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CHAPTER 3

Article 1. Definitions and Authority

Sec. 3-1. 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:

"Abandoned" shall mean leaving the animal without making reasonable arrangements for the provision of necessary food, water, shelter or care by another or releasing the animal with the intent to discontinue care.

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

"Animal" means a warm-blooded animal including fowl and livestock.

"Animal Control Division" or "ACD" means the Animal Control Division of the Big Spring Police Department.

"Animal Rescuer" means a person associated with an organization specializing in the rescue of animals or an organization specializing in the rescue of animals that is approved by the ACD and receives an animal for rehabilitation.

"At Large" shall apply to any animal that is not retrained by some physical means to the premises of its Custodian. However, an animal shall not be considered "at large" when held and controlled by some person by means of a leash or while confined within a no-open-bed vehicle or secured by a rope, leash or chain in any open-bed vehicle.

"Bite" means any abrasion, puncture, or tear of the skin actually caused or suspected of being caused by the teeth or claws of any animal.

"Board" shall mean the Texas State Board of Health.

"Cat" means any member of the Felis catus family.

"City" means the City of Big Spring.

"Commercial Animal Establishment" means a business related to animals that receives payment for goods or services; specifically any pet shop, animal boarding or training facility, grooming shop, animal auction, riding school, stable, zoological park, circus, animal exhibition, kennel or recreational rides including animals, including but not limited to: horses, camels, donkeys, elephants

and cows. Animal Rescuers, licensed veterinarians and veterinary hospitals are excluded from this definition.

"Custodian" means a person or agency, including but not limited to the owner of an animal that feeds, shelters, harbors, has possession or control of, or has the responsibility to control the animal.

"Cruelly treated" includes tortured, seriously overworked, abandoned, deprived of necessary food, care, or shelter, cruelly confined or caused to fight with another animal.

"Dangerous Animal" means any nondomestic creature (mammal, amphibian, reptile or fowl) which is of specie that is wild by nature and which can normally be found in the wild state and which is not naturally tame or gentle, bit is of a wild nature of 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 nonhuman primates and all forms of poisonous reptiles and nonpoisonous snakes which will exceed a length of six feet when mature. Excluded from this definition are hamsters, gerbils, ferrets, domesticated breeds of rabbits, guinea pigs, rats, mice, newts and salamanders.

"Dangerous Dog" where used in this ordinance shall mean a dog:

(a) That without provocation, 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;

(b) 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;

(c) Owned or harbored primarily, or in part, for the purpose of dog fighting, or that has been trained for dog fighting; or

(d) Any dog that is determined by the ACD to be a Dangerous Dog as defined in § 822.041 of the Texas Health and Safety Code.

"Distance Between Structures" means a straight line from the nearest point of the shed, stable, 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.

"Dog" means any member of the Canis familiaris family.

"Enclosure" means an area sectioned off by a fence or wall.

"Fee(s)" can be found in Appendix A of the Big Spring Code of Ordinances.

"Feral Cat" means any cat which lives primarily outdoors and must be trapped and sedated for veterinary examination.

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"Fowl" includes chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures, except parakeets, canaries, or similar small-size birds weighing less than four (4) ounces, or any exotic birds, such as parrots, provided that they are continuously confined within the residence or business of the Custodian.

"Harbor" means to provide any animal with food, water, or shelter.

"Kennel" means any lot, building structure, enclosure or premises wherein five or more dogs and/or cats of five or more dogs and cats in the aggregate, 16 weeks of age of older, are kept or maintained for profit. Veterinary hospitals and pet shops are excluded from this definition unless the pet shop keeps or maintains ten or more dogs and/or cats sixteen weeks of age or older.

"Local Rabies Control Authority (LRCA)" means the Animal Control Division of the Big Spring Police Department, and specifically the Chief of Police of the Big Spring Police Department.

"Livestock" means a horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or head of any species of cattle.

"Microchip" means an identifying integrated circuit device placed under the skin of an animal and containing a unique identifying number used by the ACD to cross-reference information regarding that animal, including the identity and address of the Custodian, which can be read through the use of a scanner capable of reading information from identifying integrated circuit devices.

"Neighboring Land" means a parcel of land has a property line that falls within twenty-five (25) feet of any property line of the property in question. The owner or owners of neighboring land shall be determined by the appraisal district records of the appraisal district in which the neighboring land is located.

"Neutered" means any animal, male or female, rendered incapable of breeding or being bred by castration in the male or spaying or ovarectomy in the female.

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

"Owner" means any person owning one or more animals.

"Public Nuisance" means any condition set forth in Article 5 of this ordinance.

"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.

"Swine" means any animal belonging to the Suis species.

"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 as required by state law. (Ord. of 8-24-10)

Sec. 3-2. General Powers and Duties.

(a) The City of Big Spring may enter into contracts or agreements with public or private entities to carry out this ordinance. The contracts or agreements may provide for payment by the City for materials, equipment, and services.

(b) The City may seek, receive, and spend funds received through appropriations, grants, or donations from public or private sources for the rabies control program established by this ordinance.

(c) The ordinances or rules of the City or the areas within the jurisdiction of the ACD.

(Ord. of 8-24-10)

Sec. 3-3. Enforcement; Police Powers.

(a) The ACD, and other authorized employees of the Big Spring Police Department, shall have, within the City and other areas within the jurisdiction of the ACD, 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 ordinances relating to animals. No person shall interfere in any manner or give false information to the above-stated employees in the performance of their duties.

(b) A Custodian of any animal shall immediately comply with an order to surrender such animal issued by the ACD or Police Department.

(Ord. of 8-24-10)

Sec 3-4. Entry of Private Premises.

(a) If persons keeping animals within the City or other areas within the jurisdiction of the ACD, after request of the ACD or Animal Control Officer, refuse to permit access to the areas or places of keeping of such animals, the animal control officials shall seek the necessary court authorization to enter the premises.

(b) Any animal observed by the animal control officer or peace officer, in the officer's opinion to be in immediate danger of death or serious bodily injury, may be removed from such situation by the quickest and most reasonable means available. It shall be the responsibility of the animal's Custodian to repair any damage to their property or the property of others caused by the removal of the animal from the dangerous situation.

(c) The animal control officer or peace officer has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this ordinance.

(Ord. of 8-24-10)

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Article 2. Dog and Cat Vaccination and Licensing

Sec. 3-5. Vaccination Required.

(a) No person shall own, posses or harbor, within the City or other area within the jurisdiction of the ACD, any don or cat sixteen (16) weeks of age or older, unless it has been vaccinated against rabies in accordance with this section and state law.

(b) Rabies vaccination must be repeated every twelve (12) months.

(c) Any dog or cat redeemed from the ACD that is over sixteen (16) weeks of age must have been vaccinated against rabies within the preceding twelve (12) months before it can be discharged.

(d) A dog or cat must have a valid rabies vaccination tag on a collar or harness at all times.

(Ord. of 8-24-10)

Sec. 3-6. License Required.

(a) No person shall own, possess or harbor a dog or cat sixteen (16) weeks of age or over without obtaining a license from the ACD for each animal.

(b) Each practicing veterinarian may choose to participate in the licensing program and collect the appropriate fee, found in Appendix A of the Big Spring Code of Ordinances, at the time each dog or cat is vaccinated. If the veterinarian chooses to provide this service, the veterinarian shall provide the ACD with the vaccination number of each animal and the veterinarian shall retain one dollar ($1.00) of each registration fee to cover his or her expenses in collecting and reporting registration information.

(c) Practicing veterinarians that choose not to participate in the licensing program must notify their customers that animal registration must be obtained from the Animal Control Department by:

(1) Posting a notice in a conspicuous location within their business establishment; and
(2) Providing written notification with the customer's rabies vaccination receipt.

(d) Animal license tags are not transferable from one animal to another and it shall be unlawful to alter a tag or issue one without a current rabies vaccination.

(e) A dog or cat required to be licensed that is found within the City or other applicable jurisdiction of the ACD without a license tag shall be subject to impoundment by the ACD.

(Ord. of 8-24-10)

Sec. 3-7. Animals Exempt from Licensing.

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

(b) No license is required for a dog or cat in a Commercial Animal Establishment, as evidenced by a current commercial establishment permit, unless the dog or cat is otherwise required to be licensed.

(c) No license is required for a dog or cat that is in the jurisdiction for less than thirty (30) days.

(d) This Section does not exempt such animals from the vaccination requirements in Section 3-6.

(Ord. No. 80-83, 10-11-83, §1; Ord. of 10-22-85, Ord. of 8-24-10)

Sec. 3-8. Suspension or Revocation of License.

(a) If a person falsifies information during the licensing process or refuses or fails to comply with this ordinance or any state law or regulation governing the protection of animals, official notice shall be given to the license holder of the intention to suspend the license. If, within seven (7) days after official notice is given, evidence shows the person is not in compliance, the license shall be revoked.

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

(1) Impoundment by the City three or more times during a twelve (12) month period;
(2) Three or more convictions of the animal's Custodian for violating any section of this chapter; or
(3) Any combination of impoundments and convections totaling three (3) incidents.

(c) If a dog or cat license is revoked under this section the dog or cat must be removed from the City or other applicable areas within the jurisdiction of the ACD or the animal will be seized and disposition will be in accordance with Article 7.

(Ord. of 11-11-96, Ord. of 8-24-10)

Article 3. Miscellaneous Regulations

Sec. 3-9 Running at Large.

It shall be unlawful for the Custodian of any dog or cat to permit such dog or cat to run at large within the city. A dog or cat is at large if it is not within an enclosure adequate to contain the dog or cat upon or within property owned or leased by its Custodian or restrained by a leash or harness personally held by the Custodian of the dog or cat. Any and all animals at large are subject

to impoundment. In addition to or in lieu of impounding an animal, the Animal Control Officer may issue to the known Custodian a citation which will constitute notice of violation.
(Ord. of 11-11-96, Ord. of 8-24-10)

Sec. 3-10 Microchipping.

(a) The ACD must microchip a dog or cat that has been impounded prior to releasing it in accordance with Article 7.

(b) An Owner may voluntarily bring a dog or cat to the animal shelter to be microchipped upon paying the applicable fees. (Ord.11-11-96, Ord. 8-24-10)

Sec. 3-11 Tethering Unlawful.

It shall be unlawful for a Custodian of any dog or cat to restrain or anchor a dog or cat by means of a tether, cable, rope or cord, unless the tether or restraint is being personally held by a person. No dog or cat may be attached to any inanimate object. (Ord. of 11-11-96, § 2-10-98, Ord. 8-24-10)

Sec. 3-12. Adequate Space.

Except for training/showing, transportation or sleeping purposes, each dog or cat must be provided with at least one-hundred (100) square feet of space whether inside a residence or in an outside enclosure. The outside enclosure intended to confine a dog or cat shall be constructed of adequate material with all four sides enclosed and shall be of sufficient height to prevent the dog or cat from escaping. The dog or cat must have adequate shade and protection from the elements within the enclosure. (Ord. of 8-24-10)

Sec. 3-13. Stray Animals.

It shall be unlawful for any person, without the actual consent of the Custodian, to harbor, feed, keep in possession by confinement or otherwise have an animal which does not belong to them unless he has, within forty-eight (48) hours, notified the ACD. Upon receiving such notice, the ACD may take the animal and deal with it as provided in Article 7, Disposition of Animals, of this ordinance. (Ord. of 3-27-01, Ord. of 8-24-10)

Sec. 3-13-1. Animals and Community Events.

It shall be unlawful for the custodian of any animal to place, permit or allow such animal to remain on the premises at the Comanche Trail Amphitheater during a community event. Exception: Licensed service animals and animals utilized as part of an exhibit or public performance are exempt from this Section. (Ord. of 5-12-15)

Sec. 3-14. Abandoned Animals.

(a) It shall be unlawful for any Custodian of an animal to abandon that animal.

(b) Any Custodian of an unwanted animal, other than livestock or swine, may relinquish the animal to an animal control officer or other authorized employee of the City and disposition will be in accordance with Article 7. A person who places an animal in the drop off pens at the animal shelter relinquishes all rights to that animal.

(c) If the ACD finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the ACD must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal's Custodian, then the ACD shall secure permission to remove the animal. If the property owner is also the animal Custodian and this individual cannot be located, the ACD shall secure an appropriate warrant to seize the animal.

(d) An animal seized pursuant to this section shall be impounded for a period of one-hundred-twenty (120) hours. If the Custodian contacts the ACD to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of an ACD supervisor before the animal is released to the Custodian and the release must also be in accordance with Article 7. If the animal is unclaimed-the disposition shall be as provided in Article 7. (Ord. of 3-27-01, Ord. of 8-24-10)

Sec. 3-15. Animal Cruelty.

(a) It shall be unlawful for any person to willfully poison, maim or disfigure any animal or cause any animal to be abused or cruelly treated as defined is Section 3-1 of this ordinance.

(b) Any person found in, on, or about any premises belonging to another and having in his possession, poison or any toxic substance capable of causing illness or death to any animal shall be presumed to have the intent to willfully poison an animal and it shall be prima facie evidence of the violation of this chapter. (Ord. of 8-24-10)

Sec. 3-16. Custodian Must Reside on Premises with Animals.

(a) It shall be unlawful for any person to cause a dog or cat to reside on property where a Custodian of the animal does not reside or currently operate a business so that the animal is attended to on a regular basis.

(b) In the event any person violates this section, the ACD may immediately issue a summons for such person to appear in municipal court within ten (10) days to answer such charges. After such notice and hearing, the ACD, may seize and dispose of the animal. In the event the Owner of the animal is unknown or after reasonable diligence the Owner cannot be located, the ACD, in accordance with Article 7, may remove the animal and dispose of the animal in accordance with Article 7. (Ord. 0f 8-24-10)

Sec. 3-17. Food, Water and Shelter.

No Custodian shall fail to provide his/her 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. (Ord. of 8-24-10)

Article 4. Commercial Animal Establishments

Sec. 3-18. Permit Required.

No person shall operate a Commercial Animal Establishment within the City or other areas within the jurisdiction of the ACD without first obtaining the necessary permit in compliance with this article. All permits, except for the Temporary Animal Establishment Permit, must be renewed annually in the month of January. Any person operating a Commercial Animal Establishment for a period of less than one year may obtain a temporary permit. All fees associated with this Article shall be in accordance with Appendix A of the City of Big Spring Code of Ordinances. All such establishments within the city limits must be properly zoned. All permits are contingent upon approval of the ACD following an inspection of the facility and/or premises. (Ord. of 8-24-10)

Sec. 3-19. Separate Enterprise.

Each Commercial Animal Establishment location, even if 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. (Ord. of 12-14-93; Ord. of 8-22-95; Ord. of 2-11-03, Ord. of 8-24-10)

Sec. 3-20. Individual Vaccination and Licensure of Animals.

No Commercial Animal Establishment may accept any animal without first confirming that the animal has current rabies vaccination if required by law. If any animal owned or harbored by a Commercial Animal Establishment is impounded for being at large and/or other violations, the animal shall be subject to the requirements of Article 7, Disposition of Animals, prior to its release. (Ord. 8-24-10)

Sec. 3-21. Minimum Distance from Residence.

(a) No person shall keep, possess or maintain with the city limits or other areas within the jurisdiction of the ACD a Commercial Animal Establishment that routinely boards or harbors animals within two-hundred (200) feet of any residence or habitation for human beings, other than the residence of the keeper, possessor or owner of such Commercial Animal Establishment.

(b) A properly zoned Commercial Animal Establishment in existence and in operation on July 1, 2010 that is noncompliant with this section shall be allowed to remain in existence so long as the Commercial Animal Establishment obtains a valid permit and continuously operates as a Commercial Animal Establishment after such date, whether or not under the same permit or ownership. (Ord. of 8-22-95; Ord. of 2-11-03, Ord. of 8-24-10)

Article 5. Public Nuisances

Sec. 3-22. Nuisance Unlawful.

It shall be unlawful for any person to own, keep, possess, or maintain an animal or property housing animals in such a manner as to constitute a public nuisance. By way of example, and not of limitation, the following conditions, events, acts or actions of a Custodian or harborer of an animal are hereby declared to be a public nuisance and are unlawful:

(a) Any animal that molests, chases, or attacks passersby or passing vehicles;

(b) Any animal that molests, chases, or attacks other animals;

(c) Any animal that trespasses on school grounds;

(d) Any animal that is repeatedly at large (e.g., three or more times per 12-month period);

(e) Any animal that damages or defiles private or public property or causes substantial inconvenience to another;

(f) Any animal that barks, whines, howls, crows or makes other noise in an excessive, continuous fashion so as to interfere with the reasonable use and enjoyment of neighboring premises. If such noise occurs between the hours of 11 p.m. and 6 a.m. it shall be prima facie proof that it is unreasonable. It shall be a defense to prosecution if an individual, other than the Custodian, provokes or taunts the animal.

(g) Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat, or create a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the Custodian of an animal which is being bred;

(h) Any animal that is a Dangerous Animal or Dangerous Dog not confined as required by this ordinance or an animal that is diseased and dangerous to the public health;

(i) Maintaining animals or property in an environment of unsanitary conditions or lack of cleanliness that results in offensive odor or is dangerous to the public health, welfare, or safety or a failure to maintain animals in a condition of good order and cleanliness so as to reduce the probability of transmission of disease;

(j) An object, place, or condition (including but not limited to, fecal matter, garbage or other organic wastes) that is a potential instrument or medium for disease transmission;

(k) Any dead animal not lawfully disposed of within twenty-four (24) hours of its death. Requests for disposal of small animals, including dogs and cats may be made to the ACD.

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

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

(n) A place or condition harboring rats;

(o) Any animal which damages, soils, defiles, urinates or defecates on private property other than that of the Custodian.

(Ord. of 8-24-10)

Sec. 3-23. Permit Required for Multiple Animals.

Any person other than a Commercial Animal Establishment, a licensed veterinarian hospital, or a verified Animal Rescuer that is or intends to be the Custodian of more than eight (8) dogs and/or cats over 16 weeks in age at one location must obtain a multiple animal permit from the ACD. The permit must be renewed annually as set forth in Appendix A. (Ord. No. 80-83, 10-11-83, §1; Ord. of 10-22-85, Ord. of 8-24-10)

Sec. 3-24. Permit Issuance.

The ACD may issue a multiple animal permit upon determination that the condition of the property is in compliance with this ordinance and upon the receipt of the fee set forth in Appendix A. The ACD may deny a permit or renewal of a permit if the applicant has previously been convicted of violations of this ordinance. (Ord. of 9-16-29, §1, Ord. of 8-24-10)

Sec. 3-25. Animals for Sale.

(a) It shall be unlawful for a person to sell, exchange, barter, give away, or offer to sell, exchange barter or give away any animal from a public street, alley, easement, or right-of-way, or from property owned or controlled by a local, county, state or federal governmental entity within the City or other applicable ACD jurisdiction.

(b) It shall be unlawful for a person to sell, exchange, barter, give away, or offer to sell, exchange, barter, or give away any animal on, in, upon, through or from any premises or space upon any private property within the City unless the person resides at such property or has a legal right of occupancy to such property for a period of six (6) months for the purpose of conducting such transactions.

(c) It shall be unlawful for a person to sell, exchange, barter, give away, or offer to sell, exchange, barter, or give away a Dangerous Animal within the City or other applicable jurisdiction of the ACD.

(d) It shall be unlawful for a person to sell, exchange, barter, give away, or offer to sell, exchange, barter, or give away a Dangerous Dog within the City or other applicable ACD jurisdiction except in compliance with Sec. 3-34(b)(4) of this ordinance.

(Ord. of 8-24-10)

Article 6. Dangerous Animal and Dangerous Dog

Sec. 3-26. Dangerous Animal or Dangerous Dog Permit Required.

It shall be unlawful for any person to keep or maintain a Dangerous Animal or Dangerous Dog without a valid unrevoked permit authorized by the ACD and issued by the City of Big Spring. All City permitting requirements shall be in addition to any requirements imposed on Dangerous Animal and Dangerous Dog owners by state law. (Ord. of 8-24-10)

Sec. 3-27. Permit Issuance.

The City shall issue a permit for the keeping or maintenance of a Dangerous Animal or Dangerous Dog if, upon inspection, the ACD finds:

(a) that the dog or other animal is at all times kept or maintained in a safe manner and that it is at all times confined securely so that the keeping of such animal will not constitute a danger to human life or the property of others;

(b) that adequate safeguards are made to prevent the unauthorized access to such dog or animal by members of the public;

(c) that the health or well-being of the dog or animal is not in any way endangered by the manner of keeping or confinement;

(d) that the keeping of such dog or animal will not create or cause a nuisance and willnot harm or disturb the peace and quiet of the surrounding neighborhood;

(e) that the keeping of such dog or animal will not create or cause offensive odors or constitute a nuisance;

(f) that the keeping of such dog or animal will not create or cause offensive odors or constitute a danger to public health or safety;

(g) that the quarters in which such dog or animal is kept or confined is adequately lighted and ventilated and is so constructed that they may be kept in a clean and sanitary condition; and

(h) that the applicant for such permit has established financial responsibility for damages up to and including the amount of one-hundred-thousand dollars ($100,000) for bodily injury to or death of any one person or persons or for damage to property owned by any other person which may result from the ownership, keeping or maintenance of such dog or animal as required under §822.042 of the Texas Health and Safety Code. Proof of such financial responsibility shall be maintained continuously so long as the animal is kept or maintained. (Ord. of 9-29-29, Ord. of 8-24-10)

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Sec. 3-28. Limit on Number of Dangerous Dogs/Animals.

In no event shall a permit be issued for the keeping of more than two (2) Dangerous dogs or Dangerous Animals or combination of Dangerous Dog and Dangerous Animal at any single location. (Ord. 1-8-57, §7, Ord. of 8-24-10)

Sec. 3-29. Dangerous Dog Declaration.

The ACD may declare a dog dangerous after adequate investigation. The Owner of a dog may voluntarily declare that the has a Dangerous Dog and apply for a Dangerous Dog license. (Ord of 11-8-05, Ord. of 8-24-10)

Sec. 3-30. Exemptions.

(a) No dog shall be declared dangerous solely because of a bite, injury or damage that was sustained by a person who at the time was committing a willful trespass upon the premises occupied by the Custodian of the dog or by a person who is demonstrated to have tormented or abused the dog.

(b) Dogs under control of the Police Department or other government agency are exempt from this article.

(c) Validly permitted Commercial Animal Establishments that keep dangerous animals under the following circumstances are exempt from this article:

I. Dangerous animals maintained in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;

II. Dangerous animals maintained for exhibition to the public by a circus, carnival, or other exhibit or show; or

III. Dangerous animals that are kept by a licensed veterinarian or licensed veterinary hospital for treatment. (Ord. of 11-8-05, Ord. of 8-24-10, Ord. of 11-9-10))

Sec. 3-31. Investigation of Complaints.

The ACD will investigate a complaint that a dog or other animal is dangerous based on a sworn statement with particular details concerning the complaint or other reliable information. If it is determined by the ACD that any animal is dangerous and presents substantial danger to the public health, safety and welfare, the animal may be impounded immediately and its Custodian and Owner, if known, shall be promptly notified. (Ord. of 11-8-05, Ord. of 8-24-10)

Sec. 3-32. Appeal.

The Owner of a dog declared to be dangerous shall have the right to file a written appeal in accordance with the procedures of Subchapter D. of Chapter 822, of the Texas Health and Safety Code. If the release of the dog is allowed, impoundment and other fees shall be paid prior to release. (Ord. 11-8-05, Ord. of 8-24-10)

Sec. 3-33. Destruction.

(a) Any dog determined to be dangerous may be destroyed in accordance with Chapter 822 of the Health and Safety Code if:

(1) The Owner of the dog does not file a written appeal pursuant to Subchapter D of Chapter 822, Health and Safety Code; or

(2) If the Owner of such dog fails or refuses to comply with the permitting requirements in this article as well as the provisions of Chapter 822, Texas Health and Safety Code.

(b) A notice required under this article is properly served when it is hand delivered to the Owner of the dog, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the Owner of the animal. A copy of the notice shall be filed in the records of the ACD.

(c) If any person refuses to relinquish a Dangerous Dog for destruction pursuant to this article, the person shall be guilty of a misdemeanor. The ACD is authorized to obtain a seizure warrant for such dogs.

(Ord. of 8-24-10)

Sec. 3-34. Additional Permitting Requirements for Dangerous Dogs.

The following previsions apply only to Dangerous Dogs.

(a) Inspections.

An inspection of the Dangerous Dog and the premises where a Dangerous Dog is kept shall be made at least twice a year and at any other time deemed necessary by the ACD. If the inspecting officer determines during such an inspection that any of the conditions of this ordinance are being violated, he shall refuse to renew or will revoke such permit until the violation is corrected. The ACD may allow a reasonable time for the correction of violations of this ordinance so long as it does not constitute a danger to the public health and safety.

(b) Confinement.

(1) It shall be the responsibility of the Custodian of a Dangerous Dog to securely confine such animal. A Dangerous Dog must be confined in a secured enclosure which shall be either:

(a) at least a six (6) foot tall fence enclosing the entire yard, with brackets angling in twenty-four (24) inches in length with at least three (3) strands of wire to prevent the animal from climbing over the fence. The fence will have each gate secured with a locking device to prevent anyone from opening when locked; or

(b) at least a six (6) foot tall fully enclosed dog run, including top, with a locking gate. The locking device shall be of a type that prevents anyone from opening when locked.

(2) It shall be unlawful for a Dangerous Dog to be outside the dwelling of the Owner or outside the enclosure unless it is necessary to obtain veterinary care for the Dangerous Dog, to sell or give away the Dangerous Dog, after notification to the ACD, or to comply with directions of the ACD. In such event, the Dangerous Dog shall be securely restrained with a chain having a minimum tensile strength of three-hundred (300) pounds and not exceeding three (3) feet in length that is personally held by the Custodian or humanely caged. A Dangerous Dog not confined or restrained in accordance with this subsection shall be considered at large and subject to the penalties of this article.

(3) A Dangerous Dog may not be kept anywhere other than the approved enclosure for that dog.

(4) If the animal is sold, given away or moved to a different location, the Owner must notify the ACD in writing at least three (3) business days prior to such event of the name, address, and telephone number of the intended recipient. The ACD shall notify the recipient that the dog has been declared a Dangerous Dog. If the recipient or new Owner lives within the jurisdiction of the ACD, he or she must obtain a new Dangerous Dog permit prior to taking custody of the dog. If the new recipient or Custodian does not live in the jurisdiction of the ACD, the ACD shall notify the animal control authority in the respective jurisdiction.

(c) Microchip and Collar.
Each Dangerous Dog shall be chipped by a licensed veterinarian or the ACD and continuously wear the distinctive Dangerous Dog collar and tag purchased through the ACD.

(d) Sign.
The Owner of a Dangerous Dog shall display a sign on the premises that reads "DANGEROUS DOG" in four inch (4") letters that contrast with the signs background to warn that there is a Dangerous Dog on the premises. The sign shall be visible and capable of being read from the public street or highway, and the alley and must be posted at all entrances into the enclosure.

(Ord. of 8-24-10)

Article 7. Disposition of Animals

Sec. 3-35. Redemption and Adoption of Animals.

(a) Redemption. The Owner or person authorized by the Owner of any animal impounded under the provisions of this ordinance may redeem, reclaim, and receive possession of such animal upon payment of the applicable fees and proof that the person has previously had the animal vaccinated and/or licensed. If such person cannot establish such proof the animal may only be released if adopted in accordance with this article.

(b) Adoption. Any impounded animal that is not redeemed in accordance with this Article may be adopted in accordance with the Texas Health and Safety Code and ACD policies.

(Ord. 8-26-75, Ord. 7-27-04, Ord. of 8-24-10)

Sec. 3-36. Disposition of Unclaimed Animals.

Should any impounded animal not be redeemed as provided in Sec. 3-35 within seventy-two (72) hours, or the Owner of the animal signs a Certificate of Animal Release and Euthanasia Form, the animal may be destroyed by the ACD in a manner approved by the American Humane Society. No animal wearing a license tag when impounded will be destroyed until seventy-two (72) hours after the ACD notifies the license holder of record of such animal, by mailing to such person a notice of impoundment to the mailing address furnished to the City when the license was issued. At any time after the expiration of the redemption period the ACD may allow adoption of the animal so impounded by the first person tendering to the City any applicable adoption fees.. (Ord. of 1-8-57, §12, Ord. of 8-24-10)

Sec. 3-37. Disposition of Unpermitted/Unlicensed Animals.

If any animal required to be permitted and/or licensed is not permitted because of non-issuance or revocation of the permit and/or license after official notice, it must be humanely disposed of if it cannot be legally relocated under state law or this ordinance, or it will be seized and disposed of by the ACD. (Ord. of 1-8-57, §13, Ord. of 8-24-10)

Article 8. Rabies Control

Sec. 3-38. Adoption of Rabies Control Measures.

For the purposes of controlling and eradicating rabies, Chapter 826 of the Texas Health and Safety Code entitled "Rabies" and Chapter 169 of Title 25 of the Texas Administrative Code entitled "Zoonosis Control", as may be amended or revised from time to time, are hereby adopted for use is the City of Big Spring. These provisions shall govern all matters covered therein within the city or other areas within the jurisdiction of the ACD, except as otherwise provided in this ordinance. (Ord. of 1-8-57, §7, Ord. of 8-24-10)

ANIMALS

Sec. 3-39. Designation of Local Rabies Control Authority.

(a) The City Council designates the ACD to act as the local rabies control authority for the purposes of this ordinance.

(b) Among other duties, the ACD shall enforce:

(1) Chapter 826 of the Texas Health and Safety Code and the Board Rules that comprise the minimum standards for rabies control; and
(2) The rules adopted by the Board under the area rabies quarantine provision of Section 826.045 of the Texas Health and Safety Code.

(Ord. of 5-13-75; Ord. of 8-22-95, Ord. of 8-24-10)

Sec. 3-40. Rabies Vaccinations.

The Custodian of any animal kept within the ACD or other area of ACD jurisdiction for which there is a rabies vaccine licensed by the U.S. Department of Agriculture must have the animal vaccinated annually and retain proof of such vaccination. (Ord. of 1-8-57, §11, Ord. of 8-24-10)

Sec. 3-41. Reporting Rabid Animal/Rabies Exposure.

(a) It shall be the duty of every veterinarian, physician or any other person to report to the ACD all cases of rabies he or she becomes aware of. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

(b) 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 ACD. (Ord. of 1-8-57, §8, Ord. of 8-24-10)

Sec. 3-42. Quarantine of Animals Exhibiting Symptoms.

If the ACD or a licensed veterinarian verifies that an animal has symptoms of rabies the animal shall at once be placed under rabies quarantine by the ACD. (Ord. of 12-12-67; Ord. of 8-22-95, Ord. of 8-24-10)

Sec. 3-43. Quarantine and Redemption of Biting Animals.

(a) If any person alleges that any animal has bitten, scratched or otherwise attacked any person, he shall report the incident to the ACD at which time a Bite Report will be completed, documenting the circumstances of the bite. The ACD shall, as soon as feasible, impound such animal for quarantine purposes for at least two-hundred-forty (240) hours from the time of the incident. If the Custodian of the animal refuses to release the animal for quarantine, the ACD shall obtain a warrant for the seizure and quarantine of the animal from any magistrate.

(b) Custodians of animals that do not exhibit symptoms of rabies may request permission from the ACD to home quarantine such animal. The ACD will review and determine on a case by case basis whether an animal qualifies for home quarantine.

(c) If there is uncertainty regarding whether a wound is the result of an animal bite, the complainant shall be required to sign a notarized affidavit before the ACD will institute impoundment and quarantine.

(d) Impoundment at any approved facility for rabies quarantine purposes shall be at the expense of the Custodian of the impounded animal. If a Custodian of a quarantined animal cannot be identified and located within a reasonable length of time, the victim, at his option, instead of continuing quarantine, may elect to have the animal examined by a veterinarian or to have the animal destroyed and the tissue submitted for laboratory examination, and the costs so incurred shall be borne by the victim.

(e) It shall be unlawful for the Custodian of any animal subject to this section to fail to turn over the animal for quarantine, or refuse to allow the quarantine of such animal, or in any way attempt to interfere with such impoundment or quarantine.

(f) Unvaccinated animals should not be vaccinated against rabies during the two-hundred-forty (24)) hour observation period; however, animals may be treated for unrelated medical problems diagnosed by a veterinarian.

(Ord. of 8-26-75, Ord. of 11-8-05, Ord. of 8-24-10)

Sec. 3-44. Home Quarantine.

If the Custodian of an animal that has bitten a person wishes to home quarantine such animal, the ACD shall have discretion to grant such request if the following conditions are met:

(a) The Custodian is able to confine the animal in an approved enclosure to prevent escape; and
(b) The animal has been vaccinated against rabies and the time elapsed since the most recent vaccination has not exceeded the manufacturer recommendations for the vaccine or the unvaccinated animal is not over sixteen (16) weeks of age at the time of the exposure.

During any home quarantine, the ACD shall be permitted to observe the animal at any time during the home confinement. Even if the above conditions are met, the ACD shall retain sole discretion regarding home quarantine of an animal and may revoke permission for home quarantine at any time during the quarantine period. (Ord. of 1-8-57, §1; Ord. of 8-22-95, Ord. Of 10-23-01, Ord. of 11-8-05, Ord. of 8-24-10)

Sec. 3-45. Exemption for Police Service Animals.

Police service animals are exempted from quarantine pursuant to the Texas Health and Safety Code, §826.048, including confinement. (Ord. of 8-22-95, Ord. Or 10-23-02, Ord. of 7-27-04, Ord. of 11-8-05, Ord. of 8-24-10)

Sec. 3-46. Citywide Quarantine.

A citywide quarantine may be invoked for a period of thirty (30) days by the LRCA after an investigation if it determines that there exists an immediate threat of rabies. In the event of a known outbreak of rabies, state law provisions will supersede this section.

(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, except to a licensed veterinarian or veterinary hospital for necessary medical treatment.

(b) Conditions warranting an 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. (Ord. of 7-27-04, Ord. of 8-24-10)

Sec. 3-47. Animals Bitten by Suspected Rabid Animals.

Any animal that is bitten or attacked by another animal that is suspected of being rabid shall be destroyed or quarantined for a period determined by state law, at the Custodian's expense. (Ord. of 8-24-10)

Article 9. Livestock, Fowl and Swine.

Sec. 3-48. Livestock, Fowl and Swine Prohibited.

Except as otherwise provided herein, it shall be unlawful for any person to keep or maintain within the city limits any livestock, fowl or swine unless properly zoned and by a holder of a valid livestock or fowl permit issued by the ACD. (Ord. of 7-14-87, Ord. of 8-24-10)

Sec. 3-49. Exceptions.

(a) A person may bring livestock, fowl or swine into the City for the purposes of transporting them by vehicle, or for other purposes of sale or processing, provided they do not remain within the City for a period of time exceeding forty-eight (48) hours.

(b) Livestock, fowl and swine may be kept or maintained on the premises owned by the Big Spring Rodeo Association during the time that a rodeo, fair, stock show, or regularly scheduled event is scheduled for the purpose of delivering or redelivering such livestock, fowl or swine.

(c) A person holding a valid, unrevoked livestock or fowl permit from the City of Big Spring may keep or maintain livestock or fowl only in accordance with such permits. No permits will be allowed for swine of any species, roosters, guineas or peafowl.

(d) A person participating in an educational program sponsored by a school, college or other educational organization may keep or maintain one head of small livestock, i.e. sheep or goat, (no cattle, horses, swine or fowl) per location for the duration of the applicable educational program. This exception shall only apply if all owners and occupiers of any business or residence with a structure located two hundred feet or less from the nearest point of the shed, stable, barn, pen, enclosure, fence or area in which the animal is contained agree in writing to such activity. The owner of the property where the program activity will take place shall apply for a Livestock Permit, provide the name of

the educational organization sponsoring the activity and specify the duration of the program. Participants must comply with all requirements of this Article other than the distance from other structures. If any consenting residence or business within two hundred (200) feet of the location where the livestock are kept withdraws their consent in writing, the ACD shall immediately notify the program participant and he or she must relocate the animal within thirty days of such notice.

(Ord. of 8-24-10; Ord. of 1-22-13)

Sec. 3-50. Permit Application.

Any person may make application to the ACD for a livestock or fowl permit. The ACD shall review all permit applications and inspect the property before issuing any permit. (Ord. of 8-24-10)

Sec. 3-51. Limitations on Property.

(a) Unless otherwise excepted in this Article, no person shall keep, possess or maintain within the city limits livestock or fowl within two-hundred (200) feet of any residence or habitation for human beings, other than the residence of the Custodian.

(b) Except for temporary transportation or treatment at least three-hundred (300) square feet of space shall be provided for each head of livestock.

(c) The property shall be kept free of accumulated waste, odor and attracted insects. The ACD may revoke any permit provided by this section or set a limitation on allowable pets if a safe, healthy and nuisance-free environment is not maintained.

(Ord. of 8-24-10, Ord. of 1-22-13)

Sec. 3-52. Protective Measures against Disease.

(a) Horses. Within twelve (12) hours after arrival, all horses maintained within the city limits or other area of ACD jurisdiction must be tested and free of:

Equine Infectious Anemia

and vaccinated for the following diseases:

Equine Encephalomyelitis, West Nile Virus, Tetanus, & Rabies

(b) Cow. All cows kept within the city limits must be tested for and free of:

Turberculosis & Bangs Disease

(Ord. of 7-14-87, Ord. of 8-24-10)

Sec. 3-53. Manure Disposal.

(a) Each premise where livestock or fowl are kept shall be inspected for proper maintenance and sanitation and may not be in violation of Section 3-22. There must be a bin on the premises to act as a storage place for all manure from such livestock. The bin must be covered with an approved cover that will not allow the ingress or egress of flies and must exclude any water, including rain water.

(b) Each manure storage bin shall be treated daily with a standard spray or other chemical control so as to keep the premises free from harmful and unpleasant odors, flies, mosquitoes, ticks, fleas and other disease transmitting organisms.

(c) Each manure storage bin must be large enough to accumulate a week's worth of manure for all livestock and fowl on the premises.

(Ord. of 8-24-10)

Sec. 3-54. Notice of Improper Maintenance of Premises; Failure to Obey Notice.

If the ACD determines, upon inspection, that the premises where livestock or fowl are kept are not being maintained in the proper sanitary methods, the ACD shall serve official notice to the person holding the permit, to correct the defects. The ACD shall re-inspect and if the corrections are not made, the person holding the permit shall be subject to the penalties established in this ordinance. (Ord. of 8-24-10)

Sec. 3-55. Livestock and Fowl at Large.

The ACD may issue a citation to the known Custodian of livestock or fowl at large within the City or other area within the jurisdiction of the ACD. (Ord. of 8-24-10)

Article 10. Bees and Beekeeping.

Sec. 3-56. Beekeeping Prohibited.

It shall be unlawful for any person to keep or maintain any bees or engage in the practice of beekeeping within the City or other applicable ACD jurisdiction. (Ord. of 8-24-10)

Article 11. Penalty.

Sec. 3-57. Penalty.

Any person violating any prohibition, requirement, duty or provision of this ordinance shall, upon conviction, be punished by a fine not to exceed two-thousand dollars ($2,000.00) provided that the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation. If the violation does not govern fire safety zoning, or public health and sanitation, the fine shall not exceed five-hundred ($500.00). If the violation is continuing, each day's violation shall be deemed a separate offense. If any person is found guilty of cruelty to any animal under municipal, state or federal law, his permit to own, keep, or harbor or have custody of such animal shall be deemed automatically revoked, and no new permit or license may be issued. (Ord. of 8-24-10)

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Article 12. Animal Rescue & Adoption Committee

Sec. 3-58. Organization and Term.

The Animal Rescue and Adoption Committee shall be composed of five (5) members, all of whom shall be citizens of the City of Big Spring and/or Howard County and appointed by a majority vote of the City Council for a term of three (3) years. Terms shall expire on September 30th, but each member shall continue to serve until his or her successor is appointed. For those members first appointed, two (2) members shall be appointed for a term of one (1) year, two members for a term of two (2) years, and one (1) member for a term of three (3) years. Subsequent appointments shall be for the full three (3) year term. The Chairman and Vice-Chairman shall be elected annually during the first annual meeting by official members of the Committee. In addition to the five (5) members above, the Support Services Lieutenant shall serve as a non-voting, ex-officio member, serve as staff liasison, and shall advise and assist the Committee in its various functions. (Ord. of 9-13-16)

Sec. 3-59. Additional Qualifications of Members.

The City Council will consider for appointment only those members of the community who have demonstrated an interest and/or knowledge in at least one (1) of the following areas:

(a) An interest in the health, safety, and welfare of the public and animals;
(b) Experience and/or knowledge of animal shelter operations;
(c) Experience and/or knowledge of public health or sanitation;
(d) A willingness to become familiar with state statutes regarding animal health and safety and operation of animal shelters; and/or
(e) Advanced knowledge or license in veterinarian medicine.

(Ord. of 9-13-16)

Sec. 3-60. Duties of the Committee.

The Committee shall be charged with organizing quarterly public awareness events, working with animal rescue organizations to facilitate adoptions from the Big Spring Animal Shelter, using social media (or other means) to increase exposure of animals in need of adoption, recruiting qualified volunteers to assist the City in areas relating to animals in need of adoption and animal control, assisting the City in its goal to become a no-kill shelter, promoting low-cost spay and neuter programs, acting as public relations liaison between the public and city officials to advance the common interest of animal welfare issues and reconcile public concerns, and review and make recommendations to the City Council in an advisory capacity on matters concerning the adoption of animals. (Ord. of 9-13-16)

Sec. 3-61. Removal from Office and Vacancies.

Any member may be removed from office by a majority vote of the City Council for any reason. Vacancies shall be filled in the same manner as the original appointment. (Ord. of 9-13-16)

Sec. 3-62. Quorum.

A quorum shall consist of no less than three (3) members. An affirmative vote of three (3) members shall be necessary for approval of motions before the Committee. Members must be present at the meeting to vote and members shall not appoint a substitute to appear on his or her behalf. (Ord. of 9-13-16)

Sec. 3-63. Public Meeting.

All meeting shall be open to the public and subject to the Open Meetings Act. Regular meetings shall be scheduled at least quarterly and the City Manager shall call together the Committee to consider business as needed. Additional meetings may be held upon the call of the Chairman, or the Vice-Chairman in the absence of the Chairman, or upon petition of a simple majority of Committee members. (Ord. of 9-13-16)