

Chapter 3 - ANIMAL CONTROL ^[9]

⁽⁹⁾ **Editor's note**— Ord. No. 1250-07-2010, §§ 2, 3, adopted July 6, 2010, repealed the former ch. 3, §§ 3-1—3-63, which was entitled "Animals and Fowl" and enacted a new ch. 3 as set out herein. The former ch. 3 pertained to similar subject matter and derived from: Code 1970; Ord. No. 203-6-83, § 1, adopted June 21, 1983; Ord. No. 430-11-89, §§ 1, 2, adopted Nov. 21, 1989; Ord. No. 554-8-93, § 2, adopted Sept. 21, 1993; Ord. No. 566-11-93, § 2, adopted Nov. 1, 1993; and Ord. No. 1124-02-2006, §§ 2, 3, adopted Feb. 21, 2006.

⁽⁹⁾ **Cross reference**— Health, ch. 8; motor vehicles and traffic, ch. 11; parks and recreation, ch. 14; dogs prohibited in cemetery, § 6-22; exceptions, § 6-23; meat and meat products, § 9-103; hunting at Moss Lake, § 14-65.

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Sec. 3-1. - Definitions.

In this chapter the following words and terms shall have the following meanings ascribed to them unless the context indicates otherwise:

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Abandon shall mean to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to properly redeem any animal impounded or quarantined by the city.

Animal shall mean any living creature, domestic or wild, including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowls, and livestock but specifically excluding human beings.

Animal control officer shall mean a person assigned to the police department and designated by the city as the primary enforcement officer of ordinances regulating animals and owners of animals and for the enforcement of all Texas State Statutes pertaining to the care and control of animals.

Cat shall mean a domesticated animal that is a member of the Felidae (feline) family, but does not include a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other wild animal of this family or hybrids.

Collar means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

Dangerous dog shall mean a dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and the attack occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place, other than an enclosure in which the dog was being kept, and those acts caused a person to reasonably believe that the dog will attack and cause bodily injury to that person.
- (3) Dangerous dog does not include a dog assisting a peace officer engaged in law enforcement duties.

Dog shall mean a domesticated animal that is a member of the Canidae (canine) family, but does not include a wolf, jackal, fox, coyote or other wild animal of this family or hybrids.

Dog house shall mean a structure built or bought for the sole purpose of protecting a dog from the weather. This structure shall have at least three (3) walls a floor and a top and be capable of keeping the dog clean and protecting the dog from the elements of weather.

Domestic animal shall mean any tame animal that is not defined in this chapter as wild or dangerous.

Enclosure means a fenced area or structure that is:

- (1) Secured;
- (2) Capable of preventing the entry of the general public, including children; and
- (3) Capable of preventing the escape or release of an animal or any part of the animal that can cause harm to another animal or human.

Note: Enclosure does not mean a wireless or electric fence.

Humane society/rescue organization shall mean a person or a group of people who can show proof of a

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501c nonprofit status and whose sole intentions are to the care and well being of animals or the placement of animals into good homes.

Hybrid shall mean the product of the mating of two (2) different species of animals regardless of the number of generations born since that original mating.

Feral animal shall mean a domestic animal, which has returned to its wild state, living on its own and generally avoids humane contact.

Leash shall mean a lead, cord, or rope six (6) feet or less in length that is attended by a person at all times and used as a temporary restraint.

Licensed veterinarian shall mean a person licensed to practice veterinarian medicine.

Livestock shall mean horses, or any member of the domesticated horse family, including but not limited to, mules, donkeys, and ponies; and all types of varieties of cattle, bulls, and all members of the cow family, sheep, goats, poultry and exotic livestock as defined by V.T.C.A., Agriculture Code § 161.001.

Local rabies control authority shall mean a certified animal control officer designated by the chief of police in accordance with of the Texas Health and Safety Code.

Owner shall mean any person owning, keeping, controlling, harboring, or caring for an animal, including members of the same household.

Permanent outside dog shall mean a dog whose time is spent mostly outside of a residence.

Person shall mean an individual, firm, partnership, association, corporation or other legal entity.

Prohibited animal means an animal, other than a common domestic species and regardless of state or duration of captivity, that poses a potential physical or disease threat to the public or that is protected by international, federal or state regulations, including but not limited to the following:

- (1) *Class Reptilia*: Family Helodermatidae (venomous lizards); family Viperidae (rattlesnakes, copperheads, cottonmouths, other pit vipers and true vipers); family Elapidae (coral snakes, cobras, mambas and other elapids); the following listed species of family Colubridae: Dispholidus typus (boomslang), Hyrodynastes gigas (water cobra), Boiga (mangrove snake) and Thelotornis (African twig snake) only; order Phidia, family Boidae (racers, boas, water snakes, and pythons); and order Crocodilia (crocodiles, alligators, caimans and gavials);
- (2) *Class Aves*: Order Falconiformes (such as hawks, eagles and vultures); subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus); and order Strigiformes (such as owls);
- (3) *Class Mammalia*: Order Carnivora, family Felidae (such as ocelots, margays, tigers, jaguars, leopards and cougars), except commonly accepted domesticated cats; family Canidae (such as wolves, wolf-dog hybrids, dingos, coyotes and jackals), except domesticated dogs; family Mustelidae (such as weasels, skunks, martens, mink and badgers); family Procyonidae (raccoon); family Ursidae (such as bears); order Marsupial (such as kangaroos and common opossums); order Edentata (such as sloths, anteaters, and armadillos); order Proboscidea (elephants); order Primata (such as monkeys, chimpanzees and gorilla's); order Rodentia (such as porcupines); and order Ungulata (such as antelope, deer, bison and camels);
- (4) *Animals not listed*: The animal control officer may declare any species of animal not listed in

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this subsection as prohibited if the confinement of the animal within the city can be shown to constitute a threat to public health and safety; and

(5) *Does not mean:*

- a. A bird kept in a cage or aviary that is not regulated by international, federal or state law; or
- b. A gerbil, hamster, guinea pig or laboratory mouse or rat.

Quarantine facility shall mean a facility approved by the Texas Department of Health for the strict confinement of an animal for rabies observation, as defined in V.T.C.A., Health and Safety Code § 826.051F.

Running at large shall mean not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animal is either on a leash, or held in the hands of the owner or keeper. Any animal not confined within the cabin of an automobile or other vehicle shall be deemed running at large, unless the animal is restrained by a leash to prevent escape.

Steel traps includes all manner of mechanism or device intended by physically clamping parts of the trap around any portion of the animal's anatomy.

Swine shall mean any pig, hog or pot-bellied pig.

Unprovoked means action by an animal that is not:

- (1) In response to being tormented, abused or assaulted by any person; or
- (2) In response to pain or injury.

Wild animal shall mean any animal except the common domestic species (dogs, cats, horses, livestock and other common farm animals) regardless of the state or duration of captivity.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-2. - Enforcement.

(a) The chief of police shall designate an employee as the animal control officer who shall be assigned to the City of Gainesville Police Department.

(b) The animal control officer shall have police powers in the enforcement of this chapter and no person shall interfere with, hinder, molest, or abuse this officer in the exercise of such powers any such acts shall constitute a violation.

(c) The animal control officer or any police officer shall have the authority to issue citations for any violation of this chapter. If the person is not present, the animal control officer or police officer may mail the citation to the alleged violator by certified mail, return receipt requested.

(d) The animal control officer is authorized to:

- (1) Impound any animal in violation of this chapter;
- (2) Issue citations for any violation of this chapter or applicable state law;

- (3) Obtain search and seizure warrants for animals from the court of competent jurisdiction; and
- (4) Exercise all powers given to animal control officers by the State of Texas.

(e) The animal control officer shall have the right of entry onto any unenclosed lots or lands for the purpose of enforcing the provision of this chapter; provided, however, the animal control officer shall not have the right of entry to enclosed dwellings or fenced enclosures used for residential purposes, except when pursuing an at large animal that has entered said enclosure while fleeing the animal control officer or for the purpose of examining or obtaining any animal suspected of having rabies, having been exposed to rabies or having bitten a person or another animal and or any suspicion of cruelty or neglect from the owner.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-3. - Running at large/restraint.

(a) It shall be unlawful for an owner of an animal without regard to mental state, to fail to keep an animal from running at large as defined in this chapter.

(b) It shall be unlawful to restrain on a leash any unattended animal within five (5) feet of a public sidewalk, street, or roadway without being immediately supervised by the owner.

(c) It shall be unlawful for any animal owned by a person to run at large within the city limits of Gainesville.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-4. - Damage, trespass or destruction of property.

It shall be unlawful for the owner or harbinger to allow any animal to trespass upon, damage or destroy any public or private property, not their own, while restrained or at-large.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-5. - Vaccination.

(a) The owner of a dog or cat shall have the animal vaccinated against rabies by a licensed veterinarian when the animal is three (3) months of age and within each subsequent three-year or one-year intervals according to the vaccination guidelines. After immunization the designated veterinarian will issue a certificate of vaccination, which contains the following information:

- (1) Name address and phone number of owner;
- (2) Animal identification including species, sex, age, size, predominant breed and colors;
- (3) Type of vaccination; and
- (4) Rabies tag number.

(b) Concurrent with the issuance of the certificate of vaccination the veterinarian shall provide the owner of the dog or cat a metal rabies tag serially numbered showing the date of vaccination, the name, address and phone number of the veterinarian which shall be securely attached to the collar or harness of the vaccinated animal and worn at all times.

(c) Except as provided in subsection (b) above, a person commits offense without regard to mental state, if the person owns, keeps or harbors a dog or cat over three (3) months of age without having such dog or cat vaccinated for rabies. A person committing an offense will be guilty of a class C misdemeanor; a 2nd offense shall be a class B misdemeanor.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-6. - Registration.

(a) Dog and cat owners after meeting rabies vaccination requirements shall register their dogs and cats at a facility designated by the City of Gainesville.

(b) Registration shall be done in person. Dog and cat owners shall provide a rabies vaccination certificate or the name and phone number of the veterinarian who administered the vaccination, the rabies tag number issued by the veterinarian, the date the vaccination was administered and the name address and phone number of the owner. After conformation of vaccination status for a fee the dog or cat will be registered with the City of Gainesville.

(c) Registrations shall be kept on file at the City of Gainesville Public Safety Facility or designee.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-7. - Revocation and denial of registration.

(a) The animal control officer may deny or revoke registration for an animal owned by a person who:

(1) Has been convicted of V.T.C.A., Penal Code, § 42.09 Animal Cruelty or V.T.C.A., Penal Code, § 42.10 Dog Fighting or on two (2) or more separate violations of this chapter or of any other animal control ordinance of another jurisdiction within any twelve-month period;

(2) Has had the same animal impounded three (3) or more times within any twelve-month period; or

(3) Has abandoned an animal.

(b) If the animal control officer revokes or denies registration of a dog or cat, a written notice of the action and of the right to an appeal shall be given to the owner. The owner may appeal the decision of the animal control officer to the City of Gainesville Municipal Court. The filing of a request for an appeal hearing stays an action of the animal control officer in revoking or denying the registration until the City of Gainesville Municipal Court makes a final decision, that revocation of registration has been upheld.

(c) Within fifteen (15) calendar days after receipt of a notice of revocation or denial of registration, or after a final decision of the City of Gainesville Municipal Court if an appeal is filed, a dog or cat owner shall remove the affected animal from the city limits. The animal control officer or the City of Gainesville Municipal Court may extend the fifteen (15) day removal period for an additional fifteen (15) calendar days. The owner shall provide the animal control officer with a sworn statement confirming the removal of the animal.

(d) A person commits an offense without regard to mental state, if the person owns, keeps, or harbors a dog or cat within the city during a period when registration for the animal has been revoked or denied, or fails to remove a dog or cat when required by this section.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-8. - Impoundment.

(a) The following animals may be impounded:

- (1) Cats or dogs not exhibiting evidence of vaccination or registration.
- (2) Any animal kept under conditions, which can endanger the public or animal health.
- (3) Any animal that has rabies or symptoms of or that a person could reasonably suspect of having rabies or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that required observation for rabies as determined by the animal control officer.
- (4) Any animal running at large.
- (5) Any animal treated in a manner determined to be in violation of V.T.C.A, Penal Code, § 42.09 Animal Cruelty, as amended.
- (6) Any animal in violation of any provision of this chapter.
- (7) Any animal reasonably suspected of having inflicted bodily harm on any human being or animal and that poses a threat to public safety or constitutes a public nuisance.
- (8) Any prohibited animal.

(b) If any animal is found on the premises of any person, that person may confine such animal in a humane manner until the animal control officer impounds such animal. When so notified, it may be impounded by a City of Gainesville Animal Control Officer or Police Officer.

(c) The chief of police or his designee shall select and establish facilities in the city for the impoundment, quarantine, maintenance, and destruction of animals.

(d) Reasonable effort shall be made by the animal control officer to contact the owner of any animal impounded, which is wearing a current vaccination tag, however, the final responsibility for an impounded animal is that of the owner.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-9. - Redemption of an animal.

(a) The owner may redeem an impounded animal upon payment of all applicable impoundment fees, handling fees, and any veterinarian bills or other cost incurred by the city for the impoundment, care and welfare of the animal and upon proof of compliance with the vaccination and registration requirements of this chapter. Any animal being held under quarantine or observation for rabies shall not be redeemed until released from quarantine by the animal control officer.

(b) Impounded animals shall be held for twenty-four (24) hours after the date of impoundment except any animal wearing a current vaccination tag shall be impounded for seventy-two (72) hours. If the owner of an impounded animal does not redeem it within the period of impoundment, disposition will be in accordance with this chapter.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-10. - Disposition of animals.

(a) Except as provided herein, any animal not redeemed within the stated time periods in section 3-9, after impoundment, or release from quarantine, shall become the property of the city and shall at the direction of the animal control officer be placed for adoption, transferred to a bona fide humane society or humanely destroyed.

(b) Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by a court of competent jurisdiction.

(c) Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide care for the baby may be immediately destroyed to prevent further suffering. Any impounded animal that appears to be suffering from extreme injury or illness may be immediately destroyed to prevent further suffering.

(d) Any owner who no longer wishes responsibility for an animal or believes the animal to be ill or injured may sign a written waiver supplied by the animal control officer allowing the animal to be adopted or destroyed by the city. The owner of such animal shall be charged a fee, as established by the city council, for this service.

(e) Animals appearing to be feral, uncontrollable, or vicious and not wearing an identification tag, collar or vaccination tag can, at the discretion of the animal control officer or police officer, may be destroyed.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-11. - Adoption of dogs and cats.

(a) A person may adopt a dog and/or cat from the city impoundment facility that has been spayed or neutered and classified as adoptable. If a dog or cat is under the age of six (6) months, the adopting owner must sign an agreement to have the animal spayed or neutered when the animal reaches the age of six (6) months.

(b) The animal control officer may refuse to allow a person to adopt an animal to whom he has reason to believe:

(1) Would not have proper facilities to contain or care for the animal.

(2) Wants the dog or cat for the purpose of resale or for purposes other than pet ownership.

(3) There are reasonable grounds to believe the animal would be subjected to abandonment or cruelty.

(c) The person adopting the dog and/or cat shall pay all applicable costs of adoption set by the City of Gainesville's designated facility, including vaccination, registration and veterinarian fees.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-12. - Animal quarantine/animal bites.

(a) Any animal that has rabies or symptoms which could reasonably indicate rabies or that bites,

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scratches or otherwise creates a condition which may expose or transmit the rabies virus to a human being shall be impounded immediately. Upon notification, the owner shall surrender the animal to the animal control officer for quarantine at the City of Gainesville designated quarantine facility, or with approval from the animal control officer deliver the animal to a state-approved veterinarian quarantine facility for quarantine at the owner's expense. Quarantine shall be for a minimum of ten (10) days beginning on the date the incident occurred or longer as the animal control officer may deem necessary. Animal quarantine shall be in accordance with any applicable rules and regulations adopted by the Texas Department of Health.

(b) Quarantine shall be subject to the following conditions:

(1) The quarantine animal showing clinical signs of rabies shall be immediately destroyed and the head submitted to the nearest Texas Department of Health laboratory for testing.

(2) The animal placed in quarantine shall not be released without prior notification to and written approval from the animal control officer.

(3) Home quarantine at the residence of the owner, if approved by the animal control officer, must satisfy the following conditions:

a. Secure facilities are available and approved by the animal control officer.

b. The animal is currently vaccinated against rabies.

c. The local rabies control authority must observe the animal on the first and last days of the quarantine period.

d. The owner of the animal shall notify the animal control officer if the animal escapes, becomes or appears to become sick, or dies; and, in case of death of the animal while under quarantine, shall immediately surrender the dead animal to the animal control officer for diagnostic purposes.

e. The animal is being isolated from all other animals, and human beings other than the individual(s) who own the animal.

(c) A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid shall report the incident or animal to the animal control officer. The report shall include the name and address of the victim and owner of the animal, and any other information relating to the incident or animal.

(d) The owner shall submit for quarantine an animal that:

(1) Is reported rabid or has exposed an individual to rabies; or

(2) The owner knows or suspects is rabid or has exposed an individual to rabies; or

(3) Has bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being.

(e) When submitted for quarantine, the owner shall provide the name, address and any other relevant information about the animal.

(f) The owner of a quarantined animal shall pay all reasonable costs of the quarantine and disposition of the animal, including charges for shipment of animal tissues, if required, to the Texas Department of Health laboratory for testing.

(g) An animal that has been quarantined may be released, after the local rabies control authority determines that the quarantined animal does not show clinical signs of rabies and under the following conditions:

- (1) At the end of the observation period upon proof of vaccination prior to release from quarantine.
- (2) When all applicable fees have been paid.
- (3) If the animal is not being held up for legal proceedings.
- (4) If appropriate city registration has been completed.

(h) It shall be unlawful for any person to interrupt the observation period or otherwise interfere with quarantine.

(i) It shall be unlawful for any person to destroy or remove from the city any animal that has bitten a person or other animal or that has been placed under quarantine, except when necessary to protect the life of any person or other animal or otherwise approved by the local rabies control authority.

(j) The carcass of a dead animal exposed to rabies or suspected of having been rabid, shall, upon demand, be surrendered to the local rabies control authority.

(k) Wild animals shall not be placed in quarantine. Wild animals shall be humanely destroyed in such a manner the brain is not mutilated. The brain will then be submitted to a Texas Department of Health laboratory for testing.

(l) No person shall fail or refuse to surrender an animal for quarantine or for destruction and testing when ordered by the local rabies control authority under the conditions outlined in this section.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-13. - Domestic animal exposed to rabies.

(a) This section applies only for domestic animal that can be legally vaccinated for rabies and have been exposed, by physical contact, with a rabid animal, or suspected rabid animal.

(b) The owner of such animal shall notify the local rabies control authority within twenty-four (24) hours of an incident, who shall investigate and if investigation warrants, follow the requirements set forth herein.

(c) If the exposed animal was currently vaccinated (more than thirty (30) days prior to bite and within the past thirty-six (36) months) against rabies at the time of exposure, it must be:

- (1) Vaccinated against rabies immediately and placed in strict isolation for forty-five (45) days. Strict isolation shall be defined as a secure, locked enclosure that would prevent the animal from escape, prevent access to the animal by the public, and care of animal restricted to one individual;
or

- (2) Humanely destroyed.
- (d) If the exposed animal was not vaccinated against rabies at the time of the exposure it must be:
 - (1) Vaccinated against rabies:
 - a. Immediately after exposure; and
 - b. Given a second vaccination three (3) weeks after exposure; and
 - c. Given a third vaccination eight (8) weeks after exposure; and
 - d. Placed in strict isolation for ninety (90) days from date of exposure. Strict isolation shall be defined as a secure, locked enclosure that would prevent the animal from escape, prevent access to the animal by the public, and care of animal restricted to one individual; or
 - (2) Humanely destroyed.
- (e) The owner or harbinger of such animal shall be responsible for all cost associated with this section.
- (f) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in an animal shall immediately notify the local rabies control authority or designated agent for investigation.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-14. - Animal nuisance.

The following shall be considered a public nuisance and shall be unlawful:

- (1) The keeping of an animal in such a manner as to endanger the public health, by the accumulation of animal waste, which causes foul and offensive odors considered to, be a hazard to other animals or human beings.
- (2) To permit or allow an animal to defecate upon private or public property other than the property of the owner of said animal; and to fail to remove and dispose of in a sanitary manner any feces left by such animal.
- (3) Property not kept free from decaying animal carcasses.
- (4) To maintain bees or bee hives in any residential area of the city.
- (5) To keep any animal, which causes loud and unusual barking, howling or other noise, that disturbs the peace and quiet of any person of ordinary sensibilities.
 - a. Each complaint of such a violation is punishable as a separate offense.
- (6) For any animal to be running at large in the city limits more than seventy-two (72) hours.
 - a. Any animal which is impractical or impossible to capture and is causing property damage, endangering persons or other domestic animals shall be deemed a nuisance and may be destroyed by a trained experienced animal control officer or police officer.
- (7) To place or make convenient food or containers of food on any property or city street in the

City of Gainesville for the purpose of feeding stray animals.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-15. - Animals prohibited as novelties.

(a) It shall be unlawful for any person to sell, offer for sale, rent, barter, or give away as toys, premiums or novelties, baby chickens, ducklings or other fowl under three (3) weeks old or rabbits under two (2) months old, unless the manner or method is first approved by the animal control officer.

(b) It shall be unlawful to color, dye, stain or otherwise change the natural color of any chickens, ducklings, or other fowl or rabbits or to possess for the purpose of sale or to be given away, any of the above-mentioned animals which have been so colored.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-16. - Restriction on number per household.

(a) It shall be unlawful for any person to keep or cause to be kept over four (4) dogs, cats, rabbits, or ferrets; or any combination thereof; per household on, at, or within the city limits of Gainesville, with the only exception being a female dog, cat, rabbit, or ferret which has given birth. Under such circumstances, the animal owner will have one hundred twenty (120) days from the animal's date of birth to reduce the required number of animals to the required number of four (4).

(b) There shall be no more than two (2) permanent outside dogs per household and the maximum number of dogs, cats, rabbits, and ferrets combined per household shall not exceed four (4).

(c) Any person who exceeds this established limit, but meets the limits established by the previous ordinance, has thirty (30) days to register the animals with the city-approved animal shelter. The registered animals are then grandfathered under the ordinance from which this chapter derives, but the person cannot possess any additional animals until they are under the limits established by this chapter.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-17. - Prohibited animals.

(a) It shall be unlawful to own, possess, keep or harbor any wild, wild-hybrid, or prohibited animal within the city.

(b) It is a defense to prosecution under this subsection that the owner or possessor:

- (1) Holds a valid prohibited animal permit issued under this section; or
- (2) Is a governmental entity.

(c) A permit for possession of a prohibited animal may be issued to:

- (1) Public or private primary or secondary school; or
- (2) An animal exhibition, rodeo, or circus of which the animal is an integral part, if the animal is restrained from inflicting injury upon persons, property, or other animals.

(3) The City of Gainesville Public Zoo is exempt.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-18. - Dangerous dogs prohibited.

It shall be unlawful to keep or harbor any dangerous dog within the corporate city limits of Gainesville once the dog has been determined to be a dangerous dog, following the procedures outlined in the Texas Health and Safety Code regarding the regulation of animals.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-19. - Commercial businesses.

(a) No person shall engage in the business of selling, grooming, breeding, showing, exhibiting or boarding of animals without first having obtained a permit from the city. Written application for a permit and payment of the applicable permit fees shall be made to the City of Gainesville. The permit issued under this section shall be valid for one (1) year from the date of issuance and shall be renewed annually thereafter. Provided, however, permits to show or exhibit animals, including but not limited to, rodeos, circuses and shows, shall be valid for thirty (30) days immediately following issuance. All permits shall be conspicuously displayed in public view at the business at all times and shall be nontransferable.

(b) Permit shall not be required for licensed veterinarians, veterinarian clinics, or any person raising livestock in an area properly zoned for such use.

(c) The animal control officer is authorized to inspect any such business, the animals, and the premises where such animals are kept at reasonable times during normal business hours to ensure compliance with all provisions of this chapter. Buildings must meet all City of Gainesville Building Inspection Regulations for housing animals.

(d) Sellers, boarders and breeder's shall only keep or house four adult animals and shall not exceed fifteen (15) juvenile or offspring of the adult animals more than one hundred eighty (180) days from their date of birth. Certificates of birth or a record of birth dates shall be kept on file for inspection by the animal control officer.

(e) It shall be unlawful for any person, firm or corporation to sell or attempt to sell dogs or pups in the city without furnishing a certificate showing the date of birth of said dog or pup and his name and address, or a health certificate from a licensed veterinarian, which certificate shall be transferred to the purchaser of said dog or pup from the person selling the same.

(f) It shall be unlawful to sell any dog unless the same has first been inoculated against rabies and a certificate of vaccination issued.

(g) In addition to the other requirements of this chapter, such businesses shall keep all locations where animals are kept in a clean and sanitary condition. Exercise areas shall be free of noxious odors and cleaned of excrement at least once each week.

(h) The City of Gainesville Zoo is exempt from section 3-19 commercial businesses.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-20. - Livestock.

- (a) It shall be unlawful for any person to keep, own, maintain, use or have in their possession or on-premises under their control within the city limits any livestock, except in compliance with the provisions of this chapter and zoning requirements.
 - (b) It shall be unlawful for any person to keep any swine within the city.
 - (c) All equine shall be vaccinated in accordance with state law. The health records should be available upon request by an animal control officer or police officer to ensure public health and safety.
 - (d) All livestock shall be kept in a suitable enclosure. A maximum of one (1) livestock may be kept on a lot of five (5) acres. A ground area of not less than one (1) acre of unobstructed space for each additional livestock shall be required on the site, lot or property. Furthermore, it shall be unlawful for any person to keep more of said animals that can be cared for under sanitary conditions.
 - (e) The provisions of this subsection shall not apply to commercial farm operations or horse-training facilities on a minimum of fifteen (15) acres located in an agriculture zone as established by the City of Gainesville Zoning Ordinance.
 - (f) Poultry shall not be kept on property of less than five (5) acres and must meet livestock confinement restrictions in this section as well as being located in an agriculture zone as defined in the City of Gainesville Zoning Ordinance.
 - (g) Confinement restrictions.
 - (1) Any enclosure, pen, corral or other restrictive area for livestock or poultry may not be located within one hundred-fifty (150) feet of any other property that is residentially zoned and owned by a different person.
 - (2) Any enclosure, pen, corral or other restrictive area for livestock must be kept clean of debris, litter and manure.
 - (3) Confinement restrictions do not apply to grazing areas.
 - (h) Livestock pens, stables, corrals or enclosures shall be capable of preventing the entry of the general public and capable of preventing the escape of the livestock.
 - (i) Livestock are prohibited on city streets and city parks. Livestock are however permitted to use city streets or parks during events that have been issued permits for such use.
 - (j) Livestock currently in the city that does not meet the confinement requirements shall be grandfathered, as long as, the owner of the property registers with the animal control officer within thirty (30) days of the passage of the ordinance from which this chapter derives. The property will be grandfathered only to the extent that the property can be maintained in a sanitary and clean condition with the same type and number of animals on the property. The property will lose its grandfathered status with any change of ownership or the property is found to be unsanitary or unclean.
- (Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-21. - Exceptions to keeping of livestock.

(a) The temporary keeping of livestock shall be permitted in commercial, industrial, agricultural zoning districts as well as, in any public facilities and institutions for the purposes and in the locations outlined below:

- (1) Animal shows at the Cooke County Fairgrounds;
- (2) Care of animals at veterinary hospitals and clinics;
- (3) Exhibitions at fairs, carnivals, circuses or stock shows;
- (4) When offered for sale or trade at auction barns;
- (5) When located on the property of a vocational school, primary school, secondary school, college or research facility with facilities properly constructed as determined by the city;
- (6) Slaughter establishments, when permitted by applicable zoning.

(b) The City of Gainesville Zoo is exempt from section 3-20 livestock.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-22. - Impoundment of livestock.

Animal control shall impound livestock including, but not limited to, equine, bovine, sheep, goats, llamas and chickens due to the public's safety when they are at large.

- (1) The owner of stray livestock will be solely responsible for the cost of any special transport of animals, such as contracting truck, trailers and herding wranglers.
- (2) There will be a fee to be paid by the owner of the livestock, set by the City of Gainesville for per day per animal charge, for care, food, water and shelter.
- (3) If an animal needs medical treatment the owner of said animal shall be responsible for medical bills before the animal is released.
- (4) After fifteen (15) days the unclaimed livestock can be sold.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-23. - Sanitary requirements.

(a) The owner or person who has custody or control of any animal shall comply with the following standards:

- (1) All manure and other animal waste shall be removed from pens, stables, cages, yards or other enclosures to eliminate noxious odors at least once a week.
- (2) Food shall be placed in impervious containers on impervious surfaces, other than livestock feed.

a. Refuse on the premises shall be removed and disposed of by means approved by the

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animal control officer;

b. Watering troughs or tanks shall be equipped with adequate facility for draining the overflow so as to prevent breeding of flies, mosquitoes or other insects excluding natural ponds;

c. No materials, which are likely to become putrid, shall be allowed to accumulate on the premises, and all such materials used to feed which is unconsumed shall be removed and disposed of by sanitary means;

d. Animal food shall not be made convenient for rodents, wildlife or strays. The owner or person who has custody and control of any livestock animal that dies shall be responsible for its removal.

(b) The owner or person who has custody and control of any animal that dies on their property shall be responsible for its expeditious removal.

(1) Livestock owners will be responsible for removal and disposal of their deceased livestock.

(2) Animals weighing less than fifty (50) pounds may be buried on an owner's property at a required depth of three (3) feet minimum.

(3) Residents of the City of Gainesville may also take a deceased animal, excluding livestock, to the city-approved animal shelter. A current water bill or proof of City of Gainesville residency will be required and a disposal fee, which is set by the city.

(4) The owner may request the animal, excluding livestock, to be removed by the animal control officer after placing the animal in a suitable bag for transport. The owner of the deceased animal will be responsible for paying a fee that is set by the City of Gainesville.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-24. - Animal care.

(a) The owner or person who has custody or control of any animal shall provide:

(1) Sufficient nutritious and wholesome food, served to the animal in clean containers, to maintain the animal in good health;

(2) Clean and wholesome water, served to the animal in a clean container, such water to be available to the animal at all times;

(3) Adequate shelter and protection from the weather at all times. A dog kept outside of a residence for more than one (1) hour at a time shall be provided a dog house as defined in section 3-1 of this chapter;

(4) Veterinarian care as needed to prevent suffering.

(b) It shall be unlawful for an owner or other person having custody or control of any animal to abandon such animal.

(c) No person other than a licensed veterinarian shall crop a dog's ears.

(d) The operator of any motor vehicle, which strikes or injures a domesticated animal shall immediately report such incident to the animal control officer or the police.

(e) It shall be unlawful for any person to beat, starve or overwork, or to otherwise abuse any animal.

(f) It shall be unlawful to keep or cause to be kept any dog on a permanent restraint including leads, cords, chains or ropes.

(1) The restriction on permanent restraints shall not apply to use of temporary restraints through the use of a leash.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-25. - Animal cruelty.

It is unlawful for any person to intentionally or knowingly:

(1) Torture an animal;

(2) Fail unreasonably to provide necessary food, care and shelter for an animal in the person's custody;

(3) Abandon unreasonably an animal in person's custody;

(4) Transport or confine an animal in a cruel manner;

(5) Kill, seriously injure, or administer poison to an animal belonging to another without legal authority or the owner's effective consent, except when an animal is discovered on the person's property in the act of or immediately after injuring or killing livestock, fowl or any domestic animal;

(6) Cause one animal or fowl to fight with another;

(7) Use a live animal as a lure in dog race training or in a dog coursing on a racetrack;

(8) Trip a horse; or

(9) Seriously overwork an animal.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-26. - Traps.

(a) It shall be unlawful for any person, firm or corporation to set, utilize or employ the use of steel leg hold traps for any purpose whatsoever within the city limits.

(b) It shall be unlawful for any person to remove, alter, damage or otherwise tamper with a trap or other equipment belonging to or set out by an animal control officer of the City of Gainesville.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-27. - Texas State Law.

In addition, the City of Gainesville adopts the laws established by the Texas Penal Code and the Texas Health and Safety Code regarding the regulation of animals.

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(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-28. - Fees.

Fees shall be established by resolution and placed in the city fee schedule. The fees set in the current fee schedule shall apply to this chapter.

(Ord. No. 1250-07-2010, § 3, 7-6-10)

Sec. 3-29. - Offense.

A person who violates any provision of this chapter, or who fails to perform an act required by this chapter, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted or continued.

(Ord. No. 1250-07-2010, § 3, 7-6-10)