

ORDINANCE 2014-0120-04

AN ORDINANCE REGULATING THE KEEPING OF ANIMALS AND FOWL IN THE CITY OF LORENA; PROVIDING FOR THE METHODS AND CONDITIONS UNDER WHICH THEY CAN BE KEPT; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENFORCEMENT AND PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH: FINDING AND DETERMINING THAT THE, MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

**Section 1. DEFINITIONS**

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

**Abandonment** means leaving an animal unattended for more than 24 hours, releasing the animal upon public highways or public or private lands, or failure to provide proper or adequate food, water, exercise, shelter or medical care.

**Abuse** shall mean to mistreat through intent or neglect any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

**Animal** shall mean any living creature other than a Homo sapiens. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets.

**Animal control officer or animal control office** shall mean the officer or office of the city primarily responsible for the enforcement of regulations regarding animals.

**Animal shelter** shall mean a facility designated by the city council to be used for the impoundment of animals taken up by the animal control officers. The shelter shall be the designated caretaker of all animals upon intake.

**Animal welfare group** shall mean an association or nonprofit corporation which has as one of its purposes the providing for the welfare and/or protection of animals of any kind.

**At Large** shall be intended to mean any dog, cat, fowl, or livestock on or off the premises of the owner and not under the complete control of the owner either by fence, leash, cord, chain, or otherwise.

**Authority** shall mean the local rabies control authority as defined in this section.

**Brand** shall mean a mark made on the skin of any animal which indicates the ownership of the animal; typically used with livestock.

**Cat** shall mean the male and the female of any domesticated member of the feline species of animals.

**Circus** shall mean a commercial variety show featuring animal acts for the public.

**Day** shall mean a workday and shall exclude Saturday, Sunday and city holidays.

**Distance between structures**, where a minimum setback or distance between any enclosure for an animal from a residence is required, shall mean the most direct line distance between the two structures, unless otherwise provided.

**Dog** shall mean the male and the female of any domesticated member of the canine species of animal.

**Domestic animal** shall mean an animal, such as a dog or cat, that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.

**Ear tip** (cat) shall mean a surgical process performed on a cat during neutering as part of the trap neuter return process by a licensed veterinarian in which a one-quarter-inch diagonal cut is made to remove the point of a cat's ear, and is preferably, but not exclusively, on the cat's left ear.

**Fish** shall mean any of the cold-blooded animals that extract oxygen from water through the use of gills.

**Fowl** shall include all birds, e.g., chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

**Governmental entity** shall mean an agency or political subdivision of the state or an agency or department of the federal government.

**Harbor** shall mean to feed, provide shelter, or otherwise maintain an animal for three or more days.

**Health statement** shall mean a statement from a veterinarian stating that an animal is healthy, free from signs of infectious or contagious diseases, and up to date on vaccinations. It shall include: the animal's microchip number, the animal identification such as the species, age or date of birth, sex, sterilization status and breed and must be dated within the last 24 months.

**Livestock** shall include, regardless of age, sex or breed, horses and all equine species, including mules, donkeys and jackasses; bull, calf, cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all swine species.

**Local rabies control authority** shall mean the senior animal control officer, or an officer he designates to act in his place when he is temporarily unable to act for any reason.

**Marine animal** shall mean any animal, other than a mammal or bird, which lives in a marine environment.

**Microchip** shall mean a small radio frequency identification device that is inserted between the shoulder blades of an animal and is inert until activated by a scanner. The microchip provides specific information about an animal's identity.

**Neutered** shall mean any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

**Owner** shall mean any person who has purchased or who owns, keeps, maintains, harbors or has care, custody or control of one or more animals.

**Performing animals** shall mean any spectacle, display, act or event in which animals perform.

**Poison** shall mean a substance having an inherent harmful property which renders it, when taken into the system, capable of destroying animal life.

**Premise** shall mean a definite portion of real estate or land, together with any appurtenances or buildings.

**Residence** shall mean any place of human habitation at any time, day or night, including, but not limited to, any single- or multi-family dwelling, church, school, convalescent center or nursing home.

**Restrained** shall mean any animal secured by a leash of some sort or confined within the property limits of its owner.

**Tag** shall mean a vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or to an animal.

**Tattoo** shall mean a permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership.

**Vaccination** shall mean an injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, state veterinarian and administered by a licensed veterinarian or at an approved antirabies clinic.

**Veterinarian** shall mean any person duly licensed to practice veterinary medicine by the state board of veterinary examiners, or who is exempt from such licensing.

**Wild animal or wildlife** shall mean any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature and other characteristics, constitutes a danger to human life or property. Such creatures shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals:

- (1) Class mammalia: Order Carnivora, family felidae (such as lions, tigers, jaguars, leopards and cougars) except commonly accepted domesticated cats and hybrids involving same; family Canidae (such as wolves, coyotes and fox) except domesticated dogs and hybrids involving same; family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink and badgers) except ferrets; family Procyonidae (such as raccoons); family Ursidae (such as bears); order Primata (such as monkeys and chimpanzees); and order Chiroptera (such as bats).
- (2) Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotilidae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators and their allies (order Loricata).
- (3) Brown recluse (Loxosceles) and black widow (Lactrodectus) spiders.

**Zoological park or zoo** shall mean any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.

## **Section 2. Running at Large (Livestock): Location of enclosures.**

It shall be unlawful for the owner, keeper, or person in charge of any cow, horse, mule, jackass, jennet hog, goat, sheep or similar animal to allow the same to run at large within the city. Such animal shall be kept in a stable, shed, pen or other enclosure, and such stable, shed, pen or other enclosure for such animals shall be a distance of at least one hundred (100) feet from every place of residence or commercial building.

## **Section 3. Running At Large (Fowl);**

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 the same to go at large, either upon the public streets, grounds of the city or upon any private property of another.

## **Section 4. Running At Large (Dog or Cat);**

- (1) Except when a dog or cat is under the immediate personal supervision and command of its owner or handler, every dog or cat, whether licensed or not, shall be kept physically restrained from leaving the premises of the owner of such dog or cat. Under either of the following circumstances, employees of the police

department or their agent are hereby authorized and empowered to enter upon any land or premises and take up and impound any dog or cat which is not then and there under the immediate personal supervision and command of its owner or handler, and which is not then and there being kept physically restrained from leaving the premises of its owner:

- a. When the safety of any human or the safety of any other animal is being jeopardized by such dog or cat; or
  - b. When such dog or cat is being pursued by employees of the police department who began such pursuit when such dog or cat was not under the immediate personal supervision and command of the owner or handler and was not being kept physically restrained from leaving the premises of the owner; or
  - c. When two (2) signed complaints have been filed at the City Hall or in any competent jurisdiction charging that the owner has not kept such dog or cat physically restrained from leaving the premises of such owner when said dog or cat was not under the immediate personal supervision and control of its owner or handler, provided that this subsection shall not be construed as requiring such a complaint in order to enforce the other provisions of this ordinance.
- (2) A person commits an offense if the person fails to restrain a dog or cat owned, kept, harbored, or controlled by the person.

#### **Section 5. Maximum number of dogs and cats;**

The maximum number of dogs and cats which may be kept on any one premise shall be six (6). Any person or persons who keeps more than a combined total of six(6) dogs or cats on any one premise shall be deemed to be maintaining a kennel and shall be assessed a kennel fee of one hundred dollars (\$100.00) per year.

#### **Section 6. Spay/Neuter**

- (a) All dogs or cats in the corporate city limits shall be spayed/neutered. The owner of such animals must retain documentation of the spay/neuter of their animals.
- (b) All dogs or cats impounded within the corporate city limits will be spayed/neutered prior to being released to the owner. The cost to spay/neuter the animal shall be paid by the owner along with the impound fees.
- (c) The following animals will not be spay/neutered as directed under subsection (a):
  - (1) The animal is under four months of age;
  - (2) A licensed veterinarian certifies that the dog or cat should not be spayed/neutered for health reasons or is permanently non-fertile;
  - (3) The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work;

- (4) Animals transferred to another animal shelter that provides a written agreement to the city that the animal will be sterilized before being placed into a new home located within the corporate limits of the city; or
- (5) Animals, picked up for the first time, belonging to a breeder that has:
  - a. The animal's microchip number;
  - b. A copy of the animal's health statement; and
  - c. Paid the fee for first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spay/neutered prior to being released to the owner.

Exceptions to the ordinance:

**Breeders:** Breeder pets must be microchipped, and must also have a veterinarian-issued Health Statement issued at least once every two years that must include the pet's microchip number. Each puppy or kitten in a litter must be microchipped by four months of age and have a vet-issued Health Statement prior to sale or transfer. Breeder must have this information available upon request by enforcement or animal control. It is the new owner's responsibility to obtain these documents from the Breeder during the sale or transfer of the animal.

**Medical:** A veterinarian can exempt a non-breeding pet for medical/health reasons. This exemption must be documented on the pet's medical record and must include the pet's microchip number. The pet owner must have this information available upon request by law enforcement or animal control.

#### **Section 7. Noise by dogs or cats.**

It shall be unlawful for any person to keep or harbor any dog or cat which makes frequent, long, continued, or loud and vociferous noises of such a type as to disturb the neighbors or any inhabitants of the city.

#### **Section 8. Sanitary conditions of dog or cat pens.**

It shall be unlawful for any person to have, own, keep, maintain or control upon their premises, within the city, any lot, yard, pen, or enclosure wherein any dogs or cats are kept that shall create an obnoxious odor, or which shall create unsanitary conditions or cause flies to breed or gather so as to create a health or sanitary problem or be offensive to any resident of the city.

#### **Section 9. Rabies.**

**Rabies suspect.** If a dog or cat is believed to have rabies, such dog or cat shall be confined by a leash or chain on the owner's premises immediately, and shall be placed under the observation of a veterinarian at the expense of the owner for a period often (10) days.

The owner shall notify the Animal Control Officer of the fact that the dog or cat is suspected of having rabies and, at the discretion of the Animal Control Officer is empowered to have such dog or cat removed from the owner's premises to a veterinary hospital and placed under observation for a period of ten (10) days at the expense of the owner. It shall be unlawful for any person knowing or suspecting a dog or cat of having rabies to allow such dog or cat to be taken off the owner's premises or beyond the limits of the city without written permission of the Animal Control Officer. Every owner or other person upon ascertaining a dog or cat as rabid shall immediately notify the Animal Control Officer who shall either remove the dog or cat to the pound, if possible, and if not, to summarily destroy it.

***Exposure to rabies.*** If a dog or cat is known to have been exposed to rabies, such dog or cat shall be destroyed or delivered to a licensed veterinarian for a prescribed prophylactic treatment and then confined under conditions approved by the Animal Control Officer for a minimum of six (6) months.

***Human exposure.*** If a dog or cat or any animal exposes a human to the possibility of rabies, then said dog or cat shall be impounded for a minimum of ten (10) days upon the order of a licensed medical doctor or the Animal Control Officer.

#### **Section 10. Rabies vaccination.**

All dogs and cats within the City of Lorena are hereby required to be vaccinated against rabies on or before October 1, 2002 and each year thereafter. Any veterinarian who vaccinates any dog or cat within the city shall issue a certificate of vaccination to the owner, a brief description of the dog or cat and the date of vaccination.

#### **Section 11. Wearing of collar and tag.**

The owner of a dog or cat shall provide and place on such animal a collar or harness to which the vaccine tag required by this ordinance shall be affixed and said owner shall see that the collar and tag are at all times worn by said animal.

#### **Section 12. Microchip required.**

- (a) All dogs or cats in the corporate city limits must be microchipped.
- (b) All dogs or cats will be microchipped prior to leaving the animal shelter.
- (c) All impounded dogs or cats shall have a microchip inserted between its shoulder blades before being released to its owner. The owner of the dog or cat shall pay the cost for this procedure in addition to the impoundment fees.
- (d) Any dog or cat that is adopted from the animal shelter shall have a microchip inserted between its shoulder blades and the animal's new owner shall pay the cost for this procedure.
- (e) The microchip fee is not refundable and may be used only for the dog or cat for which it was issued.
- (f) Subsections (a) and (b) do not apply to a community ear tipped cat.

**Section 13. Impoundment**

Any dog or cat captured or picked up under the provisions of this ordinance will be impounded in a pen provided by the city for that purpose. The Animal Control Officer will maintain the pound which will be under his control. He shall cause all dogs and cats so impounded to be properly fed and cared for while in the pound.

The Animal Control Officer shall collect the following capture fee:

1st Offense \$100      2nd Offense \$150      3rd Offense \$300

for each dog or cat impounded, when redeemed, and shall collect ten dollars (\$10.00) for each day, or fraction thereof, each dog or cat remains impounded. The City of Lorena will keep the dog for three (3) days if the owner is known. If the city takes to dog to the Waco Animal Shelter, a \$75.00 trip fee will be charged in addition to the capture fee to release the animal.

**Section 14. Disposition of impounded dogs and cats.**

Within twenty-four (24) hours after impounding any dog or cat, the owner (if known) will be notified and given three (3) days in which to claim such dog or cat upon payment of the license fee, if unregistered, and all charges and costs incurred by the city for impounding and maintenance of said dog or cat and the place and time of apprehension. If claimed, the owner may redeem said dog or cat in the same manner as in Section 12.

**Section 15. Disposition of unclaimed or infected dogs or cats.**

It shall be the duty of the Animal Control Officer to keep all dogs and cats impounded for a three (3) days. If at the expiration of the three (3) days from the date of notice to the owner or the posting of notice, such dogs or cats have not been redeemed, said dog or cat may be destroyed. Any unlicensed dog or cat, or any dog or cat which appears to be suffering from rabies or other infectious or dangerous disease shall not be released, but shall be immediately destroyed.

**Section 16. Cruelty, Mistreatment of animals.**

It shall be unlawful for any person in the City of Lorena to over-drive, over-ride, over-load or unnecessarily fail to provide the same with proper food, drink, and shelter; or to drive or work or use the same when such animal is maimed, wounded, sick, lame or otherwise unfit for labor; or to willfully abandon the same to die; or to carry or cause to be carried, hauled or forced along in a cruel inhumane manner; or to leave any animal tied up or confined anywhere in said City, day or night, for more than six (6) hours at a time without proper feeding or caring for the same.

**Section 17. Enforcement of ordinance provisions.**

It shall be the duty of the Animal Control Officer of the city shall have the right to enforce any provisions of the ordinance.

**Section 18. Penalties.**

An individual adjudged guilty of any offense under this ordinance shall be punished by a fine not to exceed \$500.00 per offence.

**Section 19. Savings clause.**

In the event any provisions of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect as if such invalid or unconstitutional provision had never been a part hereof.

**Section 20. Conflict.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 21. Meeting open to the public.**

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

**PASSED AND APPROVED THIS THE 20<sup>TH</sup> DAY OF JANUARY 2014.**

  
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Mayor, Chuck Roper

Attest:

  
\_\_\_\_\_  
City Secretary, Monica Hendrix

