

ORDINANCE NO. 61-2004

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, AMENDING IN ITS ENTIRETY CHAPTER 14, ANIMALS, OF THE WICHITA FALLS CODE OF ORDINANCES; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, THAT:

Sec. 14-1. Definitions.

The following words, 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:

Abuse means to mistreat through intent or neglect any animal, fowl, livestock, or wildlife in a manner that causes or is likely to cause stress or physical injury, as provided in V.T.C.A., Penal Code § 42.11, or as otherwise stated in this chapter.

Animal means any live domestic creature, other than livestock and fowl, unless indicated otherwise. When used in this chapter, the term “animal” includes, but is not limited to, dogs and cats.

Animal reclaim center (ARC) means the animal reclaim center (ARC) or other facility designated by the City Council as the facility to be used for the impoundment of animals, fowl, livestock, and wildlife taken up by the city’s animal control officers and their assistants.

At large means any animal, including fowl or livestock, not restrained by some physical means to the premises of its owner or harborer. However, an animal, fowl or livestock shall not be considered at large when held and controlled by some person by means of a leash or chain of proper strength and length to control the actions of the animal, fowl or livestock or while confined within a non-open-bed vehicle or secured by a rope, leash or chain in any open-bed vehicle. Further, an animal shall not be considered at large when participating in a show, competition or training program which is approved by the local rabies control authority and is conducted in an area which is approved by the local rabies control authority. Further, a licensed cat shall not be considered at large when on the owner’s premises, is physically held or controlled by a person, or is restrained by means of a rope, leash, or chain.

Authorized Veterinary Clinic means a clinic that has been pre-approved by the Health District to offer for sale animal license tags to their clients.

Circus means a commercial variety show featuring animal acts for the public.

Commercial animal establishment means any pet shop, grooming shop, auction, riding school, stable, zoological park, circus, performing animal exhibition or kennel.

Curtilage means any land or building immediately adjacent to a dwelling that is directly and intimately connected with the habitation.

Distance between structures means a straight line from the nearest point of the shed, barn, pen, enclosure, fence, or area in which the animal is contained to the nearest point of such actual residence or building used for human habitation.

Enclosure means an area section off by a fence or wall.

Fowl includes chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures, except parakeets, canaries, or similar small-size birds, or any exotic birds, such as parrots, provided that they are continuously confined within the residence or business of the owner/harbinger, and non-domestic feathered creatures, regardless of age or sex.

Grooming shop means a commercial business establishment where animals are bathed, clipped, plucked or otherwise groomed.

Harbor means any animal, fowl, livestock or wildlife that is fed, sheltered or maintained for three days or more.

Health District means the Wichita Falls-Wichita County Public Health District.

In season means during the stage of estrus or heat.

Kennel (dog/cat) means any lot, building, structure, enclosure or premises wherein seven or more dogs and/or seven or more cats or seven or more dogs and cats in the aggregate, four months of age or older, are kept or maintained, whether for profit or for pleasure. Veterinary hospitals and pet shops are excluded from this definition unless the pet shop keeps or maintains ten or more dogs and/or cats four months of age or older.

Livestock 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; goats, consisting of all caprine species; and pigs, consisting of all swine species.

Livestock production area means any parcel of land in excess of 25 acres, within the city limits, used to raise livestock.

Neutered means any animal, male or female, rendered incapable of breeding or being bred; castration in the male, spaying or ovariectomy in the female.

Official notice means written notice personally delivered by an animal control officer or mailed by certified mail, return receipt requested, addressed to the last known address of the recipient.

Owner means any person owning, keeping, maintaining, harboring or having the care, custody or control of one or more animals, fowl, livestock or wildlife.

Performing animals means any spectacle, display, act or event in which animals, fowl, livestock or wildlife perform.

Pet shop means any person, partnership, company or corporation, whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any specie of animal, including dogs or cats, and fowl.

Public nuisance means:

- (1) Any animal, fowl, or livestock that molests, chases, or attacks passersby or passing vehicles;
- (2) Any animal, fowl, or livestock that molests, chases, or attacks other animals;
- (3) Any animal, fowl, or livestock that trespasses on school grounds;
- (4) Any animal, fowl, or livestock that is repeatedly at large (e.g., three or more times per 12-month period);
- (5) Any animal, fowl, or livestock that damages private or public property;
- (6) Any animal, fowl, or livestock that barks, whines, howls, crows or makes other noise in an excessive, continuous or untimely fashion;

(7) Any animal, fowl, or livestock that is unconfined in season (e.g., dogs and cats); or

(8) Any animal, fowl, or livestock that is a vicious animal not confined as required by this chapter.

(9) Fecal matter, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission.

(10) A condition or place that is a breeding ground for flies;

(11) A collection of water in which mosquitoes are breeding;

(12) A place or condition harboring rats;

(13) An object, place, or condition that is a possible and probable medium of disease transmission to humans; or

(14) Any animal, fowl, or livestock which damages, soils, defiles, urinates, or defecates on private property other than the owners. Any animal, fowl, or livestock which damages or defiles public property.

Public zoo. See Zoological Park.

Residence means any place of human habitation at any time, day or night, including but not limited to any residence, church, school, convalescent center or nursing home.

Restrained means any animal, fowl, livestock or wildlife secured by a leash or lead or confined within the property limits of its owner.

Riding school and *stable* mean any place which has available for hire, boarding and/or riding instruction any horse, pony, donkey, mule or burro.

Vaccination means an injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, veterinary biologics division, state veterinarian, and administered by a licensed veterinarian.

Veterinarian means any person duly licensed to practice veterinary medicine by the state board of veterinary examiners.

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

Vicious animal means any animal, fowl, livestock or wildlife that, because of its behavior, would constitute a physical threat to human beings or other animals, fowl or livestock. A dog or cat that has, without provocation, attacked or bitten a human being or attacked another animal or livestock shall be considered vicious.

Wild animal (wildlife) means any non-domestic creature (mammal, amphibian, reptile or fowl) which is of a specie that is wild by nature and which can normally be found in the wild state and which is not naturally tame or gentle, but is of a wild nature or disposition; or which, because of its size, vicious nature and other characteristics, would constitute a danger to human life or property, if not kept or maintained in a safe and secure manner. Such creatures include but are not limited to all forms of poisonous reptiles and nonpoisonous snakes which will exceed a length of six feet when mature and nonhuman primates. Excluded from this definition are hamsters, gerbils, ferrets, domesticated breeds of rabbits, guinea pigs, rats, mice, newts and salamanders.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, fowls, livestock and wildlife, operated by a person or under the auspices of a government agency or possessing an unrevoked municipal zoological park permit.
(Code 1966, § 5-1)

Sec. 14-2. Responsibility for enforcement; police powers.

The local rabies control authority, local health authority, the animal control officers and other authorized employees of the Health District shall have all of the powers and authority of peace officers to the extent only, and no further, of enforcing state statutes and regulations, this chapter and other city ordinances relating to animals, fowl, livestock and wildlife. No person shall interfere in any manner or give false information to the above-stated employees in the performance of their duties.

Sec. 14-3. Entry of private premises.

(a) If persons keeping animals, fowl, livestock or wildlife within the city, after request of the Health District or animal control officer, refuse to permit access to the areas or places of keeping of such animals, fowl, livestock or wildlife, the animal control officials shall seek the necessary court authorization to enter the premises.

(b) If the animal control officer determines that the life of the animal is in imminent danger, the animal control officer may enter the curtilage of the premises for the purpose of correcting the threat to the animal's life as long as damage to property can be averted.

Sec. 14-4. Penalty for violation.

Any person violating any prohibition, requirement, duty or provision of this chapter shall, upon conviction, be punished by a fine as provided in section 1-14. If any violation is continuing, each day's violation shall be deemed a separate offense. If any person is found guilty of cruelty to any animal, wildlife, fowl or livestock under municipal, state or federal law, his permit to own, keep, harbor or have custody of such animal, fowl, wildlife or livestock shall be deemed automatically revoked, and no new permit or license may be issued.

Sec. 14-5. Keeping poisonous reptiles.

(a) It shall be unlawful for any person to breed, raise, keep or have in his possession any poisonous reptile within the corporate city limits, except a poisonous reptile kept by an educational or a scientific institution. These institutions will be subject to initial approval and periodic inspections by the director of health or under his direction.

(b) Any person breeding, raising, or keeping poisonous reptiles and any person having in his possession or having on or about his premises any poisonous reptile, with the intent to keep, possess, raise, or breed the reptile within the corporate city limits, shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be fined as provided in section 1-14.

(c) The intent to commit the offense set out in this section is presumed whenever the means used is such as would ordinarily result in the commission of the forbidden act.

Sec. 14-6. Disposal of animals and livestock.

(a) No property owner, tenant, or possessor of any dead livestock shall fail to lawfully dispose of the dead livestock within 24 hours of its discovery by the responsible party. A reasonable disposal fee will be charged for each requested collection and disposal of each dead livestock and each requested collection of small animals, including dogs and cats. This fee shall be paid either directly to the city or to the collecting contractor for remittance to the city.

(b) Any owner wishing to relinquish an unwanted animal to an animal control officer or other authorized employees of the Health District will be charged a transportation and disposal fee. This transportation fee does not apply to citizens holding a loose animal for the animal control officers to pick up.

(c) It shall be unlawful for any person to abandon or turn any animal loose within the city limits of Wichita Falls.

Sec. 14-7. Noise.

No person shall harbor any animal, fowl, livestock or wildlife of any kind that makes an unreasonable disturbance to the peace of occupants of adjacent premises or vicinity thereof, including the making of unusual noises by howling, barking, bawling or otherwise.

Sec. 14-8. Removal of waste.

The owner, caretaker, or possessor of every animal shall be responsible for the removal of excreta deposited by his animal on public walks, recreation areas, public property or private property.

Sec. 14-9. Shooting or catching wild birds.

(a) It shall be unlawful for any person to shoot or attempt to shoot or kill with an air rifle, bow and arrow, slingshot or firearm or other means any wild bird within the city limits, except for the protection of his private property so long as no laws are violated and except where hunting is permitted by law.

(b) It shall be unlawful for any person to ensnare or catch or attempt to ensnare or catch, by any means whatsoever, any wild bird within the city unless such ensnaring or catching is first approved by the local health authority.
(Code 1966, § 5-70)

Secs. 14-10--14-35. Reserved.

ARTICLE II. DOG AND CAT VACCINATION AND LICENSING

DIVISION 1. GENERALLY

Sec. 14-36. Vaccination required.

(a) No person shall own, possess or harbor any dog or cat four months of age or older, unless it has been vaccinated against rabies by a veterinarian or approved antirabies clinic in accordance with this section.

(b) Any unvaccinated dog or cat redeemed from the animal reclaim center must be vaccinated against rabies before leaving the center.

(c) A valid vaccination tag must be worn on a collar or harness at all times. Failure to be wearing the tag is prima facie evidence that no vaccination has been given.

Secs. 14-37--14-65. Reserved.

DIVISION 2. LICENSE

Sec. 14-66. License Required.

No person shall own, possess or harbor a dog or cat four months of age or over without obtaining a license for each animal, except where specifically exempt in this chapter.

Sec. 14-67. License Exemptions.

(a) An animal with a valid rabies tag whose owner resides outside the city is not required to have a license for a maximum period of 30 days, unless the animal is impounded.

(b) No license fee shall be required for dogs trained to assist the physically handicapped or governmental agency police dogs.

(c) No license fee is required for an animal in a commercial animal establishment, as evidenced by a current city kennel or commercial animal establishment permit, unless the animal is impounded.

Sec. 14-68. Application, fee and certificate of rabies vaccination required for license.

A completed application form obtained from the vaccinating veterinarian or Health District, the license fee and a valid certificate of rabies vaccination must be presented to obtain a license for a dog or cat.

Sec. 14-69. Right to inspect.

A condition for issuing and maintaining a dog or cat license is permission for the animal control department, upon presentation of proper credentials, to inspect the dog or cat and premises of the dog or cat, when ordered by the director of the Health District and their designee. The purpose of this inspection is to ensure compliance with this chapter.

Sec. 14-70. Certificate Tag and Fee for License.

The fee for license shall be set by the Health District and approved by the City Council; the fee schedule will be posted in the environmental health division of the Health District. Animal license tags are not transferable from one animal to another and it shall be unlawful to alter or to issue one without a current rabies vaccination. If a tag is lost, a duplicate tag may be issued by the Health District and a replacement fee charged. The animal license shall run concurrently with the rabies vaccination.

The Health District will monetarily compensate Authorized Veterinary Clinics that participate in selling animal licenses. Each Authorized Veterinary Clinic shall submit the license applications and fees to the Health District by the fifth of each month; from every license sold, the Authorized Veterinary Clinic may retain \$2.00 for administrative services.

Sec. 14-71. Denial of license.

(a) No dog or cat license may be issued if the applicant falsifies information, or fails to comply with any section of this chapter.

(b) No dog or cat license shall be issued if the applicant has been convicted of inhumane or cruel treatment to animals or has three or more convictions for violating a section of this chapter.

Sec. 14-72. Issuance of license.

Upon approval of the application for a dog or cat license, a certificate and license tag will be issued. The tag of durable material, designed to be easily fastened or riveted to the animal's collar or harness, shall bear a number corresponding to the number on the certificate, showing the month and year of expiration. The department shall maintain a record of identifying numbers, which shall be available to the public.

Sec. 14-73. Wearing of tag.

Failure of a dog or cat to wear the license tag at all times shall be prima facie evidence that no license has been issued and constitutes a violation of this section.

Sec. 14-74. Suspension or revocation of license.

(a) If the person holding the dog or cat license refuses or fails to comply with this chapter or any law governing the protection of animals, official notice shall be given of the intention to suspend the license. If, within seven days after official notice is given, evidence shows the offense has not been corrected, the license shall be automatically revoked.

(b) Upon receipt of official notice, a dog or cat license is automatically revoked for one of the following reasons:

- (1) Impoundment by the city three or more times during a 12-month period.
- (2) Three or more convictions of a person for violating any section of this chapter.

(3) Any combination of impoundments and convictions totaling three incidents.

(c) Whenever a license is revoked, the owner of the licensed animal shall have the opportunity for a hearing if the owner files a written request with the director of the Health District within five (5) days of receiving written notice of the revocation. The owner will be granted a hearing within ten (10) days of receipt of a request for a hearing. If no request for a hearing is received the revocation is sustained and becomes final.

(d) A notice as required in these rules is properly served when it is delivered to the owner, caregiver, or possessor of the animal, or when it is sent by registered or certified mail, return receipt requested, to the last know address of the owner, caregiver, or possessor of the animal. A copy of the notice shall be filed in the records of the regulatory authority.

(e) The director of the Health District or their designee shall conduct the hearings provided for in these rules at a time and place designated by the director. Based upon the recorded evidence of such hearing, the director or designee shall make final findings, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing discussion shall be furnished to the holder of the permit by the Health District. If the outcome of the hearing allows for the re-issuance of the license, a reapplication fee shall be assessed at the discretion of the director.

Sec. 14-75. Disposal of unlicensed animal.

If a dog or cat is unlicensed, because of nonissuance or revocation of the license after official notice, it must be humanely disposed of, or it will be seized and disposed of by the Health District.

Sec. 14-76. Reapplication.

Any person having been denied a dog or cat license or if the license has been revoked shall wait at least 60 days before making reapplication. The application will not be accepted unless the animal control department is satisfied that there will be compliance with this chapter. The fee for reapplication shall be set by the Health District and approved by the City Council; the fee schedule will be posted in the environmental health division of the Health District.

Secs. 14-77--14-105. Reserved.

ARTICLE III. PERMITS

DIVISION 1. GENERALLY

Sec. 14-106. Enforcement.

This article shall be enforced by the animal control department, under the direction of the local health authority.

Sec. 14-107. Permit Exemptions.

(a) *Veterinary facilities.* Veterinary hospitals, clinics and related practices of veterinary medicine shall be exempt from this article.

(b) *Certain other facilities.* Stock shows, pet fairs including sanctioned animal shows, slaughterhouses, rodeo arenas, governmental agencies including public schools, laboratories, animal reclaim centers and research facilities approved by the Health District may be exempt from this article.

Sec. 14-108. Permits for dogs or cats.

No person shall keep more than four in aggregate or more than four of either dogs or cats over the age of four months within the city who does not possess an un-revoked permit from the animal control department.

Sec. 14-109. Fowl permit.

(a) A fowl permit shall be required for any person owning, possessing or harboring any fowl within the city limits. The owning, possessing or harboring of guineas, peafowl, or roosters shall not be permitted, and no permit shall be issued for the keeping of such. An annual permit fee shall be set by the Health District and approved by the City Council; the fee schedule will be posted in the environmental health division of the Health District.

(b) No person shall keep any fowl within the city who does not possess an un-revoked permit from the animal control department.

Sec. 14-110. Livestock permit.

(a) The livestock permit shall be required for any person keeping any livestock within the city limits when the keeping of livestock is allowed by this chapter. The annual fee for the permit shall be set by the Health District and approved by the City Council; the fee schedule will be posted in the environmental health division of the Health District.

(b) No person shall keep any livestock within the city who does not possess an unrevoked permit from the animal control department.

Sec. 14-111. Inspection prerequisite to issuance of permit.

It shall be required that an animal control officer inspect the premises prior to issuing a permit required by this article. The Health District has the right to inspect the premises, including animals, livestock and fowl, at any time during normal business hours. Inspection shall be repeated at least six months.

Sec. 14-112. Issuance; term; application for renewal of permits.

(a) After inspection, approval of the application, and receiving the fee, a permit required by this article shall be issued, which shall be displayed in a prominent place on the premises. Unless suspended or revoked, the permit shall remain in effect for one calendar year from the date of issuance.

(b) Application for renewal of a permit may be made from one month prior to one month after the permit expiration date, but the effective date of the permit shall be to coincide with the expiring permit date, and the fee will be for a full year from that date.

Sec. 14-113. Reclassification and fee adjustment of permits.

Any person who has a change of category under which a permit was issued pursuant to this article shall be subject to reclassification, and appropriate adjustment of the permit fee will be made.

Sec. 14-114. Denial of permit.

(a) No permit required by this article shall be issued if the applicant has:

- (1) Withheld or falsified information on the application;
- (2) Failed to comply with any section of this article.

(b) No permit required by this article shall be issued if the applicant has been:

- (1) Convicted three or more times for violating any section or combination of sections of this ordinance, or.
- (2) Been convicted of inhumane or cruel treatment to animals.

Sec. 14-115. Reapplication period upon denial of permit.

If a permit required by this article is denied, reapplication cannot be made for at least 60 days. Each reapplication shall be accompanied by a fee, in addition to the permit fee. The fee is not refundable.

Sec. 14-116. Suspension of permit.

(a) The animal control department, under authority of the local health authority, may upon official notice suspend a permit issued pursuant to this article for the following reasons:

(1) Animals are being deprived of necessary food, care or shelter.

(2) Animals are being cruelly confined or treated.

(3) Unsanitary conditions exist to such an extent that these conditions create a possible medium for the transmission of disease to the animals kept there or to human beings.

(4) There is noncompliance with any section of this chapter.

(b) The animal control department has the right to take photographs and gather evidence on the premises to document any of the reasons for suspension.

(c) After suspension, no animal shall be accepted or placed in the facility more than five days after the suspension, unless the suspension has been lifted and the permit reinstated prior to that time.

Sec. 14-117. Lifting of suspension and reinstatement of permit.

If all violations and unsatisfactory conditions have been corrected within 21 days, the Health District, after reinspection, may reinstate the suspended permit issued pursuant to this article. A reinspection shall be made as soon as practical, and not longer than five working days after receiving a written request for such inspection by the person to whom the permit was issued.

Sec. 14-118. Revocation of permit.

After 21 days from suspension of a permit issued pursuant to this article, if no written request for reinspection has been received or if satisfactory corrections have not been made, the Health District shall give official notice that in five days the permit shall be revoked. The city is not liable to refund any part of the permit fee.

Sec. 14-119. Reinstatement of permit after revocation.

(a) No person who has had a permit issued pursuant to this article revoked may apply for a new permit for at least one year from the date of revocation. No permit shall be issued if the person has been convicted of abuse

to animals. If the proper fee, the acceptable application and satisfactory assurance is given that previous violations will not recur and there will be compliance with all sections of this chapter, a new permit may be issued.

(b) If another owner applies for a permit at the same location where a permit was revoked less than one year after revocation, the person whose name appears on the revoked permit may in no way be associated with the new operation, including any financial interest, or the permit will be revoked and legal action may be taken against both parties.

Secs. 14-120--14-145. Reserved.

DIVISION 2. COMMERCIAL ANIMAL ESTABLISHMENTS

Subdivision I. In General

Sec. 14-146. Permit required.

No person shall operate a commercial animal establishment without first obtaining the necessary permit in compliance with this article.

Sec. 14-147. Categories of permits, other than kennels.

The commercial animal establishment permit shall be for persons owning the following types of facilities, as defined in section 14-1. The annual fee for these permits shall be as follows:

- (1) Pet shop
- (2) Riding school or stable
- (4) Grooming shop
- (5) Zoological Park
- (6) Circus
- (7) Performing animal exhibition
- (8) Recreational rides, including but not limited to: horses, camels, donkeys, elephants, and cows.
- (9) Non-conforming use.

Sec. 14-148. Separate enterprises.

Each commercial animal establishment, even though owned by the same person or group, is considered a separate enterprise, and each must possess a permit. If the establishment moves to another location or if there is a change of ownership, another application and fee for the permit is required.

Sec. 14-149. Individual licensure of animals optional.

A person operating a commercial animal establishment for breeding of dogs and/or cats may elect to license each such animal individually, in addition to obtaining a kennel permit. However, if any unlicensed animal is impounded for being at large and/or other violations, an individual license shall be purchased before redemption.

Sec. 14-150. Additional requirements.

(a) The following are requirements for pet shops in shopping centers or malls:

(1) The pet shop shall be in an enclosed area separated by walls from adjoining stores.

(2) The pet shop cannot be located closer than 50 feet to any eating or drinking establishment.

(3) Air conditioner ducts removing air from the pet shop must be directed outward and not directly into another shop or the mall.

(4) Any creature sold in the pet shop must be carried from the mall in a box, crate or appropriate container.

(b) The following requirements apply to all dogs, cats, and/or ferrets offered for sale at flea markets;

(1) Seller must provide valid rabies certificate for each dog, cat, or ferret four months of age or older.

(2) All dogs, cats, or ferrets must be restrained in a manner so as to prevent animal bite exposure to humans and/or other animals.

(c) It shall be illegal to sell or give away animals in parking lots, or temporary events or in places where the public generally gathers.

Secs. 14-151--14-175. Reserved.

Subdivision II. Kennels

Sec. 14-176. Kennel dog/cat permit.

A kennel dog/cat permit shall be required for persons harboring five or more dogs and seven or more cats, or seven or more dogs and cats in aggregate. A person permitted as a kennel operator may not accept any animal for boarding without first confirming that the animal has a current rabies vaccination. The operator may elect to license his dogs and/or cats individually in addition to obtaining the permit. However, if an unlicensed animal under this permit is impounded for being at large and/or other violations, an individual license shall be purchased before redemption.

Sec. 14-177. Fee.

The annual kennel permit fees shall be set by the Health District and approved by the City Council. The fee schedule will be posted in the environmental health division of the Health District.

Sec. 14-178. Minimum distance from residence.

(a) No person shall keep, possess or maintain within the city limits a kennel within 300 feet of any residence or habitation for human beings, other than the residence of the keeper, possessor or owner of such kennel.

(b) A kennel in existence and in operation on June 8, 1985 shall be allowed to remain in existence within 300 feet of any residence only so long as the place of business is continuously in operation from that date, whether or not under the same permit.

Secs. 14-179--14-205. Reserved.

DIVISION 3. PET FANCIERS

Sec. 14-206. Pet fancier's permit; Setback.

(a) A pet fancier's permit shall be required for any person owning or harboring five to six animals. The annual fee shall be set by the Health District and approved by the City Council. The fee schedule will be posted in the environmental health division of the Health District. A pet fancier who neuters all of their animals will be afforded a price reduction.

Secs. 14-207--14-235. Reserved.

ARTICLE IV. ANIMAL CONTROL

DIVISION 1. GENERALLY

Sec. 14-236. Running at large.

The running at large of animals, including fowl or livestock, within the city is prohibited. No owner, possessor or harbinger shall allow the animal, fowl, or livestock to run at large. All animals, including fowl or livestock, must be restrained by some physical means; however, a dog shall not be considered at large when held and controlled by some person, by means of a rope, leash, or chain or as defined under the term "at large" in section 14-1.

The prohibition against an animal running at large shall not apply to an owned, licensed, and neutered cat that is on private property with the property owner's consent and not on public property. The cat must be wearing the required license tag. If no tag is found, the cat may be impounded according to section 14-73. If the cat has been declared a public nuisance, as defined by section 14-1, it may be restricted to the owner's property by the health district. Failure to follow any of these restrictions constitutes a violation of this section.

Sec. 14-237. Public nuisance.

Any animal, fowl, livestock or wildlife which creates a public nuisance, as defined in section 14-1, is in violation of this chapter and is subject to impoundment and citation.

Secs. 14-238--14-265. Reserved.

DIVISION 2. VICIOUS DOGS

Sec. 14-266. Definitions.

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

Vicious dog means any dog:

(1) Without provocation, that bites or attacks a human being or domestic animal, either on public or private property, or that, in a vicious or terrorizing manner, approaches any person on the streets, sidewalks or other public places in an apparent attitude of attack;

(2) With a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting.

Sec. 14-267. Exemptions.

(a) No dog shall be deemed vicious if the bite, injury or damage was sustained by a person who at the time was committing a willful trespass upon the premises occupied by the owner or harborer of the dog or by a person who has tormented or abused the dog.

(b) Dogs under control of the police department or other proper governmental agency are exempt from this division.

Sec. 14-268. Penalty.

Any person violating any section of this division shall, upon conviction, be punished as provided in section 1-14, and the dog shall be impounded immediately in the animal reclaim center for a minimum of three days or until the violation has been corrected or other sections of this division have been met.

Sec. 14-269. License required.

Any person owning a vicious dog must obtain a license. Written application for such license shall be made to the health department and shall include the applicant's name and address, a description of the animal, proof of current rabies vaccination, and the payment of a fee set by the Health District and approved by the City Council. The fee schedule will be posted in the environmental health division of the Health District. The expiration date of the license shall coincide with the current rabies tag. Before the license is issued, the owner shall have his driver's license number or state identification number permanently tattooed on the inner surface of one ear of the dog by a licensed veterinarian. The owner of a vicious dog must be at least 18 years old.

Sec. 14-270. Declaration of vicious dog.

The owner or harborer may voluntarily declare that he has a vicious dog and apply for a vicious dog license, or the Health District, acting on information it has received, may declare a dog vicious after adequate investigation.

Sec. 14-271. Investigation of complaints.

If the Health District receives a complaint that a dog is vicious and the complainant will give a sworn statement with particulars concerning the complaint, a thorough investigation shall be made. If it is determined by the Health District that an animal is vicious and presents a substantial danger to the

public health, safety and welfare of the community, the animal may be impounded immediately and its owner promptly notified. The owner of such animal shall have five calendar days in which to file a written appeal to the director of the Health District. If the release of the dog is allowed, impoundment and other fees shall be paid prior to release.

Sec. 14-272. Destruction.

(a) Any dog determined to be vicious by the Health District may be destroyed if:

(1) Written appeal to the director is not made by the animal's owner within five calendar days from receipt of the notice that such animal is to be destroyed;

(2) After written appeal by the owner of such animal it is determined by the director that the animal is or remains a substantial danger to the public health, safety and welfare of the community and should be destroyed; or

(3) The owner of such animal fails or refuses to destroy the animal as requested by official notice or order of the director of health.

(b) The owner of the vicious animal shall have the opportunity for a hearing if the owner files a written request with the director of the Health District within five (5) days of receiving written notice of intent to destroy. The owner will be granted a hearing within ten (10) days of receipt of a request for hearing. If no request for a hearing is received the animal will be destroyed.

(c) A notice as required by these rules is properly served when it is delivered to the owner, caregiver, or possessor of the animal, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the owner, caregiver, or possessor of the animal. A copy of the notice shall be filed in the records of the regulatory authority.

(d) The director of the Health District or their designee shall conduct the hearings provided for in these rules at a time and place designated by the director. Based upon the recorded evidence of such hearing, the director or designee shall make final findings, and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing discussion shall be furnished to the holder of the permit by the Health District.

(e) Any person refusing to relinquish a vicious animal for destruction shall upon conviction be punished by a fine as prescribed in section 1-14. If the violation is continuing, each day shall be deemed a separate offense.

Sec. 14-273. Seizure warrant.

If the harborer of a dog declared vicious refuses to release such animal to the animal control officer, it shall be the duty of the animal control supervisor to obtain a seizure warrant for seizure of the animal.

Sec. 14-274. Confinement.

(a) It shall be the responsibility of the owner or harborer of a vicious dog to securely confine such animal. A vicious dog shall be confined in an enclosure with the walls or fence at least six feet high and otherwise designed to prevent escape by the dog. The enclosure must be securely locked.

(b) It shall be unlawful for a vicious dog to be outside the dwelling of the owner or outside the enclosure unless it is necessary for the owner to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with directions of the Health District. In such event, the vicious dog shall be securely restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length and shall be under direct control and supervision of the owner or harborer or humanely caged. Unless confined or restrained under conditions stated in this subsection, the vicious dog shall be considered at large and subject to the penalties of this division.

(c) A vicious dog may not be chained to any object outside the dwelling or locked enclosure either on or off the property of the owner.

(d) If the animal is sold, given away, or changes residence, the owner or harborer is to notify the local rabies control authority within five (5) days.

Sec. 14-275. Sign.

The owner or harborer of a vicious dog shall display a sign on the premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public street or highway.

Sec. 14-276. Inspections.

An inspection of the premises of the vicious dog and the vicious dog shall be made twice a year and at any other time deemed necessary by the Health District.

Secs. 14-277--14-305. Reserved.

DIVISION 3. IMPOUNDMENT

Sec. 14-306. Facilities authorized.

The City Council shall select and establish a suitable animal reclaim center (ARC) for impounding all animals, fowl, livestock and wildlife by the Health District.

Sec. 14-307. Records required.

Animal control officers shall keep records giving the following:

- (1) The description of all animals, fowl, livestock and wildlife impounded by the Health District;
- (2) The date of impounding;
- (3) The date of reclaim;
- (4) The date of euthanasia or transfer for adoption;
- (5) The amount realized for the sale or reclaim of each such animal, fowl or livestock; and
- (6) The name of the purchaser.

Sec. 14-308. Citation.

Any and all animals, fowl or livestock at large are subject to impoundment. In addition to or in lieu of impounding an animal, fowl or livestock at large, an animal control officer may issue to the known owner of such at-large animal, fowl or livestock a citation which will constitute a notice of violation. The citation shall be forwarded to the city attorney for prosecution.

Sec. 14-309. Right of entry on private property.

If an animal, fowl, livestock or wildlife is observed at large on private property, the animal control officer and duly appointed assistants may enter the property in accordance with applicable law for the purpose of emergency impoundment; seizure of the animal, fowl, livestock or wildlife; or issuance of a citation or both.

Sec. 14-310. Right of owner to reclaim; fee.

The owner of any animal, fowl or livestock impounded in accordance with this article shall have the right to reclaim the animal, fowl or livestock upon showing satisfactory proof of ownership and paying to the city the appropriate impoundment fee set by the Health District and approved by the City Council; the

fee schedule will be posted in the environmental health division of the Health District.

Sec. 14-311. Vaccination and license required for dogs and cats.

The owner of any impounded dog or cat four months of age or older shall, at the time of redemption, show proof of current rabies vaccination or, if unable to show such proof, shall be required to have the animal vaccinated before it can leave the animal reclaim center. The owner must also at this time purchase a city license if unable to show proof of a current license.

Sec. 14-312. Redemption of wildlife.

No wildlife shall be subject to redemption from impoundment without the approval of the local rabies control authority.

Sec. 14-313. Detention time.

It shall be the duty of the animal control officer to keep all tagged animals for a period of five working days from the date of impoundment and all untagged animals for a period of three working days from the date of impoundment.

Sec. 14-314. Livestock.

(a) *Impoundment for running at large.* The animal control officer shall take up and cause to be impounded any livestock found to be running at large within the city limits.

(b) *Redemption; fee.* The owner of any livestock impounded as provided in subsection (a) of this section may reclaim the livestock before sale by providing proof of ownership and paying all expenses, including roper's fee, boarding fee, impounding fee, the miscellaneous expenses and costs of advertising.

(c) *Sale or disposal.* The animal control supervisor shall proceed to sell any unclaimed livestock so impounded at public auction for cash, first giving three days' notice in the city's daily official newspaper describing the livestock impounded and stating that the livestock will be sold to defray costs, if not reclaimed before the date of the sale. If not reclaimed by such date, the animal control supervisor shall, between the hours of 10:00 a.m. and 4:00 p.m. on such date, sell such livestock at public auction. The animal control supervisor shall have the right to refuse all bids and arrange for other disposition. If any at-large livestock impounded by Health District is diseased or afflicted in any manner, such livestock may be euthanized after obtaining a statement from a veterinarian.

Sec. 14-315. Fowl.

No owner, possessor or harbinger of chickens, turkeys or other fowl shall allow the fowl to run at large within the city limits. The fowl running at large shall be impounded by the Health District. The owner of any fowl impounded may redeem such by paying the appropriate impounding and boarding fees during the three working days' impoundment period. Antwerp messenger or homing pigeons are excepted from this section.

Sec. 14-316. Trapping.

(a) Any animal control officer is authorized to employ the use of humane cage traps (e.g., Have-A-Heart, Tomahawk Brand) for the purpose of capturing animals, fowl or wildlife at large.

(b) Residents of Wichita Falls wishing to trap unwanted animals may do so with the use of humane cage traps. Traps may be rented from the Health District.

Sec. 14-317. Euthanasia.

Any animal, fowl, livestock or wildlife impounded or found at large within the city may be destroyed upon determination by the animal control supervisor or a local veterinarian that it has been injured or is sick and in such state that its recovery is seriously in doubt or that it is sick and endangers the health of other animals or persons. All euthanasia shall be done humanely, by injection of a lethal drug or necessary means as approved by state law.

Secs. 14-318--14-320. Reserved.

Sec. 14-321. Creation.

There is hereby created an animal shelter advisory committee.

Sec. 14-322. Representation.

The animal shelter advisory committee shall be composed of four (4) persons with the following qualifications; one animal welfare organization representative; one veterinarian; one city official, designated as the Local Rabies Control Authority of Wichita Falls (LRCA), as mandated by the Texas Health and Safety Code section 826.017, and one person whose duties include the daily operation of an animal shelter.

Sec. 14-323. Term of office; meetings.

The Local Rabies Control Authority of Wichita Falls shall serve an indefinite term. The veterinarian appointed to the committee shall serve a term of two years; the animal welfare organization representative shall serve a term of two years; the member whose duties include the daily operation of an animal shelter shall serve a term of two years. All terms expire on December 31. The committee shall meet at least three times a year.

Sec. 14-324. Duties.

The animal shelter advisory committee shall perform the following duties;

(a) Assist the city in an advisory capacity in complying with the terms of Chapter 823 of the Texas Health and Safety Code, as amended; and,

(b) Assist the city in an advisory capacity in establishing procedures applicable to the city's animal control program as follows:

1. Procedures to insure that the city's animal shelter shall separate all animals in its custody at all times by species, by sex (if known) and if the animals are not related to one another, by size;

2. Procedures to insure that the city's animal shelter will not confine healthy animals with sick, injured, or diseased animals;

3. Procedures to insure that the city, at least once a year, employs a veterinarian to inspect the city's animal control shelter to determine that such facility complies with the requirements of Chapter 823 Texas Health and Safety Code, as amended. The veterinarian shall file copies of his report with the person operating the shelter and with the Texas Department of Health on forms prescribed by the Texas Department of Health; and,

4. Procedures to insure that the shelter operator or contractor maintains necessary records required under Section 823.003(e) of the Texas Health and Safety Code, as amended.

Secs. 14-325—345. Reserved.

ARTICLE V. RABIES CONTROL*

Sec. 14-346. Reporting rabid animals, livestock, and wildlife.

It shall be the duty of every animal or livestock owner or harborer, veterinarian, physician or any person to report to the Health District all cases of rabies with which he comes in contact or to which his attention has been

directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

Sec. 14-347. Reporting rabies exposure.

A person having knowledge of an animal bite or scratch to an individual or of an animal that the person suspects is rabid shall report the incident or animal to the Health District.

Sec. 14-348. Quarantine of animals, livestock exhibiting symptoms.

Any animal or livestock that has symptoms of rabies as verified by a veterinarian shall at once be placed under rabies quarantine by the animal control supervisor.

Sec. 14-349. Quarantine and redemption of biting or attacking animals or livestock.

(a) If any person alleges that any animal or livestock has bitten, scratched or otherwise attacked any person within the city in a manner which caused a break in the skin of the person, he may report the incident to the Health District and sign an animal bite complaint form. It shall be the duty of the animal control officer, as soon as feasible, to impound such animal or livestock for quarantine purposes.

(b) If a disagreement should occur or question arise as to whether or not a wound is the result of an animal or livestock bite or scratch, the complainant shall be required to sign a notarized affidavit before the impoundment and quarantine will be instituted. This quarantine shall take place at the animal reclaim center or at a local veterinary hospital for a period of at least ten days (240 hours from the time of the incident).

(c) Impoundment at any approved facility for rabies quarantine purposes shall be at the expense of the owner of the impounded animal or livestock. If a harbinger of a quarantined animal cannot be identified and located within a reasonable length of time, the victim, at his option, may elect to have the animal examined by a veterinarian or to have the tissue submitted for laboratory examination, and the costs so incurred shall be borne by the victim. No animal or livestock confined for quarantine purposes under this article shall be released to any person until all vaccinations required under section 14-36 have been given.

(d) Should any owner or harbinger of any animal or livestock which has bitten or scratched a person within the city fail to turn over the animal for quarantine, or refuse to allow the quarantine of such animal or livestock, pursuant to this section, or attempt to interfere with such impoundment, that

person shall be guilty of a class C misdemeanor punishable by a fine under the provisions of this ordinance.

(e) Unvaccinated animals should not be vaccinated against rabies during the 10-day (240 hours) observation period; however, animals may be treated for unrelated medical problems diagnosed by a veterinarian.

Sec. 14-350. Seizure warrant.

If the harbinger of an attacking animal refuses to release for quarantine such animal, it shall be the duty of the animal control supervisor to obtain a seizure warrant for the seizure and quarantine of the animal in question.

Sec. 14-351. Citywide quarantine.

(a) *Animals in public restricted.* During the period of citywide quarantine, it shall be unlawful for any person to allow any animal to be taken, whether restrained or not, to the streets or any other public place.

(b) *Conditions warranting.* A citywide quarantine may be invoked for a period of 30 days by the local health authority after an investigation if it has been determined that there exists an immediate threat of rabies.

(c) *Extension of time.* If there are additional positive cases of rabies occurring during the 30-day period of the citywide quarantine, such period of quarantine may be extended for an additional reasonable period of time.

Sec. 14-352. Animals or livestock bitten by suspected rabid animals.

Every unvaccinated animal or livestock bitten or attacked by another animal or wildlife suspected of being rabid shall be destroyed or quarantined for a period determined by state law, at the owner's expense. Vaccinated animals or livestock must be destroyed or quarantined for a period determined by state law from the date of exposure.

Secs. 14-353--14-380. Reserved.

ARTICLE VI. CRUELTY TO ANIMALS

Sec. 14-381. Food, water and shelter.

No owner shall fail to provide his animals, fowl or livestock with sufficient good and wholesome food and water, adequate shelter and protection from the weather, adequate space and humane care and treatment and reasonable veterinary care when needed to prevent suffering. All persons owning, possessing or harboring such shall comply with the following requirements:

(a) *Shelter.* Shelter shall be provided as follows:

1. *Animals.* Animals shall be provided with access to shelter to allow them to remain dry and protected from the elements. Such shelter shall be enclosed fully on three sides, shall be roofed, and shall have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit and sturdy enough to block entry of wind or rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Bedding shall be provided. Either natural or artificial shade shall be provided to protect the animal from direct sunlight. If shade is provided by enclosure, allowance shall be made for adequate ventilation. A suitable method shall be provided to rapidly eliminate excess water from the shelter area.

2. *Livestock.* Livestock shall be provided with access to shelter to allow them to remain dry during rain and snow and protected from severe chill factor. Such shelter shall have three sides and a roof. It shall be structurally sound and in good repair to protect the livestock from injury. Such shelter will provide minimum space to accommodate all livestock confined within the compound as provided in subsection 14-420(a). Either natural or artificial shade shall be provided to protect livestock from direct sunlight. If shade is provided by the enclosure, allowance shall be made for adequate ventilation. A suitable method shall be provided to rapidly eliminate excess water from the shelter area.

(b) *Mobility and space requirements.* Any animal or livestock kept on a chain or rope shall be placed so that it cannot become entangled with the restraints of other animals or livestock or with any other objects. The chain or rope shall be of sufficient length to allow the animal or livestock complete access to shelter at all times. The chain shall be attached in a manner so as not to cause injury or discomfort to the animal or livestock. For dogs, the chain or rope shall be at least three times the length of the dog as measured from the tip of the nose to the base of the tail. Cats shall not be staked outside on a leash, rope, chain or similar apparatus. For animals and livestock not confined by chain or rope, the enclosure shall be constructed and maintained so as to provide sufficient space for normal movement and to prevent overcrowding and physical discomfort as provided in subsections 14-416(1) and 14-420(a)).

Sec. 14-382. Inhumane treatment.

No person shall beat, cruelly treat, torment, mentally abuse, overload, overdrive, overwork, kill, torture, mutilate, maim or perform, cause to be performed or permit to be performed any other act of cruelty upon any animal, wildlife, fowl or livestock. No person other than a licensed veterinarian shall crop the ears, dock the tail or perform any surgery on any animal, wildlife, fowl or livestock, excluding

livestock castration and dehorning. It shall be an affirmative defense under this section that such action was reasonably necessary to protect the health and safety of a human or an animal.

Sec. 14-383. Abandonment of animals; release of wildlife.

No person having custody of any animal, fowl or livestock, as owner or otherwise, shall abandon such animal, fowl or livestock. No person having custody of any wildlife shall abandon or release any such wildlife that is incapable of surviving on its own in the environment into which it is to be released.

Sec. 14-384. Giving animals as prizes or inducements; artificially colored baby fowl or animals; sale of quantities of young fowl.

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or inducement to enter any contest, game, or other competition; an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade.

(b) No chick, duckling, gosling, rabbit or hamster that has been dyed or otherwise colored artificially shall be sold or offered for sale; offered or given as a prize, premium or advertising device; or displayed in the city.

(c) No chickens, chicks, ducklings, goslings or similar fowl younger than eight weeks of age shall be sold in quantities of less than 12 to a single purchaser. Stores, shops, vendors and others offering such for sale in quantities of 12 or more shall provide and operate brooders or other heating devices that may be necessary to maintain the chicks, ducklings or goslings in good health and shall keep adequate food and water available to such fowl at all times.

Sec. 14-385. Duty of motor vehicle operator to report accidents involving animals, fowl, livestock.

Any person who, as the operator of a motor vehicle within the city, strikes any animal, fowl or livestock shall stop at once, render such assistance as may be practicable, and report the accident to an appropriate law enforcement agency or the Health District.

Sec. 14-386. Exposing poisonous substances or traps.

(a) No person shall expose any known poisonous substance, whether mixed with food or not, so that the poison shall be liable to be eaten by an animal, fowl, livestock, wildlife or person. This subsection is not intended to prohibit the prudent use on one's own property of herbicides, insecticides or

common rodent control materials (e.g., rat poisons) mixed only with a vegetable substance.

(b) No person shall expose an open-jaw-type trap, leg hold trap, snare trap or any type trap able or liable to cause physical harm or injury to any animal, fowl, livestock, wildlife or person.

Sec. 14-387. Performing animal exhibitions.

(a) *Use of chemical, mechanical, electrical or manual devices on performing animals.* No performing animal exhibition or circus shall be permitted in which performing animals are induced or encouraged to perform for entertainment through use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause stress, physical injury or suffering to the performing animal.

(b) *Equipment used on performing animals.* All equipment used on a performing animal shall fit properly and shall be in good working condition.

Sec. 14-388. Confining animals to motor vehicles.

(a) No animal shall be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to dangerous temperature; lack of food, water or attention; or confinement with a dangerous animal.

(b) Any animal control or peace officer is authorized to remove any animal from a motor vehicle at any location when he reasonably believes it is confined in violation of subsection (a) of this section. Any animal so removed shall be delivered to the animal reclaim center, after the removing officer leaves written notice of such removal and delivery, including his name, in a conspicuous, secure location on or within the vehicle.

Secs. 14-389--14-415. Reserved.

ARTICLE VII. CARE OF ANIMALS

Sec. 14-416. Sanitation; odor and vector control; cage sizes.

Every owner, possessor or harbinger of animals, fowl, livestock and wildlife shall comply with the following regulations and sanitation requirements:

(a) *Animal wastes.* Approved procedures for disposing of animal wastes shall be provided and utilized on a daily basis.

(b) *Odor and vector control required.* All persons keeping animals within the city shall keep the premises upon which such animals are kept clean and free from noxious and unpleasant odors and shall use some standard spray or other chemical control at reasonable intervals so as to keep such premises free from flies, mosquitoes, ticks, fleas and other vectors.

(c) *Minimum cage size.* Minimum cage size shall be as follows and overcrowding shall be prohibited:

1. Every keeper of an animal shall confine the animal in an enclosure sufficient to prevent its running at large. Such enclosure shall also be of sufficient size to maintain the animal comfortably and in good health. The following shall be the minimum standard for cage size:

a. Large breeds, over 50 pounds: four feet by six feet; or 25 square feet.

b. Medium breeds, 36 to 50 pounds: four feet by feet; or 20 square feet.

c. Small breeds, 10 to 35 pounds: three feet by four feet; or 12 square feet.

d. No more than two large, two medium, or three small breed animals shall be permitted per five-foot by ten-foot cage, nor shall overcrowding occur in cages of any size.

2. In addition, all permitted facilities will conform to this subsection except for the following allowances for pet shop cages:

a. Two feet by two feet by two feet for two pups not over five pounds each or four kittens.

b. Two and one-half feet by 2 ½ feet by 2 ½ feet for two pups not over ten pounds each.

c. Three feet by three feet by 2 ½ feet for one small dog ten to 20 pounds.

Sec. 14-417. Keeping of rabbits.

No person shall own, possess or harbor rabbits in any enclosure which is less than 50 feet, shortest measure distance, from any residence, as defined in section 14-1, except the residence of the harborer.

Sec. 14-418. Keeping of fowl.

(a) *Generally.* No person shall:

(1) Harbor any fowl with less than 12 square feet of floor or ground area for each. Permitted pet shops shall be exempt from this subsection.

(2) Keep any fowl within any structure in the city without thoroughly cleaning the area at least once each day and so maintaining such structure that no offensive odors are emitted therefrom.

(3) Keep any fowl within any structure, the interior of which is not treated with an approved disinfectant at least once every six months to discourage insects, fleas, ticks, mites, mosquitoes and flies.

(4) Place the coop, pen, housing or enclosure nearer than 75 feet to any residence excluding the residence of the harbinger of the fowl. The distance may be reduced to not less than 50 feet if written permission is received from the resident who is closer than 75 feet. Permitted pet shops shall be exempt from this subsection.

(5) Keep any fowl in violation of any other section of this chapter.

(b) *Breeding or keeping of certain pigeons.* Standards for the breeding or keeping of certain pigeons shall be as follows:

(1) *Restricted.* No person shall keep, breed or raise pigeons within the corporate city limits except the Antwerp messenger or homing pigeons, commonly called carrier pigeons, when the keeper complies with this section.

(2) *Identification required.* The Antwerp messenger pigeon shall have the name of the owner stamped upon its wing or tail or a leg band or ring with the name or initials of its owner or an identification or registration number stamped thereon when permitted to race or to fly for necessary exercise and training.

(3) *Odor elimination and setback required.* The enclosure shall be kept clean and free of offensive odors, and the nearest point of the enclosure shall not be less than 100 feet from the nearest point of any residence on another's property.

(4) *Trespassing prohibited.* It shall be unlawful to maintain any Antwerp messenger pigeon in such a manner that constitutes a nuisance

because of repeated trespasses on public property or private property, other than that of the owner of such pigeons.

(c) *Keeping of guineas and peacocks prohibited.* No person shall keep or maintain within the city limits any guinea fowl or peacocks.

Sec. 14-419. Keeping of fowl, rabbits, guinea pigs or ferrets for commercial purposes.

No owner, possessor or harbinger of any domestic fowl, rabbits, guinea pigs or ferrets, where such fowl or animals are kept for sale or for any purpose other than domestic use or home consumption, shall allow such fowl or animals to roam in open pens on the ground. However, such harbinger may keep such fowl or animals for sale or commercial purposes, provided he keeps such fowl or animals in batteries or coops, arranged inside of buildings and kept in a sanitary condition, removing all droppings from such buildings, batteries or coops at least once each day and disinfecting and deodorizing such buildings, batteries or coops at least once each day. Any such building must be at least 50 feet from any residence other than the harbinger's.

Sec. 14-420. Keeping of livestock.

(a) *Setback required; minimum space required.* No livestock shall be kept or at a distance closer than 200 feet from any residence located on another's property. All such livestock shall be maintained on a properly fenced parcel of land, providing a minimum of 600 square feet of area for each head of livestock. All such livestock shall have provided by their owner a shed of reasonable size for the number of livestock to be protected as provided in subsection 14-381(1)b.

(b) *Odor, vector and pest control required.* The place of keeping livestock shall be kept free of offensive odor, flies, rodents and other pests.

(c) *Manure container required.* Each and every enclosure in or on which any livestock are kept shall have a suitable manure container, into which all manure shall be placed daily. Each container shall be securely screened or otherwise protected from flies, rodents and other vermin and shall be cleaned out and disinfected at least once a week. Manure from containers shall not be left in open stacks, but shall be removed or buried.

(d) *Exemptions.* Livestock production areas, as defined in section 14-1, shall be exempt from the requirements of this section.
(Code 1966, § 5-47)

Sec. 14-421. Keeping of swine.

(a) *Definition.* For the purposes of this section, the term “potbellied pig” shall mean a Vietnamese potbellied pig, and under no circumstances shall any swine be considered a potbellied pig if its weight exceeds 95 pounds.

(b) *Restrictions.* It shall be unlawful for any person to keep swine, pigs or hogs in the corporate city limits, except under the following circumstances:

(1) It shall be unlawful for any person to keep, harbor or raise more than two potbellied pigs in any one location within the city.

(2) All such potbellied pigs shall be kept indoors at all times, other than times for evacuation of waste materials or during exercise periods. During the time periods the pig is permitted outdoors, it shall be confined within the property limits of the owner and shall not be left unattended.

(3) All potbellied pigs shall be spayed or neutered on or before the age of three months. No adult potbellied pig may be kept within the corporate city limits unless its tusks have been surgically removed and the pig has been spayed or neutered.

(4) All potbellied pigs shall receive annual vaccinations for erysipelas. It shall be the responsibility of the owner of the pig or the property to forward to the animal control supervisor an erysipelas vaccination certificate from a licensed veterinarian, which shall include the following information:

- a. Name and address of the owner.
- b. Description of the pig.
- c. Date of vaccination.
- d. Weight.
- e. Other appropriate information.

(5) No person shall keep any potbellied pig in any location within the city unless this person has filed with the animal control supervisor an application for harboring a potbellied pig and such application has been approved and a permit issued by the animal control supervisor. The annual permit fee shall be set by the Health District and approved by the City Council; the fee schedule will be posted in the environmental health division of the health district.

(6) If the potbellied pig dies, is moved or acquires a new owner or caretaker, it shall be the registered owner's duty to inform the animal control supervisor of the fact within 14 days of the event.

(c) *Exceptions.* Exceptions to this section shall be as follows:

(1) *Veterinary facilities.* Veterinary hospitals, clinics and related practices of veterinary medicine shall be exempt from this section.

(2) *Other facilities.* Stock shows, livestock auctions, slaughterhouses, public zoos, governmental agencies including public schools, laboratories, certain school project animals, and research facilities, approved by the director of health, may be exempt from this section.

Sec. 14-422. Keeping of wildlife.

(a) *Keeping for show as pets.* No person shall keep or permit to be kept on his premises any wild animal. This subsection shall not be construed to apply to approved zoological parks, performing animal exhibitions, circuses, animals kept for treatment in a facility operated by a veterinarian or animals used for research or teaching purposes by a licensed hospital or nonprofit university or college providing a degree program.

Sec. 14-423. Disposition of litter and droppings.

Every harbinger of animals, livestock or fowl shall cause the litter and droppings therefrom to be disposed of daily in a sanitary manner, such that the creation of odors and the breeding of flies, rodents and other vermin is minimized. The method employed must meet with the approval of the local rabies control authority.

Sec. 14-424. Storage of feed.

All feed provided for animals, livestock or fowl shall be kept in a rat proof, fly proof container.

Sec. 14-425. Keeping of project animals, livestock or fowl by school children.

(a) School-age children enrolled in a public or private school which offers FFA/4-H programs, in which the class participants are required or allowed to raise project animals, livestock or fowl for show or profit purposes, may apply for a permit to keep certain prohibited animals, livestock or fowl for the school

project, even though the property may not be fully in compliance with the setback requirements of this article. Those students are required to:

- (1) Apply for an annual FFA/4-H project animal/livestock/fowl permit.
- (2) Pay the annual permit.
- (3) Show proof of enrollment in one of the listed school programs.
- (4) Agree to comply with cleanliness and sanitation requirements of this article and the state Health and Safety Code.
- (5) Obtain the approval, in writing, of all adjacent or across the road property owners.
- (6) Allow inspection by the animal control staff of the animal, livestock or fowl, pens, facilities, and property before issuance of the permit.

(b) Failure to comply with any of the requirements of this section will disallow the issuance of the necessary permit. Permits are nontransferable and are revoked upon either graduation from high school, dropping the class, or nonattendance by the student.

Sec. 14-426. Nonconforming use.

(a) Any property issued a nonconforming use permit and in operation on July 4, 1999 shall be allowed to renew their permit annually only as long as:

- (1) The nonconforming use is not expanded by increasing the number and/or types of animals.
- (2) The property does not change owners.
- (3) The nonconforming use is continuous and not stopped for a period in excess of six months.
- (4) Existing structures are not extensively modified or changed and remain in sound condition except for routine maintenance and repair. Additionally, the structures are not to be relocated unless there is a need to provide for the health and security of the animals and/or the public.
- (5) Local and state cleanliness and sanitation requirements are perpetually in compliance.

SECTION 2. It is hereby officially found that and determined that the meeting at which this ordinance was passed was open to the public as required by law.

PASSED AND APPROVED this 20th day of July, 2004.

MAYOR

ATTEST:

CITY CLERK