeal the decision to a county court or county court at law in the county in which the justice or municipal court is located and is entitled to a jury trial on request.
- (b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the decision is issued, the appellant must file a notice of appeal and, if applicable, an appeal bond in the amount determined by the court from which the appeal is taken.
- (c) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

2.06.006 Registration

- (a) An animal control authority for the area in which the dog is kept shall annually register a dangerous dog if the owner:
 - (1) presents proof of:
 - (A) liability insurance or financial responsibility, as required by Section 2;
 - (B) current rabies vaccination of the dangerous dog; and
 - (C) the secure enclosure in which the dangerous dog will be kept; and
 - (2) pays an annual registration fee of \$50.
- (b) The animal control authority shall provide to the owner registering a dangerous dog a dangerous dog collar. The owner must place the collar on the dog.
- (c) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

2.06.007 Attack by Dangerous Dog

- (a) A person commits an offense if: (1) the person is the owner of a dog previously determined to be a dangerous dog under this Article and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person, or (2) the person is the owner of a dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes serious bodily injury or death to the other person.
- (b) An offense under this section is a Class C misdemeanor.
- (c) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by animal control authority or a third party authorized by the animal control authority.

2.06.008 Violations

- (a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 2 or an applicable municipal or county regulation relating to dangerous dogs.
- (b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.
- (c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

2.06.009 Defense

- (a) It is a defense to prosecution under Section 7 or Section 8 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 dog in connection with that position.
- (b) It is a defense to prosecution under Section 7 or Section 8 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 7 or Section 8 that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code.

ARTICLE 2.07 KENNELS AND MULTIPLE-PET PREMISES

Division 1. Generally

Sec. 2.07.001 Definitions

For the purpose of this article, the following definition shall apply, unless the context clearly indicates or requires a different meaning:

Kennel. Any establishment designed for the permanent or temporary boarding, keeping, selling, trading, training or breeding of animals.

Secs. 2.07.002–2.07.030 Reserved

Division 2. Kennel License

Sec. 2.07.031 Required

Any person, group of persons or business entity that owns, keeps or harbors more than a total of six (6) or more dogs or cats in any combination more than three months of age in any combination and engages in the commercial business of breeding, buying, selling, trading, training or boarding dogs or cats or both dogs and cats or other pet animals shall be considered as operating a kennel and must obtain a valid kennel license from the city.

Sec. 2.07.032 Term; fee; inspection of premises

A kennel permit shall be valid for one year from the date of issuance. No kennel license shall be issued until an inspection certificate has been issued by the city animal control department. The permit fee shall be as set forth in the fee schedule.

Sec. 2.07.033 Suspension or revocation

Any kennel permitted under this article found by a court of law to be in violation of any zoning law, health law or any other applicable law of the city or the state or that is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity may have its kennel permit suspended or revoked by the animal control division. (1972 Code, sec. 5-94; Ordinance 378 adopted 2/20/1990; 1995 Code, sec. 114.04)

Secs. 2.07.034–2.07.060 Reserved

Division 3. Multiple-Pet Ownership

Sec. 2.07.061 Limitation on Number of Dogs and Cats

- (a) It is unlawful for any household to keep more than six (6) dogs or cats in any combination, upon private premises within the city limits. It is a defense to prosecution that the private premises is: a veterinary clinic, an animal hospital, or similar facility; an animal shelter, a kennel; a pet shop, a research institution; owned or operated by a qualified researcher; a performing animal exhibition; owned or occupied by an owner of competition dogs or cats which routinely compete at recognized competitions; a certified rescue organization; or owned or occupied by a pet owner whose pet has a litter up to 16 weeks old.
- (b) It is a defense to this section that the dogs and/or cats are on premises which are maintained in a sanitary manner that is not a public health nuisance, no noise nuisance, or a danger to the animals or the public.
- (c) Every yard, shed, pen, or other structure used for the storage or shelter of animals shall be cleaned and maintained so as to maintain safe and healthy conditions for the animals, to prevent the escape of any noxious odors, or substances to adjacent properties, or to create any health hazard or nuisance to adjacent property owners. Allowing or permitting

of such violation is hereby declared a public nuisance. Provisions of this subsection shall become effective immediately upon passage of this ordinance.

Secs. 2.07.062–2.07.090 Reserved

Division 4. Breeder Permit

Sec. 2.07.091 Required; fee

Any person, group of persons or business that owns, keeps, or harbors a male and female dog or male and female cat and engages in the commercial business of breeding, buying, selling, trading, or training of dogs or cats shall be considered a breeder and must obtain a valid permit from the city. The annual permit fee shall be as set forth in the fee schedule.

Sec. 2.07.092 Term; inspection certificate; revocation

(a) A restricted breeder permit shall be valid for one year from the date of issuance. No breeder permit shall be issued until an inspection certificate has been issued by the city animal control department.

(b) Such permit contemplated by this section may be revoked by the animal control department if:

- (1) The facilities, upon inspection, show that they are inadequate for the animals;
- (2) The animals are not registered with the American Kennel Club, the United Kennel Club, or the Cat Fanciers Association;
- (3) The animals do not have a current rabies vaccination within the last year;
- (4) The animals kept are causing a stench or odor which is offensive or disturbing to a person of ordinary sensibilities;
- (5) The animals are causing noise which is offensive or disturbing to a person of ordinary sensibilities; or
- (6) A person has been convicted for any violation of this chapter on two separate occasions, or animals covered by the permit have been impounded on two separate occasions.

ARTICLE 2.08 PET SHOPS

Sec. 2.08.001 Definitions

For the purpose of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Pet shop. Any establishment where pet animals are kept for either wholesale or retail trade, and includes all breeders, brokers, commission merchants, factors or other middlemen who import pet animals into the city.

Sec. 2.08.002 License required

No person, group of persons or business entity shall own or operate a pet shop without having obtained a valid pet shop license from the city. (1972 Code, sec. 5-81; Ordinance 359 adopted 1/5/1988; 1995 Code, sec. 114.16)

Sec. 2.08.003 Term of license; fee; standards for premises; state license

Pet shop licenses shall expire on December 31 of each year. No pet shop license shall be issued until an inspection certificate shall have been issued by the city animal control department. The yearly license fee for pet shops shall be determined by the city council. Pet shops shall be confined in a building that is totally enclosed and all pet animals shall be confined exclusively to the building. The pet shop may not have outside runs or pens and none of the animals owned by the pet shop are to be harbored or housed outside of the building at any time for any reason. All applicants for a pet shop license within the city, if required by state statute to be licensed by the department of state health services, must have a valid license issued by the department to qualify

for licensing by the city. The possession of a state license, however, shall not in itself assure that a city license will be granted. Standards and regulations affecting pet shops may be adopted by the city which are equal to or more restrictive than applicable standards.

Sec. 2.08.004 Suspension or revocation of license

Any pet shop licensed under this article found to be in violation of any zoning law, health law, or any other applicable law of the city or of the state, or that is maintained in such manner as to be detrimental to the health, safety, or peace of mind of persons residing in the immediate vicinity, may have its pet shop license suspended or revoked.

ARTICLE 2.09 DUMPING OR ABANDONEMENT OF ANIMALS

Sec. 2.09.001 No person or group of persons shall dump or abandon any dog, cat or other animal that has not been received and accepted at the Kurth Memorial Animal Shelter at or near the premises of the Shelter located at 1901 Hill St., Lufkin, Texas 75904. Such action shall be considered allowing an animal to “run at large” as defined in this ordinance subject to appropriate fines, fees and other costs as allowed by law.

SECTION II. Conflicting Ordinances

All ordinances, including but not limited to Ordinance 359 and Ordinance 441, or amendments or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION III. Effective Date

This Ordinance shall take effect immediately from and the after the passage and publication in accordance with the provisions of the City Charter.

SECTION IV. Savings Clause

That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance

PASSED AND APPROVED on First Reading by the City Council of the City of Lufkin, Texas, at its regular meeting this the **18th** day of **October 2022**.



Mark Hicks, Mayor

ATTEST:



Kara Andrepoint, City Secretary

PASSED AND APPROVED on Second and Final Reading by the City Council of the City of Lufkin, Texas, at its regular meeting this the **1st** day of **November 2022**.





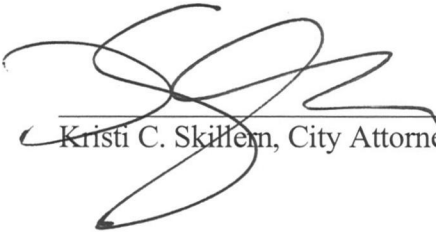
Mark Hicks, Mayor

ATTEST:



Kara Andrepont, City Secretary

APPROVED:



Kristi C. Skilleen, City Attorney

**ARTICLE 4.000 ANIMAL CONTROL
FEE SCHEDULE – ADOPTED 2022**

Sec. 4.001 Impoundment fees

(a) Cats and dogs.

- (1) Payment of a boarding fee of the sum of \$10.00 for each day or fractional part thereof which the dog or cat has been impounded.
- (2) Payment of the following impoundment fee:
 - (A) Impoundment of an altered dog or cat:
 - (i) 1st impoundment \$30.00
 - (ii) 2nd impoundment \$60.00
 - (iii) For each impoundment thereafter, \$150.00 will be charged.
 - (B) Impoundment of an unaltered dog or cat:
 - (i) 1st impoundment \$50.00
 - (ii) 2nd impoundment \$100.00
 - (iii) For each impoundment thereafter, \$150.00 will be charged.

(b) Animals other than cats or dogs.

- (1) Payment of a board fee of the sum of \$10.00 per day or fractional part thereof which the animal has been impounded.
- (2) Payment of a pickup fee on all animals except dogs and cats: \$50.00

Sec. 4.002 Shelter fees

(a) Adoption fees. The cost of adopting an animal from the city animal services facility shall be as follows:

- (1) Dogs and cats: \$70.00
- (2) Livestock: \$100.00.

(b) Surrender fee.

- (1) \$50.00 fee per animal and, if applicable, an additional \$10 fee for each animal in a litter with proof that the owner surrendering the animal is a City of Lufkin resident. Proof of residency can be made with evidence of water bill or driver's license.
- (2) \$80 fee per animal and, if applicable, an additional \$20 fee for each animal in a litter without proof that the person is a Lufkin resident.

(c) Rabies quarantine fees. \$100.00

Sec. 4.003 Prohibited animal permit

<u>Type of Permit</u>	<u>Fee</u>
Commercial	\$240.00

Temporary	\$60.00
Noncommercial (educational)	\$60.00
Special use (rehabilitation, falconry)	None

Sec. 4.004 Miscellaneous fees

- (a) Microchipping Fee: \$10.00
- (b) Pick-up fee dogs and cats if not brought by owner: \$50.00.
- (c) Breeder permit: \$200.00