

ORDINANCE NO 107

ANIMAL CONTROL ORDINANCE

AN ORDINANCE OF THE CITY OF PATTISON, TEXAS, TO PROVIDE DEFINITIONS REGARDING ANIMAL CONTROL AND REGULATION; APPOINTING AN ANIMAL CONTROL OFFICER; REQUIRING REMOVAL OF CERTAIN DEAD ANIMALS FROM REAL PROPERTY; PROHIBITING TAMPERING OF CERTAIN ANIMAL TRAPS; PROHIBITING THE DESTRUCTION OF OR INJURY TO CERTAIN WILD BIRDS; PROHIBITING THE POSSESSION AND SALE OF WILD ANIMALS; PROHIBITING THE SALE OF ANIMALS IN CERTAIN PLACES; PROVIDING REQUIRMENTS FOR CERTAIN ANIMAL ENCLOSURES; PROHIBITING ANIMALS IN PLACES WHERE FOOD IS SOLD; PROVIDING FOR THE CONFINMENT OF CERTAIN AT-LARGE ANIMALS; RECOGNIZING SECTION 251 OF THE TEXAS AGRICULTURE CODE; PROVIDING FOR AN EFFECTIVE DATE; REPEALER; SEVERABILITY; AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Pattison previously adopted Ordinance No.103 as its "Animal Control Ordinance" on March 12, 2013; and

WHEREAS, the City Council of the City of Pattison desires to amend and clarify it Animal Control Ordinance by repealing Ordinance No. 103 and replacing it in its entirety; and

WHEREAS, the City Council is of the opinion that adoption of this Ordinance No. 107 to replace Ordinance No.103 as the City's Animal Control Ordinance is in the best interests of the City of Pattison;

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

1. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. REPEALER AND REPLACEMENT

Ordinance No. 103 is hereby repealed and replaced in its entirety with the following.

3. DEFINITIONS

When used in the City Code of Ordinances, the following words and terms, unless the context indicates a different meaning, or unless otherwise specifically defined for application to a portion of this chapter, shall be interpreted as follows:

Altered means surgical sterilization of an animal.

Animal means live creatures, both domestic and wild, except humans and fish. "Animal" includes fowls, and reptiles.

Animal Control Officer means the Mayor of the City of Pattison or an employee or agent of the city designated by the Mayor or the City Council to investigate, administer and enforce the City Code of Ordinances and laws of the state pertaining to the licensing, care and control of animals within the city. As appropriate, the term may refer to another political subdivision, business entity, or non-profit organization with which the City has entered into an agreement for Animal Control services.

Animal shelter means any facility operated by the City or its authorized agents, or which has been designated by the City Council, used for the temporary care, confinement, and detention of animals and for the humane disposition and destruction of animals. The term shall also include any private or public facility authorized by the city to serve these purposes on behalf of the city through an agreement with another political subdivision, business entity, or non-profit organization.

At-large means an animal, other than a protected animal as that term is defined herein, that is off the premises of the owner, and/or not under the control of the owner, either by leash, cord, chain, enclosure or other restraint. The term may also include an animal that is on the premises of the owner, but is not within the direct, constant and immediate presence of a person who controls the animal and is not confined to that premises by means of leash, cord, chain, enclosure or other restraint.

Bird sanctuary means a safe haven where certain species of birds (as designated by the state and federal environmental statutes) are protected from being destroyed or hunted by people.

Boarding kennel means an establishment used for the purpose of boarding animals on a temporary basis and where no animals are bred or sold. (See definition of "kennel" below.) Animal grooming parlors, where no animals are to be kept overnight, and/or veterinary clinics shall not be considered to be boarding kennels.

Breeding kennel means an establishment designed or used for the boarding, selling or breeding of animals where more than an aggregate total of six (6) dogs and/or cats (or any combination thereof) are to be boarded, sold or bred at any single time. Animal grooming parlors, where no animals are to be kept overnight, and/or veterinary clinics shall not be considered to be breeding kennels.

Commercial sales means sales that are managed and developed primarily for financial profit on a larger than incidental basis.

Dangerous and/or vicious animal means any animal that is known to carry or be susceptible to the rabies virus and that cannot be effectively vaccinated against that virus with any vaccine approved by the department of state health services. Also included in the definition of "dangerous and/or vicious animal" is any animal or any pet that has attacked, bitten, or physically injured a human, other domestic animal or pet animal, and/or livestock without adequate provocation, or that, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings or livestock. Any wild animal or any animal that without provocation has bitten or attacked a human being, pet animal, domestic animal and/or livestock shall be prima facie presumed to be dangerous and/or vicious.

Dangerous dog means any dog that, because of its aggressive nature, training or characteristic behavior, has demonstrated that it presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term "dangerous dog" includes any dog that, according to the records of the city or any law enforcement agency:

- (1) Makes an unprovoked attack on a person 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;
- (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 injury to that person; or
- (3) As otherwise defined by state law.

Domestic animal includes dogs, cats, domesticated horses, fowl, confined hares and rabbits, and other birds and animals raised and/or maintained in confinement, any animal whose physiology has been determined or manipulated through selective breeding and that does not occur naturally in the wild, any animal that can be vaccinated against rabies with an approved rabies vaccine, and/or any animal which has an established rabies quarantine observation period.

Estray includes, but is not limited to, any stray horse, stallion, mare, gelding, filly, colt, mule, jenny, jack, jennet, hog, sheep, and goat, normally confined and domesticated hares and rabbits, and any species of cattle, as well as other animals that are generally found in agricultural habitats.

Exotic species means monkeys, alligators, crocodiles, poisonous snakes, reptiles, or birds, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles, or any other animal (other than domestic cats and dogs) that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals generally found in agricultural habitats.

Feral means an animal that is not domesticated, cultivated, intentionally bred or generally approachable and/or an animal that is not readily able to be handled by humans.

Keep means to retain on the premises by any means; to harbor, control, own or have custody or possession of an animal for a period of three (3) days or longer.

Kennel means a place in which a total of a combination of six (6) or more dogs or cats is kept, boarded, or trained, by the owners of the dogs or cats or by persons providing facilities and care, with or without compensation. Veterinary clinics/hospitals and Humane Society facilities shall be exempt.

Livestock means animals that are routinely raised on a farm and/or are generally found in agricultural habitats. The definition of livestock does not include horses.

Maintain means to feed, shelter, protect, provide for and/or bear expense of.

Normal working day means any other day than on a weekend or holiday.

Normal working hours means all time from 8:00 a.m. to 5:00 p.m. during a normal working day.

Owner means any person, corporation or entity having temporary or permanent custody of, owning, keeping, sheltering, in charge of, controlling, maintaining, having property rights to, or harboring one (1) or more animals covered by this chapter. The temporary feeding of a pet at the pet owner's request while the owner is unable to feed such pet does not cause the individual temporarily feeding the pet to become an owner for purposes of this definition.

Person means any individual, corporation, partnership or other entity.

Pet animal means dogs, cats, rabbits, rodents, commercially bred ferrets, birds, nonpoisonous reptiles, and other species of animals which are sold or retained as a household pet, but shall specifically not include skunks, ferrets from natural habitats, nonhuman primates (e.g., monkeys, apes, etc.), or any other species of wild, exotic or

carnivorous animal that is susceptible to, but not an animal that may be vaccinated for rabies. The term also includes any animal that may be further restricted in this chapter.

Pet shop means any person, firm, partnership, or corporation conducting a business at an authorized location, whether operated separately or in connection with another business enterprise other than a kennel, that buys, sells or boards any animal(s).

Poultry/fowl means:

- (1) All domesticated poultry and fowl; and
- (2) All game/undomesticated poultry, fowl and birds that are kept in captivity, but excluding poultry, fowl and birds that are protected animals, as that term is defined herein.

Private breeder means any person or entity who breeds or allows his/her animals, whether purebred or mixed breed, to produce offspring.

Prohibited animals means any or all animals, including but not limited to venomous reptiles, nonvenomous reptiles over six (6) feet in length, alligators, crocodiles, caimans, elephants, rhinoceroses, skunks, raccoons, nonhuman primates, foxes, coyotes, bats, wolves, bears, or any hybrid of these listed animals. Any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, hyenas, bears, bobcats, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, miniature pigs, apes, llamas, alpacas or such other nondomestic species of animal not common to this area are also a prohibited animal for purposes of this chapter.

Protected animals means poultry, fowl and birds that are harbored in any city park or park area.

Public nuisance animal means any animal, other than a protected animal, that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall include, but is not limited to any animal, other than a protected animal, that:

- (1) Is found to be at-large;
- (2) Engages in conduct which establishes the animal as either dangerous and/or vicious;
- (3) Damages, soils, despoils or defecates on private property, other than the animal owner's property, or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;

(4) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, growling or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others who are in close proximity to the premises where the offending animal is kept, maintained or harbored;

(5) Chases vehicles or otherwise molests, attacks or interferes with other animals or persons on public property;

(6) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity of the animal(s);

(7) Is offensive or dangerous to the public health, safety, or welfare, by virtue of the number, conditions, and/or types of animals maintained by the owner(s); or

(8) Has been found by the municipal court to be a public nuisance animal, by virtue of being a menace/hazard to the public health, welfare, or safety of the citizens of the community, after notice to the owner and after a hearing before the municipal court.

Quarantine means a period of ten (10) days, which time is generally used for observation of a domestic pet or other animal to determine the health status of that animal in relation to the rabies virus.

Quarantine by owner means quarantine by an animal owner, with the permission of the city, under the following conditions:

(1) The animal must have a current rabies vaccination and be registered with the city.

(2) The animal must either be inside a secure enclosed structure, i.e., house or garage, and must remain there for a minimum of ten (10) days; or if the animal is maintained outside, it must be contained within an enclosure from which it cannot escape (e.g., either a fenced area, or inside a covered pen or kennel from which it cannot escape).

(3) The animal must be kept away from any other animal(s) and all people, except those who must care for it during its quarantine period.

(4) The animal may not be removed from the municipal limits of the city while under quarantine, except if the removal is done by an authorized state, county or local official.

(5) The owner shall notify animal control officer immediately if the quarantined animal becomes sick or displays any behavioral changes.

(6) The owner shall not subject the quarantined animal to any medical procedure(s) during the quarantine period without first notifying the animal control department. This includes providing the quarantined animal with any vaccination(s).

(7) The quarantined animal must be examined by a licensed veterinarian, by no later than the close of business on the first day of home quarantine, and again on the final day of quarantine. The veterinarian shall be informed of the animal's quarantine status. The owner shall be responsible for producing proof of the required veterinarian examinations of any quarantined animal in compliance with this Code.

(8) No animal that is at-large or unleashed at the time of exposure related to the rabies virus may be quarantined by owner. Rather, such animals must be quarantined by the city or its designee(s).

(9) The owner must allow the animal services department, after giving reasonable notice, to view and confirm the health of the animal during the home quarantine period.

Rabies vaccination means the vaccination of a dog, cat or other animal (domestic or otherwise) with an anti-rabies vaccine, as approved by the department of state health services and as administered by a veterinarian licensed by the state.

Restraint means a chain, rope, tether, leash, cable or other device that is under the physical control of the owner or of another responsible person; or attaches an animal to a stationary object or trolley system that isolates the animal from the public and from other animals except for animals owned by or under the control of the owner; or any fence in good repair within the lot line of the premises or within the domicile of the person residing on the premises.

Running at-large means:

(1) Any animal, dog or cat, that is not restrained by means of a leash, chain, or other apparatus of sufficient strength, length or nature to control the actions of such animal, while off the owner's premises.

(2) Any animal, except a pet cat and/or a protected animal, that is not confined to premises of the owner in a manner that prevents the animal from escaping from there.

(3) Any pet, dog or cat, other than a protected animal, that is creating a nuisance off the owner's property.

(4) Animals that are confined within a vehicle in a manner that would prevent that animal's escape and/or that would prevent contact with other persons or animals shall not be deemed to be at-large.

Secure enclosure means a fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing the release or escape of an animal;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Tall enough or covered so that the animal cannot climb out; and
- (5) Has a perimeter structure that prevents the animal from digging out or going under the side fence or wall.

Serious injury includes, but is not limited to, bodily injury resulting from severe attack or severe bite from an animal that produces severe pain, trauma, or loss of blood or tissue, and that would cause most prudent and reasonable people to seek medical care for treatment for the injury.

Severe attack includes, but is not limited to, an attack in which the animal repeatedly bites, scratches, or vigorously shakes its victim and the victim, or a person intervening, has extreme difficulty terminating the attack.

Severe bite means a puncture, scratch or laceration made by an animal's teeth, that breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without consideration of rabies prevention alone.

Stray animal (including estrays) means any animal, for which there is no identifiable owner or harborer, that is found to be at-large within the corporate limits of the city.

Theatrical exhibition means any exhibition or act featuring performing animals. Such exhibitions shall not include resident or nonresident dog and cat shows that are sponsored and sanctioned by the American Kennel Club, United States Kennel Club, Cat Fanciers Association or affiliates thereof, nor shall it include any horse or agricultural animal show or sale.

Unaltered means an animal not surgically sterilized.

Vaccination means rabies vaccination, or other vaccinations required by law, for an animal or animals.

Veterinarian means any practitioner of veterinary medicine licensed by the state to practice in Texas.

Wild animal means any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in

the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm or agricultural animals, and captive-bred species of common cage birds and rodents.

Wild bird means a bird that normally lives in a state of nature and is not ordinarily domesticated, but specifically does not include pigeons, English sparrows, European starlings, grackles, ravens, red-winged blackbirds, blackbirds, cowbirds, feral rock doves or crows.

3. PENALTIES; CONFLICTING REGULATIONS

(a) Any person found guilty of violating any section of this chapter shall be punishable by a fine not exceeding five dollars (\$500.00). Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) The penalty provided for in subsection (a) shall not prevent the abatement of the violating condition in addition to the penalty.

4. IMPOUNDMENT OF ANIMALS

(a) The Animal Control Officer shall enforce all laws and ordinances in the city pertaining to the registration, keeping, treatment, impounding and regulation of animals within the city. In every case and instance wherein the keeping of, or existence of, animals presents a health hazard or threat to the public health, the Animal Control Officer shall have concurrent jurisdiction with the county health department.

(b) The Animal Control Officer shall manage the city's animal shelter, or the city may contract with one (1) or more public or private entities for the purpose of operating an animal shelter to serve the city's needs. The Animal Control Officer shall cause to be kept such records and make such reports concerning the activities of the department as may be required by ordinance, by the city manager, or by the city council.

(c) It shall be the duty of the Animal Control Officer to enforce the ordinances of the city applicable to animals and to avoid the use of unnecessary force on animals while undertaking those responsibilities.

(f) In the enforcement of the provisions of this article, any person authorized to enforce the provisions of this chapter shall have the authority to impound any animal found in violation of this article.

(g) The owner of any animal impounded pursuant to this article shall be liable to the city in the amount of the impoundment and boarding fees charged the owner pursuant to the provisions of this chapter, and any animal so confined pursuant to this article shall be handled and disposed of in the same manner as any animal that is so confined because of being found at-large within this city.

5. DEAD ANIMALS AND FOUL

It is unlawful for any person in the city to place, or cause to be placed, or allow to remain in or near their premises or on the premises of any other person, or in any of the streets or other public ways, any dead animal. Specifically, if any person finds dead animals or fowl upon their own property, he/she shall be responsible for proper removal and disposal of same. If a person sees a dead animal or fowl on property that is not owned or controlled by him/her, then he/she is responsible for contacting and notifying the proper authority so that the animals and fowl may be properly removed.

6. TAMPERING WITH TRAPS AND EQUIPMENT OF ANIMAL CONTROL OFFICER

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to, or set out by, the Animal Control Officer.

7. INJURY OR DESTRUCTION OF WILD BIRDS

(a) The city is hereby declared a bird sanctuary. Any person who shall willfully kill or injure any wild bird, remove the eggs or young from the nest of a wild bird, or in any manner destroy the eggs or young of wild birds, excluding the pigeon, English sparrow, European starling, grackle, raven, red-winged blackbird, blackbird, cowbird, feral rock dove and crow shall be guilty of a class C misdemeanor. Canaries, parrots, and other exotic non-game birds may be sold, purchased, and kept as domestic pets.

(b) Nothing in this chapter invokes the application of the Endangered Species Act of 1973, as amended, or any other federal, state or local law or regulation related to wild birds or animals, unless such provisions would otherwise apply.

8. HARBORING WILD ANIMALS PROHIBITED.

It shall be unlawful for any person to harbor wild animals within the city limits. A wild animal may be impounded or humanely destroyed by the animal control officer or his agent if, in his sole discretion, such action appears to be reasonably necessary and in the public interest.

9. PROHIBITED, WILD ANIMALS OR WILDLIFE.

(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.

(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal that was not capable of surviving on its own and that such animal was kept for three (3) days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

10. SALE OF ANIMALS.

It shall be unlawful for anyone to sell, trade, barter, lease, rent, give away, or display for commercial purpose, any live animal, on any roadside, public right-of-way, commercial parking lot, or any flea market within the corporate limits of the city; excluding any nonprofit animal welfare group.

11. MOLESTING OR RELEASING ANIMALS

It shall be unlawful for any person to in any manner, tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises. It shall be unlawful for any person, except the owner of a pet animal or his/her authorized agent, to willfully open any door or gate on any private or public premises for the purposes of enticing or enabling any animal to leave such private or public premises.

12. ANIMAL ENCLOSURES

All pens, cages, coops, lofts or enclosures wherein animals, fowl or birds are kept shall be securely built and maintained, adequate in size for the kind and number of animals, fowl or birds contained therein and maintained in a sanitary condition; such enclosures shall be cleaned and maintained so as to not become offensive to residents or businesses adjacent thereto.

13. NO ANIMAL ALLOWED IN PLACE WHERE FOOD IS SOLD OR SERVED.

No owner of any animal and no manager, clerk, owner or operator of any place where food is exposed or offered for sale, served or sold for human consumption, shall permit any animal to enter, be or remain within any interior area of a store, restaurant, cafe, shop, building, structure or place where food is offered for sale, displayed or handled for human consumption within the corporate limits of the city, except for certified assistance animals. Animals may be allowed on outdoor decks or patios of stores, restaurants, cafes, shops, buildings, structures or places where food is offered for sale, displayed or handled for human consumption, so long as such animals never enter the interior area of such locations.

14. RIGHT TO CONFINE AT-LARGE DOGS, CATS, OR OTHER ANIMALS.

Any at-large dog, at-large cat, or other at-large animals found upon the private premises of a person other than the owner, may be humanely confined and held until such time as the animal control officer may be notified. Upon such notification, the animal control officer shall respond immediately, and take said confined animal for the purposes of impound as provided herein.

15. CHAPTER 251, AGRICULTURE CODE

The City of Pattison recognizes the protections placed on certain property and individuals as a result of Chapter 251 of the Texas Agriculture Code (limiting the circumstances under which agricultural operations may be regulated or considered to be a nuisance). Any defense against prosecution or enforcement of the city's ordinances based upon Chapter 251 shall be as an affirmative defense which is the responsibility of the person alleged to have violated the city's ordinances to plead and prove.

16. EFFECTIVE DATE

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

17. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

18. SEVERABILITY

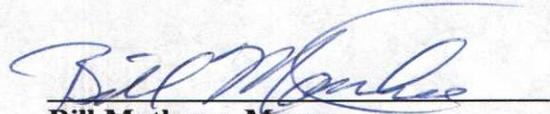
Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

19. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND ADOPTED, EFFECTIVE THE 10th day of May, 2016.

CITY OF PATTISON, TEXAS



Bill Mathews, Mayor

ATTEST:



Lynda L. Fairchild, City Secretary