

**CITY OF AUBREY, TEXAS  
ANIMAL CONTROL**

**ORDINANCE NO. 401-08**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBREY, TEXAS, ESTABLISHING COMPREHENSIVE RULES AND REGULATIONS RELATING TO THE CONTROL OF ANIMALS; PROVIDING FOR DEFINITIONS; PROVIDING FOR RABIES CONTROL; PROVIDING FOR HUMANS BITTEN OR SCRATCHED BY ANIMALS SUSCEPTIBLE TO RABIES; PROVIDING FOR ANIMALS AT LARGE; PROVIDING FOR RESTRAINT REQUIREMENTS; PROVIDING FOR ANIMAL NUISANCES; PROVIDING FOR PROHIBITION OF CERTAIN ANIMALS; PROVIDING FOR REQUIREMENTS FOR DANGEROUS ANIMALS; PROVIDING FOR IMPOUNDMENT OF ANIMALS; PROVIDING FOR ANIMAL OWNERSHIP LIMITATION; PROVIDING FOR REQUIREMENTS OF LIVESTOCK; PROVIDING FOR REQUIREMENTS OF CERTAIN FOWL; PROVIDING FOR PROTECTION OF ANIMALS; PROVIDING FOR TREATMENT OF ANIMALS; PROVIDING FOR SANITARY CONDITIONS; PROVIDING FOR TRAPS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF AND EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Aubrey, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the City of Aubrey, Texas ("Aubrey") and its citizens to establish these comprehensive rules and regulations for the control of animals; and

**WHEREAS**, the City Council finds that all legal notices, hearings, procedures and publishing requirements for this ordinance, if any were required, have been performed and completed in the manner and form set forth by law; now therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUBREY, TEXAS:**

# TABLE OF CONTENTS

CITY OF AUBREY, TEXAS .....	1
TABLE OF CONTENTS.....	2
Section 1. Definitions.....	3
Section 2. Rabies Control.....	8
2.01 Vaccination of Animals Capable of Transmitting Rabies.....	8
2.02 Certificate of Vaccination.....	9
2.03 Confidentiality of Certain Information in Rabies Vaccination Certificate; Criminal Penalty.....	9
2.04 Rabies Tags.....	10
2.05 Duplicate Rabies Tags.....	10
2.06 Proof of Vaccination.....	10
2.07 Vaccination; Criminal Penalty.....	10
2.08 Use and Sale of Rabies Vaccine.....	11
2.09 Use and Sale of Rabies Vaccine; Criminal Penalty.....	11
2.10 Animals Exposed to Rabies.....	11
Section 3. Humans Bitten or Scratched by Animals Susceptible to Rabies.....	12
3.01 Reporting Requirements.....	12
3.02 Quarantine.....	12
3.03 Investigation.....	13
3.04 Exclusions.....	13
Section 4. Animals At Large; Restraint Requirements.....	13
4.01 Prohibition.....	13
4.02 Authority of Animal Control Officer.....	13
4.03 Restraint; Criminal Penalty.....	13
Section 5. Animal Nuisances.....	14
Section 6. Dangerous Animals.....	15
6.01 Dangerous Wild Animals Prohibited Within City.....	15
6.02 Exemptions.....	15
6.03 Seizure of a Dog Causing Death or Serious Bodily Injury to a Person.....	15
6.04 Hearing.....	15
6.05 Destruction of Dog.....	17
6.06 Provocation or Location of Attack Irrelevant.....	17
6.07 Determination That Dog Is Dangerous.....	17
6.08 Requirements for Owner of Dangerous Dog.....	18
6.09 Inspection.....	19
6.10 Relocation or Disposition of Animal.....	19
6.11 Attack by Animal; Escape of Animal; Liability.....	20
6.12 Powers and Duties of Board; Caging Requirements and Standards.....	20
6.13 Care, Treatment, and Transportation of Dangerous Wild Animal.....	21
6.14 Injunction.....	21
6.15 Applicability of Section.....	22
6.16 Two-Bite Rule.....	23
Section 7. Dogs and Coyotes that are a Danger to Animals.....	23

7.01	Running At Large; Criminal Penalty.....	23
7.02	Dogs or Coyotes that Attack Animals.....	24
Section 8.	Impoundment of Animals.....	24
8.01	In General.....	24
8.02	Impoundment Fees.....	26
Section 9.	Animal Ownership Limitation.....	27
Section 10.	Requirements of Livestock.....	28
10.01	Swine.....	28
10.02	Cattle and Equine.....	28
10.03	Holding Areas for Small Livestock and/or Large Livestock.....	28
10.04	Proximity of Livestock Areas.....	28
10.05	Confine of Male Horses.....	29
Section 11.	Requirements of Certain Fowl.....	29
Section 12.	Protection of Animals.....	29
12.01	Baby Fowl.....	29
12.02	Change of Color of Certain Animals.....	29
12.03	Animals as Prizes or Inducements.....	29
Section 13.	Treatment of Animals.....	29
Section 14.	Sanitary Conditions.....	31
Section 15.	Traps.....	31
Section 16.	Assistance or Therapy Animals.....	32
Section 17.	Enforcement.....	32
Section 18.	Penalty for the Violation of this Ordinance.....	33
Section 19.	Savings, Repealing and Severability Clauses.....	33
Section 20.	Publication of the Caption Hereof and Effective Date.....	33

**Section 1. Definitions.**

For the purposes of this ordinance, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this section shall be given their common and ordinary meaning.

*Animal* - any live, vertebrate creature, Domestic or wild, including but not limited to, Dogs, Cats, pigs, horses, birds, fish, mammals, reptiles, fowl, and Livestock, but specifically excluding human beings:

*Animal Control Authority* - Any entity currently under contract with Aubrey to provide animal control services or another municipal or county animal control office with authority over the area in which an Animal is kept.

*Animal Control Officer* - any Person(s) designated by the City Council or City Manager, through written agreement or otherwise, to enforce the provisions of this ordinance and who is authorized to receive reports of Animal bites, investigate bite reports, administer euthanasia, ensure Quarantine of suspect rabid Animals, and otherwise carry out

provisions of the ordinances of Aubrey and the laws of the State of Texas that relate to Animals, including, without limitation, Rabies control and eradication.

*Animal Nuisance* - any Animal that physically molests passers-by or passing vehicles, attacks other Animals or Persons, trespasses on school grounds, roams At Large, damages public or private property, or creates a noise disturbance in an excessive, continuous or untimely fashion.

*Animal Registration Agency* - any entity requiring registration of any Animal including any entity currently under contract with Aubrey to provide animal control services or another municipal or county animal control office with authority over the area where a Dangerous Wild Animal is kept.

*Animal Shelter* - a facility operated by the City of Aubrey or its agents, contractors or designees for the purpose of impounding or caring for Animals held under the authority of this ordinance or State or Federal laws.

*Aubrey* - the City of Aubrey, Texas.

*Assistance Animal or Therapy Animal* - an Animal that is specially trained or equipped to help a human being who is diagnosed by a licensed physician with a physical challenge or emotional disorder.

*At Large* - an Animal, including fowl or Livestock, not in a Secure Enclosure or not completely confined by a building, wall, pen or fence of sufficient strength of construction to physically restrain the Animal on the premises behind the front building line of the Owner or Custodian; or an Animal off the premises of the Owner or Custodian that is not under the physical restraint of the Owner or Custodian or any other Person authorized by the Owner to care for the Animal by leash, cord, chain, or rope.

*Board* - the appropriate Board or Council of the Department.

*Cat* - a domesticated Animal that is a member of the feline family; felis catus.

*Commissioner* - the Commissioner of the Department.

*Currently Vaccinated* - Vaccinated and satisfying the following criteria:

- (a) the Animal must have been at least four months of age at the time of vaccination;
- (b) at least 30 days have elapsed since the initial vaccination; and
- (c) no more than 12 months have elapsed since the most recent vaccination.

*Custodian* - any Person or agency that feeds, shelters, Harbors, has possession or control of, or has the responsibility to control an Animal.

*Dangerous Dog* - a Dog that:

- (a) makes an unprovoked attack on a Person that causes bodily injury and occurs in a place other than an enclosure in which the Dog was being kept and that was reasonably certain to prevent the Dog from leaving the enclosure on its own; or
- (b) commits unprovoked acts in a place other than an enclosure in which the Dog was being kept and that was reasonably certain to prevent the Dog from leaving the enclosure on its own and those acts cause a Person to reasonably believe that the Dog will attack and cause bodily injury to that Person.

*Dangerous Wild Animal* - means:

- (a) a lion;
- (b) a tiger;
- (c) an ocelot;
- (d) a cougar;
- (e) a leopard;
- (f) a che etah;
- (g) a jaguar;
- (h) a bobcat;
- (i) a lynx;
- (j) a serval;
- (k) a caracal;
- (l) a hyena;
- (m) a bear;
- (n) a coyote;
- (o) a jackal;
- (p) a baboon;
- (q) a chimpanzee;
- (r) an orangutan;
- (s) a gorilla; or
- (t) any hybrid of an Animal listed in this definition.

*Department* - the Texas Department of State Health Services.

*Dog* - a domesticated Animal that is a member of the canine family; or, *canis familiaris*.

*Domestic* when referring to an Animal, includes all commonly accepted domesticated species of Animals adapted to live in intimate association with human beings for the advantage of humans.

*Euthanize* – ending the life of a suffering, injured, contagious, or sick Animal by utilizing a humane, painless method or a method required by any State or Federal law, as it currently exists or may be amended.

*Harbor* - the act of keeping and caring for an Animal or of providing a premise or other location to which the Animal returns for food, shelter or care for a period of three consecutive days. This definition excludes the feeding of local or migratory birds (Domestic or wild) on public or private property.

*Harborer*- a Person who Harbors an Animal.

*Impoundment* - the seizing, taking, collecting, confining, or capturing of an Animal.

*Licensed Veterinarian* – a person licensed by the Texas State Board of Veterinary Medical Examiners to practice veterinary medicine or a person practicing veterinary medicine on an installation of the armed forces or National Guard located in the State of Texas.

*Livestock* - an Animal raised for human consumption or an equine Animal, including exotic Livestock as defined by Section 161.001, Agriculture Code.

*Large Livestock* - horses or any member of the domesticated horse family, including but not limited to, mules, donkeys and ponies; all types and varieties of cattle; alpacas, and other Animals of the same approximate size and weight.

*Small Livestock* - all types of domesticated swine (in excess of 125 pounds), sheep, lambs, goats, and other Animals of the same approximate size and weight.

*Low Risk Animals* - Animals that have a low probability of transmitting Rabies, including, but not limited to: rats, mice, squirrels, gophers, beavers, prairie dogs, muskrats, nutria, jackrabbits, cottontails, swamp rabbits, opossums, shrews, moles, armadillos, or any Animals of the orders Rodentia, Lagomorpha, Didelphimorphia, Insectivora or Xennarthra.

*LHA* - Local Health Authority.

*LRCA* - Local Rabies Control Authority. NOTE: The Animal Control Authority shall serve as the LRCA and is authorized to enforce this ordinance, receive reports of Animal bites/scratches, investigate bite/scratch reports, ensure Quarantine of possible rabid Animals, ensure Quarantine of biting/scratching Animals, and otherwise carry out provisions of the Texas Health & Safety Code, Chapter 826, as it currently exists or may be amended, to control and eradicate Rabies.

*One Enclosure* - any and all connected buildings, whether under one roof or otherwise, and buildings and sheds that may have entrances to the same or adjoining lot or lots with a gateway or other opening between them.

*Owner* - a Person who owns or has custody or control of an Animal; or, any Person who owns, Harbors, or has custody or control of a Dangerous Wild Animal.

*Person* - an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

*Pet Animal* - includes Domestic Dogs, Domestic Cats, Domestic ferrets, rabbits, rodents, birds, reptiles, and any other species of Animal that are customarily sold or retained as a household pet, but shall not include swine and wild Animals—such as, among others—skunks, squirrels, coyotes, foxes, opossums, bats, non-human primates, and any other species of wild, poisonous or carnivorous Animal that may be further restricted in this ordinance or regulated by any State or Federal law, as it exists or may be amended.

*Police Dog* - a Domestic Dog that is owned or employed by a governmental law enforcement agency.

*Primary Enclosure* - any structure used to immediately restrict an Animal to a limited amount of space, including a cage, pen, run, room, compartment, hutch, or structure approved by the LRCA, or his/her designee.

*Quarantine* - strict confinement of an Animal specified in an order of the Board or its designee:

- (a) on the private premises of the Animal Owner or at a facility approved by the Board or its designee; and
- (b) under restraint by closed cage or paddock or in any other manner approved by Board rule.

*Rabies* - an acute viral disease of man and Animal affecting the central nervous system and usually transmitted by an Animal bite.

*Secure Enclosure* - a fenced area or structure that is:

- (c) locked;
- (d) capable of preventing the entry of the general public, including children;
- (e) capable of preventing the escape or release of a Dog or any other Animal;
- (f) clearly marked as containing a Dangerous Animal; and
- (g) in conformance with the requirements for enclosures established by the Animal Control Authority.

*Serious Bodily Injury* - an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent Person to seek treatment from a medical professional or would require hospitalization without regard to whether the Person actually sought medical treatment.

*Stray* - is the condition of having no identifiable Owner, Custodian, or Harboring and/or being a public nuisance.

*Supervisor of Animal Control* - the Person designated by the City Manager or Animal Control Authority to supervise all aspects and operations of the control of Animals under this ordinance.

*Vaccinated* - properly injected with an approved Rabies vaccine, licensed for use in that species by the United States Department of Agriculture (USDA), and administered by a Licensed Veterinarian.

## **Section 2. Rabies Control**

### **2.01 Vaccination of Animals Capable of Transmitting Rabies.**

- (a) Every Owner and/or Custodian of a Domestic Dog, Domestic Cat, and/or all Animals capable of transmitting Rabies shall:
  - (1) have the Animal(s) Vaccinated against Rabies by the time the Animal(s) is four months of age;
  - (2) have a booster administered within 12 months following the initial vaccination; and
  - (3) have a booster administered once every 36 months thereafter or as prescribed by the Department.
- (b) The Rabies vaccine must be approved by the USDA and administered by a Licensed Veterinarian, who shall issue to the Owner of the Animal a vaccination certificate in accordance with this section. The Owner shall retain such certificate of the vaccination until the date of its expiration.
- (c) Every Person who is an Owner and/or Custodian of a Domestic Dog, Domestic Cat, or any other Animal capable of transmitting Rabies and who is relocating to a residence in the corporate limits of Aubrey—or within 5,000 feet of Aubrey's corporate limits—from a location outside of Aubrey shall be in compliance with this section no later than 30 days after having moved into Aubrey. If the relocated Animal—other than a Low Risk Animal—inflicted a bite and/or scratch on any Person or another Animal within the last 10 days before the Animal has been relocated, the Owner and/or Custodian of said Animal shall report the bite and/or scratch incident to Animal Control and arrange for a 240-hour Observation Period. No Rabies vaccine shall be administered before or during the 240-hour Observation Period.

## **2.02 Certificate of Vaccination.**

- (a) Upon vaccination with an approved Rabies vaccine, a Licensed Veterinarian shall execute and furnish to the Owner of the Animal as evidence thereof, a certificate upon a form furnished by the Licensed Veterinarian. The Licensed Veterinarian shall retain a duplicate copy. Such certificate shall contain at least the following information:
- (1) the current name, address and telephone number of the Owner of the Vaccinated Animal;
  - (2) the date of vaccination;
  - (3) the date vaccination expires (re-vaccination due date);
  - (4) the type of Rabies vaccine used, expiration date of the serum, and serial number;
  - (5) the year and number of Rabies tag to be worn by the Vaccinated Animal at all times;
  - (6) the breed, age, color, and sex of the Vaccinated Animal; and
  - (7) the Licensed Veterinarian's signature and license number or signature stamp and license number.

## **2.03 Confidentiality of Certain Information in Rabies Vaccination Certificate; Criminal Penalty.**

- (a) Information contained in a Rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an Owner or an address, telephone number, or other personally identifying information of an Owner of a Vaccinated Animal is confidential and not subject to disclosure under Chapter 552, Texas Government Code.
- (b) Said information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity that receives the information must maintain the confidentiality of the information, may not disclose the information under Chapter 552, Texas Government Code, and may not use the information for a purpose that does not directly relate to the protection of public health and safety.
- (c) A Person commits an offense if the Person distributes confidential information. The offense is a misdemeanor punishable by:

- (1) a fine of not more than \$1,000;
- (2) confinement in the county jail for not more than 180 days; or
- (3) both the fine and confinement.

#### **2.04 Rabies Tags.**

Concurrent with the issuance and delivery of the certificate of Rabies vaccination referred to, the Owner of the Animal shall cause to be attached to the collar or harness of the Vaccinated Animal, a metal tag that is serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing Licensed Veterinarian or Licensed Veterinarian's Clinic and his/her telephone number. The Owner shall cause the collar or harness with the attached Rabies vaccination metal tag to be worn by the Animal at all times. Rabies vaccination certificates and tags shall be valid only as to the Animal for which they were originally issued.

#### **2.05 Duplicate Rabies Tags.**

In the event of loss or destruction of the original Rabies tag provided, the Owner of the Animal shall obtain a duplicate Rabies tag from the Licensed Veterinarian who originally Vaccinated the Animal. Duplicate Rabies vaccination certificates and tags shall be valid only as to the Animal for which they were originally issued.

#### **2.06 Proof of Vaccination.**

It shall be unlawful for any Person who owns or Harbors a Vaccinated Animal to fail or refuse to exhibit his/her copy of the certificate of vaccination upon demand to any Person charged with the enforcement of this ordinance.

#### **2.07 Vaccination; Criminal Penalty.**

- (a) It shall be unlawful for any Person to own or Harbor any Animal that has not been Vaccinated against Rabies, as provided herein, or that cannot be identified as having a current Rabies vaccination certificate.
- (b) An offense under this section is a Class C misdemeanor.
- (c) If on the trial of an offense under this section the court finds that the Person has been previously convicted of an offense under this section, the offense is a Class B misdemeanor.

## **2.08 Use and Sale of Rabies Vaccine.**

- (a) Rabies vaccine for Animals may be administered only by or under the direct supervision of a Licensed Veterinarian.
- (b) A Person may not sell or distribute Rabies vaccine for Animals to any Person except a Licensed Veterinarian or to a Person working in a veterinary clinic who accepts the vaccine on behalf of the Licensed Veterinarian.
- (c) This section does not prohibit a pharmacy licensed by the Texas State Board of Veterinary Medical Examiners from selling or dispensing Rabies vaccine to an individual with whom the Licensed Veterinarian has a Licensed Veterinarian-client-patient relationship as described by Chapter 801, Occupations Code, for the sole purpose of vaccinating that individual's own Livestock.

## **2.09 Use and Sale of Rabies Vaccine; Criminal Penalty.**

- (a) A Person commits an offense if the Person:
  - (1) administers or attempts to administer Rabies vaccine in a manner not authorized by this ordinance;
  - (2) dispenses or attempts to dispense Rabies vaccine in a manner not authorized by this ordinance; or
  - (3) sells or distributes Rabies vaccine for Animals in violation of this ordinance.
- (b) An offense under this Section is a Class C misdemeanor.

## **2.10 Animals Exposed to Rabies.**

Any Person having knowledge of the existence of any Domestic Animal known to have been, or suspected of being, exposed to Rabies must *immediately* report such knowledge to Animal Control, and the LRCA or his/her designee, and provide any additional information that may be required. For any Animal known to have been, or suspected of being, exposed to Rabies, the following rules apply:

- (a) Domestic Animals that **have** a current Rabies vaccination should be humanely Euthanized or re-Vaccinated *immediately* after exposure and placed in strict isolation, at the Owner's expense, in a Secure Enclosure for observation according to the method prescribed by the LRCA for a period of not less than 45 days unless the suspected Rabies-carrying Animal is available for testing, is tested and the test has returned a negative result for Rabies.

- (b) Domestic Animals that **do not have** a current Rabies vaccination should be humanely Euthanized. However, if the Owner of such an Animal elects, he/she may, at his/her expense and in a manner prescribed by the LRCA, Quarantine said Animal in a Secure Enclosure and make the suspected Rabies-carrying Animal available for immediate testing. If such Animal is tested and the test has returned a negative result for Rabies then such an Animal must be:
- (1) Vaccinated *immediately* after test results are received;
  - (2) placed in strict isolation for not less than 90 days in a Secure Enclosure; and
  - (3) given booster vaccinations during the third and eighth weeks while in isolation during the observation period. (For young Animals, additional vaccinations may be necessary to ensure the young Animal receives at least two vaccinations at or after the age prescribed by the USDA for the vaccine administered.)
- (c) This section only applies to Domestic Animals for which an approved Rabies vaccine is available.
- (d) If a Licensed Veterinarian determines that a Quarantined Animal shows the clinical signs of Rabies, the Licensed Veterinarian or Animal Control Authority shall humanely Euthanize the Animal. If an Animal dies or is Euthanized while in Quarantine, the Veterinarian or Animal Control Authority shall remove the head of the Animal and submit it to the nearest Department laboratory for testing.

### **Section 3. Humans Bitten or Scratched by Animals Susceptible to Rabies.**

#### **3.01 Reporting Requirements.**

Any Person having knowledge of an Animal bite/scratch to a human being must report the incident to Animal Control, the LRCA, and LHA as soon as possible, but not later than 24 hours from the time of the incident. This reporting requirement does not apply to bites/scratches inflicted by Low Risk Animals.

#### **3.02 Quarantine.**

The Owner of the biting/scratching Animal **may not** vaccinate that Animal and will place that Animal in a 240-hour Quarantine in a Primary Enclosure or Secure Enclosure for observation commencing on the day of the biting/scratching incident and under the supervision of Animal Control and the LRCA, or his/her designee, at the Owner's expense.

### **3.03 Investigation.**

Animal Control and the LRCA, or his/her designee, will investigate each bite incident. All bites or scratches from Low Risk Animals may be investigated at the discretion of the LRCA, the Department or other State or Federal Animal regulatory authorities.

### **3.04 Exclusions.**

- (a) Bites/scratches to human beings from rodents, moles, shrews, opossums, armadillos, rabbits, birds, and all cold-blooded Animals are excluded from the reporting requirements of this ordinance.
- (b) Police Dogs are exempt from the requirements of this ordinance, unless determined otherwise by a Licensed Veterinarian or his/her designee, or the LRCA; Police Dogs may be subject to home Quarantine.

## **Section 4. Animals At Large; Restraint Requirements.**

### **4.01 Prohibition.**

It shall be unlawful for any Owner, Custodian, or Harbored to allow any Domestic Dog or other Animal possessed, kept, or Harbored, to roam At Large as defined in this ordinance, and:

- (a) every Dog or Cat must be restrained by its Owner;
- (b) every Stray Dog or Cat is declared a public nuisance;
- (c) every Stray Dog or Cat shall be detained or impounded by the LRCA or that officer's designee; and
- (d) a humane disposition must be made of each unclaimed Stray Dog or Cat on the expiration of the required Impoundment period.

### **4.02 Authority of Animal Control Officer.**

Animal Control Officers are authorized to pursue onto private and public property and impound Animals that roam At Large. Animal Control Officers may impound Animals At Large under conditions specified in this ordinance, or when the Animal Control Officer has received a complaint that an Animal has caused a nuisance or hazard to the health, safety or welfare of human beings or the Animal population.

### **4.03 Restraint; Criminal Penalty.**

- (a) A Person commits an offense if:

- (1) the Person fails or refuses to restrain a Dog or Cat owned by the Person;  
and
- (2) the Animal is required to be restrained under this ordinance by a county or municipality within whose jurisdiction the act occurs.

(b) An offense under this section is a Class C misdemeanor.

### **Section 5. Animal Nuisances.**

The following are determined to be unlawful public nuisances and are prohibited both within Aubrey's corporate limits and within 5,000 feet outside of Aubrey's corporate limits:

- (a) the keeping of any Animal that physically molests passers-by or passing vehicles, attacks other Animals, is not accompanied by a responsible Person who maintains physical control over the Animal by leash, cord, rope or other physical restraint device, trespasses on school grounds, and/or damages public or private property;
- (b) the keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health, safety and welfare;
- (c) laxness in supervision of Cats;
- (d) the keeping of any Animal(s) that causes frequent, excessive or long continuous barking, whining, crying, meowing, howling, or other Animal-related noise that interferes with public peace and comfort;
- (e) maintaining any Animal in such a manner or allow any pen, enclosure, yard or similar place used for the keeping of Animals to become:
  - (1) unsanitary;
  - (2) offensive by reason of odor;
  - (3) offensive by lack of maintenance or creates a visual nuisance;
  - (4) favorable for any zoonotic diseases or any other diseases; or
  - (5) a breeding place for fleas, ticks or other vectors;
- (f) allowing excreta deposited by an Animal to remain on public or private property or allowing any condition injurious to public health caused by the lack of or improper disposal of Animal waste. (Public property includes, but is not limited to, walks, sidewalks, streets, alleys, parks, or recreation areas.)

## **Section 6. Dangerous Animals.**

### **6.01 Dangerous Wild Animals Prohibited Within City.**

It shall be unlawful for a Person to own, Harbor, or have custody or control of a Dangerous Wild Animal for any purpose within the City of Aubrey.

### **6.02 Exemptions.**

- (a) A Person is exempt from the requirements of this section if the Person is caring for, treating, or transporting an Animal for which the Person holds a Class "A" or Class "B" dealer's license or a Class "C" exhibitor's license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. §2131 et seq.) and its subsequent amendments.
- (b) This section does not refer to Police Dogs acting on the command of a police officer or as a result of training.

### **6.03 Seizure of a Dog Causing Death or Serious Bodily Injury to a Person.**

- (a) A justice court, county court, or municipal court shall order the Animal Control Authority to seize a Dog and shall issue a warrant authorizing such seizure:
  - (1) on the sworn complaint of any Person, including the county attorney, the city attorney, or a peace officer, that the Dog has caused the death of or Serious Bodily Injury to a Person by attacking, biting, or mauling a Person; or
  - (2) on a showing of probable cause to believe that the Dog caused the death of or Serious Bodily Injury to the Person as stated in the complaint.
- (b) The Animal Control Authority shall seize the Dog or order its seizure and shall provide for the Impoundment of the Dog in secure and humane conditions until the court orders the disposition of the Dog.

### **6.04 Hearing.**

- (a) The court shall set a time for a hearing to determine whether the Dog caused the death of or Serious Bodily Injury to a Person by attacking, biting, or mauling the Person. The hearing must be held not later than the 10<sup>th</sup> day after the date on which the warrant is issued.
- (b) The court shall give written notice of the time and place of the hearing to:

- (1) the Owner of the Dog or the Harboring Person or the Person from whom the Dog was seized; and
  - (2) the Person who made the complaint.
- (c) Any interested party, including the county attorney or city attorney, is entitled to present evidence at the hearing.
- (d) The court shall order the Dog destroyed if the court finds that the Dog caused the death of a Person by attacking, biting, or mauling the Person. If that finding is not made, the court shall order the Dog released to:
- (1) its Owner;
  - (2) the Harboring Person;
  - (3) the Person from whom the Dog was seized; or
  - (4) any other Person authorized to take possession of the Dog.
- (e) The court may order the Dog destroyed if the court finds that the Dog caused Serious Bodily Injury to a Person by attacking, biting, or mauling the Person. If that finding is not made, the court shall order the Dog released to:
- (1) its Owner;
  - (2) the Harboring Person;
  - (3) the Person from whom the Dog was seized; or
  - (4) any other Person authorized to take possession of the Dog.
- (f) The court may not order the Dog destroyed if the court finds that the Dog caused the Serious Bodily Injury to a Person by attacking, biting, or mauling the Person and:
- (1) The Dog was being used for the protection of a Person or Person's property and:
    - i) the attack, bite, or mauling occurred in an enclosure in which the Dog was being kept;
    - ii) the enclosure was reasonably certain to prevent the Dog from leaving the enclosure on its own and provided notice of the presence of a Dog; and
    - iii) the injured Person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

- (2) The attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the Dog for law enforcement purposes;
- (3) The Dog was defending a Person from an assault or a Person's property from damage or theft by the injured Person; or
- (4) The injured Person was younger than eight years of age and:
  - i) the attack, bite, or mauling occurred in an enclosure in which the Dog was being kept, and
  - ii) the enclosure was reasonably certain to keep a Person younger than eight years of age from entering.

#### **6.05 Destruction of Dog.**

- (a) The destruction of a Dog under this section must be performed by:
  - (1) a Licensed Veterinarian;
  - (2) personnel of a recognized Animal Shelter or humane society who are trained in the humane destruction of Animals; or
  - (3) personnel of a governmental agency responsible for Animal control who are trained in the humane destruction of Animals.

#### **6.06 Provocation or Location of Attack Irrelevant.**

Unless otherwise specified in this section, this section applies to any Dog that causes a Person's death or Serious Bodily Injury by attacking, biting, or mauling the Person, regardless of whether the Dog was provoked and regardless of where the incident resulting in the Person's death or Serious Bodily Injury occurred.

#### **6.07 Determination That Dog Is Dangerous.**

- (a) If a Person reports an incident, the Animal Control Authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the Animal Control Authority determines the Dog is a Dangerous Dog, it shall notify the Owner of that fact.
- (b) An Owner may appeal the determination of the Animal Control Authority to a justice, county, or municipal court of competent jurisdiction no later than the 15<sup>th</sup> day after the date the Owner is notified that a Dog owned by the Owner is a Dangerous Dog. An Owner may appeal the decision of the justice, county, or

municipal court in the same manner as appeal for other cases from the justice, county or municipal court.

#### **6.08 Requirements for Owner of Dangerous Dog.**

- (a) Not later than the 30<sup>th</sup> day after a Person learns that the Person owns a Dangerous Dog, the Person shall:
- (1) register the Dangerous Dog with the Animal Control Authority for the area in which the Dog is kept;
  - (2) at all times restrain the Dangerous Dog on a leash in the immediate control of a Person or in a Primary Enclosure or Secure Enclosure;
  - (3) display in a conspicuous place on his/her premises a sign that is easily readable by the public using the words "Beware—Dangerous Animal." The sign shall be no smaller than one square foot total area, with alphabetic letters with no less than one inch height. A similar, easily readable, sign with a total square area of 18 inches, shall be posted on the enclosure or pen of such Dangerous Animal and posted on all entrances to the dwelling, building or structure.
  - (4) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the Dangerous Dog causing bodily injury to a Person and provide proof of the required liability insurance coverage or financial responsibility to the Animal Control Authority for the area in which the Dangerous Dog is kept; and
  - (5) comply with any applicable municipal or county regulation, requirement, or restriction on Dangerous Dogs.
- (b) The Owner of a Dangerous Dog who does not comply with subsection (a) shall deliver the Dangerous Dog to the Animal Control Authority not later than the 30<sup>th</sup> day after the Owner learns that the Dog is a Dangerous Dog.
- (c) If, on application of any Person, a justice court, county court, or municipal court finds, after notice and hearing as provided by Section 6.07, that the Owner of a Dangerous Dog has failed to comply with subsection (a) or (b), the court shall order the Animal Control Authority to seize the Dog and shall issue a warrant authorizing the seizure. The Animal Control Authority shall seize the Dog or order its seizure and shall provide for the Impoundment of the Dog in secure and humane conditions.
- (d) The Owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, Impoundment, or destruction of the

Dangerous Dog. The governing body of the municipality or county may prescribe the amount of the fees.

- (e) The court shall order the Animal Control Authority to humanely destroy the Dangerous Dog if the Owner has not complied with subsection (a) before the 11<sup>th</sup> day after the date on which the Dangerous Dog is seized or delivered to the Animal Control Authority. The court shall order the Animal Control Authority to return the Dangerous Dog to the Owner if the Owner complies with subsection (a) before the 11<sup>th</sup> day after the date on which the Dangerous Dog is seized or delivered to the Animal Control Authority.
- (f) The court may order the humane destruction of a Dangerous Dog if the Owner of the Dangerous Dog has not been located before the 15<sup>th</sup> day after the seizure and impoundment of the Dangerous Dog.
- (g) For purposes of this section, a Person learns that the Person is the Owner of a Dangerous Dog when:
  - (1) the Owner knows of an attack;
  - (2) the Owner receives notice that a justice court, county court, or municipal court has found that the Dog is a Dangerous Dog under this ordinance; or
  - (3) the Owner is informed by the Animal Control Authority that the Dog is a Dangerous Dog under this ordinance.

#### **6.09 Inspection.**

An Owner of a Dangerous Dog or Dangerous Wild Animal, at all reasonable times, shall allow the Animal Registration Agency, its staff, its agents, or a designated Licensed Veterinarian to enter the premises where the Animal is kept and to inspect:

- (a) the Animal:
- (b) the Primary Enclosure or Secure Enclosure for the Animal: and
- (c) the Owner's records relating to the Animal to ensure compliance with this section.

#### **6.10 Relocation or Disposition of Animal.**

- (a) An Owner of a Dangerous Dog or Dangerous Wild Animal may not permanently relocate the Animal unless the Owner first notifies the Animal Registration Agency in writing of the exact location to which the Animal will be relocated and provides the Animal Registration Agency, with respect to the new location, the information required by this ordinance.

- (b) Within 10 days after the death, sale, or other disposition of the Animal, the Owner of the Animal shall notify the Animal Registration Agency in writing of the death, sale, or other disposition of the Animal.

**6.11 Attack by Animal; Escape of Animal; Liability.**

- (a) An Owner of a Dangerous Dog or Dangerous Wild Animal shall notify the Animal Registration Agency of any attack of a human by the Animal immediately after the attack.
- (b) An Owner of a Dangerous Wild Animal shall immediately notify the Animal Registration Agency and the local law enforcement agency of any escape of the Animal.
- (c) An Owner of a Dangerous Dog or Dangerous Wild Animal that escapes is liable for all costs incurred in apprehending and confining the Animal.
- (d) An Animal Registration Agency, a law enforcement agency, or an employee of an Animal Registration Agency or law enforcement agency is not liable to an Owner of a Dangerous Wild Animal for damages arising in connection with the escape of a Dangerous Wild Animal, including liability for damage, injury, or death caused by the Animal during or after the Animal's escape, or for injury to or death of the Animal as a result of apprehension or confinement of the Animal after escape.

**6.12 Powers and Duties of Board; Caging Requirements and Standards.**

- (a) The Board by rule shall establish caging requirements and standards for the keeping and confinement of a Dangerous Wild Animal to ensure that the Animal is kept in a manner and confined in a Primary Enclosure that:
  - (1) protects and enhances the public's health and safety;
  - (2) prevents escape by the Animal; and
  - (3) provides a safe, healthy, and humane environment for the Animal.
- (b) An Owner of a Dangerous Wild Animal shall keep and confine the Animal in accordance with the caging requirements and standards established by the Board.
- (c) An Animal Registration Agency may approve a deviation from the caging requirements and standards established by the Board only if:
  - (1) the Animal Registration Agency has good cause for the deviation; and
  - (2) the deviation:

- i) does not compromise the public's health and safety;
- ii) does not reduce the total area of the Primary Enclosure below that established by the Board; and
- iii) does not otherwise adversely affect the overall welfare of the Animal involved.

### **6.13 Care, Treatment, and Transportation of Dangerous Wild Animal.**

- (a) For each Dangerous Wild Animal, the Owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C §2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to:
  - (1) facilities and operations;
  - (2) Animal health and husbandry; and
  - (3) veterinary care.
- (b) An Owner of a Dangerous Wild Animal shall maintain a separate written log for each Dangerous Wild Animal, documenting the Animal's veterinary care. An Owner of a Dangerous Wild Animal shall make the written log available to the Animal Registration Agency or its agent on request. The log must:
  - (1) identify the Animal treated;
  - (2) provide the date of treatment;
  - (3) describe the type or nature of treatment; and
  - (4) provide the name of the attending Licensed Veterinarian, if applicable.
- (c) When transporting a Dangerous Wild Animal, the Owner of the Dangerous Wild Animal, or a designated carrier or intermediate handler of the Dangerous Wild Animal, shall comply with all transportation standards that apply to that Dangerous Wild Animal under the Animal Welfare Act (7 U.S.C. §2131 et seq.) and its subsequent amendments or the regulations adopted under that Act.

### **6.14 Injunction.**

Any Person who is directly harmed or threatened with harm by a violation of this section or a failure to enforce this section may sue an Owner of a Dangerous Wild Animal to enjoin a violation of this subsection or to enforce this subsection. Aubrey is not a proper party to such a suit and nothing in this ordinance waives Aubrey's immunity from suit or liability.

## 6.15 Applicability of Section.

(a) This section does not apply to:

- (1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;
- (2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. §2132), and its subsequent amendments, that is licensed by the Secretary of Agriculture of the United States under that Act;
- (3) an organization that is an accredited member of the American Zoo and Aquarium Association;
- (4) an injured, infirm, orphaned, or abandoned Dangerous wild Animal while being transported for care or treatment;
- (5) an injured, infirm, orphaned, or abandoned Dangerous Wild Animal while being rehabilitated, treated, or cared for by a Licensed Veterinarian, an incorporated humane society or Animal Shelter, or a Person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;
- (6) a Dangerous Wild Animal owned by and in the custody and control of a transient circus company that is not based in this state if:
  - i) the Animal is used as an integral part of the circus performances; and
  - ii) the Animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States.
- (7) a Dangerous Wild Animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;
- (8) a Dangerous Wild Animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;
- (9) a Dangerous Wild Animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7U.S.C. §2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

- (10) a nonhuman primate owned by and in the control and custody of a Person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C §2131 et seq.) and its subsequent amendments;
  - (11) a Dangerous Wild Animal that is:
    - i) owned by or in the possession, control, or custody of a Person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and
    - ii) an integral part of that species survival plan.
  - (12) a county west of the Pecos River that has a population of less than 25,000;
  - (13) a cougar, bobcat, or coyote in the possession, custody, or control of a Person that has trapped the cougar, bobcat, or coyote as part of a predator or depredations control activity.
- (b) This subsection does not require a municipality that does not have an Animal Control Office to create that office.

#### **6.16 Two-Bite Rule.**

If two instances of any Animal biting a human being have occurred within the Aubrey city limits, then that Animal is deemed to be a public nuisance and is prohibited from being present within the city limits of Aubrey or within 5,000 feet of the city limits of Aubrey. The Animal must be removed from said prohibited areas within 10 days of the second biting incident.

### **Section 7. Dogs and Coyotes that are a Danger to Animals.**

#### **7.01 Running At Large; Criminal Penalty.**

- (a) The Owner, keeper, or Person in control of a Dog or coyote that the Owner, keeper, or Person knows is accustomed to run, worry, or kill Livestock, Domestic Animals, or fowls may not permit the Dog or coyote to run At Large.
- (b) A Person who violates this section commits an offense. An offense under this subsection is punishable by a fine of not more than \$100.
- (c) Each time a Dog or coyote runs At Large in violation of this section constitutes a separate offense.

## **7.02 Dogs or Coyotes that Attack Animals.**

- (a) A Dog or coyote that is attacking, is about to attack, or has recently attacked Livestock, Domestic Animals, or fowls may be killed by:
  - (1) any Person witnessing the attack; or
  - (2) the attacked Animal's Owner or a Person acting on behalf of the Owner if the Owner or Person has knowledge of the attack.
- (b) A Person who kills a Dog or coyote as provided by this section is not liable for damages to the Owner, keeper, or Person in control of the Dog or coyote.
- (c) A Person who discovers on the Person's property a Dog or coyote known or suspected of having killed Livestock, Domestic Animals, or fowls may detain or impound the Dog or coyote and return it to its Owner or deliver the Dog or coyote to the local Animal Control Authority. The Owner of the Dog or coyote is liable for all costs incurred in the capture and care of the Dog or coyote and all damage done by the Dog or coyote.
- (d) The Owner, keeper, or Person in control of a Dog or coyote that is known to have attacked Livestock, Domestic Animals, or fowls shall control the Dog or coyote in a manner approved by the Animal Control Authority.
  - (1) A Person is not required to acquire a hunting license under Section 42.002, Parks and Wildlife Code, to kill a Dog or coyote under this section.

## **Section 8. Impoundment of Animals.**

### **8.01 In General.**

- (a) The following Animals may be impounded:
  - (1) any Animal believed to be infected with Rabies or kept under conditions that could endanger the public or Animal health, safety or welfare;
  - (2) any Animal found At Large;
  - (3) any Animal treated in a manner determined by Animal Control to be cruel and inhumane;
  - (4) any Animal that is suspected of biting or scratching a human being or is suspected of coming into contact with a Rabies High Risk Animal that requires isolation to observe for possible Rabies, as determined by Animal Control and/or State or Federal authorities;

- (5) any Animal violating any provision of Texas Penal Codes 42.09, 42.091 or 42.010, as they currently exist or may be amended;
  - (6) any Animal violating any provision of the Texas Health and Safety Code, Chapter 826, as it currently exists or may be amended;
  - (7) any Animal violating any provision of the Texas Administrative Code, Chapter 169, as it currently exists or may be amended; and/or
  - (8) any Animal violating any provisions of this ordinance.
- (b) If any of the Animals named in this ordinance are found upon the premises of any resident located within Aubrey's city limits, the Aubrey resident shall have the right to confine such Animal in a humane manner until he/she can notify Animal Control to retrieve the Animal for Impoundment. When so notified, it shall be the duty of Animal Control to impound such Animal as herein provided.
- (c) A reasonable effort shall be made by Animal Control to contact the Owner of any Animal impounded that is wearing an identification tag of any type; however, final responsibility for location of an impounded Animal is that of the Owner.
- (d) The Owner can resume possession of any impounded Animal that is otherwise subject to release upon:
- (1) payment of Impoundment fees;
  - (2) payment of handling fees;
  - (3) payment of any veterinarian bills incurred by Animal Control and Aubrey's agents for the welfare of the Animal; and
  - (4) compliance with vaccination, and registration provisions, if any, of this ordinance.
- (e) Disposition of Animals impounded as a result of cruel or inhumane treatment will be determined by a court of competent jurisdiction.
- (f) If any Animal is being held in Quarantine or observation for Rabies, the Owner shall not be entitled to possession until the Animal has been released from the Quarantine observation period by Animal Control and the Owner has satisfied payment of any Impoundment fees, handling fees, veterinarian bills, or any other fees incurred while in custody of Animal Control or Aubrey's authorized agents.
- (g) Any Animal not reclaimed by the Owner may be humanely Euthanized or adopted after being impounded for five days (day of Impoundment being day "0"), unless under Quarantine by Animal Control or its authorized agents. However, feral cats shall be held a minimum of three days and any Animal wearing a

current Rabies tag shall be impounded for not less than six days, unless under Quarantine. Unclaimed Animals wearing an identification tag that are in the custody of Animal Control or any of its authorized agents may be humanely Euthanized or adopted after being impounded for six days.

- (h) Any seized or impounded Dangerous Wild Animal, unless there is reason to believe such Animal has an Owner, may have its disposition immediately determined as deemed appropriate by Animal Control, or its authorized agents.
- (i) Any nursing baby Animal impounded without its mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately Euthanized to prevent further suffering.
- (j) An Animal Owner, who no longer wishes responsibility for an Animal or believes the Animal to be in an ill or injured condition, may sign a written waiver supplied by Animal Control, or its agents, that surrenders the Animal to Animal Control, or its authorized agents. If space in the Animal Shelter is available for the surrendered Animal, the Animal Control Officer may take the Animal at the time surrendered by the Owner. If shelter overcrowding exists, the Owner may place the Animal on a waiting list for surrender for up to 18 days or make other arrangements with the Animal Control Officer. The written waiver surrenders the Animal to Animal Control, or its authorized agents, to be impounded for adoption or immediate Euthanization in a humane manner. No warm-blooded Animal that has bitten or scratched a human being shall be Euthanized before the expiration of the Quarantine period, unless said Animal's Owner requests that the Animal be Euthanized for Rabies testing.
- (k) Any impounded Animal that appears to be suffering from extreme injury or illness may be immediately Euthanized or given to a non-profit humane organization for the purposes of veterinary care as determined by Animal Control.

## **8.02 Impoundment Fees.**

- (a) Impoundment fees for Animals impounded shall be published and determined by Aubrey's authorized Animal Shelter agent(s) for all Animals.
  - (1) Class A: all Domestic Dogs and Domestic Cats, unsterilized (unspayed or unneutered) or sterilized (spayed or neutered).
  - (2) Class B: Small Livestock shall include goats, sheep, lambs, swine, and Animals of the same approximate size and weight. Fees shall be set based on actual costs, damages and the factors set forth in Chapter 142 of the Texas Agricultural Code, as it exists or may be amended.
  - (3) Class C: Large Livestock shall include cattle, horses, ponies, mules, and Animals of the same approximate size and weight. Fees shall be set

based on actual costs, damages and the factors set forth in Chapter 142 of the Texas Agricultural Code, as it exists or may be amended.

- (4) Class D: Animals not listed herein above shall be impounded and/or disposed of at the discretion of the Animal Control or Aubrey's authorized agents.
- (b) A daily handling fee shall be charged for every day, or fraction thereof, that an Animal is at the Animal Shelter. Said fee shall be based upon the class of Animal enumerated above as deemed by Aubrey's authorized agent(s) or contractors. Class D Animals shall be charged as deemed by Aubrey's authorized Animal Shelter agent(s). This fee is in addition to the Impoundment fee as set forth by Aubrey's authorized Animal Shelter agent(s) or contractors. Class B and Class C Animals shall be impounded in accordance with the Texas Estray Act (Chapter 142 of the Texas Agriculture Code), as it currently exists or may be amended.
- (c) The Owner of any Class A, Class B, or Class C Animal held in Quarantine for observation purposes, or any other purposes, shall be charged for each day or fraction of a day at the rates set forth and published by Aubrey's authorized Animal Shelter agent(s). This fee is in addition to Impoundment fees and daily handling fees or any other costs incurred by Aubrey's authorized Animal Shelter agent(s).
- (d) The Owner of a Class D Animal shall be charged for each day or fraction of a day the Animal is held in Quarantine for observation purposes, or any other purposes, at the Animal Shelter at the rates set forth and published by Aubrey's authorized Animal Shelter agent(s). This fee is in addition to Impoundment fees and daily handling fees or any other costs incurred by Aubrey's authorized Animal Shelter agent(s).
- (e) The enforcing agency shall deposit the fees collected in the treasury of the enforcing agency. The fees may be used only to help defray the cost of administering this subsection or the ordinances or rules of the enforcing agency within its jurisdiction.

### **Section 9. Animal Ownership Limitation.**

From and after the effective date of this ordinance, it shall be unlawful for any Person, firm or corporation to keep or Harbor more than six Domestic Dogs, or six Domestic Cats, or three Domestic Ferrets, or any combination of six thereof, providing the number of Domestic Ferrets does not exceed three of that species, (i.e., five Domestic Dogs and one Domestic Cat; one Domestic Dog and five Domestic Cats; three Domestic Dogs, two Domestic Cats and one Domestic Ferret) over the age of six months on any one residential dwelling property located within the Aubrey city limits.

## **Section 10. Requirements of Livestock.**

### **10.01 Swine.**

It shall be unlawful for any Person, firm or corporation to keep any swine, including pot-bellied pigs, within the Aubrey city limits, unless certified for medical, biological, educational or other scientific research or study.

### **10.02 Cattle and Equine.**

It shall be unlawful for any Person to keep a cow, steer, bull, horse, donkey, or mule (collectively referred to as "cow or horse") on any premises where the overall area is less than one acre for each cow or horse kept, or is less than one acre for two foals or two calves up to nine months of age. Any one adult cow or horse and its young up to nine months of age are permitted on one acre. Agriculture properties are exempt under this section, as long as the Person does not keep more than can be cared for under sanitary conditions and/or create a nuisance. The Person in lawful possession of the premises, as Owner or tenant, may keep thereon cattle, horses, calves, or foals belonging to others; however, the Person must comply with all requirements of this section. Any agricultural premises shall not be operated as a commercial business in violation of any City ordinance.

### **10.03 Holding Areas for Small Livestock and/or Large Livestock.**

Small Livestock and Large Livestock must be kept within an enclosure, pen, corral, or restrictive area to prevent exit by the Animal(s). The fence posts must not sway more than six inches when tested by an Animal Control Officer.

A gate for a Small Livestock enclosure shall be mounted on hinges to a solid wall or fence post. Such a gate must connect with another fence post or wall in a manner that Small Livestock cannot pass through it, and the gate itself must be constructed so that there is not an opening that will allow the Animal(s) to escape the enclosed area. The gate must have a latch or chain attached capable of keeping it closed when tested by an Animal Control Officer.

### **10.04 Proximity of Livestock Areas.**

It shall be unlawful for any Owner to keep on premises within the Aubrey city limits under his/her control, any Small Livestock or Large Livestock in such a manner that the Livestock will be quartered closer than 100 feet from any human living quarters measured in a straight line from any direction, whether occupied or unoccupied. Notwithstanding the foregoing, if the human living quarters are the living quarters of the Owner or keeper, then the Small Livestock or Large Livestock must not be quartered closer than 20 feet thereto measured in a straight line from any direction.

## **10.05 Confine of Male Horses.**

Male Equines, including, but not limited to, horses capable of breeding, will be confined in such a manner that said Animals will not be dangerous to human beings, and all breeding shall be under the control of the Owner or handler.

## **Section 11. Requirements of Certain Fowl.**

Except for exotic birds that are Pet Animals or are not raised, kept or Harbored for commercial purposes, it shall be unlawful for any Owner to maintain, own or control any premises within the Aubrey city limits where more than an aggregate of 12 fowl are kept or Harbored in One Enclosure. Additionally, not more than 1/4 of the maximum allowable number of such fowl may be of the male species.

## **Section 12. Protection of Animals.**

### **12.01 Baby Fowl.**

It shall be unlawful for any Person to sell, offer for sale, barter, or give away as toys, premiums, or novelties: baby chickens, ducklings, or other fowl under eight weeks old. Sale of such Animals for agricultural purposes is exempt from this provision if sold in quantities of ten or more.

### **12.02 Change of Color of Certain Animals.**

It shall be unlawful to color, dye, stain, or otherwise change the natural color of chickens, ducklings, 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.

### **12.03 Animals as Prizes or Inducements.**

No Person shall give away any Animal as:

- (a) a prize or use as an inducement to enter any contest, game or competition;
- (b) an inducement to enter a place of amusement or other non-residential establishment; or
- (c) an offer or as an incentive to enter into any business establishment whereby the offer was for the purpose of attracting trade.

## **Section 13. Treatment of Animals**

The following are established as guidelines for pet and Animal care and not intended to contravene with the provisions for Animal cruelty as contained in the Texas Penal Code Chapter 42.09, as it currently exists or may be amended.

- (a) Every Owner or other Person having care and control of any Animal shall provide the following for each Animal under his/her care and control:
- (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, which shall allow the Animal to remain dry and protected from the elements at all times, allow room for the Animal to stand, move around and lay down apart from its excrement and that shall provide either natural or artificial shade for the Animal to avoid direct sunlight. If the shelter is provided by enclosure, the enclosure shall allow for adequate ventilation; and
  - (4) veterinary care as needed to prevent suffering.
- (b) No Person shall torture, beat, cruelly ill-treat, overload, overwork or otherwise abuse an Animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between Animals or between Animals and human beings.
- (c) No Owner of an Animal shall abandon such Animal.
- (d) Any Person who, as the operator of a motor vehicle or any other means of transportation, strikes any Domestic Animal or Livestock shall stop at once and render assistance as may be possible and shall immediately report such injury or death to the Animal's Owner. In the event the Animal's Owner cannot be ascertained and/or located, such Person shall at once report the accident to Animal control or the appropriate law enforcement agency.
- (e) No Person shall intentionally or knowingly trip or tip over a horse or other equine or bovine.
- (f) No Owner, Custodian or Person shall leave any Animal in a standing or parked vehicle in such a way as to endanger the Animal's health, safety or welfare, including but not limited to dangerous temperature, lack of food, water or attention, or confinement with a Dangerous Animal. Any Animal Control Officer, Peace Officer, Fire Personnel or other City-authorized Person is authorized to use reasonable force to remove an Animal—including but not limited to—the breaking of a vehicle window, whenever it appears the Animal's health, safety or welfare is, or soon will be, endangered and said Animal may be impounded.

## **Section 14. Sanitary Conditions**

(a) The Owner, Custodian or Person in possession of Animals shall keep pens, enclosures, yards, cages, structures, or other similar enclosures in which any Animals are kept, clean and sanitary and shall not create:

- (1) any offensive odors or visual nuisances (unsightly) within the vicinity that creates a public nuisance;
- (2) any favorable conditions that breed or attract flies, mosquitoes or other noxious insects;
- (3) any favorable conditions for any zoonotic diseases or any other diseases;  
or
- (4) any unsanitary condition that endangers public or Animal health or safety.

(b) All Persons keeping Animals shall comply with the following regulations.

- (1) Manure and droppings shall be removed from pens, stables, yards, cages and other enclosures as necessary to maintain sanitary conditions and handled or properly disposed of in such manner as to keep the premises free of any public nuisances.
- (2) Mound storage of manure or droppings between such removals shall be permitted only under such conditions as to protect against the breeding of flies and to prevent the migration of fly larvae (maggots) into the surrounding soil.
- (3) The feeding of vegetables, meat scraps or garbage shall be done only in impervious containers or on an impervious platform.
- (4) Watering troughs, tanks or other watering containers provided for Animals shall be equipped with adequate facilities for draining water overflow to prevent the breeding of flies, mosquitoes, or other insects.
- (5) No putrescible material shall be allowed to accumulate on the premises, and all such putrescible material that is used to feed that is unconsumed shall be removed and properly disposed of by burial or other sanitary means.

## **Section 15. Traps**

(a) Only humane live Animal traps may be used for capturing Animals roaming unrestrained in Aubrey. The use of steel jaw traps to apprehend Animals is illegal. As an exception to this section, government agencies and entities shall

be permitted to use such traps and equipment as necessary and permitted by State law or regulation, as they exist or may be amended.

- (b) No Person shall remove, alter, damage or otherwise tamper with a trap or equipment set out by Animal Control or Aubrey's agent(s).
- (c) The Animal Control traps left at a site at the request of a property owner or other resident will be the responsibility of the property owner or resident. The property owner or resident will monitor the trap(s) each day and contact Animal Control if any Animal(s) is captured. The property owner or resident will contact Animal Control within 24 hours in the event of an Animal capture for removal by an Animal Control Officer.
- (d) Damaged traps or missing traps will be reimbursed to Aubrey, or its agents for replacement of the trap(s). Citizens with traps provided by Animal Control shall not set the trap on any evenings prior to a holiday (New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the day after, Christmas Eve and Christmas Day) or on a Saturday, as the Animal Control Officers will only be running emergency calls on those days as well as on Sundays. During inclement weather conditions (i.e. temperatures below 40 degrees Fahrenheit, rain/snow, or excessive heat), cover traps must be covered with a blanket, placed in the shade, placed in an enclosure, or otherwise arranged to mitigate the effect of the weather on the Animal.

#### **Section 16. Assistance or Therapy Animals**

Upon request of an Animal Control Officer, the Owner or user of an Assistance Animal or Therapy Animal shall provide written proof signed by a licensed physician that removal of the Animal would be detrimental to the Person who requires the Animal for assistance.

#### **Section 17. Enforcement**

- (a) Enforcement of this ordinance shall be the responsibility of Animal Control and/or other authorized Aubrey personnel and/or its authorized agent(s).
- (b) Animal Control Officers, Code Enforcement Officers, Health Inspectors, the LRCA, the LHA, Peace Officers, and/or other authorized Aubrey personnel or Aubrey's authorized agents shall have the authority to issue citations for any violation of this ordinance or remedy violations by limitations set forth by State or Federal law.
- (c) If the Person being cited is not present, Animal Control or other authorized personnel or Aubrey's authorized agent(s) may send a citation to the alleged offender. Notice may be given in any one of the following ways: (a) sent via registered or certified mail addressed to the Owner at the Owner's address, or (b)

by hand delivery to the Owner at the Owner's address. If Aubrey or its authorized agent(s) mails a citation to the Owner and the United States Postal Service returns the notice as "refused", "unclaimed", or if the address that was used for sending the citation is returned as "not deliverable as addressed" (or an equivalent marking), the validity of the citation mailed to the Owner is not affected, and the citation is considered to be delivered.

(d) It shall be unlawful for any Person to interfere with Animal Control or any authorized Person, or any authorized agent in the performance of their duties under this ordinance.

(e) Animal Control, Aubrey Police, LRCA, LHA, or other authorized personnel and/or Aubrey's authorized agents are given the right to trespass onto any private property in Aubrey in exigent circumstances for the purpose of determining whether or not any provision of this ordinance has been violated and to impound any Animal kept or Harbored in violation of any terms of this ordinance.

#### **Section 18. Penalty for the Violation of this Ordinance.**

Any Owner, Custodian, Person, firm, corporation or business entity violating this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding \$2,000. Each continuing day's violation under this ordinance shall constitute a separate offense. While penal in nature, this ordinance shall not preclude Aubrey from filing suit to enjoin a violation. Aubrey retains all legal rights and remedies available to it pursuant to local, State and Federal law.

#### **Section 19. Savings, Repealing and Severability Clauses.**

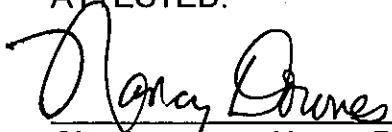
If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof. Aubrey hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid. All ordinances of Aubrey in conflict with the provisions of this ordinance are repealed to the extent of that conflict.

#### **Section 20. Publication of the Caption Hereof and Effective Date.**


This ordinance shall be effective upon its passage by the City Council, approval by the Mayor, and publication of the caption as prescribed by law.

**PASSED** by the City Council of the City of Aubrey, Texas, this 15<sup>th</sup> day of July, 2008.

ATTESTED:

  
\_\_\_\_\_  
City Secretary, Nancy Downes

APPROVED:

  
\_\_\_\_\_  
Mayor, Gary Hammett

