

CITY OF HACKBERRY

ORDINANCE NO. 158-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HACKBERRY, TEXAS REPEALING ORDINANCE NO. 075-95, 138-05 AND ORDINANCE NO. 157-07; PROVIDING OR RELATING TO THE FOLLOWING: ANIMAL CONTROL; DEFINITIONS; ENFORCEMENT; ANIMALS CREATING PUBLIC NUISANCES; SPECIAL PROVISIONS; AUTHORITY TO IMPOUND ANIMALS; RABIES CONTROL; ANIMALS RUNNING AT LARGE; DANGEROUS ANIMALS; THE KEEPING OF LIVESTOCK; A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, the City of Hackberry, Texas (the "City") a Type A general law municipality located in Denton County, Texas; and

WHEREAS, it is incumbent upon the City of Hackberry, Texas to implement an ordinance for animal control that is consistent and enforceable.

WHEREAS, the City Council of the City of Hackberry, Texas ("City Council") has investigated and determined that animal control is necessary to improve the health, safety and welfare of the City and its citizens.

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

SECTION I – Repealing Clause

Ordinance Numbers 075-95, 138-05 and Ordinance Number 157-07 are hereby repealed.

SECTION II – Definitions

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section. All words in the singular shall include the plural and words in the plural shall include the singular. All words in the masculine gender shall include the feminine gender and all words in the feminine gender shall include the masculine gender.

Abandoned shall mean animals left unattended for a period greater than twenty-four (24) hours and creating a threat to their health on private property or released on public property.

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Animal shall include any living creature including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock, but specifically excluding human beings.

Animal Control Officer shall mean the person or persons designated by the City to represent and act for the City to enforce this ordinance, including but not limited to, the impoundment of animals and controlling of stray animals. As of the effective date of this Ordinance, the City has contracted with Kerry Payne d/b/a North Texas Animal Control Authority to perform the duties of the Animal Control Officer for the City. From time to time, the City may by resolution contract with or appoint another Person to perform the function of the Animal Control Officer.

Animal Shelter shall mean any facility operated by the City of Hackberry or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance.

At Large shall mean an animal that is not confined to the premises of its owner by a containment device of sufficient strength and/or height to prevent the animal from escaping there from, inside the house or other enclosure, or secured on said premises by a leash of sufficient strength to prevent the animal from escaping from the said premises, and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall not be considered "*at large*" when held and controlled by some person by means of a leash or chain of proper strength and no longer than six (6) feet in length to control the action of the animal, or while confined within a vehicle.

Auction shall mean any place or facility where animals are bought, sold or traded, except for those facilities otherwise defined in this section. This definition does not apply to individuals sales of animals by owners.

Cats shall mean cats of all ages, both male and female.

City shall mean the City of Hackberry, Texas.

Commercial Animals Establishment shall mean any pet shop, grooming shop, auction, riding school or stable, zoo, circus, kennel or other establishment in which animals are used for commercial purposes.

Dangerous Animal shall mean:

- (a) Any animal that when unprovoked inflicts bites on or attacks a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public or private grounds or places; or
- (b) Any animal with a known propensity, tendency or disposition to attack unprovoked to cause injury or to otherwise endanger the safety of human beings or animals.

Provided, however, that “*dangerous animal*” shall not mean any animal accused of an behavior described in this definition that occurs as a result of a trespass upon the property of the owner of the accused animal.

Dogs shall mean dogs of all ages, both male and female.

Domestic Animal shall mean a pet (i.e.: dog, cat, horse, cow, sheep, bird, etc.) which has been domesticated by man so as to live and breed in a tame condition.

Fowl shall mean chickens, turkeys, pheasant, quail, geese, ducks, or similar feathered animals regardless of age, sex or breed.

Humane Officer shall mean any person designated by the City as a code enforcement officer who is qualified to perform duties under this ordinance.

Impound shall mean to place an animal in an animal shelter or the taking into custody of the animal for transportation to an animal shelter.

Livestock shall mean horses, mules, donkeys, cattle, goats, sheep, and swine, regardless of age, sex or breed.

Notice shall mean written notice sent registered mail, return receipt requested, or personally delivered by the City Marshall or code enforcement office to the last known address of the addressee.

Nuisance shall mean any animal or animals which:

- (a) Molests passersby or passing vehicles.
- (b) Attacks other animals.
- (c) Damages, soils, defiles, or defecates on private property other than that of its owner or on public walks, recreation areas and medians unless such waste is immediately removed and properly disposed of by the owner.
- (d) Is repeatedly at large (two (2) times or more).
- (e) Barks, whines, or howls in an excessive, continuous or untimely fashion.
- (f) Has bitten one or more persons.

Owner shall mean any person who has legal or equitable title to any animal, or harbors or keeps any animal in his possession, or who permits any domestic animal or livestock to remain on or about his premises.

Person shall mean any individual, corporation, association, partnership, trust of any other similar entity.

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Possession shall mean actual care, custody, control or management of a certain animal.

Premises shall mean a parcel of land (one or more continuous lots) owned, leased or controlled by one or more persons.

Stray shall mean to wander upon a public place or the property of another person.

Vaccination shall mean an injection of any vaccine for rabies approved by the state veterinarian and administered or supervised by a licensed veterinarian.

SECTION III – Enforcement by Animal Control Officer; Authority to Carry Weapons; Filing of Complaints.

A. Enforcement

- (1) The animal control officer shall have the authority to issue citations for any violation of this ordinance.
- (2) It shall be unlawful for any person upon being issued a citation to give the Animal Control Officer false information regarding his name, address, ownership of animals or any other pertinent information.
- (3) It shall be unlawful to fail to appear in accordance with the terms of a citation issued by the Animal Control Officer.
- (4) If the person being cited is not present, when the Animal Control Officer visits the premises, the Animal Control Officer may send the citation to the alleged offender by certified mail, or registered mail, return receipt requested, whereupon service shall be deemed completed.
- (5) It shall be unlawful for any person to interfere with the Animal Control Officer in the performance of his duties.
- (6) The Animal Control Officer or code enforcement officer shall have the right of ingress and egress on private property for the purpose of apprehending an animal at large or an abandoned animal.

B. Filing Complaints of Violations and Penalties Therefore

- (1) **Complaints** – Any person believing any provision or provisions of this ordinance to have been violated may file a written complaint with the City Secretary or Court Clerk.
- (2) **Penalty** – Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine in a sum

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not to exceed Five Hundred Dollars (\$500.00) for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

SECTION IV – Public Nuisances

A. Animals Creating Disturbances – No person shall keep or harbor on his premises or elsewhere any animal of any kind that makes or creates an unreasonable disturbance of the neighbors or the occupants of adjacent premises or persons living in the vicinity thereof, or permit such animal to make or create disturbing noises by howling, barking, crowing, bawling or otherwise. A person shall be deemed to have violated terms of this section if such person shall have been notified by the Animal Control Officer, City Secretary or City Marshall of such disturbance and shall have failed or refused to correct such disturbance and prevent its recurrence.

B. Animals Emitting Odors – It shall be unlawful for any person to maintain any animal in such a manner that residents of adjacent or nearby property are subject to obnoxious odors, flies or vermin. All persons keeping animals shall keep their premises clean and free from obnoxious odors as well as flies, mosquitoes and other insects.

C. Animals Trespassing, Attacking or Damaging Property – It shall be unlawful for any person to maintain any animal in any area which constitutes a nuisance by reason of repeated trespasses on public or private property, attacks on other animals, or damage to public or private property.

D. Unsanitary Premises – It shall be unlawful to keep animals on premises that are unsanitary or that are otherwise in violation of any health ordinance of the City or law of the State of Texas. The City may, by written notice to the owner or occupier of premises found to be in violation of this provision, require abatement of the conditions constituting the violation, and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

SECTION V – Animal Provisions Generally

A. Abandonment of Animals – It shall be unlawful for any person to abandon any animal within the corporate limits of the City.

B. Confinement of Animals – It shall be unlawful for any person to confine or allow to be confined any animal in a motor vehicle or trailer under such conditions or for such period of time as may endanger the health or well being of the animal due to heat, lack of ventilation, food or water, or any other circumstance which may cause suffering, disability or death of the animal.

C. Inspection of Premises Where Animals are Kept – Upon receipt of a complaint, the City may inspect any premises where animals are kept or maintained, at any reasonable hour of the day, in the presence of the owner.

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Cruelty to Animals, General –

- (1) No person shall overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhumane manner, any domestic animal; or cause any of these acts to be done.
- (2) No person except a licensed veterinarian shall crop a dog's ears.
- (3) No person shall permit combat between animals or between animals and humans.
- (4) No person shall work a sick or crippled animal.

D. Food, Shelter, Veterinary Care; Sanitary Facilities –

- (1) No person shall fail to provide any animal in his charge or custody with sustenance, drink, protection from the elements, and veterinary care to prevent suffering or disease.
- (2) It shall be unlawful to keep or harbor more than a total of four (4) dogs or cats which are four (4) months of age or older on any premises zoned for residential purposes.
- (3) All facilities in which animals are confined shall be maintained in a sanitary condition.
- (4) Animal control or code enforcement officers are authorized to enter private property for the purpose of impounding abandoned animals.

SECTION VI – Special Provisions Concerning Fowl, Rabbits, Guinea Pigs and Bees

A. Keeping of Fowl, Rabbits and Guinea Pigs – Fowl, rabbits and guinea pigs must be kept in a secure pen or enclosure. Any enclosure in which fowl, rabbits or guinea pigs are kept must be cleaned and disinfected daily. Litter and droppings from such fowl, rabbits and guinea pigs must be collected daily and hauled away. No more than a total number of six (6) which includes any combination of fowl, rabbits and/or guinea pigs shall be kept in a residential area.

Fowl, rabbits and guinea pigs kept for commercial purposes may not be kept in open pens on the ground, but only in batteries or coops off the ground

B. Keeping of Bees – It shall be unlawful to keep bees in such a manner as to deny the reasonable use and enjoyment of adjacent property or endanger the personal health and welfare of the inhabitants of the city.

C. Sale of Baby Fowl, Ducks – It shall be unlawful for any person to sell or offer for sale, lease, rent or in any way transfer, barter or give away baby fowl or ducklings as pets or novelties, whether dyed or not dyed, colored or otherwise artificially treated; provided, however, this section shall not be construed to prohibit the display or sale of natural chicks or ducklings in proper breeding facilities for hatcheries or stores engaged in business of selling the same to be raised for legitimate commercial purposes. In this section, *“legitimate commercial purposes”* shall mean the selling or offering for sale of baby chicks, ducklings or other fowl in quantities of not less than twelve (12) per transaction.

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SECTION VII – Authority to Kill, Impound or Destroy Animals

In addition to other authority granted to the Animal Control Officer, the City shall have authority to do the following:

- A. Kill an animal which poses an imminent danger to a person, property or other animal and a real or apparent necessity exists for the destruction of the animal;
- B. Impound an animal which is diseased and endangers the health and welfare of another person or animal;
- C. Destroy an impounded animal if the City determines that recovery of the animal is doubtful due to injury or disease;
- D. Impound an animal running at large or creating a public nuisance; and
- E. Impound an animal not being cared for in compliance with this Ordinance.

SECTION VIII – Vaccination and Identification Tags Required

- A. **Vaccinations Required** – All dogs and cats within the City four (4) months of age or over shall be vaccinated by a licensed veterinarian for the time period required by law for rabies by a method approved by County and State Regulations.
- B. **Vaccination Certificate Required; Display of Vaccination** – A vaccination certificate shall reflect the name of the owner, the owner’s address, a description of the dog or cat, the date of the vaccination, the number of the vaccination tag, the kind of vaccination used and any other information required by the Animal Control Officer or the City Marshall. False information on a vaccination certificate or tag shall be deemed a separate offense.
- C. **Vaccination Tag and Registration Tag Required** – A metal tag issued by a duly licensed veterinarian and stamped with the words, “vaccinated against rabies” and the date of the vaccination shall be securely attached to the collar or harness of a dog or cat at all times.

A metal registration tag containing the owners name, address and contact number shall be securely attached to the collar or harness of a dog or cat at all times. If an animal does not display the two tags, the animal will be impounded by the Animal Control Officer or the City.

If the City’s Animal Control Officer is a third party contractor to the City, then the Animal Control Officer will be solely responsible for the maintenance of the City’s animal registration program. All fees collected for the registration of animals will retained by the Animal Control Officer as a portion of the consideration for performing the functions of the Animal Control Officer.

- D. **Vaccination Tags Not Transferable** – The vaccination tags issued by a State Licensed Veterinarian shall apply only to the animal for which such tags are issued, and shall not be transferable.

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- (1) It shall be unlawful for the owner of any dog or cat to allow such animal to have attached to it in any manner the metal tags issued to another animal; and
- (2) It shall be unlawful to counterfeit vaccination tags.

**SECTION IX – Reporting of Rabies Cases or Suspected Rabid Animal Required;
Confinement of Animals**

- A. **Reporting of Rabies Required** – It shall be the duty of the owner of an animal and of a veterinarian to report to the Animal Control Officer all cases of rabies or suspected rabies of which any of such persons have knowledge. Such report shall be made within twenty-four (24) hours of discovery, to the City and shall include the location of the diseased animal and the name and address of the owner.
- B. **Confinement** – Any animal or animals having rabies or symptoms thereof or suspected by an Animal Control Officer or any other person, of having rabies, or which has been exposed to rabies, shall be immediately released by its owner to the City for confinement and quarantined in a facility approved by the City, or in a pound for a period of not less than ten (10) days. The owner shall be responsible for all expenses.

SECTION X – Procedure When Animal has Bitten Person; Quarantine Fees

- A. **Procedure** – When any dog, cat or other animal has bitten, scratched or otherwise attacked a person, that person or anyone having knowledge of such incident shall immediately notify the City of the incident. It shall be the responsibility of the owner of such dog, cat or other animal to have the animal confined in the City approved pound or at a Veterinary Hospital for a period of ten (10) days at the expense of the owner, and such dog, cat or other animal shall during such period of confinement be subject to inspection by City personnel, or by a licensed Veterinarian. If after the ten day period the animal is found to be in satisfactory health, the animal shall be released to its owner or keeper upon payment of all quarantine fees. If the animal is not claimed within fifteen (15) days, the Animal Control Officer may provide for the adoption or disposal of the animal.
- B. **Exception to Procedure** – If the animal in question has a valid and current vaccination, the owner shall have authority to quarantine the animal on his own property subject to inspection by City personnel anytime during the quarantine period and provided that the animal be inspected by a Veterinarian at the end of the quarantine period.
- C. **Quarantine Fee** – The owner of any animal held in quarantine for observation purposes shall be charged five dollars (\$5.00) per day in addition to any other actual costs of keeping the animal. This fee is in addition to any impoundment fee. Any owner not wishing to claim a quarantined animal shall pay all such costs plus a fifteen dollar (\$15.00) release of ownership fee.

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SECTION XI – Outbreak of Rabies

In the event a potential outbreak of rabies is suspected and the danger to the public safety from rabid animals is reasonably imminent, the City is hereby authorized, to issue a Quarantine Proclamation ordering persons owning, keeping or harboring any animal to muzzle them or confine them for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation, any person keeping or harboring any animal shall restrain the animal from running at large. All animals found at large during the time specified in the quarantine proclamation, may be destroyed by the Animal Control Officer or the City if the officer is unable, with reasonable effort, to apprehend such animals for impoundment.

SECTION XII – Running at Large

Any person owning, possessing or keeping an animal including, but not limited to dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock within the City, whether vaccinated or unvaccinated, licensed or unlicensed, shall confine such animal or animals within an adequate fence or enclosure or by leash or chain affixed to the animal's collar and attached to some stationary object adequate to prevent the dog from running at large.

For these purposes, “adequate” shall mean any housing, fencing or device which the animal cannot escape from, go over, under, through or around. Evidence that the animal has escaped from a fence, enclosure or leash on two (2) or more occasions, shall be sufficient proof that such fence, enclosure or leash is inadequate for the purposes of confining such dog and necessary changes to such fence, enclosure or leash may be ordered by the City by written notice delivered by mail, return receipt requested, or personal service. Such notice shall state the requested changes and an adequate time period for completing the changes. Failure to complete the changes within the stated time shall constitute an offense under this Ordinance and a separate offense shall be deemed committed upon each day during or on which the violation occurs.

SECTION XIII – Impounding Dogs

The Animal Control Officers may take into custody any dog found at large in the City, and shall impound the dog in the City approved pound or such other place as may be designated for purposes of impoundment. Such impounded dog shall be held for a period of seventy-two (72) hours, after which, if the dog has not been claimed and the proper fee paid as prescribed herein, the dog may be adopted or disposed of.

SECTION XIV – Dangerous Animals; Procedures; Impoundment; Hearing; Redemption

A. An Animal Control Officer at his own instigation, or pursuant to a citizen's complaint, shall investigate all animals suspected of being dangerous. Such investigation shall include identification of the owner of the accused animal, an inspection of the animal so accused, including the photographing of the animal if possible, and such other inquiry and information

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gathering as deemed necessary by the Animal Control Officer conducting the investigation. The owner of an animal shall cooperate with the Animal Control Officer conducting such investigation.

(1) The Animal Control Officer shall attempt, on two (2) different days, to investigate a dangerous animal complaint, and shall attempt to obtain the cooperation of the owner of an animal in making an investigation. If such attempts are unsuccessful, the Animal Control Officer or the City shall send notice to the owner of the animal stating:

(a) That the owner has an affirmative duty to cooperate with the Animal Control Officer by scheduling an appointment with the Animal Control Officer to investigate the complaint;

(b) That the appointment shall be set for a date not more than ten (10) days from the date of notice; and

(c) That failure to schedule or keep the appointment could result in the accused animal being declared a dangerous animal.

B. If the Animal Control Officer determines that an animal is a dangerous animal, the Animal Control Officer shall:

(1) Impound the animal; and

(2) Provide written notice to the owner of the animal of the reasons for the determination, which notice shall be sent within three (3) working days of the determination.

C. The owner of an animal declared to be a dangerous animal by the Animal Control Officer may request a hearing before the Municipal Court of the City to challenge such declaration. The request for such hearing must be in writing and filed with the City Secretary within then (10) days after notice of such declaration was mailed to the owner of the animal. Failure to request a hearing within the allotted period shall constitute a final determination that an animal is a dangerous animal.

D. A hearing before the Municipal Court of the City challenging the declaration that an animal is a dangerous animal shall be held within fourteen (14) days of receipt by the City Secretary of a timely filed written request for such hearing. The Municipal Court Judge shall rule, based upon a preponderance of the evidence, and such ruling shall constitute a final determination that the animal is a dangerous animal. Written copies of the ruling, signed by the judge who presided at the hearing, shall be filed with the City Secretary and the City Marshall.

E. Upon a determination that an animal is a dangerous animal, such animal shall be released from impoundment only if:

(1) All fees incurred in connection with its impoundment have been paid; and

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- (2) The owner of the animal signs a statement promising to immediately remove the animal from the City upon its release from custody and to never bring the animal or have the animal brought back into the City at any time in the future. An animal not redeemed within seventy-two (72) hours of the final determination that the animal is a dangerous animal shall be disposed of by the City.

F. A dangerous animal found within the City following its redemption from custody as provided in subsection (E) above shall be impounded and disposed of by the City.

SECTION XV – Tying Dogs

It shall be unlawful to tie or tether an animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the Animal Control Officer.

SECTION XVI – Guard Dogs

Every person having care, control or custody of any dog which has received guard dog training must register such dog with the Animal Control Officer. The owners of such dog must place a sufficient number of identification signs identifying the dog as a trained guard dog on the owner's premises at all times.

SECTION XVII – Keeping of Livestock

It shall be unlawful for any person to keep livestock on premises under his control without providing adequate fences or barriers that will prevent such livestock from damaging shrubbery, personal property or improvements on adjacent property.

It shall be unlawful for any person to keep livestock on premises under his control in such a manner that such livestock will be located closer than two hundred (200) feet from any person's living quarters.

It shall be unlawful to keep livestock in an area where there is less than one acre per head of livestock so kept.

All enclosures in which livestock are kept shall be maintained in a sanitary condition.

Feed and water troughs maintained for livestock shall be free from projections by which livestock could be injured.

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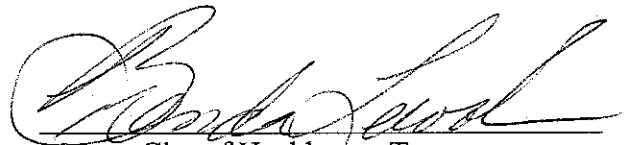
SECTION XVIII – Severability Clause

The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word or provision in this Ordinance or the application thereof to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this Ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions and applications of the Ordinance without the invalid parts and to this end the provisions of this Ordinance shall remain in full force and effect

SECTION XIX – Effective Date

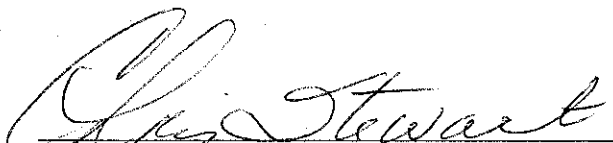
This Ordinance shall take effect immediately from and after its passage and publication of the caption, as the law in such cases provide.

PASSED AND APPROVED BY THE CITY OF HACKBERRY, DENTON COUNTY, TEXAS, this 8 day of May, 2007.



Mayor, City of Hackberry, Texas

ATTEST:



City Secretary, City of Hackberry, Texas

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