

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO REGULATING THE KEEPING OF ANIMALS WITHIN THE CITY OF LUBBOCK; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the citizens of the City of Lubbock to protect their health, safety, and welfare by the enactment of a comprehensive animal control ordinance; and

WHEREAS, local conditions and recent amendments to the state laws regarding the regulation of animals require modification of the present City regulation of animals; and

WHEREAS, the City Council hereby exercises its authority under Article 11, Section 5, of the Texas Constitution as a home rule city to enact regulations not inconsistent with the general laws of the State of Texas in the interest of the health, safety and welfare of the citizens of the City of Lubbock; NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUBBOCK:

SECTION 1. THAT Chapter 4 of the Code of Ordinances of the City of Lubbock, Texas is hereby to read as follows:

Chapter 4

ANIMALS

ARTICLE I. IN GENERAL

Section 4-1. Definitions.

For the purposes of this chapter; certain terms and words are hereby defined. Words used in the present tense include the future, the singular number includes the plural, and the plural the singular; reference to the male gender includes the female, and references to any person or animal without specifying gender include both male and female; the word "shall" is mandatory and directory wherever it is used in the chapter. Other words defined are:

Animal means any living creature, except human beings, classified as a member of the Kingdom Animalia and including, but not limited to, mammals, birds, reptiles and fish.

Animal services facility means an establishment operated by the City of Lubbock for the temporary confinement, safekeeping, and control of animals which come into the custody of the City of Lubbock.

Animal dealer means any person, partnership or corporation engaging in the business of buying, selling or trading animals to others in any public area, including, but not limited to, sale of any animal at a roadside stand, booth, flea

market, or other temporary site. This definition does not include private party animal sales or government operated animal shelters.

Animal establishment means any facility or business that has custody or control of animals within the City of Lubbock including, but not limited to, pet shops, pet grooming facilities, animal auction facilities or commercial kennels. This term does not include veterinary or medical facilities, research or other facilities licensed by government agencies.

Animal Exhibition means any exhibition or act featuring performing animals, including circuses, temporary animal exhibits, petting zoos and private zoos. Such exhibitions shall not include resident or non-resident dog and cat shows which are sponsored and/or sanctioned by the Animal Services Division.

Assistance animal means any animal professionally trained to assist a handicapped person.

At large means an animal (excluding sterilized and registered cats) that meets one (1) of the following criteria:

- (1) On premises of owner. Any animal not confined to the premises of the owner by some physical means of sufficient height, strength, length, and/or manner of construction to preclude the animal from leaving the premises of the owner. Any animal being contained by a fence that, because of the fence's lack of height or general disrepair, cannot properly restrict the animal, shall be considered at large.
- (2) Off premises of owner. Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making unsolicited contact with any person, their clothing, their property, or their premises.

The term shall not include animals being trained or exhibited while under the immediate physical or vocal control of a person, so long as the animal demonstrates complete and immediate compliance with all vocal commands of the person.

Auction means any place or facility where animals are regularly bought, sold or traded. This definition does not apply to individual sales of animals by private owners.

Cat means any live or dead cat (*Felis catus*)

Cats and related terms are defined as follows:

Ear tipping means a technique for painless removing of a quarter-inch off the top of a feral cat's left ear by a licensed veterinarian while the cat is anesthetized for spay/neutering for the purpose of permanently identifying a feral cat that has been evaluated, vaccinated, and sterilized.

Feral Cat means any cat which is too poorly socialized to be

handled (and therefore must be trapped and sedated for examination) and cannot be placed into a typical pet home.

Feral Cat Caregiver means a person who feeds feral cats, performs Trap-Neuter-Return, and provides long-term care and monitoring for adult feral cats that are returned.

Feral Cat Colony means three or more cats, “loosely owned”, ”Quasi-owned”, or “marginally owned” who have been fed and cared for at some level but are not claimed by any one person.

Free Roaming Cat means cats which are not confined to the house or an enclosure and are at large.

Managed Feral Cat Colony means a group of feral cats living together and having strong blood ties in which all cats have been sterilized and vaccinated and are provided daily food and shelter by a feral cat caregiver. The caretaker follows the most structured form of TVARM. This means to Trap, Vaccinate, Alter, Return, and Manage.

Registered Feral Cat Colony means registered at Lubbock Animal Services and meeting all requirements of this chapter.

Stray Cat means cats which are currently or recently owned which may be lost from their homes.

City Enforcement Agent means the City of Lubbock Health Director, Animal Services Manager, their authorized representatives, or a law enforcement officer. The Animal Services Manager shall be responsible for the enforcement of this chapter and any regulations promulgated hereunder, unless otherwise provided by law.

Commercial Establishment means establishments that engage in activities that include animal dealer, animal establishment, and animal exhibition, as those terms are defined herein.

Dangerous animal means:

- (1) Any individual animal which, because of its physical nature and/or vicious propensity, would constitute a danger to human life or property; or any animal that is possessed of tendencies to attack or to injure human beings or other animals;
- (2) An animal that commits an unprovoked attack on a human being; that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own;
- (3) An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure

on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or

- (4) An animal that makes an unprovoked attack on a domestic animal or domestic fowl that causes bodily injury or death; and which occurs when such animal is at large.

Dangerous wild animal means any animal not normally considered domesticated which, because of its size, vicious nature or other natural characteristic would constitute a danger to human life, property or domestic animals, or any animal that is restricted from ownership by any state or federal law including, but not limited to, the following animals:

- (1) Reptiles: venomous reptiles, crocodiles or alligators;
- (2) Birds: emus, ostriches, rheas, and any species illegal to own under federal or state law;
- (3) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, bobcats, wolves, dingoes, coyotes, jackals, elephants, weasels, martins, minks, badgers, pandas, bears, raccoons, bats, foxes, skunks, cheetahs, servals, caracals, hyenas, baboons, chimpanzees, orangutans, gorillas, any species illegal to own under federal or state law, and any animal which is, or may be here after, listed as a “high risk” animal in the Texas Rabies Control Act; or
- (4) Any hybrid of any animal classified as a Dangerous Wild Animal

Department means the City of Lubbock Health Department.

Dog means any live or dead dog (*Canis familiaris*)

Enforcement agent means the local health director, local rabies control authority, local health authority, animal services officers and other authorized employees of the City of Lubbock.

Estray means any unbranded sheep, cattle, horses, or mules found running at large, or any branded sheep, cattle, horses, or mules found running at large, or any swine found running at large; but it does not mean nor include any unweaned animal specified in this section that is running with its mother.

Identification means any acceptable method such as microchipping, registration tag, or tattoo readily traceable to the current owner.

Impound means the placing of an animal in the city’s animal services facility, or, the taking into custody of an animal for the purposes of transportation to the city’s animal services facility.

Inhumane treatment of animals means any treatment of an animal prohibited by any provision of law, including federal, state and local laws, ordinances or rules.

Kennels, commercial, for purposes of this chapter only, means any establishment where a person, partnership or corporation keeps dogs or cats

primarily for the purpose of breeding, buying, selling, trading, showing, training or boarding such animals.

Livestock means or includes, regardless of age, sex or breed, horses, consisting of all equine species including mules, donkeys, and jackasses; cows, consisting of all bovine species; sheep, consisting of all ovine species; llamas or alpacas; goats, consisting of all caprine species; and pigs, consisting of all swine species.

Microchip implant means 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 means of notifying others that the animal has been implanted with a microchip.

Microchip Reader means an electronic scanner with an operating frequency that is able to detect a microchip that has been implanted in an animal, and display 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.

Neutered means any animal, male or female, rendered incapable of breeding or being bred.

Owner means any person, partnership, corporation, association or legal 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 rebuttably presumed to be the owner of such animal, unless the animal has been reported to the City Enforcement Agency as a stray animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this chapter. If a person under the age of seventeen (17) years owns an animal subject to the provisions of this chapter, the head of the household of which such person under the age of seventeen (17) years is a member shall be the person responsible for the animal under this chapter. Such household head may himself be under the age of seventeen (17) years and therefore subject to prosecution under this chapter. There may be more than one person responsible for an animal.

Pet Animal means any animal that may be kept as a pet within the City of Lubbock so long as all of the required provisions of this Ordinance are met, and is not a Dangerous Wild Animal or a Wild Animal, including but not limited to the following animals:

- (1) Reptiles – Any non-venomous reptile that is not protected from ownership by any state or federal law;
- (2) Birds – Any birds commonly kept as pets that are not protected from ownership by any state or federal law, or any bird kept for

falconry purposes by a state and federally permitted falconer;

- (3) Fish – Any fish commonly kept as pets that are not protected from ownership by any state or federal law; or
- (4) Mammals – includes any mammal commonly kept as pets including dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, and sugar gliders but not limited to these.

Pony ride means the use of any horse, pony, mule, donkey, or burro to provide rides to, or to pull wagons containing, individuals other than the animals' owners, whether gratuitously or for a fee.

Private-owned animal sale means the individual sale of a pet animal by private owners to other private owners that occur at the residence of either the seller or buyer.

Public Health Administrator means the Director of the City of Lubbock Health Department.

Public nuisance means the conduct of any owner in allowing an animal to:

- (1) Engage in conduct which establishes such animal as a "dangerous animal";
- (2) Damage, soil, defile or defecate on private property other than the owner's or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;
- (3) Be "at large" (excluding sterilized and registered cats that are identified by some means of traceable identification);
- (4) Cause a disturbance by excessive barking or noise making near the private residence of another;
- (5) Produce odors or unclean conditions sufficient to offend a person of normal sensibilities standing or which creates a condition conducive to the breeding of flies or other pests;
- (6) Chase vehicles, or molest, attack or interfere with other animals or persons, or is at-large on public or private property; or
- (7) Create a condition that is dangerous to human life or health; renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses; or that is detrimental to the public health.

Quarantine means to take into custody, place in confinement, and isolate from human beings and other animals. The quarantine period for a dog, cat, or a domestic ferret for rabies observation is ten (10) days or 240 hours from the date and time of the bite, scratch or other exposure, or as recommended by the regional veterinarian from the Texas Department of State Health Services.

Rabies Control Authority means the Animal Services Manager or other

designee of the Health Director.

Registration means a rabies certificate issued by a licensed veterinarian and an identification tag recognized by Animal Services from an approved issuing agent.

Restraint means to control an animal by physical means so that it remains on the premises of the owner, or, when off the owner's premises, by means of a cage, or leash or rope under the direct control of a person of sufficient strength to control the animal.

Sterilized means an animal rendered incapable of reproduction by means approved by the American Veterinary Medical Association.

Tether means to chain, tie, fasten or otherwise secure an animal to a fixed point so that it can move or range only within certain limits.

Traceable identification means a type of identification, such as a tag, microchip, or tattoo, that can be readily used by Animal Services to identify the current ownership of an animal.

Vaccination means the inoculation of an animal with a rabies vaccine that is licensed by the United States Department of Agriculture for use in that species and which is administered according to the label's directions by a veterinarian for the purpose of immunizing the animal against rabies.

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

Wildlife educational center means an organization that has met all of the state and federal requirements to possess wildlife for educational purposes.

Zoological Park means any facility, other than a pet shop, kennel, or wildlife education center, displaying or exhibiting one or more species of nondomesticated animals, and operated by a person, partnership, cooperation, or governmental agency.

Section 4-2. Penalties.

Any animal that is found to be in violation of this chapter may be impounded by the City Enforcement Agent. Additionally, any person or owner who violates or fails to comply with any portion of this chapter may receive a citation from the City Enforcement Agent and shall be deemed guilty of a Class C misdemeanor for each animal in violation. Each day of violation of this Chapter shall constitute a separate offense.

Section 4-3. Office of Animal Services Manager Established; Duties; Enforcement.

(a) Establishment of the office of Animal Services Manager:

(1) There shall be and is hereby created the office of Animal Services Manager.

(2) The Animal Services Manager shall act as the local rabies control authority for the purpose of enforcing animal health and control laws of the State of Texas.

(3) The city may employ animal control officers to assist the Animal Services Manager in the carrying out of specified duties.

(b) It shall be the duty of the Animal Services Manager and designated representatives to:

(1) Administer and enforce all state and federal laws pertaining to animals which authorize the local rabies control authority or animal control officers to enforce the same;

(2) Administer and enforce the animal ordinances of the city when a nuisance or health problem is caused by one (1) or more animals;

(3) Supervise the animal services operations of the city; and

(4) Aid the state health department in the enforcement of area quarantines.

(c) The Animal Services Manager and any animal control officer of the city shall have the authority to issue citations for any violation of this chapter and any other power or duty stated within the terms of this chapter. If the person being cited is not present, the animal control officer may send the citation to the alleged offender by registered or certified mail, return receipt requested, by depositing the same in the U.S. Mail, postage prepaid.

(d) It shall be unlawful for any person to knowingly prevent, interfere with, or obstruct the Animal Services Manager or an animal control officer in the performance of their duties. It shall be unlawful for any person to fail to comply with any lawful order of the local rabies control authority officer or any animal control officer of the city.

(e) The local rabies control authority officer, any animal control officer, or any peace officer is authorized to, including but not limited to:

(1) Humanely euthanize an animal which poses an imminent danger to a person or property or when a real or apparent immediate necessity exists for the destruction of an animal.

(2) Impound an animal which is diseased or endangers the health of a person or another animal.

(3) Impound any animal found to be running at large within the city.

(4) Humanely euthanize an impounded animal if the animal is suffering from injury, disease, or illness.

(5) Humanely euthanize any animal suspected of having rabies, or which animal manifests a disposition to bite, when such animal(s) is found at large after having made a reasonable, but unsuccessful, effort to capture the animal.

- (6) Humanely euthanize any impounded dangerous animal immediately upon impoundment, unless there is reason to believe that it has an owner.
- (7) Humanely euthanize any wild animal immediately upon impoundment, so long as such act does not violate state or federal laws.
- (8) Humanely euthanize any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering.
- (9) Humanely euthanize an animal when an owner no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition upon the owner signing a waiver, supplied by the animal shelter, allowing the animal to be immediately euthanized.
- (10) Humanely euthanize or transfer to a humane organization any impounded animal that is to be destroyed as a result of the animal being impounded for more than seventy-two (72) hours.

(f) In any complaint and in action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter; and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the owner or defendant as an affirmative defense.

(g) The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled to under the authority of federal, state or local law.

(h) No person shall interfere in any manner or give false information to the local rabies control authority, local health director, the animal control officers and other authorized employees of the City in the performance of their duties.

Sec. 4-4. Inhumane Treatment of Animals.

(a) The City Enforcement Agent shall utilize the authority granted by federal, state and local laws to lawfully seize and impound any animal if the investigating City Enforcement Agent or police officer has reason to believe that an animal has been, or is being cruelly treated, pending a hearing before any Justice of the Peace or any municipal court judge on the issues of cruelty and disposition of the animal. Seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life or well-being of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.

(b) Animals shall be cared for, treated, maintained, and transported in a humane manner and not in violation of any provision of law, including federal, state, and local laws, ordinances, and administrative rules.

(c) In addition, a person commits an offense if:

- (1) A person other than a licensed veterinarian docks an animal's tail

or removes dew claws of a puppy over five (5) days of age, or crops an animal's ears of any age;

- (2) A person physically removes from its mother by selling, giving away, delivering, trading, or bartering 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) A person dyes or colors chicks, ducks or rabbits;
- (4) A person sells, gives away, delivers, trades or barter chickens or ducks;
- (5) A person abandons or dumps any animal;
- (6) A person who is in control of a motor vehicle that strikes a domestic animal fails to report the accident to the city Animal Services Facility as soon as possible;
- (7) A person overdrives, overloads, drives when overloaded, or overworks any animal;
- (8) A person tortures, cruelly beats, mutilates, clubs, shoots or attempts to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means needlessly kills or injures any animal, wild or owned, within the limits of the city;
- (9) A person carries or transports an animal in any vehicle or conveyance in a cruel, inhumane, or unsafe manner or fails to effectively restrain such animal so as to prevent the animal from leaving or being accidentally thrown from the vehicle during normal operation of the vehicle or fails to restrain the animal so as to prevent infliction of bodily harm to passersby.
- (10) A person forces, allows, or permits any animal to remain in its own filth;
- (11) A person keeps, shelters, or harbors any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human, without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
- (12) A person causes an animal to fight another animal or person;
- (13) A person fails to provide, at all times, his animal with adequate wholesome food and potable water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;
- (14) A person, firm or corporation shall raise or kill a dog or cat for the skin or fur;

- (15) A person, firm or corporation shall mutilate any animal, whether such animal is dead or alive (medical or veterinary medical research, medical or veterinary medical necropsy, and biology class use of animals shall not be considered mutilation);
- (16) A person, firm or corporation attaches 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;
- (17) A person shall engage or allow another to engage in any sexual act with an animal;
- (18) A person allows a stray animal to remain on their property without notifying the city Animal Services Facility of such fact within twenty-four (24) hours;
- (19) A person who owns or is in control of an animal permits such animal to be at large within the City of Lubbock;
- (20) A person breeds or causes to be bred, any animal within the public view;
- (21) A person who creates, maintains, permits or causes a public nuisance, as defined in this chapter; or
- (22) A person owns, keeps, harbors, or possesses horses, cattle, or other livestock in any manner that is a violation of this Ordinance.
- (23) A person who creates, maintains, permits, or causes a public nuisance, as defined in this chapter.

(d) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this Ordinance.

(e) This section shall not be interpreted to restrict rodeos, 4H Clubs, or FFA Club activities and operations.

Section 4-5. Inducement.

(a) It shall be a violation of this chapter for any person to give away any live animal as a prize or as an inducement to enter any contest, game, raffle, or other competition or an inducement to enter a place of business or to offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(b) This section shall not be interpreted to restrict any animal from being offered for sale at auction, provided that such sale does not otherwise violate any other section of this Ordinance.

Section 4-6. Leaving Animal Unattended in Vehicle.

A person having charge or custody of an animal shall not place or confine such animal or allow such animal to be placed or confined in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal. City enforcement agents finding an animal being held in violation of this provision may cite the owner for violating this Ordinance, obtain a search warrant pursuant to state or federal law, and/or use reasonable force to remove an animal from a vehicle whenever it appears the animal's health or safety is, or soon will be endangered, and said neglected or endangered animal shall be impounded and held pending a hearing. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the City Enforcement Agent or peace officer.

Section 4-7. Tethering Dogs and Other Animals.

It shall be unlawful for any person to tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the City Enforcement Agent. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to the following:

- (1) To tether any animal in such a manner as to permit the animal access upon any public right-of-way;
- (2) To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food and/or water or otherwise create an unsafe or unhealthy situation;
- (3) To tether any animal in such as manner as to permit the animal to leave the owner's property;
- (4) To tether any animal in an area that is not properly fenced so as to prevent any person or child from entering the area occupied by said animal;
- (5) To tether any pet animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
- (6) To tether any pet animal with a tether that is less than ten (10) feet in length;
- (7) To tether any animal with a tether that is not equipped with swivel ends;
- (8) To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving part of its owner's property.

- (9) To fail to remove waste from the tethered area on a daily basis;
- (10) To tether any animal without using a properly fitted collar or harness;
- (11) To use choke-type collars to tether any animal; or
- (12) To use a tether that weighs more than one fifth (1/5) of the animal's body weight.

Section 4-8. Abatement and Imminent Threat; Right of Entry; Search Warrants.

(a) Animal control officers or other law enforcement officers shall have the power to impound animals which create an animal nuisance per se for the purpose of abating a nuisance and in cases where animal control officers have reason to believe an animal has been or is being cruelly treated, has rabies or exhibits other violations of law as follows:

- (1) On public property, in all cases;
- (2) On private property, if:
 - a. The consent of the resident or property owner is obtained,
 - b. The officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded, or
 - c. Authorized by appropriate courts of law.
- (3) The officer has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.

(b) Any animal observed by the City Enforcement Agent or peace officer to be in immediate danger, in the agent's or officer's opinion, may be removed from such situation by the quickest and most reasonable means available. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the City Enforcement Agent or peace officer.

(c) The Health Director, Animal Services Manager, or assigned designee may order the abatement of the conditions which are not in accordance with this ordinance, other applicable state or federal regulations or laws, or which otherwise constitute a nuisance. Failure to comply with the written notice constitutes grounds for the city to obtain any relief available to by law, including, but not limited to relief by injunction. Additionally, failure to comply with the written notice may subject the violator to administrative proceedings and criminal charges.

Section 4-9. Defecation of Dogs on Public and Private Property.

(a) An owner, harbinger, or other person in possession of a dog commits an offense if he knowingly permits, or by insufficient control allows, the dog to

defecate in the city on private or public property and fails to remove and dispose of any excreta the dog deposits.

(b) An owner, harbinger, or other person in possession of a dog commits an offense if he:

- (1) Knowingly permits the dog to enter or be present on private property located in a public place; and
- (2) Fails to have in his possession materials or implements that, either alone or in combination with each other, can be used to immediately and in a sanitary and lawful manner both remove and dispose of any excreta the dog may deposit on the property.

(c) It is an affirmative defense to prosecution under subsection (a) or (b) that:

- (1) The property was owned, leased, or controlled by the owner, harbinger, or person in possession of the dog at the time it defecated;
- (2) The dog was specifically trained to assist a person with a disability and was in possession of that disabled person at the time it defecated or was otherwise present on the property;
- (3) The owner of the property or person in control of the property had given prior consent for the dog to defecate on the property; or
- (4) The dog is a police canine being used in official law enforcement activities.

Section 4-10. Unabated Nuisances.

(a) A “continuing public nuisance” is defined as a public nuisance that, after notice as described in subsection (c) to the owner of an animal(s) or person in control of an animal(s), continues unabated, as determined by the Animal Services Manager.

(b) The Animal Services Manager may determine that a public nuisance exists through an investigation of any reported or perceived public nuisance, and may interview witnesses and/or conduct such hearings as he may determine are necessary, formally or informally. He shall make a determination based on the necessity to preserve the public health, safety and welfare of the community.

(c) Upon such determination, the Animal Services Manager shall notify the animal owner or the person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to appeal. The notice shall set forth the noncompliance and ordering the owner to abate the public nuisance described in such notice within seven (7) days. Notice of a public nuisance shall include, but not be limited to, written notice of the existence of a public nuisance delivered by personal service, certified mail, return receipt requested, or left at the entrance to the premises where the animal (s) is harbored. A notice that is mailed is deemed received five (5) days after it is placed in a mail

receptacle of the United States Postal Service.

(d) If such owner fails or refuses to comply with the demand for compliance in the notice within seven (7) days of such notice or publication, the Animal Services Manager may order the abatement of the public nuisance by one of the following means:

- (1) Impoundment of the animal(s) that is the source of the continuing public nuisance and the adoption of the animal(s) as provided in this chapter, except that the owner, his agents or representatives, or family members may not adopt the animal(s) adjudged a continuing public nuisance;
- (2) Impoundment and humane destruction of the animal(s) that is the source of the continuing public nuisance; or
- (3) Exclusion from the City Limits of Lubbock an animal(s) determined to be a continuing public nuisance.

(e) An owner or person in control of the animal(s), not later than seven (7) days after the date such person is notified that an animal is a continuing public nuisance, may appeal the determination of the Animal Services Manager to the Permit and Appeals Board. Upon receiving an appeal, the Permit and Appeals Board shall hold a hearing at a time and place of their designation. Based upon the recorded evidence of such hearing, the Permit and Appeals Board shall make a final finding.

(f) The owner or person in control of the animal(s) determined to be a continuing public nuisance shall remove such animal(s) from the city within forty-eight (48) hours of an unsuccessful appeal. The failure to remove such animal(s) shall be an offense and each day thereafter that such person fails to remove such animal(s) shall constitute a separate offense. If the owner or person in control of such animal(s) fails to remove such animal(s) as provided for by the order of the Animal Services Manager or the court, such animal(s) may be impounded and put up for adoption in accordance with Subsection (d) of this Section or humanely destroyed.

(g) The owner or person in control of such animal(s) must report the disposition and exact address or relocation of such animal(s) to the Animal Services Manager in writing within ten (10) days after the expiration date for removal of such animal(s) from the city. Each day thereafter that such information is not provided shall constitute a separate offense.

(h) The Animal Services Manager shall be authorized, after due process, to obtain a search and seizure warrant for the purposes of enforcing this section.

Section 4-11. Filing of False Claims or Reports.

(a) A person commits an offense if he knowingly initiates, communicates, or circulates a claim of ownership for an animal with the City Enforcement Agent that he knows is false or baseless.

(b) A person commits an offense if he knowingly initiates, communicates,

or circulates a report of a violation of city ordinance or state or federal law to the City Enforcement Agent that he knows is false or baseless.

Section 4-12. Impoundment and Redemption.

(a) Impoundment:

- (1) It is the duty of the enforcement agent to capture and impound such animals as are running at large or which are required to be impounded pursuant to other laws or ordinances or to protect public safety. Any officer or citizen of the city is authorized to take up and deliver in a humane manner to the Animal Services Facility any animal that may be found running at large in the city.
- (2) The City Enforcement Agent shall impound and quarantine all dogs, cats and other animals exposed to, suspected to be exposed to, or infected with rabies, whether the dog, cat or other animal to be impounded is at large, on a leash, or confined to its owner's premises or whether it is currently vaccinated. Any animal which a licensed veterinarian suspects of having rabies shall be humanely euthanized. Any animal exposed to a rabid animal shall be humanely euthanized or quarantined at the owner's expense for a period mandated by the Texas Department of State Health Services Zoonosis Control Division, not less than ten (10) days from the date of last known exposure.
- (3) The City Enforcement Agent shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, is missing, or has died, and there is no person present, eighteen (18) years of age or older, who will assume the legal responsibility of providing food, water and shelter for such animal.

(b) Identification of impounded animals:

- (1) The city enforcement agent, or his deputies, upon receiving an animal for impoundment, shall make a complete registry, including the species, breed, color and sex of such animal, whether it has traceable identification, and the time and place of taking custody. If the animal has traceable identification, he shall enter the name and address of the veterinary clinic, year, the number of the registration tag, and any other pertinent information. When kennel space allows, animals with traceable identification shall be kept separate from animals that do not have identification. All animals impounded shall be scanned with a microchip reader.
- (2) If, by registration tag, the owner of an impounded animal can be identified, the city enforcement agent shall, as soon as possible, notify the owner by telephone or mail, however it is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

- (3) Impounded animals with no means of traceable identification shall be kept for not less than three (3) days, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by this Ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
- (4) Animals with any type of traceable identification shall be kept for not less than ten (10) days, or not less than three (3) days from the time the owner is notified of their animal being impounded, whichever is the shorter time period, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the Ordinance. If an animal has a tag that does not list the owner's phone number or address, and the person or business that is in possession of the owner's contact information will not release it to the City Enforcement Agency, then for the purposes of this section it shall be the responsibility of that person or business to notify the owner of the animal being impounded, and the animal shall be held for three (3) days after the City Enforcement Agent contacts the person or business in possession of the owner's contact information. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

(c) Retention of impounded animals:

- (1) An animal impounded at the request of a peace officer as required by this Ordinance shall be kept for not less than ten (10) days unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the Ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim such pets.
- (2) An impoundment period is not required for an animal voluntarily released to the City Enforcement Agent by its owner.

(d) Redemption of impounded animals:

- (1) Any owner of an animal that has been impounded under this chapter who wishes to have it returned to him shall personally visit the Animal Services Facility where it is impounded. The City Enforcement Agent shall return the animal if the owner can provide sufficient proof of being the animal's owner and if such release will not impair the safety of the public or the animal. The owner of the animal must pay any and all fees set forth herein and must agree to abide by all of the requirements of this Chapter before the animal is returned. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

- (2) If an animal that requires a permit or registration is impounded by the City Enforcement Agent for violating this chapter and the owner cannot prove that he is in possession of all required permit(s) or registration(s), the owner must meet all requirements of the required permit(s) or registration(s) and must purchase said permit(s) or registration(s) before the animal may be released from the Animal Services Facility.
- (3) If an animal that requires a rabies vaccination is impounded by the City Enforcement Agent for violating this chapter and the owner cannot prove that the animal has a current rabies vaccination, a citation for failing to vaccinate will be issued. The owner shall then have five (5) days to provide proof of obtaining a current rabies vaccination to the City Enforcement Agent or else he shall be cited again for violation of this Ordinance. Each subsequent day that passes after the five (5) day period shall be considered a separate offense. For the purposes of this section, a rabies tag alone is not sufficient proof of an animal's current rabies vaccination.
- (4) If an animal is impounded by the City Enforcement Agent for violating this chapter and the owner cannot prove that the animal has been previously microchipped, the owner must purchase a microchip before the animal may be released from the Animal Services Facility. The identification number provided by the microchip, shall be maintained on file at the Animal Services Center or with a nationally recognized registry, for future identification purposes.

Section 4-13. Disposition of Animals.

(a) The Animal Services Manager may dispose of impounded animals after the expiration of any required impoundment period by any of the following methods:

- (1) Adoption:
 - a. The City Enforcement Agent shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:
 - (i) The City Enforcement Agent shall determine whether a dog or cat is healthy enough for adoption and if its health and age are adequate for vaccination. However, such decision shall not constitute a warranty of the health or age of the animal.
 - (ii) There will be an adoption fee for all dogs and cats at an amount set by resolution of the City Council. The fee will include the cost of sterilization,

vaccination, implantation of a microchip, and licensing.

- (iii) All animals adopted from the Animal Services Facility shall be implanted with a microchip, vaccinated against rabies, and sterilized before ownership of the animal is transferred to the adopter. If, in the opinion of a licensed veterinarian, there is a legitimate health risk justifying the delay of this surgery, the person adopting the animal shall sign a written agreement stating that they will have the animal sterilized. A person who signs a sterilization agreement commits an offense if he fails to have the animal sterilized on or before the sterilization completion date stated in the agreement. For the purposes of this section, a legitimate health risk cannot be based solely on the animal's age.
 - b. If an adopted animal dies on or before the sterilization completion date, the adopting person must provide written documentation to the Animal Services Manager that the animal has died.
 - c. If an adopted animal is lost or stolen before the sterilization date, the adopting person must provide written documentation to the Animal Services Manager stating that the animal is lost or stolen and a police report verifying the report of theft. The letter shall be delivered not later than the seventh day after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the date of disappearance.
 - d. The City Enforcement Agent may reclaim an adopted animal if the Animal Services Manager has not received confirmation of the sterilization as required.
- (2) The City Enforcement Agent may offer the animal to an animal welfare group that has a signed Transfer Agreement for Dogs and Cats on file with the City Enforcement Agency provided that the group sterilizes and microchips the animal prior to placing it into an adoptive home;
 - (3) The City Enforcement Agent may temporarily place the animal in a foster home that has a signed Foster Agreement for Dogs and Cats on file with the City Enforcement Agency;
 - (4) The City Enforcement Agent may humanely euthanize the animal by methods approved by the American Veterinary Medical Association or the Texas Department of State Health Services.

(b) The choice of which of these options to use shall be made at the sole discretion of the City Enforcement Agent unless otherwise mandated by a court order.

(c) Any impounded registered or unregistered animal which appears to be suffering from serious injury or disease and which is in great pain and suffering and probably will not recover or which appears to have an infectious disease which is a danger to humans or to other animals in the opinion of the Animal Services Manager or which, due to its extremely violent nature, poses a substantial risk of bodily harm to the safety of Animal Services staff, may be humanely euthanized at any time during its holding period by the City Enforcement Agent. In the event such an animal is wearing an identification tag on its collar or harness, the City Enforcement Agent shall attempt to notify the owner by telephone before taking action.

(d) It shall be an affirmative defense to prosecution of the owner if he or she can show that, at the time of its impoundment, the animal that was at large due to a major natural disaster, fire, criminal or negligent acts of a third party who was not residing at the animal owner's residence. In such event, the owner shall only be subject only to the provisions of this chapter that require a current rabies vaccination and city registration. An owner's claim of a fire or the criminal or negligent acts of a third party must be proven in one (1) or more of the following manners:

- (1) A certified copy of a city police or fire report verifying the incident; or
- (2) The affidavit of city police or fire personnel with direct knowledge of the incident.

(e) It shall be unlawful for a person to fail or refuse to deliver an unregistered or unvaccinated animal to a City Enforcement Agent or police officer upon demand for impounding.

Section 4-14. Number of Dogs and Cats at Residences / Multi-Pet Permit.

(a) Except as provided by this section, no residence within the city shall harbor more than four (4) adult dogs, and/or four (4) adult cats, over the age of sixteen (16) weeks. No residence within the city shall harbor more than one (1) litter of puppies and/or one (1) litter of kittens.

(b) Any persons desiring to keep more than four (4) adult dogs, four (4) adult cats, or more than one (1) litter of puppies or kittens at premises occupied by them may apply with the Animal Services Manager for a multi-pet permit. The applicant shall pay an application fee at the time of filing.

(c) The Animal Services Manager is authorized to issue such a permit under the following conditions:

- (1) No inspection required – If an applicant provides the Animal Services Manager with information concerning the maximum number of animals to be kept at any one time at such premises and

record search indicates that no enforcement action for violation of Chapter 4 of the Code of Ordinance dealing with nuisances has been necessary during the preceding twenty-four (24) months, a permit may be issued by mail without prior inspection.

- (2) Inspection required – If an applicant provides the Animal Services Manager with information concerning the maximum number of animals to be kept at any one time at such premises and a record search indicates that enforcement action for violations of Chapter 4 of the Code of Ordinances dealing with nuisances has been necessary within the preceding twenty-four (24) months, a permit may be issued after an inspection of the premises to determine compliance with the animal services regulations. A permit shall not be issued if it is found that the animals cannot be maintained without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.

(d) Such permit may be revoked by the Animal Services Manager for cause, including but not limited to, violations of the provisions of Chapter 4 of the Code of Ordinances or the inability of the permit holder to keep the animals without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.

(e) All multi-pet permits issued under this section shall be valid indefinitely, unless the Animal Services Manager revokes the permit. When issued, the permit shall remain the sole property of the city and shall be valid only as to the applicant and location for which it was originally issued. The permit may not be sold or transferred, voluntarily or involuntarily, to any other person or entity.

(f) Any person either denied a multi-pet permit, or who has had their permit revoked, may file an appeal with the Permit and Appeals Board. Such appeal must be made in writing within ten (10) days of receiving written notice from the Animal Services Manager of the permit denial or revocation. If no appeal request within the ten-day period, the denial or revocation of the permit becomes final. Upon receiving an appeal, the Permit and Appeals Board shall hold a hearing at a time and place of their designation. Based upon the recorded evidence of such hearing, the Permit and Appeals Board shall make a final finding.

Section 4-15. Feral Cat Management.

(a) Animal Services Manager is responsible for maintaining the registry of approved registered colony locations. Animal Services Manager will assist registered caregivers in the management of registered feral colonies.

(b) A feral cat colony can be registered when the Animal Services Manager determines that a volunteer caregiver(s) can meet the following minimum requirements:

- (1) Regular feeding will be maintained throughout the year.
- (2) Adult cats and kittens 8 weeks of age will be neutered and vaccinated.
- (3) Every attempt will be made to remove kittens from the colony before 8 weeks of age for domestication and placement.
- (4) Stray cats will be released or placed into the custody of Animal Services.
- (5) Sick or injured cats will be removed from the colony for immediate veterinary care or humane euthanasia.
- (6) Cats will be earmarked and micro chipped for recognition as members of a registered feral cat colony.
- (7) Responsibility for managed feral cat colonies can be transferred to another feral cat caregiver with the Animal Services Manager's approval only.
- (8) Location of a feral cat colony requires the approval of property owner or owners and the Animal Services Manager.
- (9) Relocation of a feral cat colony requires the approval of property owners and the Animal Services Manager.
- (10) Cat caretaker assumes all responsibility of humane trapping, maintenance, and management of their approved registered colony.
- (11) Records of sterilization, vaccination, micro chipping, and animal identification will be provided to Animal Services upon request.

(c) The Animal Services Manager is authorized to issue citations, revoke registered cat colony permission, or issue citations to a feral cat caregivers or obtain a search and seizure warrant if there is probable cause to believe any requirements of this section are violated.

Section 4-16. Donations Fund Established.

The City shall create a special revenue fund, labeled "Donations Fund", for Animal Services purposes to account for the collection and spending of donations to the City. This fund will provide an accurate accounting of the sources and uses of these monies to demonstrate, to the donor, that the funds are used for their intended purposes. Expenditures of these monies will require City Council approval through the normal budgeting process.

ARTICLE II. RABIES AND ZOONOSIS CONTROL

Section 4-17. State Regulations Adopted.

The City of Lubbock hereby adopts by reference the Texas State Rabies Control Act, as amended, and the standards established by the appropriate state agency or rule-making board as minimum standards for rabies control and quarantine provisions within the City of Lubbock. In addition thereto, all of the rabies control provisions of this chapter, which are adopted pursuant to the Texas

Health and Safety Code, shall have application in the City of Lubbock.

Section 4-18. Report of bite cases.

(a) It shall be the duty of every physician or other practitioner to report to the Animal Services Department the names and addresses of persons treated for bites inflicted by a mammal, together with such other information as will be helpful in rabies control.

(b) It shall be the duty of every person owning or having custody of a mammal, which has bitten a human being, to report the same to the Animal Services Department.

Section 4-19. Quarantine.

(a) A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing, an animal that is suspected of being involved in a bite. A person may be issued a citation for non-compliance or violating this provision. The Animal Services Manager shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are violated.

(b) Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be reasonably imminent, the health director is hereby authorized to issue a quarantine proclamation, ordering persons owning, keeping, or harboring dogs, cats or other mammals to muzzle the same or confine them for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation by local newspapers, persons owning or harboring such animals shall confine them to premises unless they are effectively muzzled and under the control of an adult person by leash, cord, chain, or rope. Animals found at large in violation of this subsection may be destroyed by an officer of the city if such officer is unable with reasonable effort to apprehend such animals for impoundment.

Section 4-20. Identification/Registration Tag and/or Microchip Required.

(a) It is a violation of this chapter if any person owning, keeping, harboring or having custody of a dog or cat over the age of four (4) months within the City of Lubbock does not register such animal as provided herein. Police dogs or assistance animals shall be exempt from the Identification/Registration tag fee; however they must be compliance with all other provisions of this chapter. This section does not apply to animals temporarily within the city for a period not to exceed fourteen (14) days.

(b) The Animal Services Manager is hereby authorized to appoint Issuing Agents as his deputies for the limited purpose of issuing pet animal Identification/Registration Tags. Identification/Registration Tags shall be on forms and tags furnished by the Animal Services Manager and shall be issued subject to the provisions of this chapter and any other rules, regulations or ordinances relating to the issuance of such Tags.

(c) An Issuing Agent may not issue an animal Identification/Registration

Tag that is not currently vaccinated against rabies.

(d) Each Issuing Agent shall report the unique Identification/Registration Tag number issued to the Animal Services Manager within thirty (30) days and shall remit all Identification/Registration Tag fees and information collected at least once monthly.

(e) All dogs and cats four (4) months of age or older must wear traceable identification.

(f) Any owner who fails to obtain a current city animal registration shall be deemed guilty of a misdemeanor.

(g) No person may use a city Identification/Registration Tag or rabies certificate on an animal other than for which it was issued.

(h) Identification/Registration Tags must be renewed annually. No refunds shall be made on any city Identification/Registration Tag fee. A duplicate Identification/Registration Tag may be obtained upon payment of fee established by this chapter.

(i) Rabies vaccination certificates will be valid for either one (1) year or three (3) years from the date of vaccination.

Section 4-21. Confidentiality of Certain Information in Dog and Cat Registry.

The City shall comply with all state laws regarding the confidentiality of information in the dog and cat registry.

Section 4-22. Rabies Clinics.

The City Enforcement Agent may sponsor rabies vaccination clinics. In response to a rabies outbreak or some other public health threat, the Animal Services Manager or Public Health Director may authorize rabies vaccination clinics in the interest of protecting public health. Rabies clinics shall be offered only if all veterinarians in the city are notified and given an opportunity to participate. In the event that no veterinarian desires to participate in a clinic in an area of the city where the Animal Services Manager deems it to be in the public interest to conduct such a clinic, then the city may sponsor such a clinic.

Section 4-23. Veterinarians Required to Report.

It shall be the duty of every licensed veterinarian to report to the Animal Services Department their diagnosis of any animal observed as a rabies suspect. Any licensed veterinarian who diagnoses, examines, or treats any animal diagnosed to have, or suspected to have, anthrax, avian influenza, brucellosis, campylobacteriosis, Escherichia coli 0157:H7, hantavirus, Lyme Disease, monkeypox, plague, Q-fever, rabies, Rocky Mountain Spotted Fever, Salmonellosis, Tularemia, West Nile or any other zoonotic encephalitis, or other unusual zoonotic diseases transmissible to humans, shall immediately report their findings to the City of Lubbock Health Department's Health Director or Surveillance Manager.

Section 4-24. Animal Assistance Program.

(a) Identification fees established in this Chapter shall be used for the purpose of sterilizing dogs and cats in accordance with Section 4-24, to promote the sterilization program, other medical assistance as needed, and for administrative costs related to the Animal Assistance Program, and other related cost at the animal shelter.

(b) The department shall use the Animal Assistance Program to establish and implement an animal population control program pursuant to this statute. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats by encouraging the owners of dogs and cats to have them sterilized, thereby reducing potential threats to public health and safety.

(c) Any resident of the City of Lubbock, who owns a dog or cat and who is eligible to receive any type of financial assistance from the government due to the owner's lack of income may participate.

(d) The Animal Services Manager, with permission from the Public Health Director, may allow members of the general public to participate in this program for limited times or for special promotions. The program's first priority shall always be to assist low-income pet owners.

(e) It shall be a violation of this ordinance for any person to knowingly falsify proof of eligibility for, or participate in, any program under this chapter, or to furnish any licensed veterinarian with inaccurate information concerning the ownership of an animal submitted for a sterilization procedure, or to furnish the City Enforcement Agent with false information concerning an animal sterilization fee schedule or an animal sterilization certificate submitted pursuant to this section, or to otherwise violate any provision of this section.

(f) The Animal Services Manager, with the approval of the Public Health Director, shall adopt rules relative to the format and content of all forms required under this chapter, proof of eligibility, administration of the program, and any other matter necessary for the administration of this program.

Section 4-25. Veterinarian Participation.

(a) Any veterinarian licensed in this state may participate in any programs established under this chapter or by Animal Services. Only chemical or surgical procedures approved by the American Veterinary Medical Association may be employed for sterilization.

(b) Veterinarians who choose to participate in any program shall sterilize and provide an anti-rabies vaccination for each animal. The city shall reimburse participating veterinarians, to the extent funds are available, for each rabies vaccination and animal sterilization procedure performed. To receive this reimbursement, the veterinarian shall submit an animal sterilization certificate which shall be signed by the veterinarian and the owner of the animal and any other documentation deemed necessary by the Animal Services Manager in

accordance with this chapter.

ARTICLE III. ANIMAL ESTABLISHMENTS

Section 4-26. Standards for Animal Establishments.

All animal establishments within the city shall be constructed and operate in conformance to the General Design Standards, Specifications, and Operating Procedures for Animal Establishments promulgated by the City of Lubbock Health Board, which rules are adopted hereby and made a part of this chapter by reference. A copy of such rules shall be placed on file with the city secretary and a copy shall be maintained by the city health department, which copies shall be made available for inspection by members of the public during the normal business hours of the offices in which they are maintained. In the event of a conflict between such rules and an ordinance of the City of Lubbock or state law, then the ordinance or state law shall prevail over the rules.

Section 4-27. Animal Shelter Advisory Committee.

(a) There is hereby created an animal shelter advisory committee. The committee shall be composed of seven (7) persons with the following qualifications: one licensed veterinarian; one animal welfare organization representative; one city official, one city animal shelter employee and three (3) at-large persons. Persons appointed to such positions by the City Council shall serve for a term of two (2) years, so long as they do not fail to attend more than two (2) meetings of the committee in succession. In that event, or in event of a resignation from the committee, the City Council shall name a successor from the same representative group.

(b) The committee shall meet at least three (3) times each year and shall perform the following duties:

- (1) In an advisory capacity to assist the City of Lubbock in complying with the terms of the Texas Health and Safety Code, as amended; and
- (2) In an advisory capacity assist the city in establishing procedures applicable to the city's Animal Services program.

Section 4-28. Animal Exhibitions.

(a) All Animal Exhibitions shall, in addition to other requirements of this ordinance, comply with the minimum standards of this Chapter. All of the Exhibition's facilities shall be subject to inspection by the City Enforcement Agent upon his request during reasonable hours.

(b) The presenter of the Animal Exhibition must contact Lubbock Animal Services at least seven (7) days before the performance or display and provide dates, times, and exact location of each performance or display.

(c) It shall be a violation for any person who owns, manages, or represents an Animal Exhibition that requires a permit or registration to refuse, upon request by the department, to make his/her animal(s), premises, facilities,

equipment, and any necessary registration(s) or permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter. All animal exhibitions must be compliance with all applicable state and federal regulations.

Section 4-29. Wildlife Educational Centers.

(a) All Wildlife Educational Centers, as defined herein, shall be exempt from City regulations so long as they comply with minimum federal and state regulations.

(b) It shall be a violation for any Wildlife Educational Center to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with the provisions of this chapter.

(c) Failure to meet these standards or violating this chapter in any other way shall be grounds for the issuance of a citation subjecting the owner to penalties provided in this chapter.

Section 4-30. Animal Establishments and Animal Dealers.

(a) All Animal Establishments and Animal Dealers, as defined herein, shall, in addition to the other requirements of this ordinance, comply with the minimum standards of this section. Persons wishing to operate an Animal Establishment or to become an Animal Dealer within the City of Lubbock must apply in writing to the Animal Services Manager who will issue a permit if all of the state and federal requirements are met.

(b) It shall be a violation for any business or person to sell, offer for sale, give away, offer to give away, or otherwise transfer ownership of any animal without first obtaining an Animal Establishment or Animal Dealer Permit, unless such activity is authorized by some other section of this chapter.

(c) It shall be a violation for any Animal Establishment or Animal Dealer to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with the provisions of this chapter.

(d) Failure to meet these standards, or violating this chapter in any other way, shall be grounds for the issuance of a citation subjecting the owner to penalties provided in this chapter, and/or revocation of the owner's Animal Establishment or Animal Dealer permit at the Animal Services Manager's discretion.

Section 4-31. Private Animal Sales.

No owner or person shall display for commercial purpose, offer, sell, trade, barter, lease, rent, or give away, any live animal, on any roadside, public

right-of-way, commercial parking lot, or any flea market. This provision does not prohibit the sale or purchase of animals from a person's private residence.

ARTICLE IV. OTHER ANIMALS

Section 4-32. Complaint About a Dangerous Animal.

(a) Upon receipt of a written complaint by any person, animal services officer, or other law enforcement officer charging that a particular animal is a dangerous animal, the public health director or his designee shall conduct a hearing to determine whether such animal is dangerous unless the matter is resolved by agreement of all parties prior to such hearing. Such written complaints shall contain at least the following information:

- (1) Name, address and telephone number of complainants and witnesses;
- (2) A brief description of the incident or incidents which cause the complainant to believe such animal is a dangerous animal, including date, time and location;
- (3) A description of the animal and the name, address and telephone number of the owner of the animal, if known; and
- (4) Any other facts that the complainant believes to be important.

(b) Such hearing to determine if an animal is a dangerous animal shall be conducted within twenty (20) days after receipt of the complaint, impoundment, or seizure of the animal, whichever occurs later. Any animal awaiting such hearing which was impounded for being at large, was at-large when the incident that causes the dangerous animal complaint to be filed occurred, or which has bitten or scratched any other person or animal shall be boarded at the owner's expense at the Animal Services Facility or any other state approved quarantine facility pending the outcome of the hearing and determination of whether such animal is a dangerous animal.

(c) If the animal is quarantined at a facility other than the Animal Services Facility, the facility shall be found to be in violation of this chapter if the animal is released to any person, lost, stolen, or otherwise not able to be accounted for unless the quarantine facility first obtains written permission from the Animal Services manager to release the animal.

(d) Notice of such hearings shall be provided by the public health director or his designee to the owner of the animal by certified mail, return receipt requested, and to the complainant by regular mail. At such hearing all parties shall be given opportunity to present evidence on the issue of whether such animal is dangerous.

(e) Upon conclusion of a hearing to determine if an animal is a dangerous animal, the public health director may find that the animal is not dangerous, in which case it shall be promptly returned to its owner's custody after all impound and board fees have been paid, or the public health director may find that the animal is a dangerous animal and order that the owner comply with one or more

of the following requirements:

- (1) Removal of the dangerous animal from within the city limits. In which case, the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the Animal Services Manager prior to the animal being released from the Animal Services Facility; or
- (2) Humane euthanasia of the dangerous animal; or
- (3) Registration and compliance with all of the following requirements of this article, at the owner's expense, before the animal is released from the Animal Services Facility or other state approved quarantine facility.
 - a. Obtaining liability insurance coverage or showing financial responsibility in an amount of at least two hundred and fifty thousand dollars (\$ 250,000.00) to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person or for damages to any person's property resulting from the keeping of such dangerous animal. A certificate of insurance or other evidence of meeting the above requirements shall be filed with the City Enforcement Agent;
 - b. Registering with the City of Lubbock by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the animal; the location where the animal is to be kept if it is not at the address of the owner; and two (2) color photographs that clearly identify the dangerous animal;
 - c. Having the animal sterilized;
 - d. Constructing a cage, pen or enclosure for the dangerous animal that has secure sides; a secure top attached to the sides; and a secure bottom which is either attached to the sides or else the sides of the structure must be embedded in the ground no less than two (2) feet. The pen or enclosure must be completely encircled by a fence constructed in such a manner as to prevent a person or child from being able to reach the animal's pen or enclosure;
 - e. Not allowing the animal to go outside of its cage, pen or enclosure unless the animal is under physical restraint. No person shall permit a dangerous animal to be kept outside of its cage, pen or enclosure on a chain, rope or other type of leash unless a person is in physical control of the chain, rope or leash and the person is of competent strength to control the animal at all times. Dangerous animals shall not

be leashed to inanimate objects, such as trees, posts, buildings, etc. All dangerous animals outside their cage, pen or enclosure must be securely fitted with a muzzle that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent the animal from biting other animals or human beings.

- f. Posting signs giving notice of a dangerous animal in the area or on the premises in which such animal is confined. Such signs shall be conspicuously posted at both the front and rear property entrances and shall bear letters not less than two (2) inches high, stating "DANGEROUS ANIMAL ON PREMISES." Such signs shall also display a symbol, that is understandable by small children, that warns of the presence of a dangerous animal;
- g. Providing the animal with a fluorescent yellow collar visible at fifty (50) feet in normal daylight and attaching a fluorescent orange tag provided by the Animal Services Division to the collar that is worn at all times so that the animal can be easily identified;
- h. Implanting a microchip into the animal and registering it for life with the city's Animal Services Division and a recognized national registry; and
- i. Paying the appropriate dangerous animal permit fee annually.

(f) Any animal that is deemed a dangerous animal that was not previously impounded or otherwise in possession of the Animal Services Facility or any other state approved quarantine facility, shall immediately be impounded and boarded at the owner's expense until such time as the owner complies with all of the required conditions as set forth by the administrator's ruling. The animal shall be held at the owner's expense pending the outcome of any appeals. It shall be a violation of this section for the owner to refuse to turn the animal over as required and for the purposes of enforcement; each day for each animal in question shall be considered a separate offense.

(g) The owner shall have fifteen (15) days from the declaration of the animal as dangerous to comply with all of the required conditions as set forth by this chapter. If the owner fails to meet all of the requirements, the animal may be humanely euthanized on the sixteenth (16th) day by the City Enforcement Agent or a licensed veterinarian.

(h) In the event that a registered dangerous animal escapes its cage, pen or enclosure or attacks a human being or another animal, the owner of the dangerous animal shall immediately notify the Animal Services Division. For the purposes of this chapter, immediately shall mean within thirty (30) minutes of the owner becoming aware of the escape or attacks.

(i) In the event that a registered dangerous animal dies, the owner must present the body of the animal to the City Enforcement Agent or a licensed veterinarian for verification by microchip identification before disposal of its body.

(j) Prior to transferring ownership in any way or moving a registered dangerous animal, either inside or outside the city limits, the owner must obtain, in writing, permission from the Animal Services Manager to transfer ownership or move the animal. If ownership of the animal is being transferred, the new owner will be required to comply with all provisions of this chapter before the animal can be moved from the previous owner's custody. If the animal is being moved from the city limits, the owner must provide, in writing to the Animal Services Manager, the destination address of where the animal is to be moved to and proof that the owner has alerted the agency responsible for animal services in that area.

(k) In the event that any owner of a animal declared to be dangerous violates any order of the public health director, the animal may be immediately seized and impounded by the City Enforcement Agent. In addition, the animal shall be seized immediately if the animal bites, injures, or attacks a human being or another animal. Any animal already declared to be dangerous which is impounded due to any violation of this chapter or seized for causing injury to a human being or another animal shall immediately become the property of the City of Lubbock and shall not continue to be a registered dangerous animal.

(l) If the dangerous animal makes an unprovoked attack on a person or another animal outside the animal's enclosure and causes bodily injury to the person or other animal, the owner of the dangerous animal will be guilty of a class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor.

(m) If an owner of a dangerous animal is found guilty of an offense under this section, the Public Health Director or his designee may order the dangerous animal be humanely euthanized by the City Enforcement Agent or a licensed veterinarian.

(n) No animal shall be declared a dangerous animal if the threat, injury or damage caused by the animal was the result of a willful trespass upon another's property, or the person injured was tormenting, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of injury.

(o) Orders of the public health director pertaining to dangerous animals may be appealed to the City of Lubbock Permit and License Appeal Board by filing a written notice of appeal within five (5) days with the city manager's office. During the pendency of such appeal, the order of the public health director shall be suspended, and the animal shall remain impounded at the owner's expense at the Animal Services Facility or other state approved quarantine facility for observation. Decisions of the Permit and License Appeal Board shall be final.

(p) It shall be a violation for any owner of a permitted dangerous animal

to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.

(q) The owner of an animal that has been determined to be dangerous by another jurisdiction is prohibited from bringing such animal into the city limits.

(r) The Animal Services Manager shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are being violated.

Section 4-33. Keeping of Dangerous Wild Animals.

(a) It shall be unlawful to keep any wild animal within the corporate city limits of Lubbock, with the following exceptions:

- (1) if a person and his or her facility housing such dangerous wild animal(s) has complied with all applicable federal, state, and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits, prior to final adoption of this ordinance, said person may retain dangerous wild animals(s) in the above-described facility in compliance with all federal, state and local laws, including, but not limited to Chapter 822 of the Texas Health and Safety Code, as amended;
- (2) a governmental agency or entity acting in an official capacity;
- (3) a government-operated zoological park;
- (4) a permitted Wildlife Educational Center, animal exhibitions with valid state or federal permits; or
- (5) a holder of an Animal Dealer or Animal Establishment with a Wild Animal permit. The possessor of the Dangerous Wild Animal shall have all applicable state and/or federal permits to possess the species in question.

(b) Animal Establishments or Animal Dealers with Dangerous Wild Animals permit holders shall make written application to the Animal Services Manager to permanently keep each dangerous wild animal in their possession. The application must include the species and location of the animal, at least two pictures that clearly identify the animal, and proof that the center or person is in possession of the necessary state and/or federal permit(s) to possess such species.

Section 4-34. Sale of Dangerous Wild Animals.

(a) It shall be a violation for any person to sell, offer to sell, give away, offer to give away, or otherwise transfer or attempt to transfer ownership of a Dangerous Wild Animal, unless specifically allowed by some other provision of this Chapter. Any person who finds a dangerous wild animal that is at large must immediately notify the City Enforcement Agent. This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a

state and/or federally licensed wildlife rehabilitator or to a permitted Wildlife Educational Center.

(b) For the purposes of this chapter, the Animal Services Manager shall make the determination of whether any animal in question is a Pet Animal, a Wild Animal, or a Dangerous Wild Animal. In addition, for the purposes of this chapter, immediately shall mean within thirty (30) minutes of the person finding that a wild animal or dangerous wild animal is at large.

Section 4-35. Bee-Keeping.

(a) It shall be unlawful for any person to keep or allow bees, their hives, or any abandoned hives within the city limits, except honey bees may be kept if all of the following conditions are met:

- (1) All hives shall be located a minimum of thirty (30) feet from any property line and enclosed in a fenced area;
- (2) There shall be no more than four (4) hives per city lot;
- (3) There is an adequate source of water within twenty (20) feet of all hives;
- (4) All hives shall require written permission to be obtained from the majority of owners of all adjoining property;
- (5) There may be maintained one nucleus for each two (2) colonies. The nucleus shall not exceed one ten-frame hive body. Each nucleus shall be disposed of within sixty (60) days after it is acquired;
- (6) Each hive must be re-queened at least once every six months; and
- (7) The owner notifies the City Enforcement Agent, in writing, of the location and number of hives in his possession. The owner must also notify the City Enforcement Agent, in writing, each time he re-queens each hive.

(b) It shall be a violation for any person who owns, harbors, or possesses bees to refuse, upon request by the department, to make his/her bees, premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.

Section 4-36. Keeping of Other Animals; Nuisance Conditions.

(a) No person shall engage in keeping livestock within the corporate limits of the city, except in conformance with and only to the extent so permitted by the zoning ordinances of the city.

(b) The keeping or causing to be kept any livestock, chickens, geese, ducks, guineas, pigeons, rabbits or any other such animals in those areas appropriately permitted by the zoning ordinances of the city in pens or enclosed areas in such a manner as to become offensive to other persons living nearby is hereby declared to be a nuisance.

(c) It shall be unlawful for any person to park or leave standing any truck, trailer, or other vehicle that has been used for the hauling of livestock, animals or fowl in a residential area of the City of Lubbock when notified by a city enforcement officer that such vehicle is creating a nuisance due to odors, gases or fumes. Upon such notification, the owner, operator, driver or other person responsible for such vehicle shall move such vehicle to a location outside of any residential area of the city.

(d) All manure and other excrement shall be disposed of in such a manner as to prevent it from becoming offensive to other persons living nearby. It shall be unlawful for any person to transport slop, garbage or other refuse over any alley, street or highway within the corporate limits of the city for the purpose of feeding hogs or swine within the city.

Section 4-37. Keeping of Hogs or Swine.

(a) It shall be unlawful for any person other than a veterinarian to keep any live hog within the city limits, except in the hereinafter-named locations, for a longer period than twenty-four (24) hours.

(b) The following locations are authorized for the keeping of hogs or swine:

- (1) The campus and grounds of Texas Tech University, Lubbock Christian University and the Monterey High School Ag Farm.
- (2) The Panhandle South Plains Fair Grounds, when hogs are kept thereon for exhibition purposes.
- (3) All hog pens, barns, stables and other facilities shall meet the requirements of the city building code, zoning ordinance, and the general design standards, specifications, and operating procedures for animal establishments.

Section 4-38. Estray.

It shall be unlawful for any person, firm, or corporation to allow an stray(s) to be unattended upon any public street, alley, thoroughfare or upon the property of another in the corporate city limits of Lubbock. The person, firm, or corporation having ownership or right to immediate control of such stray(s) shall have the burden to keep such stray(s) off the public streets, alleys, and thoroughfares or the property of another in the City.

Section 4-39. Placement and Baiting of Animal Traps.

(a) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any trap designed for trapping animals in any highway, street, alley or other public place within the corporate limits of the city unless specific permission by Animal Services has been granted. However, nothing in this chapter shall prohibit a city enforcement agent from placing such traps on public or private property as may be necessary to capture animals running at large.

(b) It shall be unlawful for any person to remove, alter, damage, or otherwise tamper with a trap or equipment belonging to or set out by the City Enforcement Agent.

(c) Residents of Lubbock wishing to trap unwanted animals on personal private property may do so with the use of humane cage traps. Traps may be obtained from Animal Services. Any trapping program must have prior written approval of the land manager or owner, and written notification of activities to Lubbock Animal Services.

(d) Any traps mentioned in this article found upon public property are hereby declared to be abandoned traps and any city enforcement officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the applicable provisions of this Code.

(e) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any steel jawed trap (commonly known as a "bear trap", "wolf trap", "leg hold trap", or "coyote trap") within the corporate limits of the city.

(f) No person shall place any substance or article that has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to kill or harm animals. This shall include anti-freeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold poisons when applied in accordance with the manufacturer's directions for such use, in that person's residence, accessory structure or commercial establishment, provided that such use does not violate any other section of this Ordinance.

ARTICLE V. FEES

Section 4-40. Fees for Registrations, Permits, Impoundment, and Adoption.

(a) The cost of registrations and permits shall be as follows:

Dog and cat registration, annual.....\$5.00

This fee shall be waived if the owner of the animal is sixty-five (65) years of age or older or provides proof of receiving financial assistance from the government due to the owner being considered low-income. This fee shall also be waived for animals that are used by law enforcement agencies and for assistance animals.

Dangerous animal permit.....\$100.00

Dangerous Wild Animal permit, annual\$ 50.00

Euthanasia Fee.....\$ 10.00

Animal Establishment, Pet Shop, or Animal Dealer Permit,
annual\$ 90.00

Pet Grooming Facility permit.....\$ 35.00

Multi-Pet Permit Application FeeNo charge

Wildlife Educational Center permit, annualNo charge
Duplicate registration\$ 2.00

(b) The cost of reclaiming animals from the city Animal Services Facility shall be as follows:

Impoundment (per animal).\$ 50.00
This fee will be waived if the impounded animal is sterilized, has a current rabies vaccination certificate, and is identified by some means of traceable identification.
Boarding fee (daily for all or part of any one day)\$7.00
Microchipping Fee.....\$10.00
Rabies vaccination fee\$10.00
Rabies Quarantine Fee (includes boarding fee, veterinarian health check, rabies vaccination, testing fees, tag and microchip).....\$100.00

Small animals (sheep, goats, etc.):

Capture and impoundment, per head \$25.00
Boarding, per head per day \$7.00

Large animals (cattle, horses, etc.):

Capture and impoundment, per head\$45.00
Boarding fee, per head per day\$15.00

(c) The cost of adopting an animal from the city Animal Services Facility shall be as follows:

Dogs, Cats, Ferrets, Reptiles, Birds and others..... \$60.00

(d) The cost of releasing animals to Animal Services by agencies or individuals residing outside of Lubbock city limits shall be as follows:

Non-resident release fee.....\$50.00

(e) The Health Director or Animal Services Manager shall have the authority to refund, reduce, or waive fees under this chapter, if, in his determination, that such refund, reduction or waiver of fees is in the public interest of the City of Lubbock. Any refund or waiver of fees shall be documented. The Animal Services Manager shall have the authority to waive or reduce such fees in cases of special pet adoption promotions.

(f) Citations may be issued for failure to pay applicable fees.

Section 4-41. Display of Commercial Permits Required.

(a) All Commercial Establishments, as defined herein, shall at all times prominently display, in a public area, a copy of their current permit(s).

(b) It shall be a violation for any person who owns, harbors, or possesses an animal that requires a permit, or for any holder of a special use permit, to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.

SECTION 2. THAT violation of any provision of this ordinance shall be deemed a misdemeanor punishable as provided by Section 1-4 of the Code of Ordinances of the City of Lubbock, Texas.

SECTION 3. THAT should any paragraph, section, clause, phrase or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2006.

Passed by the City Council on second reading this _____ day of _____, 2006.

MARC MCDOUGAL, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Tommy Camden, Health Director

APPROVED AS TO FORM:

Amy L. Sims, Assistant City Attorney

ccdocs/Animal ordinance-06
2/14/06

