

ORDINANCE NO. 07-0906.02

AN ORDINANCE OF THE CITY OF AURORA, TEXAS, PROHIBITING DOGS RUNNING AT LARGE; PROHIBITING CRUELTY TO ANIMALS; REQUIRING ANIMALS TO BE RESTRAINED; ESTABLISHING REGULATIONS FOR THE SELLING OF PETS; REQUIRING VACCINATION OF CATS AND DOGS; REQUIRING REGISTRATION OF DOGS AND OTHER ANIMALS; PROVIDING FOR ENFORCEMENT OF THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Aurora, Texas is a Type A general-law municipality located in Wise County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, in order to protect the health, safety, and welfare of the citizens of the City of Aurora, the City Council has determined it should adopt this ordinance requiring that dogs be kept under restraint, and prohibiting persons from allowing dogs to run at large within the City; providing regulations governing the care, custody, and control of animals; and

WHEREAS, the City Council desires also to amend the City's Fee Schedule to establish fees for the services provided in accordance with this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, TEXAS:

SECTION 1. DEFINITIONS

As used in this ordinance, the following words are defined as follows:

Animal Control Officer. The person or persons designated by the City Administrator to represent and act for the city in the impoundment of animals, controlling of animals running at large, and as otherwise provided and required in this Ordinance; the term Animal Control Officer shall include but is not limited to the Chief of Police and all police officers of the city.

At large or running at large. Any animal not kept under restraint.

Cat. A commonly domesticated member of the feline family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or any other wild or dangerous member of

such family. Certificate of Vaccination. The certificate issued by a licensed veterinarian on a form approved by the Texas Department of Health for presentation to the Animal Control Officer as a condition precedent to the granting of a dog or cat license and showing on its face that, at the time of such presentation, the dog or cat covered thereby has been vaccinated for rabies.

City. City of Aurora, Texas.

Dog. All domesticated members of the canine family, but not including wolves, jackals, foxes, coyotes, or any other wild or dangerous member of such family.

Dangerous Dog. A dog that:

(1) Makes an unprovoked attack on a person or other animal that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack, and cause bodily harm to a person, or other animal.

Guard Dog. Any dog which has been trained for the purpose of protecting property by a guard dog company which is required to be licensed pursuant to Chapter 1702 of the Occupations Code, as amended from time to time.

Municipal Court. A municipal court of the city.

Owner. Any person or persons owning, possessing, harboring, keeping, or sheltering any animal.

Person. Any individual, firm, association, syndicate, partnership, or corporation.

Pet. Any animal kept for pleasure rather than utility.

Quarantine. To take into custody and place in confinement as defined in this Ordinance isolated from human beings and other animals in such a way as to preclude the possibility of disease transmission. The quarantine period for a dog, cat in rabies quarantine is ten (10) days from the date of the bite, scratch or other exposure, or as recommended by the regional veterinarian from the Texas Department of Health.

Rabies. An acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Restraint. An animal is under restraint under the following conditions:

- (1) It is securely enclosed or confined to the owner's yard by a physical fence in a manner that will isolate the animal from the public and from other animals except for animals owned or under the control of the owner; or
- (2) It is accompanied by the owner or trainer at a bona fide dog show, field trial or exhibition; or
- (3) It is secured by a leash of at least five (5) and not more than ten (10) feet in length and of sufficient strength to control the animal while the animal is being walked; or
- (4) It is a specially trained dog that is used by a blind or deaf individual to aid him or her within the city; or
- (5) It is a guard dog in the performance of duty in an enclosed building or securely fenced and locked area which is marked on all sides with signs in four-inch letters stating "guard dog" and clearly visible to the public; or
- (6) It is a dog in a place of public assembly and effectively and securely muzzled in order to prevent the dog from biting.

Sanitary. Any condition of good order and cleanliness which discourages and limits disease transmission.

Serious bodily injury. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonable prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Unprovoked attack by a dog. An incident in which a dog which attacked a human being or an animal was not hit, kicked, or struck by a human being with any object or part of a human being's body, nor was any part of the dog's body pulled, pinched, or squeezed by a human being, nor was the dog taunted or teased by any human being, nor was the human being in the dog's territory on the property of the dog's owner at the time of the attack.

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

SECTION 2. PROHIBITION ON DOGS RUNNING AT LARGE

It shall be unlawful for the owner or person in possession or control of any dog to permit such dog to run at large upon the streets, alleys, or any public place within the city. Every dog at all times shall be:

- (a) Under the control of its owner, a member of the owner's family, or the owner's servant or agent, by means of a leash or chain of sufficient strength and length to control the actions of the dog; or

- (b) Confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the dog from escaping therefrom, or inside the house, or secured on the premises by a leash consisting of a metal chain of sufficient strength to prevent the dog from escaping the premises and so arranged that the dog will remain upon the premises when the leash is extended to full length.

SECTION 3. CRUELTY TO ANIMALS.

- (a) It shall be unlawful for anyone to cruelly beat or otherwise cruelly maltreat any animal in the city; or to willfully and wantonly kill, maim, wound, poison, or disfigure any animal or to mutilate, cruelly kill, overdrive, override or overload, or unnecessarily confine or in any manner oppress the same; or to unnecessarily fail to provide the same with proper food, drink, or shelter; or to drive, work, or use the same when such animal is maimed, wounded, sick, lame, or otherwise unfit for labor; or to willfully abandon the same to die; or to carry or to cause the same to be carried, hauled, or forced along in a cruel or inhuman manner; or to leave any animal tied up or confined anywhere, day or night, for more than 12 hours at a time without properly feeding, watering, and caring for the same. This section is not to be construed to prevent police officers or other persons from killing dogs or other animals when lawfully entitled to do so.
- (b) It shall be unlawful for anyone to cruelly beat or otherwise maltreat in the city any animal retained as or to be sold as a pet; or to willfully and wantonly maim, wound, poison, or disfigure any such animal; or to mutilate or cruelly kill; or to willfully abandon the same to die; or to leave any such animal tied up or confined anywhere day or night, without properly feeding, watering, and caring for the same (including but not restricted to providing veterinary care) in a manner consistent with the natural needs of such animal.

SECTION 4. UNLAWFUL TO KEEP MORE THAN PERMITTED NUMBER OF DOGS AND CATS; EXCEPTIONS.

It is unlawful for any person, firm, or corporation to own, keep, or harbor more than the following number of dogs and cats over six months old within the city limits: (a) four dogs; (b) four cats. This provision shall not apply to proprietors of animal hospitals, pet stores, and veterinarians when such animals are kept on premises used by such animal hospitals, pet stores, and veterinarians as their normal place of business. Keeping on the premises of the owner more than the permitted number of dogs and/or cats shall be prima facie evidence of violation of this section, and the burden of proof shall be on the owner to show the ages of such dogs and/or cats.

SECTION 5. ANIMAL WASTE; DISPOSAL, ANIMAL PENS; OFFENSIVE UNSANITARY CONDITIONS.

- (a) The owner(s) of every animal shall be responsible for the removal of any excreta deposited by their animal(s) on public walks, public rights-of-way,

- recreational areas, or private property owned by another.
- (b) It shall be unlawful for any owner to fail to remove such animal excreta from public areas and private areas owned by another.
 - (c) All pens and enclosures wherein farm livestock, chickens, turkeys, geese, guineas, or other such animals are kept shall be maintained and kept in such a manner as not to become unsanitary or offensive to persons residing in the vicinity thereof; nor shall they be maintained or kept as to breed flies or in any manner cause any injury to the health of the public residing in the vicinity of the pen or enclosure.
 - (d) The determination that such pens or enclosures are unsanitary or offensive to persons residing in the vicinity thereof, that such pens or enclosures are being maintained or kept so as to breed flies, and/or that such pens or enclosures are maintained in any manner as to cause any public injury to the health of the public residing in the vicinity of the pen or enclosure shall be made by Animal Control Officer. Such determination shall be prima facie evidence of violation of this Ordinance, and such violation shall be a misdemeanor.

SECTION 6. ANIMAL VACCINATION; ANNUAL VACCINATION; RIGHT OF INSPECTION.

- (a) All dogs, and domestic cats four months of age or over within the city are required to be immunized against rabies annually by a licensed veterinarian and by means of any standard vaccine as approved by the federal government for the prevention of rabies. The licensed veterinarian who administers such vaccine shall issue to the owner or person having such dog or cat vaccinated a certificate of vaccination, stating the owner's name, description of the dog or cat, the date of vaccination, and the kind of vaccine used. The veterinarian shall also furnish to the owner of such animal a metal tag, one side of which is stamped "rabies vaccine administered" or a similar phrase and the year of vaccination. Such tag at all times shall be securely attached to a collar or to a harness around the neck and/or body of the dog.
- (b) The Animal Control Officer shall have the right, at any reasonable time, to inspect any dog or cat to determine if it has been vaccinated and shall have the authority to enter any premises for such purpose. It shall be unlawful for any person to refuse entrance to the Animal Control Officer when attempting to enter such premises for the purpose of inspecting such dog or cat, and any person who shall refuse entrance or impede or obstruct such Animal Control Officer shall be guilty of a misdemeanor.

SECTION 7. ANNUAL REGISTRATION REQUIRED

It shall be unlawful for the owner or person in possession or control of any dog to harbor or permit such dog within the city without having registered the animal with the city annually, upon each dog, male or female, six months of age or over. The annual registration as required by this section shall be renewed as of January 1st of

each calendar year, and shall be good through December 31st of that same year.

SECTION 8. ANIMALS SUSPECTED OF RABIES; BITING OR ATTACKING PEOPLE.

- (a) Any animal that bites, scratches, or otherwise attacks any person within the city limits shall be immediately and securely confined by the owner or one having custody of the animal, at premises acceptable to the Animal Control Officer for a period of ten days following the bite, scratch, or attack. Such animal shall be subject to inspection from time to time in order to determine whether such animal is affected by rabies. Such animal may be quarantined and held for such period in any veterinary hospital approved by the Animal Control Officer. The owner of the animal is fully responsible for all expenses and shall pay in advance for the maintenance of the animal during the period of time. In the event such animal is determined to be free from rabies, the animal may be returned to its owner or, if not claimed thereafter, may be given to another or destroyed if its owner cannot be found.
- (b) Any animal that has rabies or symptoms thereof shall be immediately and securely confined to a veterinary hospital approved by the Animal Control Officer and kept from contact with any other animal until such animal dies or recovers.
- (c) Any animal which has been exposed to rabies shall be immediately and securely confined and kept from contact with any other animal for a period of six months; or upon authorization by the Animal Control Officer and consent of the owner (if known), such animal may be destroyed. At the discretion of the Animal Control Officer and subject to the inspection by the Animal Control Officer from time to time to determine whether such animal is affected by rabies, such animal may be confined by its owner at the owner's premises or at a veterinary hospital. The owner or veterinarian shall surrender such animal to the city at any time at the discretion of the Animal Control Officer. Such animal surrendered to the city may be destroyed upon failure of the owner to pay in advance the maintenance fee for such animal.
- (d) Owners of animals quarantined at the designated veterinary hospital shall pay the maintenance fees as set forth in this Ordinance for each day that the animal is kept under quarantine, in addition to any other fees or fines set forth in this Ordinance.
- (e) If an animal dies while under quarantine or if an animal is determined by a veterinarian to have rabies, the head of such animal shall be sent to the state Department of Health for examination.

SECTION 9. DANGEROUS DOGS

- (a) **Nuisance Declared.** It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains a dangerous dog in the city unless the owner complies with the requirements of this section, and state statutes regulating dangerous dogs.
- (b) **Dangerous Dog Investigation.** The Animal Control Officer shall

investigate all reports of attacks by dogs. The Animal Control Officer shall accept sworn statements from all victims and witnesses to the attack.

(c) Reporting of Incident. The following section is adopted pursuant to Section 822.0422 of the Health and Safety Code.

- (1) A person may report an incident to the municipal court through the Animal Control Officer. The owner of the dog shall deliver the dog to the Animal Control Officer not later than the fifth (5th) day after the date on which the owner receives notice that a report has been filed in municipal court.
- (2) If the owner fails to deliver the dog as required by subsection (1), the court shall order the Animal Control Officer to seize the dog and the court shall issue a warrant authorizing the seizure. The Animal Control Officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog. The court shall determine, after notice and hearing, whether the dog is a dangerous dog.

SECTION 10. DANGEROUS DOG REGISTRATION

The Animal Control Officer shall register all dangerous dogs as provided for by state law. In addition to the requirements of state law, in order to register the dangerous dog, an owner of a dangerous dog must also provide the dog with a fluorescent yellow collar which is to be worn by the dog at all times, said collar to be visible from a distance of fifty (50) feet under daylight conditions and have a microchip implanted on the dangerous dog and register that dog with a national registry at the owner's expense.

SECTION 11. REQUIREMENTS FOR OWNER OF DANGEROUS DOG

- (a) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:
 - i. Register the dangerous dog with the Animal Control Officer for the city;
 - ii. Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
 - iii. Obtain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the Animal Control Officer;
 - iv. Secure the dangerous dog with a muzzle in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the dangerous dog is taken off the property of the owner for any reason;
 - v. Provide the dangerous dog with a fluorescent yellow collar visible at fifty (50) feet in normal day light so that the animal

- can be identified;
- vi. Sterilize the dangerous dog; and
 - vii. Microchip the dangerous dog for its life with a national registry, and present proof to the Animal Control Officer. The owner shall have the microchip identification device implanted on the dog immediately after a municipal court has ruled in a hearing that such dog is dangerous. The cost of the service shall be at the owner's expense.
- (b) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the Animal Control Officer not later than the 30th day after the owner learns that the dog is dangerous.
 - (c) If, on application of any person, the municipal court finds after notice and hearing, that the owner of a dangerous dog has failed to comply with subsection (a) or (b), the court shall order the Animal Control Officer or his or her designee to seize the dog and shall issue a warrant authorizing the seizure. The Animal Control Officer or his or her designee shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.
 - (d) The owner shall pay any cost or fee assessed by city related to the seizure, impoundment, and destruction of the dog as set forth in the city Fee Schedule.
 - (e) The court shall order the Animal Control Officer to humanely destroy the dog if the owner has not complied with subsection (a) before the 11th day after the date on which the dog is seized or delivered to the Animal Control Officer. The court shall order the Animal Control Officer to return the dog to the owner if the owner complies with subsection (a) before the 11th day after the date on which the dog is seized or delivered to the Animal Control Officer.

SECTION 12. OWNER SURRENDER OF ANIMAL

The owner of any animal may request to surrender the animal to the Animal Control Officer for adoption or destruction. The Animal Control Officer, in the Animal Control Officer's sole discretion based upon the ability to transport and/or impound the animal, the probability the animal may be adopted, and other relevant considerations, may determine whether to accept the animal. If the Animal Control Officer does accept the animal, the owner will be charged the fee set forth in the city Fee Schedule.

SECTION 13. IMPOUNDMENT; REDEMPTION

- (a) It shall be the duty of the Animal Control Officer to cause to be taken up or impounded all dogs loose or at large in violation of the terms of this Ordinance
- (b) The owner, or owner's agent, of any dog impounded under the terms of this Ordinance may redeem the dog within three days after impoundment, unless otherwise prohibited herein. The owner of each dog so redeemed shall pay to the city the fees set forth in the city Fee Schedule. All fees and accrued costs must be paid in full prior to the impounded animals

release.

SECTION 14. ANIMAL CONTROL OFFICERS; AUTHORITY.

The Animal Control Officer is authorized to issue citations and summons in the enforcement of all provisions of this Ordinance.

SECTION 15. AMENDMENT TO FEE SCHEDULE

The Fee Schedule of the City of Aurora, Texas is hereby amended by the addition of the following fees:

Animal impoundment fees and maintenance charges:

First violation: \$50.00

Second violation: \$100.00

Third violation: \$200.00

Fourth violation: \$400.00

Maintenance charge, per day (whole or part): \$20.00

Registration of dangerous dog: \$100.00 per year

Destruction of animal: \$50.00 per animal

SECTION 16.

This ordinance shall be cumulative of all provisions of ordinances of the City of Aurora, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 17.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 18.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 18.

All rights and remedies of the City of Aurora are expressly saved as to any other ordinances affecting regulation of animals which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 19.

The city administrator/secretary of the City of Aurora is hereby directed to publish in the official newspaper of the City of Aurora, the caption, penalty clause, publication clause and effective date clause of this ordinance two (2) days as authorized by Section 52.011 of the Local Government Code.

This ordinance shall be in full force and effect after its passage and publication as provided by law and it is as ordained.

AND APPROVED ON THIS _____ DAY OF _____, 2007.

TERRY SOLOMON, MAYOR

ATTEST

TONI KELLY-RICHARDSON
CITY ADMINISTRATOR/SECRETARY

EFFECTIVE:_____

APPROVED AS TO FORM AND LEGALITY:

ELIZABETH A. ELAM, CITY ATTORNEY