

**ORDINANCE 69**  
**ANIMAL REGULATIONS**  
REVISED OCTOBER 2007

AN ORDINANCE REGULATING ANIMALS, LIVESTOCK, FOWL AND BEEKEEPING WITHIN THE TOWN OF BAYSIDE; PROVIDING FOR DEFINITIONS, VIOLATIONS, EXEMPTIONS, NOTIFICATION PROCESS, AND COLLECTION OF FEES THEREFORE; PROVIDING PENALTIES FOR THE VIOLATION WHEREOF AND PROVIDING AN EFFECTIVE DATE. THIS CODE REPEALS ORDINANCE 47, 13, 13-A OF THE TOWN OF BAYSIDE AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.  
THE FOLLOWING RULES AND REGULATIONS SHALL BE IN FORCE WITHIN THE CORPORATE LIMITS OF SAID CITY:

WHEREAS, the Town of Bayside has determined that the following amendments to the Bayside Animal Regulations are needed to ensure public health, safety and welfare of its citizens,

WHEREAS, it is the desire of this council to establish the following regulations concerning vaccination of animals, reporting of human exposure to rabies, quarantining and testing orbiting animals, reduction of the stray animal population, restraint of vicious animals and prohibition of animals running at large; and

WHEREAS, to prescribe penalties for violation of such provisions in accordance with and pursuant to Chapter 822, 826 and 828, Health and Safety Code, V.T.C.A.;

In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern. Ordinance 13 and 13-A is hereby repealed and all ordinances and parts of ordinances in conflict herewith

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF BAYSIDE:

**ARTICLE I**  
**DEFINITIONS**

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

- *ABANDONMENT* shall mean to desert or to leave without care, food, shelter, or a continuous source of clean water for a period of twenty-four (24) hours or more.
- *ANIMAL* shall mean any member of the group of living beings belonging to the subphylum vertebrate, specifically excluding human beings. Animals shall include any and all types, both domesticated and wild, male and female, warm and cold blooded.
- *ANIMAL CONTROL AUTHORITY* shall mean the person or persons designated by the city council or applicable state law to enforce this ordinance.
- *ANIMAL ESTABLISHMENT* shall mean any pet shop, grooming shop, kennel or animal shelter, in which dogs, cats and/or other animals are confined except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of U.S. Public Laws 89544 and 91579.
- *ANIMAL OWNER* - Any person who owns or has custody or control of an animal.
- *ANIMAL SHELTER* shall mean a facility designated or recognized by the city for the purpose of impounding and caring for animals.
- *AT LARGE* - means a dog or other animal found off or outside the premises of the owner or keeper while the dog or animal is not in the company of and not under the complete control of a capable person and not on a leash held by a person who is physically capable of restraining the animal by holding a leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. A dog shall not be considered to be at large under the following circumstances:

- (a) a dog in a duly recognized obedience school on field training exercises and under the direct supervision of a handler; and
  - (b) a dog within a vehicle.
- **BITE** - Puncturing or tearing of the skin caused by an animal's teeth.
- **BODILY INJURY** - Means physical pain, illness, or any impairment of physical condition.
- **CAT** shall mean any member of the family *Felis domestica*.
- **CITY** - The Town of Bayside.
- **CITY OFFICIAL**: The City employee charged with responsibility of enforcing this ordinance or his designee.
- **COYOTE HYBRID** shall mean an animal that is the offspring created by the mating of a coyote with a non-coyote animal, or is shown to be a coyote hybrid by the testimony of a licensed veterinarian or animal control officer, or is represented to be a coyote hybrid by a person who owns or exercises control or custody of said animal.
- **CURRENTLY VACCINATED** - Vaccinated and satisfying the following criteria.
  - (a) The animal must have been vaccinated against rabies at three months of age as prescribed by the United State Department of Agriculture (USDA).
  - (b) At least 30 days have elapsed since the initial vaccination
  - (c) Not more than 12 months have elapsed since the most recent vaccination.
- **CUSTODIAN** - A person or agency which feeds, shelters, harbors, has possession or control, or has the responsibility to control an animal for 72 (seventy-two) hours.
- **DANGEROUS ANIMAL** shall mean:
  - (a) Makes an unprovoked attack that causes bodily injury to a person, and occurs in a place other than an enclosure in which the animal was being kept; such enclosure being reasonably secure so as to prevent the animal from leaving the enclosure on its own;
  - (b) Has killed or severely injured a domestic animal without provocation while off the owner's property; or
  - (c) Commits unprovoked acts in a place other than an enclosure in which the animal was being kept; such enclosure being reasonably secure so as to prevent the animal from leaving the enclosure on its own; and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.
- **DEPARTMENT** - The Texas Department Health (TDH).
- **DOG** shall mean any member of the family *Canis familiaris* excluding wolf hybrids which contain any percentage of wolf.
- **DOMESTIC ANIMAL** shall mean a tame, gentle animal (including *Felis domestica* and *Canis familiaris*), caged birds, amphibians, fish, reptiles other than poisonous or dangerous reptiles; small caged rodents, and *P. furus* (the common ferret).
- **ENCLOSURE** - means an area sectioned off by a fence or wall, a pen, cage, coop, loft, stable, shed, structure or enclosure used to house a bird, fowl, livestock, or other animal.
- **FFA (FUTURE FARMERS OF AMERICA) PROGRAM** - means the specific national youth organization that promotes the development of agricultural leadership, vocational agriculture, cooperation, and citizenship under the auspices of the U.S. Department of Education.
- **4-H PROGRAM** - means the specific youth organization conducted by the Texas State Cooperative Extension Service, United States Department of Agriculture.
- **FOWL OR BIRDS** shall mean all animals belonging to the class of Aves including members of the parrot family and all game birds such as, but not limited to, the following: dove, quail, duck, goose, pigeon, cardinal, blue jay, robin, sparrow, blackbird and crow.
- **GUIDE DOG** - Domestic dog that is in service to a legally blind person.
- **HIGH RISK ANIMALS** - Those animals which have a high probability of transmitting rabies; they include skunks, bats, species of foxes indigenous to north America, coyotes, and raccoons.
- **HOUSING FACILITY** - Any room, building, or area used to contain a primary enclosure or enclosures.

- **HUMANELY KILLED** - To cause the death of an animal by a method which:
  - (a) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
  - (b) Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.
- **HYBRID** - Any offspring of two animals of different species.
- **INVESTIGATOR** is a person employed by or approved by the animal control authority who determines whether there has been a violation of an ordinance.
- **ISOLATION** - The separation of an animal exposed or potentially exposed to rabies.
- **KENNEL** shall mean an establishment kept for the purpose of breeding, selling, or boarding dogs or cats or engaged in training dogs or cats.
- **LAW ENFORCEMENT AGENCY** means:
  - (a) The Department of Public Safety;
  - (b) The police department of a municipality; or
  - (c) A sheriff deputy or constable.
- **LAWFUL FENCE** shall mean one of the following:
  - (a) A fence with pickets at least four (4) feet high and not more than six (6) inches apart;
  - (b) A fence with three (3) boards not less than five (5) inches wide and one (1) inch thick or four (4) rails provided the fence is at least four (4) feet high;
  - (c) A fence constructed of a pipe, which demonstrates a sufficient strength and height to restrain the animal which is being contained; or
  - (d) A fence of chain link at least four (4) feet high.
  - (e) All fencing must be in good repair (sufficient for the breed) and may not include trash (including, but not limited to, doors, mattress springs, etc.).
- **LICENSE** shall mean a tag on collar and/or implanted microchip for identification renewed with licensing authority annually.
- **LICENSING AUTHORITY** shall mean the agency or department of the city or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this ordinance. The city council shall designate the licensing authority.
- **LIVESTOCK** shall mean domestic animals generally used or raised on a farm for profit, work, or pleasure, including, but not limited to, cattle, cows, sheep, pigs, bulls, stallions, mares, geldings, jacks, jennies, hogs, and llamas.
- **LIVESTOCK MANAGEMENT FACILITY** shall mean any on-farm breeding operation, on-farm animal feeding operation, on-farm livestock shelter or on-farm milking and accompanying milk handling area.
- **LOCAL RABIES CONTROL AUTHORITY** - The officer designated by the municipal or county governing body under the Texas Health and Safety Code, Chapter 826.
- **LOW RISK ANIMALS** - Those which have a low probability of transmitting rabies; to include all animals of the order: Marsupialia, Insectivora, Rodentia, Lagomorpha, and Xenarthra.
- **NEUTERED** shall mean rendered permanently incapable of reproduction.
- **OBSERVATION PERIOD** - The time following a bite incident during which the biting animal's health status must be monitored. The observation period for domestic dogs and cats (only) is 10 days
- **OWNER** shall mean any person who has a right of property to an animal, keeps or harbors an animal, has an animal in their care, acts as custodian of an animal, or who permits an animal to remain on or about his premises.
- **PERSON** shall mean any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the State of Texas, or any municipal corporation or political subdivision of the state.
- **PET SHOP** shall mean an establishment engaged in the business of buying or selling, at retail, animals for profit-making purposes.

- **POLICE DOG** - Domestic dog that is owned or employed by a governmental law enforcement agency.
- **PREMISES** - means the area of land to which a person has legal or equitable rights of possession, use and control.
- **PRIMARY ENCLOSURE** - Any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.
- **PUBLIC HEALTH REGION** - A contiguous group of Texas counties, so designated by the board.
- **PUBLIC NUISANCE** - Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. Barking shall not be deemed a nuisance if a person is trespassing or threatening to trespass upon private property in which the dog is kept.
- **PUBLIC NUISANCE ANIMAL** - shall mean and include, but is not limited to, any animal that:
  - (a) Causes or allows to be caused in the manner of keeping an animal that disturbs the comfort, physical senses, health or well being of another person; or that interferes with another person's enjoyment or rightful use of his own property;
  - (b) Pulls trash out of trash containers on public property, city easements or private property;
  - (c) Is repeatedly at large or stray;
  - (d) Damages the property of anyone other than its owner;
  - (e) Molests or intimidates pedestrians or passersby;
  - (f) Trespasses on public property;
  - (g) Chases vehicles;
  - (h) Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored whether the animal is on the owner's premises or not;
  - (i) Non-agricultural animals (dogs and cats) - fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  - (j) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
  - (k) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or
  - (l) Attacks other domestic animals.
- **QUARANTINE FACILITY** - A structure where animals are held for rabies observation.
- **QUARANTINE PERIOD** - That portion of the observation period during which a biting animal is physically confined for observation as provided for in Sec. 169.27 of this title (relating to Quarantine Method and Testing).
- **RESIDENTIAL PURPOSES** shall mean any property utilized as multifamily, four-plex, triplex, duplex or single-family dwelling.
- **RESTRAINT** shall mean that an animal shall be considered under restraint if it is within a secured enclosure, secured by a leash or lead, or under the physical control of a responsible person.
- **RUNNING AT LARGE** - Not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animals are either on a leash or held in the hands of the owner or keeper, or under direct supervision of the owner within the limits of the owner's private property or other property where owners are lawfully permitted. An animal within an automobile or vehicle of its owners are lawfully permitted and shall not be deemed "Running at large."
- **SANITIZE** - To make physically clean and to destroy disease -producing agents.
- **SECURE ENCLOSURE** - A fenced area or structure that is:
  - (a) Locked;
  - (b) Capable of preventing the entry of the general public, including children;

- (c) Capable of preventing the escape or release of a dog;
  - (d) Clearly marked as containing a dangerous dog;
  - (e) In conformance with the requirements for enclosures established by the local animal control authority.
- **SERIOUS BODILY INJURY** - means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional without regard to whether the person actually sought medical treatment or any physical injury that requires corrective or cosmetic surgery.
  - **STRAY** - Roaming without physical restraint beyond the premises of the animal's owner. Absence of current rabies tag on dog running a large will be construed as evidence of stray status.
  - **UNOWNED ANIMAL** - Any animal for which an owner has not been identified.
  - **UNPROVOKED ATTACK OR ACTS** shall mean an attack or act by an animal which took place even though the person that was attacked did not do anything to cause or encourage the attack or act.
  - **VACCINATED** - Properly injected by a licensed veterinarian with a rabies vaccine licensed for use in that species by the United States Department of Agriculture.
  - **WILD ANIMALS** shall mean all undomesticated animals including, but not limited to, lions, tigers, bears, wolves, wolf hybrids, coyote, coyote hybrids, apes, monkeys, foxes, baboons, all forms of poisonous or dangerous reptiles, skunks, and squirrels.
  - **WOLF HYBRID** shall mean a canine that is the offspring created by the mating of a wolf with a non-wolf animal, or is shown to be a wolf hybrid by the testimony of a licensed veterinarian or an animal control officer, or is represented to be a wolf hybrid by a person who owns or exercises control or custody over said animal.
  - **ZOONOSIS CONTROL DIVISION (ZCD)** - The Division within the Texas Department of Health to which the responsibility for implementing these rules is assigned.
  - **ZOONOSIS CONTROL REPRESENTATIVE** - Any person employed by the ZCD.

## ARTICLE II ENFORCEMENT GENERALLY

- SEC. 1** It shall be the duty of the animal control authority or any duly licensed peace officer to carry out all applicable provisions of this ordinance and to pick up and impound all animals found to be in violation of this ordinance. Any offense of this ordinance will be considered a non-culpable offense, unless the article or section specifically sets out the necessary culpability for the offense.
- SEC. 2 INTERFERENCE.** It shall be unlawful for persons to interfere with, hinder or molest any agent of the animal control authority in the performance of any duty as herein provided. It shall also be unlawful for any person to remove an animal from or inflict damage upon a humane live trap set by the animal control authority.
- SEC. 3 RECORDS TO BE KEPT.** The animal control authority or other impoundment facility shall keep a record for a period of one (1) year giving the description of all animals impounded by the animal control authority, the date of impounding, the date of sale or other disposition, whether sold or otherwise disposed of, the amount realized for such animal and the name and address of the purchaser.
- SEC. 4 REDEMPTION.** The owner of any impounded animal may reclaim it by signing any citations issued for alleged violations of this chapter and paying all impoundment fees, fines and other accrued expenses.
- SEC. 5 DISPOSAL OF UNREDEEMED, IMPOUNDED ANIMALS.** The animal control authority shall at his discretion dispose of in accordance with state law all animals impounded in the animal shelter.

**ARTICLE III  
GENERAL ANIMAL CONTROL REGULATIONS**

**SEC. 1 AT LARGE--ANIMALS GENERALLY**

- (a) It shall be unlawful for an animal to be at large within the city. When an animal is found at large and the animal control authority verifies its ownership, the authority may exercise the option of serving the owner with a citation, and/or impounding the animal.
- (b) The animal control authority shall establish a prima facie case by proving the ownership of the animal and that the animal was at large. The animal control authority shall have the right to pursue and apprehend a free roaming animal onto private property without first requesting permission from the owner of the property or without obtaining a search warrant.

**SEC. 2 WHEN OWNER OF PREMISES MAY IMPOUND STOCK.** If any livestock are found upon the premises of anyone, the owner or occupant of the premises shall have the right to confine such animal until he can notify the animal control authority to come and impound such animal, provided the same is done in a reasonable time. When so notified, it shall be the duty of the officers to at once cause such animal to be impounded as herein provided.

**SEC. 3 WILLFULLY CAUSING ANIMALS TO BE IMPOUNDED; RELEASE WHEN OWNER NOT RESPONSIBLE.** Whenever the animal control authority shall become satisfied that any animal has been willfully released from any stable, lot or pen, or has been driven into prohibited territory by any person other than the owner with the intention of having the animal impounded to injure the owner thereof, the animal control authority shall have the discretion to order such animal so impounded released without cost.

**SEC. 4 ANIMAL FIGHTS; FIGHTING PARAPHERNALIA.** It shall be unlawful for any person to keep, or use, or in any way be connected with, or interested in the management of any place used for the purpose of fighting animals. It shall be unlawful for any person to receive money for the admission of any person to any place kept or used for the purpose of fighting animals, or to permit or suffer any place belonging to or under his control to be so kept or used. It shall be unlawful for any person to aid, encourage, assist, or arrange for an animal fight, or to issue a challenge for the purpose of bringing about an animal fight. It shall be unlawful for any person to have on their person or property any paraphernalia used in fighting, including but not limited to fighting rings, break sticks, fighting knives, or training facilities used to prepare animals for fighting. It shall be unlawful for any person to raise, breed, maintain, or harbor any animal which is used or intended to be used for fighting.

**SEC. 5 TYING OR STAKING NEAR STREETS, PUBLIC BUILDINGS, ETC.; IMPOUNDING.** It shall be unlawful for any animal to be tied or staked upon any open or unfenced lot or land within the city so that the animal so tied or staked could get on, across or within eight (8) feet of any street, park, or other public land, or within eight (8) feet of any sidewalk, public pass way, or building. Such animal so tied or staked shall be considered dangerous to the public in general and declared a nuisance, and shall be impounded as any other animal found running at large.

**SEC. 6 ABANDONMENT OF ANIMALS.** It shall be unlawful for any person to abandon an animal in the city. An animal shall be considered abandoned if the owner leaves the animal without food or water for a period of twenty-four (24) hours. Abandoned animals shall be impounded.

**SEC. 7 SLAUGHTERING ANIMALS.** It shall be unlawful for any person to maintain any property for the purpose of slaughtering any animal, except those establishments that have been duly licensed to slaughter animals under the laws of the state and applicable city ordinances.

**SEC. 8 ANIMALS BITING, SCRATCHING OR ATTACKING ANY PERSON.** The owner of any animal that bites, scratches or attacks any person, when the person bitten was not trespassing upon the property of the owner of the animal, shall be guilty of violating this code.

**SEC. 9 LIMITATION ON NUMBER OF FOWL AND RABBITS.** Due to their potential to create a nuisance when allowed in large numbers because of noise, bodily waste odor or other unsanitary condition, it shall be unlawful for anyone to keep, board or harbor more than ten rabbits, chickens, geese, ducks, or turkeys or similar fowl within the city limits.

**SEC. 10 ANIMAL CARE.**

- (a) All animals must be treated, captured, caged or otherwise dealt with in a humane manner. It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with shade, care or shelter, clean/fresh food and drink in a spill-proof receptacle of appropriate size.
- (b) A shelter shall be shaded during hot weather months. Any animal habitually kept outside shall be provided with a structurally sound enclosure, consisting of a minimum of a three-sided enclosure, with a waterproof roof, large enough or appropriate for the species maintained.
- (c) No owner or responsible person shall fail to provide his animal with veterinary or humane care and treatment when needed to prevent suffering.
- (d) No person shall keep any animals within any structure in the city without thoroughly cleaning the area and maintaining such structure that no offensive odors are emitted therefrom.
- (e) Any officer finding an animal kept, carried, or left in violation of this section is authorized to take emergency measures at the expense of the animal owner to remove or prevent further cruelty or suffering to the animal.

**SEC. 11 PERMITS, SUSPENSION AND REVOCATION OF PERMITS, REINSTATEMENT.**

**(a) Permit.**

- 1. A permit shall be required for any person owning, possessing or harboring any fowl or 4-H/FFA livestock within the city limits. No person shall keep any fowl or 4-H/FFA livestock within the city who does not possess an un-revoked permit.
- 2. Denial of Permit. No permit required by this Ordinance shall be issued if the applicant has:
  - i. Withheld or falsified information on the application;
  - ii. Failed to comply with any section of this Ordinance.
- 3. No permit required by this Ordinance shall be issued if the applicant has been:
  - i. Convicted three or more times for violating any section or combination of sections of this ordinance, or
  - ii. Been convicted of inhumane or cruel treatment to animals.
- 4. Reapplication Period Upon Denial Of Permit. If a permit required by this Ordinance is denied, reapplication cannot be made for at least 60 days.

**(b) Suspension of Permit.**

- 1. The City Official may upon official notice suspend a permit issued pursuant to this Ordinance for the following reasons:
  - i. Animals are being deprived of necessary food, care or shelter.
  - ii. Animals are being cruelly confined or treated.
  - iii. Unsanitary conditions exist to such an extent that these conditions create a possible medium for the transmission of disease to the animals kept there or to human beings.
  - iv. There is noncompliance with any section of this Ordinance.
- 2. After suspension, no animal shall be accepted or placed on the property more than five days after the suspension, unless the suspension has been lifted and the permit reinstated prior to that time.
- 3. Lifting Of Suspension And Reinstatement Of Permit. If all violations and unsatisfactory conditions have been corrected within 15 days, the City, after re-inspection, may reinstate the suspended permit issued pursuant to this Ordinance. A re-inspection shall be made as soon as practical, and not longer than five working days after receiving a written request for such inspection by the person to whom the permit was issued.

**(c) Revocation And Reinstatement Of Permit.**

1. **Revocation Of Permit.** After 15 days from suspension of a permit issued pursuant to this Ordinance, if no written request for re-inspection has been received or if satisfactory corrections have not been made, the City shall give official notice that in five days the permit shall be revoked.
2. **Reinstatement Of Permit After Revocation.** The property owner or any other owner at the same location who has had a permit issued pursuant to this Ordinance revoked may apply for a new permit for at least one year from the date of revocation. No permit shall be issued if the person has been convicted of abuse to animals. If the acceptable application and satisfactory assurance is given that previous violations will not recur and there will be compliance with all sections of this Ordinance, a new permit may be issued.
3. **Permit Effective Date.** Unless suspended or revoked, the permit shall remain in effect for one calendar year from the date of issuance. Application for renewal of permit may be made from one month prior to one month after the permit expiration date, but the effective date of the permit shall be to coincide with the expiring permit date..

**SEC. 12 INSPECTION.** The city official or animal authority has the right to inspect the premises, including animals or fowl, at any time during normal business hours. The city official or animal control authority has the right to take photographs and gather evidence on the premises to document any of the reasons for suspension.

#### **ARTICLE IV ANIMAL ENCLOSURE**

**SEC.1** 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. The keeping of enclosures under conditions allowing the breeding of flies is specifically prohibited. The keeper of any pen shall be responsible for the pickup and disposal of all animal feces found in such pen. Feces must be removed often enough so that there is no odor or fly attraction to the enclosure which would disturb a person of normal sensibilities or to constitute a health hazard to humans.

#### **SEC. 2 ANIMAL ENCLOSURE FOR SMALL ANIMALS**

- (a) Any person raising or keeping small animals, including, but not limited to, rabbits, guinea pigs, rats, mice, hamsters and gerbils shall keep such animals in a pen, cage or enclosure meeting the requirements of ARTICLE IV SEC. 1., such pen, cage or enclosure shall be at least twenty (20) feet distant from nearby homes or offices, excluding the home or office of the person raising or keeping such animals.
- (b) Shelter must be provided with adequate food and a continuous source of clean, wholesome water for every animal.
- (c) It shall be an affirmative defense that the small animals were kept in or by a duly licensed or established shelter, veterinary clinic, pet store or institutional or education research facility.
- (d) If any building/dwelling intended for human occupancy is constructed within the required distance and the property owner files a written complaint with the city, then the pen, cage, or enclosures and animals must be moved to meet the 20' distance or removed from property if setback is not available.

#### **ARTICLE V HARBORING WILD OR DANGEROUS ANIMALS OR REPTILES**

**SEC. 1** It shall be unlawful for any person to keep, raise, harbor, use, possess, or have on his premises or under his control or attempted control any wild or dangerous animal within the city, except commercial establishments dealing in the sale of these animals and zoos that have proper facilities



for restraint and care of these animals. A dangerous animal is any wild or feral mammal or reptile which by its nature or breeding has the capability of inflicting serious bodily injury to humans.

**SEC. 2** Any dangerous animal kept in violation of this section or found at large may be impounded by the Health Authority with whatever force is reasonably necessary to safely secure impoundment. The Health Authority shall be authorized to impound any animal found at large or kept in violation of this Code. The Health Authority shall also be authorized, upon obtaining a search warrant; to impound any dangerous animal which the Health Authority has probable cause to believe is being kept in violation of this section. The impoundment remedies in this section shall not be exclusive. The city shall have the right to exercise any and all other remedies available at law or in equity.

**SEC. 3** The Health Authority shall be authorized to destroy any dangerous animal running at large which because of its nature, disposition or diseased condition would present a hazard to life or limb in an attempt to capture it. A peace officer may destroy such animal in any life-threatening situation.

**SEC. 4** No owner or custodian or person in possession of a dangerous animal shall allow such animal to be at large. The Health Authority may, but shall not be required to, enlist the voluntary aid of any person in attempting to capture a dangerous animal at large.

**SEC. 5** The owner or custodian of any impounded dangerous animal shall be liable to the animal control authority in the amount of the impoundment fees charged for other impounded animals pursuant to the provisions of this chapter or for such fee as may be set by the animal control authority and for actual feeding and care costs as determined by the impoundment facility. No impounded dangerous animal shall be released until all required fees and costs have been paid or arranged to be paid. Prior to release of an impounded animal to the owner or custodian, the Health Authority shall determine that adequate provision has been made for the removal of the animal to a place outside the city or for confinement within the city under authority of SEC. 6.

**SEC. 6** It shall be an affirmative defense to a prosecution under SEC. 1 of this ARTICLE that:

- (a) The keeping of such an animal was in a zoo, shelter, museum or bona fide educational or medical institution;
- (b) The keeping of such an animal was temporarily for public exhibition by a circus, carnival or other traveling exhibition;
- (c) The animal was enroute to a duly licensed veterinary clinic or that the keeping of such an animal was in a duly licensed veterinary clinic;
- (d) The keeping of such an animal was by a wild animal rehabilitator holding a valid license or permit to keep such an animal.

**SEC. 7** Dangerous animals kept under authority of SEC. 6 within the city shall be securely confined to prevent injury to persons and properly cared for. A person possessing or keeping a dangerous animal within the city under the authority of SEC. 6 above this section shall have in force liability insurance in the amount of not less than \$500,000 per claim. Proof of insurance shall be filed with the Health Authority within 30 days of the keeping or bringing into the city of any dangerous animal.

**SEC. 8** The Health Authority is authorized to release custody and possession of a dangerous animal to the impoundment facility if such animal is not reclaimed by its owner or custodian within seven calendar days after the date of impoundment, not including the day of impoundment. Any animal so released by the animal control authority after the expiration of such time may then be disposed of in a lawful manner by the impoundment facility including, but not limited to, the sale or destruction of said animal. The animal may be released to and disposed of by the impoundment facility prior to the expiration of such time if in the professional opinion of the veterinarian, disposition is necessary to avoid the unnecessary suffering of a sick or injured animal.

## **ARTICLE VI LIVESTOCK**

**SEC. 1** It shall be unlawful for any person to maintain and keep any mule, donkey, bull, cow, calf, sheep, goat, cattle, horses, foals, ponies or other livestock within the city. It shall be unlawful for any person

to keep and feed, for purposes of slaughter or market, any cattle or livestock in any pen or enclosure controlled by him within the corporate limits of the city; provided, however, that 4-H Club members may keep not more than one animal as a club project. 4-H Club members may obtain a permit to keep one animal, provided the conditions of sanitation set forth in this ordinance are met.

- (a) This Article shall not apply to school-age children enrolled in a public or private school which offers Future Farmers of America (FFA) and/or 4-H Club programs in which the class participants are required or allowed to raise project animals for education, show or profit purposes as long as said children have a valid permit issued in effect at the time.
- (b) Students enrolled in a 4-H or FFA project may maintain livestock or fowl within the Town of Bayside, Texas provided
  1. They are City residents who are members of the immediate household;
  2. They are an active member in good standing of a locally recognized FFA or 4-H program utilizing these animals;
  3. Has received a city permit for such activity;
  4. They have registered with the City Secretary a letter from their 4-H adult leader or the teacher of Future Farmers of America class certifying their project;
  5. No neighbor within 200 feet of the animal's pen files a written complaint with the City Secretary.
  6. The requirements and space allocations for each animal or fowl are satisfied.
  7. The animal(s) cannot be on or kept on public property, city right-of-ways or city easements.
- (c) This exception to this Ordinance shall be available to a student only during the duration of his or her project. The city council must approve all permits for any animal requiring a permit for over one year. Cattle and/or horses are not included as an exemption. Other animals such as sheep, goats, rabbits and fowl may be considered; however, certain requirements must be met, including premise inspection by the Animal Control Authority or city official and adequate space for the housing and care of the animals. The keeping or care of all other livestock that are not used as student projects shall be prohibited.
- (d) Permit. In order to qualify for the above exemption, the students are required to:
  1. Apply for an annual FFA/4-H project permit. The student, the student's parent or guardian, and the student's FFA/4-H teacher/instructor shall sign said application.
  2. Provide proof of enrollment in one of the listed school programs.
  3. Provide proof that the animals being kept are an integral part of the student's participation in one of the listed school programs.
  4. Allow inspection by an animal control officer of the pens, cages, or other facilities and property on which the animals are to be kept before issuance of the permit and at any reasonable time requested thereafter.
  5. A permit issued under this Section shall be valid only upon the premises identified on the permit and is nontransferable to any other location or person.
  6. A permit issued under this Section shall expire:
    - i. No later than 12 months from the date of issuance;
    - ii. No later than the day the qualifying person ceases to be an active member in good standing with the listed school program; or
    - iii. No later than the day said permit is revoked as provided below, whichever should occur first.
  7. The city secretary or an animal control officer may deny the issuance of a permit or revoke a permit previously issued based on any one of the following:
    - i. False information is provided on the application for the permit.
    - ii. Two or more convictions for violations of this Ordinance by the student or the student's parent or guardian.

iii. If the animal control officer determines, in the officer's sole judgment, that the animal(s) cannot be or are not being kept at the location in a manner which does not create a nuisance, public health hazard or otherwise violate any other provision of this Ordinance.

iv. Graduation of the student from high school or the student otherwise not being enrolled in good standing in the listed school program.

8. Each permit shall be individually reviewed by the city employees as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All animals kept subject to this provision may be relocated outside of the city limits by the city or animal control authority upon receipt of a nuisance complaint against the person charged with a violation of this section.

**SEC. 2 STAKING LIVESTOCK FOR GRAZING.** It shall be unlawful for any person to stake any livestock for the purpose of grazing upon or within reach of any public street, alley, sidewalk or park within the city.

**SEC. 3 LIVESTOCK AT LARGE.** It shall be unlawful for the owner, keeper or person in charge of any horse, mule, jack, jennet, cow, cattle, hog, sheep or goat or similar animal, to allow or permit the same to run at large within the city.

**SEC. 4 KEEPING HOGS OR SWINE.** It shall be unlawful for any person to maintain and keep any hog, or pig within the city.

**SEC. 5 AUTHORIZATION.** The City Mayor, designee or animal control authority shall take up or cause to be taken up any horses, mules, jacks, jennets, cattle, hogs, sheep, goats or similar animals found running at large within the city and shall impound any such animals in a suitable place provided for that purpose.

**SEC. 6 NOTICE AND SALE.** The City Mayor, designee or animal control authority shall within three days after any animal has been impounded pursuant to the provisions of this chapter, post three notices, one at the county courthouse, one at the city hall and one in some other place, giving therein a full description of such animal so taken up and impounded and stating a day and place of sale of such animal, which date of sale shall not be less than five days from the date of posting notice. Such animals shall be sold at public auction to the highest bidder for cash.

**SEC. 7 FEES**

(a) The animal control authority or designee shall collect a fee as established by the animal control authority for taking up and impounding each animal pursuant to the provisions of this article, and after the first day shall collect a fee for feeding and taking care of each animal, and a fee for selling each animal, which fees so collected shall be paid over to the animal control authority.

(b) After deducting the fees for impounding, keeping and selling each animal, the animal control authority or his designee shall return the balance of the proceeds of such sale, if any, to the owner. If the owner fails to call for the amount within 15 days from the date of the sale, then the Animal Control Supervisor shall pay the same over to the County.

(c) At any time within six months after any sale, the owner may apply to the animal control authority or his designee and upon satisfactory proof of ownership, he shall be entitled to receive the amount deposited on account of such sale, after paying such costs as may be necessarily incurred to establish his right thereto.

**SEC. 8 RECLAMATION BY OWNER BEFORE SALE.** The owner of any animal impounded may reclaim the same from the Animal Control Shelter at any time before sale by paying all fees and expenses of taking up and keeping such animal.

**SEC. 9 REDEMPTION BY OWNER AFTER SALE.** At any time within six months from the date of sale, the owner of any animal impounded and sold under the provisions of this article shall have the right to redeem the same by paying to the purchaser thereof double the amount paid by the purchaser for such animal and his reasonable expenses incurred in keeping the same.

**SEC. 10 RECORDS.** It shall be the duty of the Health Authority to keep records of all animals impounded or for whose care or disposition the city may be responsible or liable. Such records shall contain a description of the animals impounded or cared for, the date of impoundment or acceptance by the Animal Shelter, the date of sale or disposition, the amounts realized from the sale, fees and expenses due for impounding and care, and the name of the owner and purchaser.

**SEC. 11 ANIMAL CONTROL SUPERVISOR.** The City Council shall appoint an Animal Control Supervisor and such assistants as may be required. The Animal Control Supervisor and his assistants shall be under the supervision and control of the City Mayor or his designee. The Animal Control Supervisor and his assistants shall take up and impound all livestock found running at large within the city and perform such other duties as may be directed by the City Mayor or his designee under the terms of this ordinance.

## **ARTICLE VII KEEPING OF FOWL AND BIRDS**

### **SEC. 1 PROXIMITY OF POULTRY ENCLOSURES TO DWELLINGS**

- (a) Any person raising or keeping chickens, turkeys, ducks, geese, guineas or other fowl shall keep them in a pen, coop or enclosure meeting the requirements of ARTICLE IV.
- (b) Any enclosure that houses poultry or other domesticated fowl must be at least one hundred (100) feet from any building intended for human occupancy, except the dwelling occupied by the owner of the fowl. All fowl or poultry must be provided with adequate food and a continuous source of clean, wholesome water.
- (c) Pens, cages, coops, lofts or enclosures wherein animals, fowl or birds are kept are allowed only in a rear yard and shall not be located in a front or side yard.
- (d) If any building/dwelling intended for human occupancy is constructed within the required distance and the property owner files a written complaint with the city, then the pen, coop, or enclosures and poultry/fowl must be moved to meet the 100' distance or removed from property if setback is not available.

**SEC. 2** It shall be the duty of the person owning, or having within his management or control, any chickens, turkeys, geese, or other domestic fowl, to keep same enclosed upon his own premises in such manner that same cannot go upon the public streets, highways, alleys or parkways of the city, or upon the private property of others.

**SEC. 3** It shall be unlawful for any person owning or having under his control or management any chickens, turkeys, geese, or other domestic fowl, to allow same to be at large within the city.

**SEC. 4** It shall be unlawful for any person to maintain and keep an ostrich or emu within the city.

### **SEC. 5 KEEPING OF PIGEONS OR SIMILAR BIRDS**

- (a) It shall be unlawful for any person to keep or harbor on any lot or tract more than 10 pigeons or other birds.
- (b) Any person owning, raising or keeping pigeons or other birds shall keep them in a pen, coop, loft or enclosure meeting the requirements of ARTICLE IV, provided that pigeons bearing a leg band issued by a recognized association of pigeon fanciers may be released for exercise, performance or competition.
- (c) When more than two such pigeons or birds are kept, the pens, coops, lofts or enclosures wherein they are kept shall be at least fifty (50) feet distant from nearby homes or offices, excluding the home or office of the owner or keeper.
- (d) It shall be an affirmative defense to a prosecution under this section that the pigeons or birds were kept by a duly licensed or established veterinary clinic, zoo, shelter, pet store or educational or institutional research facility.

**SEC. 6** Roosters are to be kept in a well-ventilated box during nighttime hours (8:00 PM – 6:00 AM) so that the rooster cannot raise his head to crow to minimize the noise. Exotic birds are to be kept

indoors and/or in a covered cage during nighttime hours to minimize the noise. If the amount of noise cannot be reduced, the rooster must be removed from the property.

### **ARTICLE VIII BEEKEEPING**

Beekeeping is unlawful within the city. It shall be unlawful for any person to maintain and keep any apiary, colony, or hive within the city.

### **ARTICLE IX GENERAL PENALTY FOR VIOLATIONS**

Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in such Code or Ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding Two Thousand Dollars (\$2,000.00) for violations of municipal ordinances that govern fire safety, sanitation (not including vegetation and litter violations), public health or as the Legislature may amend from time to time. For traffic-related offenses and other violations not included in the classes enumerated above, the maximum permissible fine will be Five Hundred Dollars (\$500.00) or as the Legislature may amend from time to time. Further, that the above mentioned violations shall be subject to a minimum fine of One Hundred Dollars (\$100.00). PROVIDED, however, that no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. A culpable mental state is not required for the commission of an offense under this Code of Ordinances, unless the provision defining the conduct expressly requires a culpable mental state.

### **ARTICLE X VALIDITY**

*SEC. 1* All ordinances or parts of ordinances in conflict herewith are hereby repealed.

*SEC. 2* The validity of any section, clause, sentence, or provision of this ordinance shall not effect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

*SEC. 3 SEVERABILITY OF PARTS OF CODE* It is hereby declared to be the intention of the Town of Bayside City Council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph, or section of this Code 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 Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph, or section.

### **ARTICLE XI EFFECTIVE DATE**

This ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

### **ARTICLE XII PET CONTROL**

*SEC. 1 – PROHIBITIONS, LICENSING REQUIREMENT AND IMPOUNDMENT FEES*

1.1 Prohibitions.

- (a) **Unregistered Dogs and Cats.** It shall be unlawful for any person to own, harbor, or keep a dog or cat over four (4) months of age for which the City has not issued a current and unrevoked registration certificate and city tag.
  - (b) **Unvaccinated Dogs and Cats.** It shall be unlawful for any person to own, harbor, or keep a dog or cat over three (3) months of age that has not been vaccinated against rabies within the preceding twelve (12) months by a veterinarian.
  - (c) **Proof of Licensing:** No person shall own or harbor a dog or cat and fail or refuse to exhibit a license certificate, license tag, or rabies tag within a reasonable time upon demand by any Animal Regulation Officer.
  - (d) **Requirement for Collar.** It shall be unlawful for the owner of any dog or cat regulated by this Ordinance to permit such dog or cat to be off of the owner's premises without a collar, rabies and city tag securely fastened to the pet.
  - (e) **Dog Nuisance.** It shall be unlawful for any person to own, keep, or harbor a dog or cat in such a way that creates a nuisance as defined in this Ordinance.
  - (f) **Interference With The Duties Of The Animal Control Officer.** It is unlawful for any person to knowingly and intentionally interfere with the Animal Control Officer while in the lawful discharge of his/her duties as prescribed in this Ordinance.
  - (g) **Cruelty To Animals.** It shall be unlawful for any person to knowingly or intentionally overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry or confine in or upon any vehicle in a cruel or reckless manner, or otherwise mistreat or neglect any animal or cause or procure it to be done, or having the charge or custody of any animal, fail to provide it with proper food, drink, or protection from the weather or abandon it.
  - (h) **Abandonment And Disposal.** It shall be unlawful for a person to abandon or dispose of an animal on the property of another or public property; or to abandon an animal on his former residence when relocating to a new residence.
- 1.2 **License Required.** It is unlawful to keep any dog or cat of more than four (4) months of age unless a city license therefore has been first secured. All dogs and cats will be licensed at four months, and each year thereafter. In order to be re-licensed, there must be a current vaccination effective throughout the entire ensuing license year. Any dog or cat owner who moves into the City shall comply with this Ordinance within thirty (30) days afterwards. The license fee shall be set annually by the City Council. Applicants shall certify that the dog or cat to be licensed has been vaccinated against rabies, effective for the license year, by a qualified veterinarian. Licenses shall expire on the 31st day of December next following their issuance. For purposes of this Subsection, a vaccination with a killed rabies vaccine shall be deemed effective for 12 months, and a vaccination with a live rabies vaccine shall be deemed effective for 24 months. Dog or cat owners may, with proof of multi-year rabies vaccination, choose to prepay licenses for one, two or three years, with final expiration coincident with the expiration of the rabies vaccination.
- 1.3 **Date of Payment.** It shall be the duty of each owner of a dog or cat to pay the license fee imposed hereunder to the city secretary during the month of January in each year, or upon acquiring ownership or possession of any unlicensed dog or cat or upon establishing residence in the City.
- 1.4 **Receipts and Tags.** Upon payment of the license fee, the city secretary shall execute a receipt in duplicate. The original receipt, along with the tag, shall be delivered to the applicant. The duplicate copy shall be retained by the city. License tags shall be different from year to year.
- 1.5 **Affixing Tags.** Upon purchase of a license the owner shall cause said tag to be affixed by a permanent metal fastening to the collar of the dog or cat so licensed in such a manner that the tag may be easily seen by the Animal control authority. The owner shall see that the tag is constantly worn by such dog or cat.

- 1.6 Duplicate Tags. In case any city tag is lost, a duplicate shall be issued by the city secretary upon presentation of a receipt showing payment of the license fee for the current year. The charge for each such duplicate tag shall be set annually by Council resolution.
- 1.7 Limitation On Number Of Dogs And Cats. It is unlawful for any person to keep or harbor more than four dogs and four cats which are over the age of four months on any lot, premises, dwelling, building, structure, boat or living accommodation. No person or household shall own or harbor more than one litter of pups or more than one litter of kittens, or engage in the commercial business of breeding, buying selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a special permit from the city. The fee for such special permit, or any renewal thereof, shall be set by City Council and may be adjusted annually.
- 1.8 Impoundment Fees. An owner claiming an animal which has been impounded under this order shall pay, prior to the release of said animal, the fees set by the Refugio County Animal Department.
- 1.9 Penalty for Violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 and not more than \$500.00.

## **SEC. 2 - ANIMAL AND RABIES CONTROL**

- 2.1 The owner of each dog or cat shall have the dog or cat vaccinated against rabies at three months of age or as prescribed by the United States Department of Agriculture (USDA) and within each subsequent 12-month interval thereafter. Only USDA-licensed rabies vaccines with a three- year duration of immunity in dogs or a vaccine which has been licensed for less than two years, and for which testing to obtain approval for three-year duration of immunity is in progress, may be used according to label directions in any species for which it is approved.
- 2.2 Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by Texas Department of Health. Information is required as follows:
  - (a) Owner's name, address, and telephone number;
  - (b) Animal identifications - species, sex, age (three months to 12 months, 12 months, or older), size (pounds), predominant breed, and colors;
  - (c) Vaccine used - producer, expiration date, and serial number;
  - (d) Date vaccinated;
  - (e) Rabies tag number if a tag is issued;
  - (f) Veterinarian's signature or signature stamp and license number.
- 2.3 A copy of each official rabies vaccination certificate issued shall be retained by the issuing veterinarian in a readily retrievable status for a period of not less than three years from the date of issuance.
- 2.4 If a veterinarian ceases the practice of veterinary medicine, the duplicate rabies vaccination certificates retained by that practice shall be turned over to the local rabies control authority. This does not apply to the sale or lease of a practice, when the records of the practice are transferred to a new owner.
- 2.5 Rabies Tag. Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall attach to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times.
- 2.6 Duplicate Tags. In the event of loss or destruction of the original tag provided in Section 2.5, the owner of the dog or cat shall obtain a duplicate tag. Vaccination certificates (and tags) shall be valid only for the animal for which it was originally issued. Duplicate tag may be purchased from the practicing veterinarian that issued the original tag.
- 2.7 Proof. It shall be unlawful for any person who owns a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this ordinance.

- 2.8 Unvaccinated Animals. It shall be unlawful for any person to own a dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.
- 2.9 Penalty for Violation. Any person who violates a provision of this Section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

### **SEC. 3 - REPORTS OF HUMAN EXPOSURE TO RABIES**

- 3.1 Any person having knowledge or a potential rabies exposure to a human as defined in the Texas Health and Safety code, 826.041 will report the incident to the local rabies control authority as soon as possible, but not later than 24 hours from the time of the incident. This requirement does not apply to bites by low risk animals as defined in 1.18 of this title (relating to Definitions).
- 3.2 The owner of a custodian of the potentially rabid animal will place that animal in quarantine or submit it for testing as prescribe in Section Four of this title (relating to Quarantine Method and Testing).
- 3.3 The local rabies control authority will investigate each potential exposure and assure appropriate resolution, in accordance with Section 4.

### **SEC. 4 - DISPOSITION OF DOMESTIC ANIMALS EXPOSED TO RABIES**

- 4.1 Unvaccinated animals which have bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be:
- (a) Humanely killed; or
  - (b) If sufficient justification for preserving the animal exists, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for 90 days, and given booster vaccinations during the third and eight weeks of isolation. If the animal is less than three months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three months of age.
- 4.2 Currently vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal shall be:
- (a) Humanely killed; or
  - (b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal shall be given a booster rabies vaccination immediately and placed in strict isolation for 45 (forty-five) days.
  - (c) These provisions apply only to domestic animals for which an approved rabies vaccine is available.
  - (d) In situations where none of the requirements of this section are applicable, the recommendations contained in the latest edition of the publication titled The Compendium of Animals Rabies Control, published by the National Association of State Public Health Veterinarians, should be followed.

### **SEC. 5 - SUBMISSION OF SPECIMENS FOR LABORATORY EXAMINATIONS**

- 5.1 Preparation of specimens either for shipment or for personal delivery for rabies diagnosis shall include the following.
- (a) Damage to the brain caused by shooting or other traumatizing procedures shall be avoided.
  - (b) Suspect animal's head shall be separated from the body immediately after death by a qualified person. Only the head shall be submitted with the exception that whole bats may be submitted.
  - (c) The head shall be immediately chilled to between 45 degrees Fahrenheit and 32 degrees Fahrenheit, but should not be frozen.

### **SEC. 6 - QUARANTINE PROCEDURES FOR ANIMALS**

- 6.1 When a domestic dog or cat which has bitten a human has been identified, the owner or custodian will be required to place the animal in quarantine. Unvaccinated animals should not be vaccinated against rabies during the observation period. The 10-day observation period will begin on the day of the bite incident. The animal must be placed in a Texas Department of Health (department) approved facility specified by the local rabies control authority and observed at least twice daily. However, the



owner or custodian of the animal may request permission from the local rabies control authority for home quarantine if the following criteria can be met:

(a) Secure facilities must be available at the home of the animal's owner or custodian, and must be approved by the local rabies control authority.

(b) The animal is currently vaccinated against rabies.

(c) The local rabies control authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the local rabies control authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.

(d) The animal was not a stray (as defined in the Texas Health and Safety Code, (826.002) at the time of the bite.

6.2 A domestic animal which has bitten a human and has been designated by the local rabies control authority as unclaimed may be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a department certified laboratory for rabies diagnosis.

6.3 If the biting animal is a high-risk animal, it shall be humanely killed and the brain submitted for rabies testing.

6.4 If the biting animal is a low risk animal, neither quarantine nor rabies test will be required unless the local rabies control authority has cause to believe the biting animal is rabid, in which case it should be humanely killed and tested for rabies.

6.5 The local rabies control authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations so the face, head, or neck or a person to be humanely killed and the brain tested for rabies.

6.6 If the biting animal is not included in subsections (6.1), (6.2), (6.3), (6.4), or (6.5) or this section, the biting animal will be humanely killed and the brain tested for rabies or the local rabies control authority may require the animal to be confined for a 30-day observation period an alternate method to killing and testing, otherwise conforming to the requirements delineated in a subsection (a) of this section.

6.7 Any animal required to be quarantined under this section, which cannot be maintained in a secure quarantine, shall be humanely killed and the brain tested for rabies.

6.8 Currently vaccinated guide dogs in service or currently vaccinated police dogs when a bite inflicted in the line of duty shall not be required to be placed in quarantine.

6.9 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. Each day an animal is not produced for quarantine shall constitute a separate offense.

#### **SEC. 7 - DOGS OR CATS RUNNING AT LARGE**

7.1 No owner or custodian shall permit any animal owned by him or under his control to run at large in or upon any street, lane, alley or on any public property, vacant lot, or unenclosed private property not the property of the owner. Any animal found running at large may be taken up and impounded. A cat shall not be deemed to be at large unless it is causing, or is a nuisance, or has been complained of or is sick or injured. No owner or custodian shall permit any animal owned by him or under his control to be upon the premises of another within the city without the consent of the owner of such premises.

7.2 If ownership is determinable and animal has registration with owners' ID and the owner can be located, dogs and cats that are listed as a nuisance and are running at large shall be returned to owner and the owner shall be cited for violation of this order. If owner cannot be located the animal shall be kept for not less than 72 hours. If ownership is in question or if the animal is a stray, the animal shall be impounded for 48 (forty-eight) hours. An owner may claim the animal within this time period after paying all incurred costs and impoundment fees.

7.3 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

#### **SEC. 8 - INTERFERENCE WITH THE ANIMAL CONTROL OFFICER**

8.1 It shall be unlawful for any person to interfere with, molest hinder, or prevent the animal control officer from the official discharge of the duties as herein prescribed.

8.2 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$ 100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

#### **SEC. 9 - CREATION, SUPERVISION AND DUTIES OF LOCAL HEALTH AUTHORITY**

9.1 The Commissioners' Court hereby appoints the animal control officer as the local health authority for the purposes of rabies control.

9.2 Among other duties, the animal control officer acting as the designated local health authority shall enforce:

(a) All state laws and the rules adopted by the Texas Department of Health establishing minimum standards for rabies control;

(b) This ordinance and all others promulgated by the city concerning rabies and animal control;

(c) The rules adopted by the Texas Department of health concerning area rabies quarantines.

9.3 Records. It shall be the duty of the animal control officer to maintain records which will track cases and funds in a manner to be approved by commissioners' court for implementation of all provisions of this order. Quarterly reports shall be made to Commissioners' Court citing number and type of call, actions and costs incurred.

#### **SEC. 10 - OWNERSHIP OF DANGEROUS ANIMALS**

10.1 The provisions of Sections 822.001 through 822.005 (Subchapter A,) Section 822.011 (Subchapter B,) and Sections 822.041 through 822.047 (Subchapter D) of the Health and Safety Code of the State of Texas are hereby adopted and incorporated in this code as though the same were fully set out herein. Any future modifications of such laws of the State of Texas shall automatically be incorporated herein. References herein to any of said sections will mean the relevant sections of the Health and Safety Code of the State of Texas.

10.2 Whenever in the above incorporated sections reference is made to the animal control authority, it shall refer to the Animal Control Authority of Refugio County, the Town of Bayside or any Law Enforcement Officer as defined in Article I above.

10.3 The time period for compliance with the requirements of Section 822.042 is hereby amended to seventy two (72) hours, provided that the animal shall be immediately restrained as required in said section. An owner of a dangerous dog may, as an alternative to the provisions of Section 822.042, remove the dangerous animal from the City limits of the Town of Bayside or surrender the animal for humane destruction or have the same performed within twenty four (24) hours after learning that the animal is dangerous or upon quarantine clearance, whichever is later.

10.4 Any animal that has been determined to be dangerous, and is not destroyed, shall have inserted into the animal a micro-chip by a licensed veterinarian within two hundred forty (240) hours from the date the animal is registered with the Animal Control Authority as a dangerous animal at such owner's expense. The chip shall contain an alphanumeric combination code which code shall be provided to the Animal Control Authority. Within two hundred forty (240) hours from the determination that an animal is dangerous, the owner of the animal must furnish proof of micro-chipping to the Animal Control Authority on a form furnished by the city and make the animal available, at the City's animal control facility, for scanning so the Animal Control Authority can verify the code. Failure to micro-chip, show proof of micro-chipping, or make the animal available for scanning shall constitute separate offenses.

- 10.5 All owners of dangerous animals shall provide to the city two (2) color photographs of the animal in two (2) different poses showing the color and approximate size of the animal.
- 10.6 The owner of a dangerous animal is required to have the animal wear, at all times, the dangerous animal registration tag provided by the city or the Animal Control Authority.
- 10.7 No dangerous animal may be kept on a porch, patio, or in any part of a house or structure, even if restrained, that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- 10.8 No person shall permit a dangerous animal to go outside its secure enclosure unless such animal is securely leashed with an eighteen (18") inch traffic lead. No person shall permit a dangerous animal to be kept on a chain, rope, or other type of leash outside its secure enclosure unless a person is in immediate physical control of the leash. Such animal shall not be leashed to inanimate objects such as trees, posts, or buildings. The dangerous dog, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal.
- 10.9 All owners of dangerous animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware – Dangerous Animal" The sign is to be no smaller than twelve (12) inches by twelve (12) inches and shall not exceed eighteen (18) inches by twenty four (24) inches in size. In addition, a similar sign shall be posted on the kennel or pen of such animal.
- 10.10 Report Significant Events. The owner of a dangerous dog shall as soon as possible, within ten (10) calendar days of the occurrence report, report in writing to the city or to the animal control officer any of the following events:
- (a) The escape of the animal;
  - (b) An attack or biting of a person or other animal;
  - (c) Permanent removal of the dog from the city;
  - (d) Death of the dog; or
  - (e) Written proof of new address if animal is sold and/or moves within the Town of Bayside.
- 10.11 The new owner of a dangerous animal shall pay a registration fee established by City Council, and the Animal Control Authority shall issue a new dangerous animal registration tag.
- 10.12 An owner of a dangerous animal shall notify the Animal Control Authority of any attack the animal makes on any person or any animal.
- 10.13 A dangerous animal may be destroyed during an attempt to seize or impound the animal, if impoundment cannot be made with safety, wherever the impoundment is attempted without liability to an owner of a dangerous dog.
- 10.14 Filing A Complaint.
- (a) Should any person, other than an Enforcement Officer desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with the city secretary, Enforcement Officer or sheriff's department containing:
    1. Name, address and telephone number of complainant and other witnesses;
    2. Date, time, and location of any incident involving the animal;
    3. Description of the animal;
    4. Name, address, and telephone number of the animal's owner, if known;
    5. A statement describing the facts of death or serious bodily or animal injury upon which such complaint is based; and
    6. A statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.
  - (b) After a sworn complaint is filed, it shall be referred to the Enforcement Officer and/or Municipal Court for processing and hearing in accordance with the provisions of the above referenced sections of the Health and Safety Code of the State of Texas.

- 10.15 Violations. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with this Section or an applicable municipal or county regulation relating to dangerous dogs. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal, which, at the time of the act complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog. No animal shall be found to be dangerous or vicious if the bite, attack, or injury was sustained by a person who was:
- (a) committing, at the time, a crime upon the premises occupied by the animals owner or custodian;
  - (b) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian;
  - (c) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.
- 10.16 Penalty For Violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. If it is shown that an owner has been convicted two or more times of an offense under this section, punishment shall be by a fine of not less than \$200.00 nor more than \$500.00. Each day that a person owns a dangerous dog in violation of this section shall constitute a separate offense.
- 10.17 Other Remedies.
- (a) Nothing in this Ordinance limits the right of the city or private persons to pursue other lawful criminal, civil or equitable remedies to abate, discontinue or correct violations of this Ordinance or other risks posed by dogs.
  - (b) Nothing in this Ordinance is intended to create a cause of action or claim against the city or its officials or employees running to specific individuals. Any duty created herein is intended to be a general duty running in favor of the public citizenry.
- 10.18 Strict liability. If any dangerous dog causes injury to a person or domestic animal or damage to property, regardless whether the dog was on or off the premises of the owner, or on or off a leash, or whether the dangerous dog escaped without the fault of the owner, the owner shall be liable to the person aggrieved thereby for all damages sustained, to be recovered in a civil action, except that the owner may raise a defense of reasonable protection of property or persons. It shall be presumed as a matter of law that the owning or keeping of a dangerous dog in violation of this Ordinance is a nuisance.

Date Published in Official Newspaper Oct. 18, 2007

Passed, ordained, approved and adopted this the 9<sup>th</sup> day of October, 2007.

Attest:

Connie Garner  
City secretary

By: Billy P. Frick  
Mayor Town of Bayside, Texas

## ORDINANCE 69 AMENDMENT A

AN ORDINANCE OF THE TOWN OF BAYSIDE, TEXAS, PROVIDING FOR THE AMENDMENT OF THE CITY ORDINANCE 69 BAYSIDE ANIMAL REGULATIONS REGULATING LIVESTOCK AND FOWL WITHIN THE TOWN OF BAYSIDE; PROVIDING FOR PERMITS, LICENSES, FEES, AND EXPIRATION; ADDING A PET CONTROL CLAUSE AND REPEALING ORINANCE 13, 13-A AND ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR THE VIOLATION WHEREOF AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF BAYSIDE, TEXAS:

WHEREAS, the Town of Bayside has determined that the following amendments to the Bayside Animal Regulations are needed to ensure public health, safety and welfare of its citizens,

WHEREAS, it is the desire of this council to establish the following regulations concerning vaccination of animals, reporting of human exposure to rabies, quarantining and testing orbiting animals, reduction of the stray animal population, restraint of vicious animals and prohibition of animals running at large; and

WHEREAS, to prescribe penalties for violation of such provisions in accordance with and pursuant to Chapter 822, 826 and 828, Health and Safety Code, V.T.C.A.;

Ordinance number 69 Bayside Animal Regulations is hereby amended and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern. Ordinance 13 and 13-A is hereby repealed and all ordinances and parts of ordinances in conflict herewith

### SECTION 1

That ARTICLE I DEFINITIONS is hereby amended to add definitions to read as follows:

- **ANIMAL OWNER** - Any person who owns or has custody or control of an animal.
- **AT LARGE** - means a dog or other animal found off or outside the premises of the owner or keeper while the dog or animal is not in the company of and not under the complete control of a capable person and not on a leash held by a person who is physically capable of restraining the animal by holding a leash, cord, chain, wire, rope, cage or other suitable means of physical restraint. A dog shall not be considered to be at large under the following circumstances:
  1. A dog in a duly recognized obedience school on field training exercises and under the direct supervision of a handler; and
  2. A dog within a vehicle.
- **BITE** - Puncturing or tearing of the skin caused by an animal's teeth.
- **BODILY INJURY** - Means physical pain, illness, or any impairment of physical condition.
- **CITY** - The Town of Bayside.
- **CITY OFFICIAL** - The City employee charged with responsibility of enforcing this ordinance or his designee.
- **CURRENTLY VACCINATED** - Vaccinated and satisfying the following criteria.
  1. The animal must have been vaccinated against rabies at three months of age as prescribed by the United State Department of Agriculture (USDA).
  2. At least 30 days have elapsed since the initial vaccination.
  3. Not more than 12 months have elapsed since the most recent vaccination.
- **CUSTODIAN** - A person or agency which feeds, shelters, harbors, has possession or control, or has the responsibility to control an animal for 72 (seventy-two) hours.
- **DANGEROUS ANIMAL** - shall mean:

- (a) Makes an unprovoked attack that causes bodily injury to a person, and occurs in a place other than an enclosure in which the animal was being kept; such enclosure being reasonably secure so as to prevent the animal from leaving the enclosure on its own;
  - (b) Has killed or severely injured a domestic animal without provocation while off the owner's property; or
  - (c) Commits unprovoked acts in a place other than an enclosure in which the animal was being kept; such enclosure being reasonably secure so as to prevent the animal from leaving the enclosure on its own; and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.
- **DEPARTMENT** - The Texas Department Health (TDH).
  - **ENCLOSURE** - means an area sectioned off by a fence or wall, a pen, cage, coop, loft, stable, shed, structure or enclosure used to house a bird, fowl, livestock, or other animal.
  - **FFA (FUTURE FARMERS OF AMERICA) PROGRAM** - means the specific national youth organization that promotes the development of agricultural leadership, vocational agriculture, cooperation, and citizenship under the auspices of the U.S. Department of Education.
  - **4-H PROGRAM** - means the specific youth organization conducted by the Texas State Cooperative Extension Service, United States Department of Agriculture.
  - **GUIDE DOG** - Domestic dog that is in service to a legally blind person.
  - **HIGH RISK ANIMALS** - Those animals which have a high probability of transmitting rabies; they include skunks, bats, species of foxes indigenous to north America, coyotes, and raccoons.
  - **HOUSING FACILITY** - Any room, building, or area used to contain a primary enclosure or enclosures.
  - **HUMANELY KILLED** - To cause the death of an animal by a method which:
    1. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
    2. Utilizes anesthesia produced by an agent which causes painless loss of consciousness, and death following such loss of consciousness.
  - **HYBRID** - Any offspring of two animals of different species.
  - **ISOLATION** - The separation of an animal exposed or potentially exposed to rabies.
  - **LAW ENFORCEMENT AGENCY** means:
    1. The Department of Public Safety;
    2. The police department of a municipality; or
    3. A sheriff deputy or constable.
  - **LOCAL RABIES CONTROL AUTHORITY** - The officer designated by the municipal or county governing body under the Texas Health and Safety Code, Chapter 826.
  - **LOW RISK ANIMALS** - Those which have a low probability of transmitting rabies; to include all animals of the order: Marsupialia, Insectivora, Rodentia, Lagomorpha, and Xenarthra.
  - **OBSERVATION PERIOD** - The time following a bite incident during which the biting animal's health status must be monitored. The observation period for domestic dogs and cats (only) is 10 days
  - **POLICE DOG** - Domestic dog that is owned or employed by a governmental law enforcement agency.
  - **PREMISES** - means the area of land to which a person has legal or equitable rights of possession, use and control.
  - **PRIMARY ENCLOSURE** - Any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.
  - **PUBLIC HEALTH REGION** - A contiguous group of Texas counties, so designated by the board.
  - **PUBLIC NUISANCE** - Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. Barking shall not be deemed a nuisance if a person is trespassing or threatening to trespass upon private property in which the dog is kept.

- **PUBLIC NUISANCE ANIMAL** - shall mean and include, but is not limited to, any animal that:
  1. Causes or allows to be caused in the manner of keeping an animal that disturbs the comfort, physical senses, health or well being of another person; or that interferes with another person's enjoyment or rightful use of his own property;
  2. Pulls trash out of trash containers on public property, city easements or private property;
  3. Is repeatedly at large or stray;
  4. Damages the property of anyone other than its owner;
  5. Molests or intimidates pedestrians or passersby;
  6. Trespasses on public property;
  7. Chases vehicles;
  8. Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored whether the animal is on the owner's premises or not;
  9. Non-agricultural animals (dogs and cats) - fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
  10. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
  11. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or
  12. Attacks other domestic animals
- **QUARANTINE FACILITY** - A structure where animals are held for rabies observation.
- **QUARANTINE PERIOD** - That portion of the observation period during which a biting animal is physically confined for observation as provided for in Sec. 169.27 of this title (relating to Quarantine Method and Testing).
- **RUNNING AT LARGE** - Not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animals are either on a leash or held in the hands of the owner or keeper, or under direct supervision of the owner within the limits of the owner's private property or other property where owners are lawfully permitted. An animal within an automobile or vehicle of its owners are lawfully permitted. An animal within an automobile or vehicle of its owner shall not be deemed "Running at large."
- **SANITIZE** - To make physically clean and to destroy disease -producing agents.
- **SECURE ENCLOSURE** - A fenced area or structure that is:
  1. Locked;
  2. Capable of preventing the entry of the general public, including children;
  3. Capable of preventing the escape or release of a dog;
  4. Clearly marked as containing a dangerous dog;
  5. In conformance with the requirements for enclosures established by the local animal control authority.
- **SERIOUS BODILY INJURY** - means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional without regard to whether the person actually sought medical treatment or any physical injury that requires corrective or cosmetic surgery.
- **STRAY** - Roaming without physical restraint beyond the premises of the animal's owner. Absence of current rabies tag on dog running a large will be construed as evidence of stray status.
- **UNOWNED ANIMAL** - Any animal for which an owner has not been identified.
- **Vaccinated** - Properly injected by a licensed veterinarian with a rabies vaccine licensed for use in that species by the United States Department of Agriculture.

- **ZOONOSIS CONTROL DIVISION (ZCD)** - The Division within the Texas Department of Health to which the responsibility for implementing these rules is assigned.
- **ZOONOSIS CONTROL REPRESENTATIVE** - Any person employed by the ZCD.

## **SECTION 2**

That ARTICLE III GENERAL ANIMAL CONTROL REGULATIONS is hereby amended to add a section to read as follows:

**SEC. 9 LIMITATION ON NUMBER OF FOWL AND RABBITS.** Due to their potential to create a nuisance when allowed in large numbers because of noise, bodily waste odor or other unsanitary condition, it shall be unlawful for anyone to keep, board or harbor more than ten rabbits, chickens, geese, ducks, or turkeys or similar fowl within the city limits.

### **SEC. 10 ANIMAL CARE.**

- (a) All animals must be treated, captured, caged or otherwise dealt with in a humane manner. It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with shade, care or shelter, clean/fresh food and drink in a spill-proof receptacle of appropriate size.
- (b) A shelter shall be shaded during hot weather months. Any animal habitually kept outside shall be provided with a structurally sound enclosure, consisting of a minimum of a three-sided enclosure, with a waterproof roof, large enough or appropriate for the species maintained.
- (c) No owner or responsible person shall fail to provide his animal with veterinary or humane care and treatment when needed to prevent suffering.
- (d) No person shall keep any animals within any structure in the city without thoroughly cleaning the area and maintaining such structure that no offensive odors are emitted therefrom.
- (e) Any officer finding an animal kept, carried, or left in violation of this section is authorized to take emergency measures at the expense of the animal owner to remove or prevent further cruelty or suffering to the animal.

### **SEC. 11 PERMITS, SUSPENSION AND REVOCATION OF PERMITS, REINSTATEMENT.**

#### **(a) Permit.**

1. A permit shall be required for any person owning, possessing or harboring any fowl or 4-H/FFA livestock within the city limits. No person shall keep any fowl or 4-H/FFA livestock within the city who does not possess an un-revoked permit.
2. Denial of Permit. No permit required by this Ordinance shall be issued if the applicant has:
  - i. Withheld or falsified information on the application;
  - ii. Failed to comply with any section of this Ordinance.
3. No permit required by this Ordinance shall be issued if the applicant has been:
  - i. Convicted three or more times for violating any section or combination of sections of this ordinance, or
  - ii. Been convicted of inhumane or cruel treatment to animals.
4. Reapplication Period Upon Denial Of Permit. If a permit required by this Ordinance is denied, reapplication cannot be made for at least 60 days.

#### **(b) Suspension of Permit.**

1. The City Official may upon official notice suspend a permit issued pursuant to this Ordinance for the following reasons:
  - i. Animals are being deprived of necessary food, care or shelter.
  - ii. Animals are being cruelly confined or treated.



- iii. Unsanitary conditions exist to such an extent that these conditions create a possible medium for the transmission of disease to the animals kept there or to human beings.
  - iv. There is noncompliance with any section of this Ordinance.
2. After suspension, no animal shall be accepted or placed on the property more than five days after the suspension, unless the suspension has been lifted and the permit reinstated prior to that time.
  3. **Lifting Of Suspension And Reinstatement Of Permit.** If all violations and unsatisfactory conditions have been corrected within 15 days, the City, after re-inspection, may reinstate the suspended permit issued pursuant to this Ordinance. A re-inspection shall be made as soon as practical, and not longer than five working days after receiving a written request for such inspection by the person to whom the permit was issued.
- (c) **Revocation And Reinstatement Of Permit.**
1. **Revocation Of Permit.** After 15 days from suspension of a permit issued pursuant to this Ordinance, if no written request for re-inspection has been received or if satisfactory corrections have not been made, the City shall give official notice that in five days the permit shall be revoked.
  2. **Reinstatement Of Permit After Revocation.** The property owner or any other owner at the same location who has had a permit issued pursuant to this Ordinance revoked may apply for a new permit for at least one year from the date of revocation. No permit shall be issued if the person has been convicted of abuse to animals. If the acceptable application and satisfactory assurance is given that previous violations will not recur and there will be compliance with all sections of this Ordinance, a new permit may be issued.
  3. **Permit Effective Date.** Unless suspended or revoked, the permit shall remain in effect for one calendar year from the date of issuance. Application for renewal of permit may be made from one month prior to one month after the permit expiration date, but the effective date of the permit shall be to coincide with the expiring permit date..

**SEC. 12 INSPECTION.** The city official or animal authority has the right to inspect the premises, including animals or fowl, at any time during normal business hours. The city official or animal control authority has the right to take photographs and gather evidence on the premises to document any of the reasons for suspension.

**SECTION 3**

That **ARTICLE IV ANIMAL ENCLOSURE FOR SMALL ANIMALS SEC. 2 (a)** is hereby amended to read and (d) added to read as follows:

- (a) Any person raising or keeping small animals, including, but not limited to, rabbits, guinea pigs, rats, mice, hamsters and gerbils shall keep such animals in a pen, cage or enclosure meeting the requirements of **ARTICLE IV SEC. 1.**, such pen, cage or enclosure shall be at least twenty (20) feet distant from nearby homes or offices, excluding the home or office of the person raising or keeping such animals.
- (d) If any building/dwelling intended for human occupancy is constructed within the required distance and the property owner files a written complaint with the city, then the pen, cage, or enclosures and animals must be moved to meet the 20' distance or removed from property if setback is not available.

**SECTION 4**

That **ARTICLE VI LIVESTOCK SEC. 1** is hereby amended to add subsections to read as follows:

- (a) This Article shall not apply to school-age children enrolled in a public or private school which offers Future Farmers of America (FFA) and/or 4-H Club programs in which the class participants are required or allowed to raise project animals for education, show or profit purposes as long as said children have a valid permit issued in effect at the time.
- (b) Students enrolled in a 4-H or FFA project may maintain livestock or fowl within the Town of Bayside, Texas provided
1. They are City residents who are members of the immediate household;
  2. They are an active member in good standing of a locally recognized FFA or 4-H program utilizing these animals;
  3. Has received a city permit for such activity;
  4. They have registered with the City Secretary a letter from their 4-H adult leader or the teacher of Future Farmers of America class certifying their project;
  5. No neighbor within 200 feet of the animal's pen files a written complaint with the City Secretary.
  6. The requirements and space allocations for each animal or fowl are satisfied.
  7. The animal(s) cannot be on or kept on public property, city right-of-ways or city easements.
- (c) This exception to this Ordinance shall be available to a student only during the duration of his or her project. The city council must approve all permits for any animal requiring a permit for over one year. Cattle and/or horses are not included as an exemption. Other animals such as sheep, goats, rabbits and fowl may be considered; however, certain requirements must be met, including premise inspection by the Animal Control Authority or city official and adequate space for the housing and care of the animals. The keeping or care of all other livestock that are not used as student projects shall be prohibited.
- (d) Permit. In order to qualify for the above exemption, the students are required to:
1. Apply for an annual FFA/4-H project permit. The student, the student's parent or guardian, and the student's FFA/4-H teacher/instructor shall sign said application.
  2. Provide proof of enrollment in one of the listed school programs.
  3. Provide proof that the animals being kept are an integral part of the student's participation in one of the listed school programs.
  4. Allow inspection by an animal control officer of the pens, cages, or other facilities and property on which the animals are to be kept before issuance of the permit and at any reasonable time requested thereafter.
  5. A permit issued under this Section shall be valid only upon the premises identified on the permit and is nontransferable to any other location or person.
  6. A permit issued under this Section shall expire:
    - i. No later than 12 months from the date of issuance;
    - ii. No later than the day the qualifying person ceases to be an active member in good standing with the listed school program; or
    - iii. No later than the day said permit is revoked as provided below, whichever should occur first.
  7. The city secretary or an animal control officer may deny the issuance of a permit or revoke a permit previously issued based on any one of the following:
    - i. False information is provided on the application for the permit.
    - ii. Two or more convictions for violations of this Ordinance by the student or the student's parent or guardian.
    - iii. If the animal control officer determines, in the officer's sole judgment, that the animal(s) cannot be or are not being kept at the location in a manner which does not create a nuisance, public health hazard or otherwise violate any other provision of this Ordinance.

- iv. Graduation of the student from high school or the student otherwise not being enrolled in good standing in the listed school program.
- 8. Each permit shall be individually reviewed by the city employees as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All animals kept subject to this provision may be relocated outside of the city limits by the city or animal control authority upon receipt of a nuisance complaint against the person charged with a violation of this section.

## **SECTION 5**

That ARTICLE VII KEEPING OF FOWL AND BIRDS is hereby amended to add sections and subsections to read as follows:

### **SEC. 1 PROXIMITY OF POULTRY ENCLOSURES TO DWELLINGS**

- (c) Pens, cages, coops, lofts or enclosures wherein animals, fowl or birds are kept are allowed only in a rear yard and shall not be located in a front or side yard.
- (d) If any building/dwelling intended for human occupancy is constructed within the required distance and the property owner files a written complaint with the city, then the pen, coop, or enclosures and poultry/fowl must be moved to meet the 100' distance or removed from property if setback is not available.

**SEC. 6 Roosters are to be kept in a well-ventilated box during nighttime hours (8:00 PM – 6:00 AM) so that the rooster cannot raise his head to crow to minimize the noise. Exotic birds are to be kept indoors and/or in a covered cage during nighttime hours to minimize the noise. If the amount of noise cannot be reduced, the rooster must be removed from the property.**

## **SECTION 6**

That ARTICLE XII is hereby added to read as follows:

### **ARTICLE XII PET CONTROL**

#### **SEC. 1 – PROHIBITIONS, LICENSING REQUIREMENT AND IMPOUNDMENT FEES**

##### **1.1 Prohibitions.**

- (a) **Unregistered Dogs and Cats.** It shall be unlawful for any person to own, harbor, or keep a dog or cat over four (4) months of age for which the City has not issued a current and unrevoked registration certificate and city tag.
- (b) **Unvaccinated Dogs and Cats.** It shall be unlawful for any person to own, harbor, or keep a dog or cat over three (3) months of age that has not been vaccinated against rabies within the preceding twelve (12) months by a veterinarian.
- (c) **Proof of Licensing:** No person shall own or harbor a dog or cat and fail or refuse to exhibit a license certificate, license tag, or rabies tag within a reasonable time upon demand by any Animal Regulation Officer.
- (d) **Requirement for Collar.** It shall be unlawful for the owner of any dog or cat regulated by this Ordinance to permit such dog to be off of the owner's premises without a collar, rabies and city tag securely fastened to the dog or cat.
- (e) **Dog Nuisance.** It shall be unlawful for any person to own, keep, or harbor a dog or cat in such a way that creates a nuisance as defined in this Ordinance.
- (f) **Interference With The Duties Of The Animal Control Officer.** It is unlawful for any person to knowingly and intentionally interfere with the Animal Control Officer while in the lawful discharge of his/her duties as prescribed in this Ordinance.
- (g) **Cruelty To Animals.** It shall be unlawful for any person to knowingly or intentionally overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or

cruelly beat, needlessly mutilate, needlessly kill, carry or confine in or upon any vehicle in a cruel or reckless manner, or otherwise mistreat or neglect any animal or cause or procure it to be done, or having the charge or custody of any animal, fail to provide it with proper food, drink, or protection from the weather or abandon it.

(h) Abandonment And Disposal. It shall be unlawful for a person to abandon or dispose of an animal on the property of another or public property; or to abandon an animal on his former residence when relocating to a new residence.

- 1.2 License Required. It is unlawful to keep any dog or cat of more than four (4) months of age unless a city license therefore has been first secured. All dogs and cats will be licensed at four months, and each year thereafter. In order to be re-licensed, there must be a current vaccination effective throughout the entire ensuing license year. Any dog or cat owner who moves into the City shall comply with this Ordinance within thirty (30) days afterwards. The license fee shall be set annually by the City Council. Applicants shall certify that the dog or cat to be licensed has been vaccinated against rabies, effective for the license year, by a qualified veterinarian. Licenses shall expire on the 31st day of December next following their issuance. For purposes of this Subsection, a vaccination with a killed rabies vaccine shall be deemed effective for 12 months, and a vaccination with a live rabies vaccine shall be deemed effective for 24 months. Dog or cat owners may, with proof of multi-year rabies vaccination, choose to prepay licenses for one, two or three years, with final expiration coincident with the expiration of the rabies vaccination.
- 1.3 Date of Payment. It shall be the duty of each owner of a dog or cat to pay the license fee imposed hereunder to the city secretary during the month of January in each year, or upon acquiring ownership or possession of any unlicensed dog or cat or upon establishing residence in the City.
- 1.4 Receipts and Tags. Upon payment of the license fee, the city secretary shall execute a receipt in duplicate. The original receipt, along with the tag, shall be delivered to the applicant. The duplicate copy shall be retained by the city. License tags shall be different from year to year.
- 1.5 Affixing Tags. Upon purchase of a license the owner shall cause said tag to be affixed by a permanent metal fastening to the collar of the dog or cat so licensed in such a manner that the tag may be easily seen by the Animal control authority. The owner shall see that the tag is constantly worn by such pet.
- 1.6 Duplicate Tags. In case any city tag is lost, a duplicate shall be issued by the city secretary upon presentation of a receipt showing payment of the license fee for the current year. The charge for each such duplicate tag shall be set annually by Council resolution.
- 1.7 Limitation On Number Of Dogs And Cats. It is unlawful for any person to keep or harbor more than four dogs and four cats which are over the age of four months on any lot, premises, dwelling, building, structure, boat or living accommodation. No person or household shall own or harbor more than one litter of pups or more than one litter of kittens, or engage in the commercial business of breeding, buying selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a special permit from the city. The fee for such special permit, or any renewal thereof, shall be set by City Council and may be adjusted annually.
- 1.8 Impoundment Fees. An owner claiming an animal which has been impounded under this order shall pay, prior to the release of said animal, the fees set by the Refugio County Animal Department.
- 1.9 Penalty for Violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 and not more than \$500.00.

## **SEC. 2 - ANIMAL AND RABIES CONTROL**

- 2.1 The owner of each dog or cat shall have the dog or cat vaccinated against rabies at three months of age or as prescribed by the United States Department of Agriculture (USDA) and within each subsequent 12-month interval thereafter. Only USDA-licensed rabies vaccines with a three-year duration of immunity in dogs or a vaccine which has been licensed for less than two years, and for

which testing to obtain approval for three-year duration of immunity is in progress, may be used according to label directions in any species for which it is approved.

- 2.2 Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by Texas Department of Health. Information is required as follows:
- (a) Owner's name, address, and telephone number;
  - (b) Animal identifications - species, sex, age (three months to 12 months, 12 months, or older), size (pounds), predominant breed, and colors;
  - (c) Vaccine used - producer, expiration date, and serial number;
  - (d) Date vaccinated;
  - (e) Rabies tag number if a tag is issued;
  - (f) Veterinarian's signature or signature stamp and license number.
- 2.3 A copy of each official rabies vaccination certificate issued shall be retained by the issuing veterinarian in a readily retrievable status for a period of not less than three years from the date of issuance.
- 2.4 If a veterinarian ceases the practice of veterinary medicine, the duplicate rabies vaccination certificates retained by that practice shall be turned over to the local rabies control authority. This does not apply to the sale or lease of a practice, when the records of the practice are transferred to a new owner.
- 2.5 Rabies Tag. Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall attach to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times.
- 2.6 Duplicate Tags. In the event of loss or destruction of the original tag provided in Section 2.5, the owner of the dog or cat shall obtain a duplicate tag. Vaccination certificates (and tags) shall be valid only for the animal for which it was originally issued. Duplicate tag may be purchased from the practicing veterinarian that issued the original tag.
- 2.7 Proof. It shall be unlawful for any person who owns a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this ordinance.
- 2.8 Unvaccinated Animals. It shall be unlawful for any person to own a dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.
- 2.9 Penalty for Violation. Any person who violates a provision of this Section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

### **SEC. 3 - REPORTS OF HUMAN EXPOSURE TO RABIES**

- 3.1 Any person having knowledge or a potential rabies exposure to a human as defined in the Texas Health and Safety code, 826.041 will report the incident to the local rabies control authority as soon as possible, but not later than 24 hours from the time of the incident. This requirement does not apply to bites by low risk animals as defined in 1.18 of this title (relating to Definitions).
- 3.2 The owner of a custodian of the potentially rabid animal will place that animal in quarantine or submit it for testing as prescribe in Section Four of this title (relating to Quarantine Method and Testing).
- 3.3 The local rabies control authority will investigate each potential exposure and assure appropriate resolution, in accordance with Section 4.

### **SEC. 4 - DISPOSITION OF DOMESTIC ANIMALS EXPOSED TO RABIES**

- 4.1 Unvaccinated animals which have bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be:

(a) Humanely killed; or

(b) If sufficient justification for preserving the animal exists, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for 90 days, and given booster vaccinations during the third and eighth weeks of isolation. If the animal is less than three months of age at the time of the second vaccination, an additional booster shall be given when the animal reaches three months of age.

**4.2** Currently vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal shall be:

(a) Humanely killed; or

(b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal shall be given a booster rabies vaccination immediately and placed in strict isolation for 45 (forty-five) days.

(c) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

(d) In situations where none of the requirements of this section are applicable, the recommendations contained in the latest edition of the publication titled *The Compendium of Animals Rabies Control*, published by the National Association of State Public Health Veterinarians, should be followed.

## **SEC. 5 - SUBMISSION OF SPECIMENS FOR LABORATORY EXAMINATIONS**

**5.1** Preparation of specimens either for shipment or for personal delivery for rabies diagnosis shall include the following.

(a) Damage to the brain caused by shooting or other traumatizing procedures shall be avoided.

(b) Suspect animal's head shall be separated from the body immediately after death by a qualified person. Only the head shall be submitted with the exception that whole bats may be submitted.

(c) The head shall be immediately chilled to between 45 degrees Fahrenheit and 32 degrees Fahrenheit, but should not be frozen.

## **SEC. 6 - QUARANTINE PROCEDURES FOR ANIMALS**

**6.1** When a domestic dog or cat which has bitten a human has been identified, the owner or custodian will be required to place the animal in quarantine. Unvaccinated animals should not be vaccinated against rabies during the observation period. The 10-day observation period will begin on the day of the bite incident. The animal must be placed in a Texas Department of Health (department) approved facility specified by the local rabies control authority and observed at least twice daily. However, the owner or custodian of the animal may request permission from the local rabies control authority for home quarantine if the following criteria can be met:

(a) Secure facilities must be available at the home of the animal's owner or custodian, and must be approved by the local rabies control authority.

(b) The animal is currently vaccinated against rabies.

(c) The local rabies control authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the local rabies control authority must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.

(d) The animal was not a stray (as defined in the Texas Health and Safety Code, (826.002) at the time of the bite.

**6.2** A domestic animal which has bitten a human and has been designated by the local rabies control authority as unclaimed may be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a department certified laboratory for rabies diagnosis.

**6.3** If the biting animal is a high-risk animal, it shall be humanely killed and the brain submitted for rabies testing.

- 6.4 If the biting animal is a low risk animal, neither quarantine nor rabies test will be required unless the local rabies control authority has cause to believe the biting animal is rabid, in which case it should be humanely killed and tested for rabies.
- 6.5 The local rabies control authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations so the face, head, or neck or a person to be humanely killed and the brain tested for rabies.
- 6.6 If the biting animal is not included in subsections (6.1), (6.2), (6.3), (6.4), or (6.5) or this section, the biting animal will be humanely killed and the brain tested for rabies or the local rabies control authority may require the animal to be confined for a 30-day observation period an alternate method to killing and testing, otherwise conforming to the requirements delineated in a subsection (a) of this section.
- 6.7 Any animal required to be quarantined under this section, which cannot be maintained in a secure quarantine, shall be humanely killed and the brain tested for rabies.
- 6.8 Currently vaccinated guide dogs in service or currently vaccinated police dogs when a bite inflicted in the line of duty shall not be required to be placed in quarantine.
- 6.9 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. Each day an animal is not produced for quarantine shall constitute a separate offense.

#### **SEC. 7 - DOGS OR CATS RUNNING AT LARGE**

- 7.1 No owner or custodian shall permit any animal owned by him or under his control to run at large in or upon any street, lane, alley or on any public property, vacant lot, or unenclosed private property not the property of the owner. Any animal found running at large may be taken up and impounded. A cat shall not be deemed to be at large unless it is causing, or is a nuisance, or has been complained of or is sick or injured. No owner or custodian shall permit any animal owned by him or under his control to be upon the premises of another within the city without the consent of the owner of such premises.
- 7.2 If ownership is determinable and animal has registration with owners' ID and the owner can be located, dogs and cats that are listed as a nuisance and are running at large shall be returned to owner and the owner shall be cited for violation of this order. If owner cannot be located the animal shall be kept for not less than 72 hours. If ownership is in question or if the animal is a stray, the animal shall be impounded for 48 (forty-eight) hours. An owner may claim the animal within this time period after paying all incurred costs and impoundment fees.
- 7.3 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

#### **SEC. 8 - INTERFERENCE WITH THE ANIMAL CONTROL OFFICER**

- 8.1 It shall be unlawful for any person to interfere with, molest hinder, or prevent the animal control officer from the official discharge of the duties as herein prescribed.
- 8.2 Penalty for violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$ 100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated.

#### **SEC. 9 - CREATION, SUPERVISION AND DUTIES OF LOCAL HEALTH AUTHORITY**

- 9.1 The Commissioners' Court hereby appoints the animal control officer as the local health authority for the purposes of rabies control.
- 9.2 Among other duties, the animal control officer acting as the designated local health authority shall enforce:
- (a) All state laws and the rules adopted by the Texas Department of Health establishing minimum standards for rabies control;

- (b) This ordinance and all others promulgated by the city concerning rabies and animal control;
- (c) The rules adopted by the Texas Department of health concerning area rabies quarantines.
- 9.3 Records. It shall be the duty of the animal control officer to maintain records which will track cases and funds in a manner to be approved by commissioners' court for implementation of all provisions of this order. Quarterly reports shall be made to Commissioners' Court citing number and type of call, actions and costs incurred.

#### **SEC. 10 - OWNERSHIP OF DANGEROUS ANIMALS**

- 10.1 The provisions of Sections 822.001 through 822.005 (Subchapter A,) Section 822.011(Subchapter B,) and Sections 822.041 through 822.047 (Subchapter D) of the Health and Safety Code of the State of Texas are hereby adopted and incorporated in this code as though the same were fully set out herein. Any future modifications of such laws of the State of Texas shall automatically be incorporated herein. References herein to any of said sections will mean the relevant sections of the Health and Safety Code of the State of Texas.
- 10.2 Whenever in the above incorporated sections reference is made to the animal control authority, it shall refer to the Animal Control Authority of Refugio County, the Town of Bayside or any Law Enforcement Officer as defined in Article I above.
- 10.3 The time period for compliance with the requirements of Section 822.042 is hereby amended to seventy two (72) hours, provided that the animal shall be immediately restrained as required in said section. An owner of a dangerous dog may, as an alternative to the provisions of Section 822.042, remove the dangerous animal from the City limits of the Town of Bayside or surrender the animal for humane destruction or have the same performed within twenty four (24) hours after learning that the animal is dangerous or upon quarantine clearance, whichever is later.
- 10.4 Any animal that has been determined to be dangerous, and is not destroyed, shall have inserted into the animal a micro-chip by a licensed veterinarian within two hundred forty (240) hours from the date the animal is registered with the Animal Control Authority as a dangerous animal at such owner's expense. The chip shall contain an alphanumeric combination code which code shall be provided to the Animal Control Authority. Within two hundred forty (240) hours from the determination that an animal is dangerous, the owner of the animal must furnish proof of micro-chipping to the Animal Control Authority on a form furnished by the city and make the animal available, at the City's animal control facility, for scanning so the Animal Control Authority can verify the code. Failure to micro-chip, show proof of micro-chipping, or make the animal available for scanning shall constitute separate offenses.
- 10.5 All owners of dangerous animals shall provide to the city two (2) color photographs of the animal in two (2) different poses showing the color and approximate size of the animal.
- 10.6 The owner of a dangerous animal is required to have the animal wear, at all times, the dangerous animal registration tag provided by the city or the Animal Control Authority.
- 10.7 No dangerous animal may be kept on a porch, patio, or in any part of a house or structure, even if restrained, that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- 10.8 No person shall permit a dangerous animal to go outside its secure enclosure unless such animal is securely leashed with an eighteen (18") inch traffic lead. No person shall permit a dangerous animal to be kept on a chain, rope, or other type of leash outside its secure enclosure unless a person is in immediate physical control of the leash. Such animal shall not be leashed to inanimate objects such as trees, posts, or buildings. The dangerous dog, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal.



- 10.9 All owners of dangerous animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware – Dangerous Animal" The sign is to be no smaller than twelve (12) inches by twelve (12) inches and shall not exceed eighteen (18) inches by twenty four (24) inches in size. In addition, a similar sign shall be posted on the kennel or pen of such animal.
- 10.10 Report Significant Events. The owner of a dangerous dog shall as soon as possible, within ten (10) calendar days of the occurrence report, report in writing to the city or to the animal control officer any of the following events:
- (a) The escape of the animal;
  - (b) An attack or biting of a person or other animal;
  - (c) Permanent removal of the dog from the city;
  - (d) Death of the dog; or
  - (e) Written proof of new address if animal is sold and/or moves within the Town of Bayside.
- 10.11 The new owner of a dangerous animal shall pay a registration fee established by City Council, and the Animal Control Authority shall issue a new dangerous animal registration tag.
- 10.12 An owner of a dangerous animal shall notify the Animal Control Authority of any attack the animal makes on any person or any animal.
- 10.13 A dangerous animal may be destroyed during an attempt to seize or impound the animal, if impoundment cannot be made with safety, wherever the impoundment is attempted without liability to an owner of a dangerous dog.
- 10.14 Filing A Complaint.
- (a) Should any person, other than an Enforcement Officer desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with the city secretary, Enforcement Officer or sheriff's department containing:
    1. Name, address and telephone number of complainant and other witnesses;
    2. Date, time, and location of any incident involving the animal;
    3. Description of the animal;
    4. Name, address, and telephone number of the animal's owner, if known;
    5. A statement describing the facts of death or serious bodily or animal injury upon which such complaint is based; and
    6. A statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.
  - (b) After a sworn complaint is filed, it shall be referred to the Enforcement Officer and/or Municipal Court for processing and hearing in accordance with the provisions of the above referenced sections of the Health and Safety Code of the State of Texas.
- 10.15 Violations. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with this Section or an applicable municipal or county regulation relating to dangerous dogs. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal, which, at the time of the act complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog. No animal shall be found to be dangerous or vicious if the bite, attack, or injury was sustained by a person who was
- (a) committing, at the time, a crime upon the premises occupied by the animals owner or custodian;
  - (b) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian;
  - (c) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times.

10.16 Penalty For Violation: Any person who violates a provision of this section shall be guilty of a misdemeanor punishable by a fine of not less than \$100.00 nor more than \$500.00. No portion of the fine imposed hereunder may be deferred, suspended or probated. If it is shown that an owner has been convicted two or more times of an offense under this section, punishment shall be by a fine of not less than \$200.00 nor more than \$500.00. Each day that a person owns a dangerous dog in violation of this section shall constitute a separate offense.

10.17 Other Remedies.

(a) Nothing in this Ordinance limits the right of the city or private persons to pursue other lawful criminal, civil or equitable remedies to abate, discontinue or correct violations of this Ordinance or other risks posed by dogs.

(b) Nothing in this Ordinance is intended to create a cause of action or claim against the city or its officials or employees running to specific individuals. Any duty created herein is intended to be a general duty running in favor of the public citizenry.

10.18 Strict liability. If any dangerous dog causes injury to a person or domestic animal or damage to property, regardless whether the dog was on or off the premises of the owner, or on or off a leash, or whether the dangerous dog escaped without the fault of the owner, the owner shall be liable to the person aggrieved thereby for all damages sustained, to be recovered in a civil action, except that the owner may raise a defense of reasonable protection of property or persons. It shall be presumed as a matter of law that the owning or keeping of a dangerous dog in violation of this Ordinance is a nuisance.

Date Published in Official Newspaper Oct. 18, 2007

Passed, ordained, approved and adopted this the 9<sup>th</sup> day of October, 2007.

Attest:

Connie Cramer  
City secretary

By: Billy P. Frick  
Mayor Town of Bayside, Texas

## ORDINANCE NO. 91

### GENERAL PENALTIES AND CITATIONS TO ORDINANCE VIOLATIONS

AN ORDINANCE OF THE TOWN OF BAYSIDE, TEXAS, SPECIFYING GENERAL PENALTIES TO ORDINANCE VIOLATIONS AND CITATIONS FOR VIOLATION OF CITY ORDINANCES AND STATE LAWS; AMENDING PENALTY CLAUSES IN ORDINANCES 25A, 30, 31, 38C, 58A, 60, 63B, 64, 65, 68, 69, 70, 71, 72 AND 89 OF THE TOWN OF BAYSIDE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A REPEALER CLAUSE.

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

#### SECTION 1. DEFINITIONS AND RULES OF CONSTRUCTION.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the council. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*City.* The word "city" shall mean the Town of Bayside, in the County of Refugio and State of Texas.

*City Official.* The city building inspector or city employee or approved agent charged with responsibility of enforcing the ordinance or his designee.

*Delegation of Authority.* Whenever a provision of this Code requires or authorizes an officer or employee of the city to do some act or perform some duty, it shall be construed to authorize the officer or employee to designate, delegate, and authorize subordinates to perform the act or duty unless the terms of the provision designate otherwise.

*Law Enforcement official:*

- (a) The Department of Public Safety;
- (b) The police department of a municipality; or
- (a) A sheriff, sheriff deputy or constable.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land, or person in control of the property or thing for the owner as that term is commonly understood.

#### SECTION 2. GENERAL PROVISIONS

##### SEC. 2.1. Citations for Violation of City Codes and State Laws.

- A. When any person is found in violation of any provision of the ordinances adopted by the city or of the laws of the state, an approved agent, law enforcement official or a city official may, if the person agrees to sign a citation, issue a citation which shall require the person to appear in court within the time provided on the citation. This section shall in no way limit the legal or statutory authority of any city official or law enforcement official of the city. The citation shall give the person at least ten days to answer any charge of violation of any provision of the ordinances adopted by the city.
- B. Approved agents or employees of the city shall mean those persons in the following divisions that have received written approval of the city mayor to perform citation duties:
  - 1. City official;
  - 2. Animal control officers;

3. Law enforcement officials;
  4. Fire chief;
  5. Code enforcement services.
- C. Signing the citation shall only be a promise to appear and is not an admission of guilt.
- D. It shall be unlawful for any person, upon being issued any citation, to give the city's approved agent or employee a false name or address.
- E. It shall be unlawful to fail to appear in municipal court within the time provided in the citation, provided the citation gave the person at least ten days to answer any charge of violation of any provision of the ordinances or codes adopted by the city.
- F. The following information shall be contained on the citation:
1. Name of defendant;
  2. Address of the defendant;
  3. Driver's license or other identification.
- G. The following information may be included for informational purposes, but shall not nullify any promise to appear:
1. Date of violation;
  2. Place of violation;
  3. Offense charged;
  4. Name of person issuing citation.
- H. Additional or other charges shall not be precluded by the issuance of a citation.

**SEC. 2.2. Violations of Ordinance; Culpable Mental State.**

- A. In any prosecution filed under a provision of this ordinance or any ordinance of the city which expressly requires proof that the actor engaged in conduct intentionally, knowingly, recklessly, or with criminal negligence, then a person does not commit an offense unless he is shown to have engaged in such conduct as the definition of the offense requires.
- B. Whenever in any ordinance of the city an act or a failure to act is prohibited, or is made or declared to be unlawful, or an offense, or a misdemeanor, and such provision does not expressly require proof of a culpable mental state, proof of a culpable mental state is not required for conviction of such offense, it being the intent of the City Council to dispense with the requirement of any culpable mental state in prosecutions filed under such provisions of this ordinance and other ordinances of the city; provided, however, that if such offense is punishable by a fine exceeding the amount authorized by V.T.C.A., Penal Code § 12.23, a person does not commit such offense unless he is shown to have engaged in such conduct intentionally, knowingly, recklessly, or with criminal negligence.

**SEC. 2.3. General Penalties; Applicability; Continuing Violations.**

- A. Except where otherwise provided herein, whenever in any ordinance of the city an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever by ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such ordinance shall be punished by a fine not to exceed two thousand dollars (\$2,000 .00) for violations of all such provisions that govern fire safety, zoning, or public health and sanitation, including the dumping of refuse.
- B. Except where otherwise provided herein, whenever in any ordinance of the City not pertaining to fire safety, zoning, or public health and sanitation, an act is prohibited or is

made or declared to be unlawful or an offense or a misdemeanor, or wherever in this Code or by ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such ordinance shall be punished by a fine not to exceed five hundred dollars (\$500 .00) for violations of all provisions.

- C. Each day any violation of any ordinance continues shall constitute a separate offense unless some other time period is specified.
- D. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise.
- E. Violations of ordinances or codes that are continuous with respect to time may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent equitable relief or civil or quasi-judicial enforcement of a violation of ordinance or code.

SEC. 2.4. Schedule of Civil Fines for Violations.

- A. Except with respect to zoning ordinance violations that shall be punished by a fine not to exceed two thousand dollars (\$2,000 .00) for violations of all such provisions that govern fire safety, zoning, or public health and sanitation, including the dumping of refuse, the following schedule of fines and the provisions stated in this section shall apply to any and all Town of Bayside ordinance and/or code violations. An authorized local official is hereby authorized to issue and process municipal ordinance violation notices and citations in accordance with the city ordinances, and as otherwise permitted by law. Except as otherwise provided for herein, if a person admits responsibility at the Town of Bayside Municipal Court or is found responsible for a municipal ordinance violation citation under this or any other city ordinance, a civil fine shall be assessed as follows:
  - 1. 1st offense - Minimum fine of one hundred dollars (\$100.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees;
  - 2. 1st repeat offense - Minimum fine of two hundred dollars (\$200.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees;
  - 3. 2nd repeat offense - Minimum fine of three hundred dollars (\$300.00) and maximum of five hundred dollars (\$500.00) plus costs and attorney fees.
- B. Whenever an authorized local official issues a stop work order for violation of any of the ordinances or codes, a failure to comply with the properly issued stop work order shall constitute a municipal violation and subject the offender to a fine of not less than two hundred and fifty dollars (\$250.00) for each offense plus costs and attorney fees. A failure to obtain a certificate of occupancy in accordance with the city ordinance shall constitute a municipal violation for which a fine of not less than five hundred dollars (\$500.00) plus costs and attorney fees shall be assessed for each violation.

SEC. 2.5. For the purpose of this section, a "repeat offense" means a second or subsequent violation of the same requirement or provision in an ordinance or code. Nothing in this section shall be interpreted as abrogating the Town of Bayside's right to proceed with an appropriate equitable action in the Refugio County District Court to enjoin and/or abate any violation of the terms of an ordinance or code. Each day that a violation is permitted to continue shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of the ordinance or code so violated

SECTION 3. That the following ordinances, 25A, 30, 31, 38C, 58A, 60, 63B, 64, 65, 68, 69, 70, 71, 72 and 89 of the Town of Bayside is hereby amended, in all other respects said ordinance, article, and section to remain in full force and effect.

- SEC. 3.1. Section 10 of Ordinance 25A DRIVEWAY AND CULVERT ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 10.7, which section reads as follows:  
Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.2. Section 21 of Ordinance 30 VEHICULAR AND PEDESTRIAN TRAFFIC, Town of Bayside, Texas, is hereby amended to read as follows: :  
21. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.3. Section 13 of Ordinance 31 GARBAGE AND TRASH, Town of Bayside, Texas, is hereby amended to read as follows:  
13. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.4. Article 13 Section 13.4 of Ordinance 38C BAYSIDE ZONING ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 13.4.6, which section reads as follows:  
Sec. 13.4.6 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.5. Article V Section 1 of Ordinance 58A SUBSTANDARD BUILDING ORDINANCE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. I, which section reads as follows:  
I. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.6. Article 10 Section 2 of Ordinance 60 SEWER, Town of Bayside, Texas, is hereby amended to read as follows:  
Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.7. Article XIII of Ordinance 63 B RESIDENTIAL CODE, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 5, which section reads as follows:  
Sec. 5 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.8. Article VIII of Ordinance 64 CONTROL OF WEEDS, BRUSH, RUBBISH, JUNK, UNSIGHTLY MATTER revised October 2007, Town of Bayside, Texas, is hereby amended to read as follows:  
PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.9. Article XIII of Ordinance 65 PARK REGULATIONS, Town of Bayside, Texas, is hereby amended to read as follows:  
PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.
- SEC. 3.10. Article XIII Section 2 of Ordinance 68 BAYSIDE COMMERCIAL BUILDING CODES , Town of Bayside, Texas, is hereby amended to read as follows:  
Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.11. Article IX Ordinance 69 ANIMAL REGULATIONS revised October 2007, Town of Bayside, Texas, is hereby amended to read as follows:

PENALTIES. Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.12. Article XV Section 2 of Ordinance 70 BAYSIDE FENCE BUILDING CODE, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.13. Article VI Section 1 of Ordinance 71 ABANDONED VEHICLES AND PROPERTY AND JUNK VEHICLES, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 1 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.14. Article XV Section 2 of Ordinance 72 MANUFACTURED HOUSING, Town of Bayside, Texas, is hereby amended to read as follows:

Sec. 2 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SEC. 3.15. SECTION 8 of Ordinance 89 SPECIAL EVENTS, Town of Bayside, Texas, is hereby amended by adding a section, to be numbered Sec. 8.1, which section reads as follows:

8.1 Any person who violates this ordinance shall be subject to the penalties provided by Ordinance 91.

SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 5. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 6. That the present ordinances of the Town of Bayside need to specify general penalties to ordinance violations, creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

SECTION 7. EFFECTIVE DATE. This ordinance shall be effective upon adoption and, in addition, if any penalty, fine or forfeiture is imposed by this ordinance, then this ordinance shall be effective only after publication of this ordinance in its entirety or in summary form once in the official newspaper of the Town of Bayside.

Date Published in Official Newspaper June 18, 2009

Passed, ordained, approved and adopted this the 9<sup>th</sup> day of June, 2009.

Attest:

Carrie Cameron  
City secretary

By: Billy P. Frick  
Mayor Town of Bayside, Texas