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Copies to: animal shelter

ORDINANCE NO. 788

AN ORDINANCE AMENDING CHAPTER 5, ANIMALS AND FOWL; REPEALING CHAPTER 5; ENACTING NEW CHAPTER 5; RELATING TO THE CONTROL AND KEEPING OF DOMESTIC AND WILD ANIMALS; PROVIDING FOR CERTAIN PROCEDURES AND DUTIES FOR THE ANIMAL CONTROL DEPARTMENT; PROVIDING FOR CERTAIN RABIES CONTROL PROVISIONS; PROVIDING A SEVERABILITY CLAUSE AND A PENALTY CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 5 (Section 5-1 through and including Section 5-35) of the Abilene Municipal Code be, and the same is hereby repealed.

PART 2: That Chapter 5, Animals and Fowls, of the Abilene Municipal Code be, and the same is hereby amended to read as follows:

ARTICLE I. GENERAL

Section 5-1. Definitions.

As used in Chapter 5, the following terms shall be construed to have the following meaning:

- A. Wild animal. Wild animals are those of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.
- B. Domestic animals. Domestic animals are those which are naturally tame and gentle or which by long association with man have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess a disposition or inclination to escape.
- C. Restraint. An animal shall be deemed to be restrained when it is:
  - 1. Confined on the premises of the owner within a fence or closure,
  - 2. Fastened or picketed by a lead, rope or chain so as to keep the animal on the premises, or
  - 3. Under the control of a person by a leash, or
  - 4. On or within a vehicle being driven or parked,
  - 5. At heel beside a competent person and obedient to that person's command.
- D. Kennel. Any place where more than four (4) dogs or more than four (4) cats, or any combination of cats and dogs where the total exceeds four (4) animals over the age of ten (10) weeks, and where said animals are raised, trained, boarded, harbored or kept.
- E. At large. Any animal off the property of its owner and not under the control of a competent person.
- F. Animal. Any live, vertebrate creature domestic or wild.

Section 5-2. Citing to appear.

- A. When an animal is found in violation of a provision of this Chapter and its ownership is known to the agent of the animal control department, such animal need not be impounded by the agent. The agent may, if the owner agrees to sign a citation, issue a citation which shall require the person to appear in Court within ten (10) days to answer a charge of a violation of this Chapter.
- B. Signing the citation shall only be a promise to appear and is not an admission of guilt.
- C. It shall be unlawful for any person upon being issued any citation to give the animal control employee a false name or address.
- D. It shall be unlawful to fail to appear in Municipal Court within ten (10) days of the signing of the citation.

Section 5-3. Known owner.

When an animal is found in violation of a provision of this chapter and its ownership is known to the agents of the animal control department and the owner cannot be located or refuses to sign a citation; the agent may impound the animal or file a complaint against the owner in Municipal Court.

Section 5-4. Unknown owner - impound.

When an animal is found in violation of a provision of this chapter and its ownership is not known to the agent of the animal control department, such animal shall be impounded.

Section 5-5. Interference with department.

No person shall interfere with, hinder or molest any agent of the animal control department in the performance of any duty of the agent, or seek or release any animal in the custody of the animal control department, or its agents.

Section 5-6. Noise.

It shall be unlawful for any person to own, keep or be in control of any animal which causes unreasonably loud or unnecessary noise that causes material distress, or discomfort to persons, or persons of ordinary sensibilities in the immediate vicinity.

ARTICLE II. LIVESTOCK, FARM ANIMALS AND OTHERS

The term "animal" in this article shall include all animals other than dog, cat, or other domesticated household pet.

Section 5-7. Wild animals.

- A. It shall be unlawful to harbor or maintain within the city limits the following:
  - 1. Bats;
  - 2. Skunks;
  - 3. Poisonous reptiles;
  - 4. Any wild animal whose normal mature weight exceeds forty (40) pounds.

B. Restraint. The owner shall keep his wild animal under restraint at all times.

C. Applicability. This section shall not apply to or prohibit the keeping of wild animals by the following:

1. A publicly or privately owned zoo maintained or operated by a non-profit organization or governmental entity.
2. Publicly or privately maintained circus, traveling show or rodeo which does not remain in Abilene longer than thirty (30) days out of each year.
3. Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

Section 5-8. Running at large, herding.

A. If any animal as herein defined in this article is found at large within the city limits, the owner thereof shall be guilty of a misdemeanor. "Owner" shall be defined as the actual owner of such animal and/or the person who has care, custody or control of said animal. (For specific provision on wild animals see Sec. 5-7)

B. Herding. The driving of herds of animals along or upon any street, avenue or alley of the city is hereby prohibited.

1. This section shall not apply to or prohibit the herding of animals along or upon any street, avenue, or alley of the city by:
  - (a) Publicly or privately maintained circus, traveling show or rodeo which does not remain in Abilene longer than thirty (30) days out of each year.
  - (b) Any officer, agent or employee of the federal, state or local government or agencies thereof, if such herding is done in the performance of its official duties.

Section 5-9. Impoundment.

Any peace officer or any agent of the animal control department shall take up and impound any animal found in violation of this article.

Section 5-10. Sale of impounded animals.

The animal control department shall sell animals impounded under the provisions of this article at public auction for cash after having held the animal for at least ten (10) days and after having published public notice of the items, terms and place of sale in a daily newspaper published in the city, which notice shall appear one (1) time at least five (5) days prior to the sale and shall describe the animals impounded and state that the animals will be sold to defray cost if not reclaimed and the cost paid before the date of sale. If not reclaimed by such date, it shall sell the animal at public auction between the hours of 10:00 a.m. and 4:00 p.m. at such date to the highest bidder; after deducting all the expenses of the sale and taking up and keeping of the animals, shall return the balance of proceeds, if any, to the owner of the animals. If the owner is unknown, the balance shall be paid into the City Treasury. Any time within six (6) months after the sale, the owner may apply to the Animal Control Superintendent and upon satisfactory proof of his ownership, he shall be entitled to receive the balance of proceeds, which shall be the money deposited after deducting all the expenses of the sale and taking up and keeping of the animals, paid into the City Treasury on account of such sale.

Section 5-11. Disposition of impounded animals.

If any animal impounded is found to be affected with rabies, or if the animal is seriously injured, or if the Animal Control Superintendent has determined it is not saleable, or if it cannot be sold as provided in the preceding section, it shall forthwith be destroyed or otherwise disposed of. All decisions as to the condition or saleability of the animals shall be made by the Animal Control Superintendent.

Section 5-12. Redemption of impounded animals before sale.

The owner of any animal not affected with a contagious disease and impounded under the provisions of this article may redeem the same before it is sold, by paying the poundage fees as set out in Section 5-15 of this code.

Section 5-13. Redemption after sale.

The owner of any impounded animal sold under the provisions of this article may redeem it by paying to the purchaser double the amount paid by him for such animal and his reasonable expenses for keeping it; provided, that the owner shall redeem the animal within thirty (30) days after the date of sale, otherwise the animal becomes the absolute property of the purchaser.

Section 5-14. Records impoundment.

The animal control department shall keep a record for at least one (1) year giving the description of all animals impounded, the date of impoundment, the date of sale, the amount realized for such animal, and the name and address of the purchaser.

Section 5-15. Poundage fees.

The following fees shall be charged on the following animals:

A. Ungulated or hoofed (even-toed and odd-toed) animals included, but not limited to, the following animals: horses, cows, sheep, goats, etc.

1. For taking up and impounding each animal, \$20.00 per animal.
2. For taking care of each animal, \$5.00 per day after the day of impoundment.

B. Rabbits, birds or animals for which a specific fee is not shown.

1. For taking up and impounding each animal, \$5.00 per animal.
2. For taking care of each animal, \$2.00 per day after the day of impoundment.

For computation purposes of the above charges, each day shall begin at 12:01 a.m. The full fee shall be charged when the animal is kept for any portion of any day.

Section 5-16. Confinement of animal by private citizen.

If any animal is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal temporarily until he can notify the animal control department. When notified, it shall be the duty of the department to impound such animal as provided in this article.

Section 5-17. Keeping of swine prohibited.

A. No person who is the owner of any swine, or any person who has any swine under his management or control, shall keep the same or allow the same to remain in any pen or in any other place within the City of Abilene.

B. This section shall not apply to or prohibit the keeping of swine by the following:

1. A publicly or privately owned zoo maintained or operated by a non-profit organization or governmental entity.
2. Publicly or privately maintained circus, traveling show or rodeo which does not remain in Abilene longer than thirty (30) days out of each year.
3. Slaughterhouses.
4. Any person, persons, organization or corporation keeping swine in an agricultural open space district as provided by the City of Abilene Zoning Ordinance and said swine is kept no closer than six hundred feet (600') from residential district, church or school.
5. Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

## ARTICLE III. DOGS, CATS AND HOUSEHOLD PETS

### Section 5-18. Exemption.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except as otherwise stated.

### Section 5-19. Permitted animals.

No person shall harbor or keep more than four (4) dogs or four (4) cats or any combination of cats and dogs when the total exceeds four (4) animals over the age of ten (10) weeks except in an animal pound, clinic, hospital or kennel as provided by the Zoning Ordinance of the City of Abilene.

### Section 5-20. Vaccination.

No person shall own, keep or harbor a dog or cat over the age of four (4) months within the city limits unless the dog or cat has been vaccinated by a licensed veterinarian with an anti-rabies vaccine and licensed by the City of Abilene. Said animal shall be vaccinated periodically at one year intervals from the initial date of vaccination.

### Section 5-21. Furnishing of license.

The City of Abilene Animal Control Department will furnish licensed veterinarians who agree to follow the provisions of this Chapter with application forms and license tags for dogs and cats.

### Section 5-22. Issuance of license.

Dog and cat license tags shall be issued by the animal control department and authorized licensed veterinarians.

### Section 5-23. Application for license.

Written applications for dog and cat licenses shall be made upon a printed application form provided by the city and shall state the name and address of the owner or keeper of said dog or cat and the name, breed, color, age and sex of the dog or cat being licensed.

### Section 5-24. License fee.

The license fee for a dog or cat license shall be \$2.00. The license shall be valid for one year from date of issuance and cannot be transferred. Said license fee shall be paid into the City Treasury.

### Section 5-25. Conditions for license.

The dog and cat license tags shall be issued upon payment of the license fee and the meeting of one of the following conditions:

- A. Vaccination by a licensed veterinarian with anti-rabies vaccine, or
- B. Presentation of a metal vaccination tag issued by a licensed veterinarian showing that such vaccination was given less than three (3) months prior to date of application for such license.

Section 5-26. Required license tag.

Every person who owns, keeps or is in charge of or in control of a dog or cat within the city shall provide and place on such dog or cat a collar or harness which shall be worn by said dog or cat at all times when off the premises of said person, and shall attach to the collar or harness the metal license tag obtained pursuant to this Chapter.

Section 5-27. Special confinement requirement for fierce, dangerous, vicious dogs.

The owner shall confine within a building or a secure enclosure a fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

Section 5-28. Control of animals.

Every person who owns, keeps or is in charge of a dog shall restrain his dog at all times.

ARTICLE IV. ANIMAL CONTROL

Section 5-29. Records.

It shall be the duty of the animal control department to keep, or cause to be kept, accurate and detailed records of:

- A. Impoundment and disposition. Impoundment and disposition of all animals coming into its custody.
- B. Bite cases. All bite cases reported to it and its investigation of same.
- C. Monies received. Records shall be kept of all monies received under this Chapter and shall be open to inspection at reasonable times by persons responsible for similar records of the city, and shall be audited by the City Auditor in the same manner as other city records which are audited.

Section 5-30. Impoundment - dogs and cats.

The agents of the animal control department are authorized to take up:

- A. All dogs found not restrained by their owners; or
- B. All cats which do not have a vaccination tag as provided by Sections 5-20 and 5-26 and found not restrained by their owners.

Section 5-31. Vaccinated dogs.

- A. Period of confinement. A vaccinated dog impounded as authorized in Section 5-30 shall be confined in a humane manner for a period not less than three (3) working days.
- B. Notice. Upon impounding a dog found with current vaccination tags, the agents of the animal control department shall make a reasonable effort to notify the owner his animal has been impounded and the conditions whereby he may regain custody of such animals.

Section 5-32. Unvaccinated dogs and cats.

Dogs or cats impounded, as authorized by Section 5-30 without a vaccination tag, shall become the property of the animal control department after the expiration of two (2) working days. If unclaimed and unredeemed as provided in Section 5-34, thereafter, may be disposed of in a humane manner as provided in Section 5-35.

Section 5-33. Redemption.

- A. Dogs and cats. The owner shall be entitled to resume the possession of any impounded dog or cat except as hereinafter provided in case of certain dog or cat, upon compliance with the provisions of Section 5-20 and 5-26 and the payment of the impoundment fees of Section 5-34.
- B. Unvaccinated animal. Any animal over the age of four (4) months which does not have a current rabies vaccination may not be redeemed until he has been so vaccinated.

Section 5-34. Fees.

Any dog or cat impounded hereunder may be reclaimed as provided in Section 5-33. Upon payment by the owner or person taking custody through purchase or adoption to the animal control department the following fees:

- A. For taking up and impounding each dog or cat, \$5.00 per dog or cat.
- B. For taking care of each dog or cat, \$3.00 per day after the day of impoundment.

For computation purposes of the above charges, each day shall begin at 12:01 a.m. The full fee shall be charged when the animal is kept for any portion of a day.

Section 5-35. Donated, unclaimed and impounded animals.

Donated and impounded animals (in the case of impounded animal after the requirements of Section 5-30 are satisfied and it is unclaimed and unredeemed as provided in Section 5-33) shall become the property of the animal control department which shall have the following powers:

- A. Authority to transfer title. The animal control department may transfer title. In the event of such transfer of title the person or agency to whom title is transferred shall pay for such animals' food and care while in the animal shelter and shall comply with the applicable vaccination provisions.
- B. Right to destroy. The animal control department may humanely destroy any animal.
- C. Custody by responsible and suitable person. The animal control department may place any animal, held at its animal shelter in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this article.



D. Donated, sick or injured animals. The animal control department may destroy any animal by a humane method if it has been donated to the shelter with the request that it be destroyed or if the animal is so sick or injured that its cure is considered by the animal control department to be impractical or if death is imminent, in either of such events, such destruction may be done immediately without notice or any waiting period.

E. Transfer of title to Humane Society. The animal control department may transfer title to the Abilene Humane Society for purposes of adoption. In the event of a transfer of title, and in consideration for such transfer and subsequent placement of the animal in the custody of some person deemed to be a responsible and suitable owner, the Abilene Humane Society shall pay to the animal control department the following fees, if applicable:

1. For taking up and impounding each dog or cat, \$5.00 per dog or cat.
2. For taking care of each dog or cat, \$3.00 per day after the day of impoundment.

In the event of such transfer and subsequent placement of the animal in the custody of some person deemed to be a responsible and suitable owner, the Abilene Humane Society shall be required to give rabies shots to those animals over the age of four (4) months which are transferred.

#### Section 5-36. Report of diagnosis by veterinarian.

It shall be the duty of every licensed veterinarian to report to the animal control department his diagnosis of any animal observed by him as a rabies suspect.

#### Section 5-37. Report of bites or scratches by physicians.

It shall be the duty of every physician or other practitioner to report to the animal control department the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

#### Section 5-38. Quarantine regulations.

A. Upon being presented a sworn affidavit that an animal has bitten or scratched a person, the Animal Control Superintendent shall quarantine the animal so identified for a period of ten (10) days.

B. Quarantine places. Quarantine shall be at the following:

1. Animal shelter.
2. A licensed veterinarian hospital at the expenses of the owner, upon the owner's request.

3. Home quarantine. Home quarantine is permissible when the animal control superintendent agrees that home quarantine is warranted and believes the following requirements are satisfied:

- (a) The owner of the animal is a resident of Abilene and agrees to keep the animal at his residence in Abilene; and,
- (b) The animal was properly restrained at the time the bite occurred; and,
- (c) The animal was properly protected by rabies vaccination.

Animals of unknown ownership will be quarantined at the animal shelter.

- C. Surrender by owner. Upon the demand made by the animal control department, it shall be unlawful for the owner to fail to surrender any animal which has bitten or scratched a human or which is suspected of having been exposed to rabies, for quarantine, which expenses shall be borne by the owner.
- D. Release to owner. The quarantined animal may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth in Section 5-34, upon compliance with the vaccination provisions set forth in Section 5-20.
- E. Pathological examination. When an animal under quarantine diagnosed by a licensed veterinarian as being rabid or suspected of being rabid, dies while under observation, the animal control department shall immediately send the head of such animal to the Health Department for a pathological examination. The animal control department shall notify the proper health officer of reports of human contacts and then diagnosis made of the suspected animal after the pathological examination has been made.
- F. Health officials. When an animal bites or scratches a person so that the Director of the Health Department believes that the quarantine observation period cannot be observed because of the danger of developing rabies, the Health Director shall order that the Animal Control Department immediately forward the animal's head for pathological examination.

Section 5-39. City-wide quarantine.

- A. Conditions warranting. A city-wide quarantine may be invoked for a period of thirty (30) days by the City Council upon the recommendation of the animal control department after it has been notified by the Health Department of a positive diagnosis of rabies of an animal or after an investigation as determined there exists an immediate threat of rabies.

- B. Extending time. In the event there are additional positive cases of rabies occurring within the thirty (30) day period of the city-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.
- C. Animals bitten by rabid animals. During such period of city-wide rabies quarantine, every animal bitten by a rabid animal shall be destroyed.
- D. Any animal in public. It shall be unlawful for any person to take or permit any animal in the streets or any other public place during the period of quarantine.

Section 5-40. Killing or removing from the city.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies or any animal which has bitten a human or suspected of having bitten a human, except as herein provided, nor remove same from the city limits without written permission from the animal control department:

- A. Exposed to rabies. The carcass of any dead animal suspected of having been exposed to rabies shall upon demand be surrendered to the animal control department.
- B. Determined rabid. The animal control department shall direct the disposition of any animal found to be infected with rabies.
- C. Surrender after demand. No person shall fail or refuse to surrender any animal for quarantine, destruction or disposal as required herein when demand is made therefor by the animal control department.

PART 3: That if any provision of any Section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions of this Ordinance which shall remain in full force and effect.

PART 4: That any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Two Hundred Dollars (\$200.00). Each day such violation which shall continue or be permitted to continue shall be a separate offense.

PASSED ON FIRST READING this the 10th day of July, A.D. 1975.

PASSED ON SECOND AND FINAL READING this the 24 day of July, A.D. 1975.

ATTEST:

Ruth B. Hodgkin  
CITY SECRETARY

Frederick W. Allen  
MAYOR

APPROVED:  
How Cheatham  
CITY ATTORNEY