

ORDINANCE 2008-11

AN ORDINANCE OF THE CITY OF CUMBY REGARDING ANIMALS, DANGEROUS ANIMALS, AND THE KEEPING OF ANIMALS WITHIN THE CITY LIMITS OF CUMBY, TEXAS- AMENDING ORDINANCES 93-1 AND 97-6 AND ANY OTHER ORDINANCES REGARDING ANIMALS OF THE CITY OF CUMBY, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDANIND BY THE CITY OF CUMBY, TEXAS:

ARTICLE I.

SECTION 1:

DEFINITIONS- The following, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon: To cease to provide control over and cease to provide shelter, food, and water for an animal without transferring such care, custody, and physical control of such animal to another person with that person's knowledge and consent.

Animal Control Officer: The person or agent of the City of Cumby responsible for the care, seizure, custody, impoundment, disposal of animals, and the control of animals running at large, and who has the responsibility and authority for enforcing all provisions of this chapter. Other city employees may be designated by the Mayor of the City of Cumby.

Animal Shelter: The public animal shelter established and maintained by the city for the purpose of impounding and caring for animals either seized, lost, abandoned or given by owners and held under the authority of this chapter and/ or State Law.

Cat: Means a domestic feline of either sex, including one neutered or sterilized.

Dangerous animal, including a dog: Means an animal, including a dog, that makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal is kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or an animal, including a dog, that commits unprovoked acts in a place other than an enclosure in which the animal is being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person or an animal, including a dog, that makes an unprovoked attack on a domestic animal or domestic fowl which occurs when the attacking animal is at large. For purposes of this subsection only, the Court may take under consideration any or all of the following circumstances to determine whether or not the attacking animal is dangerous.

- a. *The seriousness and/or the extent of the injury to the attacked animal or fowl;*
- b. *Territorial issues associated with the location of the attack; and*
- c. *Restraints of the attacking animal which were in place at the time of, or immediately prior to, the attack.*

Dog: *Means a domestic canine of either sex, including one neutered or sterilized.*

Domestic animal: *Means and shall include all species of animals commonly and universally accepted as being domesticated.*

Fowl: *Means and includes chickens, roosters, hens, turkeys, guineas, geese, ducks and pigeons, any bird, poultry, or fowl, domestic or wild, regardless of age or sex.*

Harboring: *Means the act of keeping and caring for an animal or of providing a premise to which the animal returns for food, shelter, or care.*

Impound: *To take into custody or to place in the animal control shelter of the city or other authorized confinement area.*

Kennel: *Any lot, building, structure, enclosure, or premises wherein six (6) or more dogs and /or cats or any other animals (at least six months of age), in any combination, are kept; harbored; or maintained, whether for profit or pleasure.*

Livestock: *Means and included rabbits, hares, guinea pigs, horses, mules, donkeys, cattle, goats, sheep, swine, or any other animal regardless of age or sex.*

Owner: *Any person, firm or corporation who owns or has right of property in an animal, or harbors or provides care, custody or management of one (1) or more animals to remain about their premises.*

Pet Animal: *Means any dog, cat, rabbit, rodent, bird, nonpoisonous reptile, and any other species of animal which is sold or retained as a household pet, but shall not include: skunks, nonhuman primates, constricting snakes, and any other species of wild or exotic or carnivorous animal that may be further prohibited or restricted in this ordinance.*

Rabies Vaccination: *The application of an anti-rabies vaccine into a dog, cat, or other domestic animal, which vaccine is approved by the State Department of Health and administered by a veterinarian by the state.*

Running At Large: *Any animal not confined by premises of owner by a substantial fence or wall of sufficient strength and height to prevent the animal from escaping there from. Running at large also includes, an animal not physically controlled by the owner or authorized representative. An animal within an automobile or other vehicle of its owner or authorized caretaker shall not be deemed running at large.*

Sanitary: Means any condition of good order and cleanliness precludes the probability of disease transmission.

Stray Animal: Means any animal for which there is not an identifiable owner.

Wild Animal: Means and shall include all species of animals which exist in a natural unconfined state and are usually not domesticated.

SECTION 2: Running at large prohibited.

It shall be unlawful for any person owning, keeping or harboring of any domestic animal except domestic cats to permit such animal to run at large upon the public streets, avenues, alleys, parks or other public property of the city, or to suffer or permit any animal to run at large or go upon any premises owned or in the possession of any other person in the city. Such animal shall be declared a nuisance and shall be impounded as herein provided.

SECTION 3: Staking

It shall be unlawful for any person to stake any animal unless such animal is within a fence or wall. Any portion of this section in conflict with any other state or federal law is deemed repealed without affecting the entirety of this ordinance.

SECTION 4: Keeping of dangerous animals.

No person shall maintain any bears, lions, foxes, wildcats, jaguars, cheetahs, bobcats, wolves, jackals, leopards, hyenas, rats or any other animals which may be considered dangerous by the director of community development or Chief of Police within the city.

SECTION 5: Noisy animals.

(a) No person shall willfully or knowingly keep or harbor on his premises any animal that makes or creates loud or obnoxious noises by whatever method created, thereby disturbing the peace of the neighborhood or disturbing the occupants of adjacent premises or people living in the vicinity of such loud and obnoxious noise.

(b) A person shall be deemed to have willfully and knowingly violated the terms of this section if such person is notified by the Code Enforcement Officer; an animal control officer; or the person designated by the Mayor of such disturbances and refuses to correct such disturbance and prevent its recurrence.

(c) A warning will be given to the property owner, harboring such a noisy animal after a complaint has been filed with the Police Department. If two complaints are filed a citation will be issued.

SECTION 6: Foul or offensive odors from places where animals are kept.

(a) It shall be the duty of every person raising, owning or keeping any animal to keep such animals and its abode in a sanitary condition so that such animal, or the place where such animal is kept, shall not emit foul and offensive odors of sufficient strength to be detected on any adjoining property.

(b) It is hereby declared to be a nuisance for any person to maintain any place mentioned in subsection (a) of this section in such a manner that such place is not free from foul and offensive odors or sufficient strength to be detected on any adjoining property.

SECTION 7: Kennels are prohibited.

It is unlawful to maintain a kennel within the city limits, except for in zoning districts in which permit kennels.

SECTION 8: Care of animals.

Proper care of animals shall be provided. An animal control officer or any city employee designated by the Mayor will use the following to determine sufficient care of an animal.

(a) All animals must be provided with adequate, wholesome food and potable water.

(b) An animal shall be provided with adequate, proper shelter if the animal is not given access to an enclosed building, or if it is left outside unattended for a long periods of time. The shelter shall provide an area for the animal that is dry and protected from pests, vermin, and inclement weather. The shelter shall allow the animal to stand, lie down, and move about without injury or entanglement.

(c) All animals shall be provided with routine veterinary care.

(d) Any animal ill or injured shall be provided with veterinary care within a reasonable time.

SECTION 9: Prohibited actions against animals.

Animals shall be provided humane care, treated and transported in a humane manner and not in violation of V.T.C.A., Penal Code § 42.09 and V.T.C.A., Health and Safety Code, Title 10 or any other provision of law, including federal, state and local laws, ordinances and rules.

The following are prohibited actions against animals. A person will be found in violation of this ordinance and the law if:

(a) A person treats an animal in an inhumane or cruel manner as defined by the laws of the State of Texas;

- (b) A person knowingly owns, harbors, trains, sells or offers for sale any animal which is to be used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging the animal to attack human beings or animals when not provoked;
- (c) A person mutilates any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes;
- (d) A person causes an animal to fight another animal or person;
- (e) A person other than a licensed veterinarian docks an animal's tail, or crops any animal's ears; or castrates an animal; provided, however, that this subsection shall not apply to normal livestock operations occurring within the city limits;
- (f) A person dyes or colors chicks, ducks, rabbits, reptiles, or birds;
- (g) A person transporting an animal fails to effectively restrain an animal in order to prevent the animal from leaving or being accidentally thrown from a vehicle during normal operation of the vehicle; or fails to effectively restrain an animal so as to prevent infliction of bodily harm to passerby; provided, however, that the provisions of this subsection shall not prohibit a person from transporting an effectively confined or tethered dog in the open bed of a pickup truck.
- (h) A person is in control of a motor vehicle which strikes a domestic animal or livestock within the corporate limits or the town and fails to report the accident to the police department or animal control officer;
- (i) A person abandons any animal, including the abandonment of an impounded animal at the animal shelter, with the intent to readopt the animal to avoid impoundment fees.

ARTICLE II. DOGS AND CATS

SECTION 10. Collar and tag.

- (a) Required. The owner of a dog or cat shall provide and place on such dog or cat a collar or harness to which a current up-to-date vaccine tag required by this article shall be affixed, and the owner shall see that the collar and tags are at all times worn by the dog or cat.

SECTION 11. Confinement of dogs.

Every person raising, owning or keeping any dog within the city shall confine such dog to the premises of the owner or person controlling him.

- (a) The dog shall be confined by a fence or wall and shall be kept within the enclosure, unless accompanied by a responsible person and restrained by a leash, rope or tether in the hands of such person.
- (b) Fences and/or walls must comply with fence ordinance, Building and Building Regulations.

SECTION 12. Limitations on the Number of Dogs or Cats

It shall be declared a nuisance for any person, owner, or family to harbor or maintain more than five (5) dogs and/or cats or any other animal, or any combination thereof (over six months of age) in a residence. Keeping or harboring more than five dogs and/or cats or any other animal, or any combination thereof, constitutes a kennel. This section shall not apply to veterinary clinics, hospitals, or the humane society spay and neuter clinics.

ARTICLE III. RABIES CONTROL

SECTION 13. Adoption of state rabies control act; administration of article.

- (a) The state rabies control act, V.T.C.A., Health and Safety Code § 826.001 et seq., is adopted, and in the event of conflict between such statute and this Code, such statute shall control.
- (b) The Chief of Police shall be designated as the local health authority for the purpose of administering the statute adopted by subsection (1) of this section.
- (c) All dogs and cats within the city limits shall be vaccinated against rabies by the time the dog or cat is four months of age and at regular intervals thereafter as prescribed by the rules of the state board of health. Every dog or cat shall be vaccinated at least once within each twelve (12) month period from the time of its last vaccination.
- (d) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of the animal a vaccination certificate in a form which meets the minimum standards approved by the state board of health.
- (e) Any person establishing residence within the City of Cumby and owns a dog or cat shall comply with the vaccination requirements of this section within twenty (20) days of establishing such residency.
- (f) No dog or cat shall be registered or licensed that has not been vaccinated in accordance with this section.
- (g) Any dog or cat found in the City without a current vaccination tag will be declared a nuisance and shall be impounded as herein provided.

SECTION 14. Confinement of animals which have bitten or scratched persons.

It shall be the duty of any person owning or having charge of any warm-blooded animal, which has bitten, clawed or scratched any person, to have such animal confined by a licensed veterinarian or an animal control officer for a period of ten days. If, at the expiration of the ten days, the health of such animal is satisfactory, it may be released upon the payment of all expenses incurred by such confinement and compliance with all provisions of this ordinance.

SECTION 15. Dangerous Dogs.

It shall be unlawful for any person to own, keep, harbor, or in any way possess a dangerous dog.

ARTICLE IV. LIVESTOCK

SECTION 16. Limitations on keeping livestock – Generally.

It shall be unlawful for any person to maintain, own, control, keep, or harbor any livestock on premises owned or controlled by him / her within the city limits, except in compliance with the following restrictions.

- (a) Livestock shall be kept on a parcel or lot or land that is, at minimum, one acre in size.
- (b) There shall be no more than one head of livestock for the first acre of land. One additional head of livestock is permitted per additional one-acre of land in the same parcel or lot.
- (c) An adequate pen or enclosure must be provided for every head of livestock, every part of which shall be situated at least, fifty (50) feet from all property lines (with dwelling structures).
- (d) An “enclosure” as the term is used in the section, shall be held to mean any and all connected buildings, whether under one roof or otherwise, and buildings and sheds which may have entrances to the enclosure or adjoining lots, or lots with a gateway or other opening between them.
- (e) No livestock shall be permitted to graze, forage, or otherwise roam within fifty (50) feet of any dwelling or residence (other than the livestock owner’s dwelling or residence).
- (F) All pens, enclosures, and fencing shall be safe and adequate.

SECTION 17. Exception for Recognized Youth Organizations.

Young persons who are members of recognized youth organizations or accredited school projects who are required to maintain livestock projects, shall be exempt from Section 18.

SECTION 18. Keeping of Swine or Pigs Prohibited.

It shall be declared a nuisance to keep, harbor, or raise any hog, pig, swine, or other member of the swine specie of animals within the city limits. The provisions of this section shall not be construed to prohibit any person engaged in operating any packinghouse or similar institution from keeping hogs for a temporary period of time awaiting their use in connection with the operation and maintenance of such packinghouse or similar institution. Pot bellied pigs are included within this provision.

SECTION 19. Keeping of Rabbits and Fowl.

The following regulations shall govern the keeping of rabbits and fowl in the city.

- (a) It shall be the duty of any person owning or having within their management or control, any rabbit(s), chicken(s), hen(s), turkey(s), goose or geese, or other fowl, to keep same in an enclosure upon their premises at all times. Enclosure shall mean a house or building, or in case of a fence or structure or pen, it must have sides, top, and a secure bottom. The structure or pen shall provide protection from the weather.

- (b) No rabbits, chickens, hens, roosters, turkeys, geese or other fowl shall be kept in any enclosure within the city if any part of that enclosure is located within one hundred (100) feet of any occupied building or dwelling. This distance requirement shall not be applied to the dwelling or residence of the keeper or owner of such rabbits or fowl.
- (c) This section is not to be construed to prevent owners from keeping pet animals or fowl within or inside their residence.
- (d) It shall be the duty of every person raising or harboring any rabbit or fowl to keep the enclosure required thereof in a clean and sanitary condition, so that the same shall not at any time become fowl or offensive to the public.
- (e) Failure to comply with this section shall be deemed a nuisance.

ARTICLE V. IMPOUNDMENT

SECTION 20. Right to impound; establishment of animal shelter.

- (a) Any animal running at large or otherwise found in violation of any provision of this chapter shall be impounded by an animal control officer, any police officer or by any city employee designated by the Mayor.
- (b) If any animal is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal until he can notify the animal control officer, chief of police or person designated by the Mayor to come and impound such animal, provided the impoundment is done in a reasonable time. When so notified, it shall be the duty of such persons to at once cause such animal to be impounded.
- (c) The Mayor shall select and establish a place for impounding all animals impounded under any provision of this chapter.

SECTION 21. Fees

Fees for impoundment are established by the city commission by resolution and kept on file with the city secretary.

SECTION 22. Redemption of impounded animals.

No animal impounded by virtue of Section 20 shall be released to the owner until all costs and fees prescribed by Section 21 have been paid and until the person applying for the release of such animal has signed an affidavit to the effect that he is the owner of the animal and entitled to possession thereof. The owner of any animal so impounded may redeem his animal by paying the prescribed fees, together with the cost of advertising, if any, and providing evidence of prepayment for vaccination, if required by Section 13.

SECTION 23. Destruction of impounded animals generally; city not liable for injury to impounded animals.

Except as otherwise provided by law or ordinance, any animal impounded under any

section of this chapter may be destroyed by the person designated by the Mayor, after it has been impounded for a period of 72 hours excluding weekends and holidays. The city shall not be responsible or liable of any animal picked up for any violation of any provision of this chapter and any injury to or death of any animal impounded under this article shall be deemed to be the direct result of the owner's negligence or willful disobedience of this chapter.

SECTION 24. Adoption of impounded animals.

(a) Animal control officers may place for adoption impounded dogs and cats for cash after the dogs and cats have been impounded for 72 hours excluding weekends and holidays.

(b) Any impounded animal may be adopted from the animal shelter if and when all criteria outlined in this ordinance are met and the adoption charges are paid by the adoption applicant.

(c) An owner who no longer wishes responsibility for an animal may sign an animal release form supplied by the Animal Control Division, that allows the animal to be immediately subject to adoption.

SECTION 25. Livestock.

The impoundment, redemption, and sale of livestock, as defined by state law, is handled by the sheriff pursuant to the V.T.C.A., Agriculture Code §§ 142.001 through 142.014.

SECTION 26. Destruction of dogs and cats running at large under certain conditions.

If the person designated by the Mayor or Chief of Police believes there is danger to any person or any other animal from a dog or cat running at large, such person is authorized to destroy such dog or cat in lieu of impounding it.

SECTION 27. Health of an Animal.

An animal control officer shall be authorized to euthanize or place in the care of veterinary clinic any animal suffering from extreme injury or illness, whether such animal is found on public or private property, and after a reasonable effort has been made to locate the owner of such animal. The owner of an animal is responsible for all associated fees incurred while in the care of a veterinary clinic.

SECTION 28. Penalty for Violations.

Any person, firm, or corporation violating any of the provisions of this ordinance shall be subject to the penalties as provided for, and each day said violation shall continue shall be subject to a fine not to exceed the sum of five hundred (\$500.00) dollars for each offense.

**ARTICLE VI. ANIMAL CONTROL ORGANIZATION,
ENFORCEMENT, AND PROTECTION**

SECTION 29. Establishment.

There shall be and is hereby created the Animal Control Division and the position of animal control officer.

SECTION 30. Enforcement.

Enforcement of this ordinance shall be the responsibility of the Mayor and Chief of Police, or any employee of the City as directed by the Mayor.

SECTION 31. Duties of animal control officers.

The duties of the animal control office or officers are:

- (a) Enter upon private premises to apprehend stray or unrestrained animal, a vicious animal, or a wild creature when and if such animal, vicious animals, or wild creatures are suspected of communicable diseases, including rabies.
- (b) Enter upon private premises to investigate complaints or irresponsibility or inhumane animal care.
- (c) Apprehend and impound any dog, cat, rabbit, poultry, or any livestock in violation of any provision of this ordinance within the corporate limits of the city.
- (d) Report each month, in writing, the total number of animals impounded, redeemed, adopted, and disposed.
- (e) Investigate and enforce the provision of this ordinance within the corporate limits of the city.

SECTION 32. Protection of animal control officers.

- (a) It shall be unlawful for any person to interfere with any animal control officer or other city employee in the performance of his or her duties.
- (b) If attacked by an animal, an animal control officer or other designated city employee assisting the Animal Control Division can defend him or her self or a complainant, at his or her discretion, taking such means as he or she deems necessary in the given situation.

SECTION 33. All ordinances and parts of ordinances inconsistent with or in conflict with the provisions of this Ordinance shall be and the same are hereby expressly repealed.

SECTION 34. If any section, subsection, word, sentence, or phrase of this ordinance is declared to be invalid it shall not effect the validity of this ordinance.

This Ordinance shall be in full force and effect immediately upon its passage and approval.

PASSED, APPROVED, AND ADOPTED THIS 1st DAY OF JULY, 2008.


MAYOR

ATTEST:


CITY SECRETARY

