

ORDINANCE 2001

AN ORDINANCE PROVIDING ANIMAL CONTROL AUTHORITY ESTABLISHING ADOPTION OF THE RABIES CONTROL ACT OF 1981 AND LOCAL HEALTH AUTHORITY; PROVIDING RECORDS, ESTABLISHING FEES, PERMIT AND LICENSE REQUIREMENTS, PERMIT AND LICENSE APPLICATION, PERMIT AND LICENSE FEES AND TERM OF PERMITS AND LICENSES, ESTABLISHING MINIMUM STANDARDS, PROVIDING FOR INSPECTIONS, PERMIT AND LICENSE REFUSAL OR REVOCATION, NOTICE OF REFUSAL OR REVOCATION, FOR DISPOSITION OF ANIMALS, FOR DESTRUCTION OF ANIMALS, AND FOR DANGEROUS ANIMALS, PROVIDING PROHIBITIONS; PENALTIES; A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Cottonwood Shores ("the City") has experienced ever increasing complaints about animals at large, both in number and danger to the general public; and

WHEREAS, it is in the public interest and welfare to establish controls regarding domestic and wild animals in order to assure the safety, peace and comfort of the citizens of the City and to encourage responsible pet ownership; and

WHEREAS, the establishment of reasonable requirements for care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public; and

WHEREAS, it is necessary for the City to adopt requirements and regulations that will enable the Officers and employees of the City to respond in a manner consistent with State Law to unusual circumstances and conditions that arise from time to time with respect to the keeping, care and control of domestic, wild and exotic animals;

SECTION 1 - HISTORY OF THIS ORDINANCE:

- March 11, 1993 - Ordinance 031193 is adopted as the first Animal Control Ordinance of the City of Cottonwood Shores.
- January 15, 2004 - Ordinance 031193 is repealed and replaced by Ordinance No. 011504.
- November 20, 2008 - Ordinance 011504 is repealed and replaced by Ordinance No. 205.
- February 5, 2009 - Ordinance 205 is amended, repealed and replaced by Ordinance No. 211.
- February 02, 2012 - Ordinance No. 211 was repealed and replaced by Ordinance 2001 with amendments providing permits and allowing the keeping of chickens.
- April 5, 2012 - Amended Ordinance to aid in its effective implementation and prosecution.
- July 5, 2012 – Amended for Formatting and Accuracy
- September 4, 2014 – Clarify licensing, registration and permitting
- June 18, 2015 – Clarify length of impoundment for stray animals

SECTION 2 - DEFINITIONS:

Wherever in this Ordinance the following terms shall appear, the meanings set forth opposite each term in this section shall be ascribed to them, unless the context in which the term appears require a different meaning.

1. **ABANDON:** Means to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to timely redeem any animal impounded or quarantined by the City, as specified herein.
2. **ANIMAL:** A non-human live, vertebrate creature, wild or domestic. Two broad categories of animals are covered by this Ordinance. The first category includes dogs (domestic dogs only) and felines (domestic cats only). This first category is all remaining vertebrate animals and referred to simply as animals in this Ordinance. [See definitions for canine and feline.]
3. **ANIMAL CONTROL OFFICER:** The person duly designated to carry out the duties of the Animal Control Officer as prescribed in this Ordinance; unless otherwise specifically designated by the City Council, the Chief of Police shall be the Animal Control Officer.
4. **ANIMAL CONTROL FACILITY:** An establishment that is operated by, controlled by or contracted with; by the City for the impoundment, confinement, safekeeping, control, caring, and/or destruction of animals which come into the custody of the City.
5. **ANIMAL LICENSE:** A printed or written certificate issued by the designated representative of the City to allow a resident to harbor any animal allowed under this Ordinance within the City.
6. **ANIMAL TAG:** A metal, plastic or other permanent identification plate issued along with an animal license by the designated representative of the City to be worn by the licensed animal at all times where possible.
7. **BREEDER:** A person, partnership, firm, corporation, company, or association engaged in the business of breeding, buying, selling, boarding, or harboring four (4) or more dogs or cats at one time.
8. **FOSTER CARE GIVER:** A person who cares for household pets on a temporary basis not exceeding 120 days for any one animal.
9. **BREEDER/FOSTER CARE GIVER PERMIT:** A printed or written certificate issued by the designated representative of the City authorizing the holder to operate a Breeding Facility within the corporate limits of the City of Cottonwood Shores.
10. **BREEDING/FOSTER CARE FACILITY:** A facility operated or used by a breeder for the purpose of breeding, buying, selling, boarding, or harboring four (4) or more dogs or cats at one time as prescribed in the Ordinance.

11. **CANINE:** An animal of the family Canidae, especially a dog. However, as used in this Ordinance only refers to domestic dogs. Other members of the canine family, such as wolves are considered in the general animal category in regards to this reference.

12. **COMMERCIAL ANIMAL ESTABLISHMENT:** Any commercial operation which is reasonably calculated to provide shelter, care, maintenance, training, breeding, treatment of, or the provision of services to four (4) or more animals at one time.

13. **COMMERCIAL ANIMAL PERMIT:** A printed or written certificate issued by the designated representative of the City authorizing the holder to operate a Commercial Animal Establishment within the corporate limits of the City.

14. **DANGEROUS ANIMALS:** Any animal which has been determined to be dangerous as set forth herein by the Animal Control Officer, Police Officer or appropriate court; which demonstrates behavior and/or possesses the vicious propensity to inflict serious bodily injury or death upon human beings and constitutes a danger to human life or domestic animals; or any animal which has behaved in such a manner that the owner thereof knows, or reasonably should know, that the animal is possessed of tendencies to commit unprovoked attacks or to injure human beings or domestic animals; or any animal certified by a Doctor of Veterinary Medicine, Licensed in the State, after observation thereof, as posing a danger to human beings or animals; or any animal that commits an unprovoked attack upon a human being or other domestic animal; or any animal that commits an unprovoked act that causes a person to reasonably believe that the animal will attack and cause bodily injury to that person.

15. **FARM ANIMALS:** Including, but not limited to cows, goats, horses, ducks, pigs, emu, rabbits, and chickens (roosters), with the specific exclusion of chickens (hens).

16. **FELINE:** Of or belonging to the family Felidae, which includes the lions, tigers, jaguars, and wild and domestic cats.; however, as used in this Ordinance only refers to domestic cats. Other members of the Feline family are considered in the general animal category in regards to this Ordinance.

17. **“NON-LICENSABLE” DANGEROUS DOG:** Any dog which:

17.1. When unprovoked, severely attacked or inflicted serious injury or death to a person, whether on public or private property; or

17.2. Has been deemed “non-licensable” by the Animal Control Officer and upheld or unchallenged by any court of jurisdiction.

18. **OWNER:** Any person, partnership, corporation or association that harbors, shelters, keeps, controls, manages, possesses, feeds or cares for or has whole or part interest in any animal. This presumption is rebuttable and shall have the effects and consequences set forth in Section 2.05 of the Texas Penal Code, as amended.

19. **PUBLIC NUISANCE:** The term "public nuisance" includes, but is not limited to any animal that under an owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal that:

- 19.1. Chase vehicles or molest, attack or interfere with other animals or persons on public property; or
- 19.2. Acts in a threatening manner in any location other than the property of its owner toward any person other than its owner or engages in conduct which establishes such animal as a "dangerous animal"; or
- 19.3. Attacks or chases another animal, when such other animal is on the property of its owner or custodian; or
- 19.4. Causes trash or garbage to be removed from a trash or garbage container; or
- 19.5. Damage, soil, defile, or defecate on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner; or
- 19.6. Trespasses on school grounds at inappropriate times without owner control;
- 19.7. is "at large" as defined herein; or
- 19.8. Damages private or public property; or
- 19.9. Causes a disturbance by excessive, continuous or untimely barking, howling, whining, crowing or otherwise make excessive noise near the private residence of another or continual barking, howling, crowing or other audible noise, in excess of fifteen (15) minutes, even if in sporadic bursts, shall be prima facie evidence that the same constitutes a nuisance;
- 19.10. Allow such fecal matter or other animal waste to accumulate to such a degree as to cause maggots, flies, unsanitary, dangerous or offensive conditions which are detectable and annoying to adjacent property owners or residents or determined by the Animal Control Officer to pose a threat to the health and safety of the animals or deemed unsanitary. Such determination will be referred to the Code Official for a determination on the health and safety to area residents.

20. **RABIES TAG:** A metal, plastic or other permanent identification plate issued by a Licensed Veterinarian to identify a specific animal and to show that said animal has been vaccinated against rabies.

21. **RESTRAINT:** The term "restraint" shall mean:

- 21.1. The security of any animal by a leash or lead;
- 21.2. The animal is confined by a fence or other structure within the real property limits of its owner.
- 21.3. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

22. **SERIOUS BODILY INJURY:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. 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 and would require hospitalization without regard to whether the person actually sought medical treatment satisfies this definition.

23. **STRAY:** An animal that is improperly restrained and that wanders upon a public place, roadway, street, highway, or other property of another person.

24. VICIOUS ANIMAL: Any animal that constitutes a physical threat to human beings or other animals.

25. WILD ANIMAL: Any non-domesticated animal, other than livestock, that is native to a foreign country or of foreign origin or character and is not native of the United States or is found wild in the United States.

This shall include but not limited to:

25.1. Reptiles: venomous reptiles, any type of crocodile or alligator; or

25.2. Fish: piranha; or

25.3. Birds: condors, eagles, hawks, falcons, owls; or

25.4. Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, wolves, or wolf hybrids, dingoes, coyotes, and coyote mixes, jackals, weasels, martens, minks, badgers, skunks, bats, raccoons, pandas, bears, kangaroos, opossums, sloths, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, foxes, elephants, lynx, camels, squirrels; or

25.5. Any species of animal illegal to own under federal, State or local Law.

26. ZONOTIC DISEASE: An illness which is of animal origin and usually causes illness to other animals but which can be transmitted to and cause illness in humans.

SECTION 3 - ADOPTION OF THE RABIES CONTROL ACT OF 1981:

The Rabies Control Act of 1981, Texas and incorporated into this Ordinance as minimum standards; however to the extent that this Ordinance provides standards that are compatible with those standards and are equal to, or more stringent than the act or the standards and regulations adopted by the State Board of Health, this Ordinance prevails over the act and the standards and regulations.

1. VACCINATIONS:

1.1. All dogs or cats four months of age or older within the City shall be vaccinated against rabies. Such vaccinations shall be repeated at the intervals prescribed by rule of the Texas Department of State Health Services, or its successor.

1.2. A Veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate on a form approved by the Texas Department of State Health Services. The Veterinarian shall issue a metal tag with the Veterinarian's address and the year of the vaccination stamped thereon. Upon vaccination, the Veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certificate of vaccination. The Veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information.

1.2.1. The name, address and telephone number of the owner of the vaccinated dog or cat;

1.2.2. The date of vaccination;

1.2.3. The type of rabies vaccine used;

1.2.4. The year and number of the rabies tag; and

1.2.5. The breed, age, color and sex of the vaccinated dog or cat.

1.3. Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance.

1.4. It shall be unlawful for any person within the City to: own, keep, possess, harbor, have under their control or allow to remain upon their premises, any dog or cat which has not been vaccinated as required herein. Any person establishing residence within the City shall comply with this Ordinance within ten days of establishing such residency. Any dog or cat present within the City must comply with all provisions of this Ordinance with the exception of registration. Any dog or cat within the City for more than 10 days must also be licensed with the City. Animals taken from the City for less than 72 hours will be considered present for the entire intervening time period.

2. VACCINATION OF IMPOUNDED ANIMALS:

2.1. After impoundment, all animals which are required to be vaccinated by this Ordinance, which are redeemed by an owner from the animal shelter must be vaccinated against rabies in accordance with the requirements of this Ordinance, or the owner thereof must present a Veterinarian's certificate showing a current vaccination.

2.1.1. In order for an animal not vaccinated in accordance with the requirements of this Ordinance to be released, such owner must sign a Statement giving the name of the owner and the address where the animal is to be immediately taken and confined and stating the owner will have the animal vaccinated in accordance with the requirements of this Ordinance. Within seven days of the release of the animal, a certificate of vaccination shall be presented to the animal shelter. Failure to present the vaccination certificate to the animal shelter within the stated time shall be grounds for the immediate return of the animal to the animal shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor punishable with a minimum fine that shall be \$200.00.

2.2. PROOF OF VACCINATION; DISMISSAL; FINE:

2.2.1. The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this Ordinance. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the Veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a \$20.00 administrative fee.

2.3. LICENSE REQUIRED:

2.3.1. License issuance. All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the City shall be Licensed. Licenses shall be provided by the Animal Control Officer or his agent upon payment of the required fee for each animal. Before a City License will be issued for a cat or dog, the owner must present a certificate from a Licensed Veterinarian showing that such cat or dog has been vaccinated for rabies within the preceding 12 months. The owner shall state his/her name and address and the breed, color and sex of the animal to be licensed. Such License shall be valid for one year from date of issuance. Any owner previously found to be a habitual offender and having previously had their license revoked may be deemed not eligible for current licensure. Appeals of such ineligibility shall be those procedures set for revocation.

2.3.2. Tag and collar. Upon payment of the License fee, where applicable, the City shall issue to the owner a metal tag having stamped thereon an identification number. Such tag shall at

all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a request for another identification tag will be issued for a fee upon proof registration is up to date. Tags shall not be transferable from one animal to another and no refunds shall be made.

2.4. REVOCATION OF LICENSE, NOTICE OF HEARING AND APPEALS:

2.4.1. The Animal Control Officer may revoke any License with an affirmative finding on any one or more of the following fact issues:

- 2.4.1.1. That impoundment of the animal by the City more than two times during a 12 month period has occurred;
- 2.4.1.2. That more than two final convictions of a person for violations when such convictions relate to the animal being considered for revocation of its License certificate have been entered into the official court docket; or
- 2.4.1.3. Any combination of violations totaling three incidents; or
- 2.4.1.4. Upon a determination that the animal is a "non-licensable" dangerous animal, as defined herein.

2.4.2. Notice of revocation hearing setting the hearing date no sooner than ten days from the service or certified mailing shall be served in person to the owner or such notice deemed served in person to the owner or such notice deemed served when made by certified letter, return receipt requested and addressed to the last known mailing address of the animal's owner and deposited in the U.S. Mail.

2.4.3. Upon revoking the License of any animal, the Animal Control Officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U.S. Mail.

2.4.4. Upon the expiration of ten days after written notification of revocation is deposited in the U.S. Mail, as provided above, no animal which has had its License revoked shall be kept, maintained or harbored within the City limits and each 24 hour period shall constitute a separate violation.

2.4.5. Upon revocation of a License, owner of animal with revoked License shall notify the Animal Control Officer of the location to which the animal is being removed.

2.4.6. Appeals of revocation must be filed with the City Administrator within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the Statement "Notice of Appeal of Decision of the Animal Control Officer", contain a statement of the reason(s) for the appeal and signed by the animal owner making the appeal. The City Administrator or designee shall hear the appeal. At the hearing the formal rules of evidence do not apply. The hearing Officer shall make his / her decision on the basis of preponderance of the evidence presented. The hearing Officer may affirm, reverse, or modify the action of the Animal Control Officer, however a decision must be rendered within 30 days after the appeal. The decision of the hearing Officer is final.

2.5. COUNTERFEITING; DESTRUCTION OF TAGS, CERTIFICATES:

2.5.1. It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate or a License.

2.5.2. It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination

tag or certificate.

2.6. REPORTING RABID ANIMALS OR RABIES EXPOSURE:

2.6.1. It shall be the duty of all animal owners, Veterinarians, Physicians or any other person to report to the Animal Control Officer all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

2.6.2. Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall immediately report that incident to the Animal Control Officer.

2.6.3. Every Physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the City shall within twelve (12) hours report such treatment to the Animal Control Officer giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the Officer or agency may require.

2.6.4. Any Veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Animal Control Officer stating precisely where such animal may be found.

2.6.5. If a known suspected rabid animal bites or scratches a domestic animal, such incident shall also be reported immediately to the Animal Control Officer. State Law reference - Reports of Rabies, V.T.C.A., Health and Safety Code § 826.041.

2.7. ANIMAL BITES AND SCRATCH REPORTS; SUBMISSION TO QUARANTINE:

2.7.1. Report of victim: Any person who is bitten or scratched by an animal shall report that fact to the Animal Control Officer immediately. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the Animal Control Officer.

2.7.2. Report of owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his/her control and who has knowledge of a bite shall report to the Animal Control Officer immediately any incident where such animal bit or scratched any person.

2.7.3. Custody: The animal committing the act shall be submitted to the Animal Control Officer for quarantine. When the local Rabies Control Authority goes to the premises where the animal that bit or scratched any person is being kept, the Animal Control Officer may take immediate custody of the animal. Where suitable arrangements are made, the local Rabies Control Authority may permit the animal to be transferred to another location for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this Ordinance, a minimum fine of \$100.00 shall be imposed by the municipal court.

2.7.4. Observation: Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the Investigating Officer or responsible agency in compliance with State Law. Confinement shall be by impoundment in a State-approved animal shelter, or at a Veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.

2.7.5. Strays: Stray dogs and cats, or those animals whose owners cannot be located shall be

confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination at the victim's expense.

2.7.6. Surrender of animal: The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed.

2.7.7. Home quarantine: Home quarantine shall not be allowed.

2.7.8. Other animals: Any wild, exotic or dangerous animal that is considered high risk by State Law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by State Law.

2.7.9. Contents of required reports:

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the Animal Control Officer shall include, if the person making the report knows, the following information:

2.7.9.1. The location where the bite or scratch occurred.

2.7.9.2. The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.

2.7.9.3. The name and address of any person who was bitten or scratched.

2.7.9.4. The name and address of the person who owns, keeps harbors or has control over the premises where the animal committing the act normally can be found.

2.7.9.5. The names and addresses of the persons, who own, keep or harbor any other animal exposed to rabies can be found.

2.8. QUARANTINE AND RELEASE:

2.8.1. When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the animal shelter. Only with the prior approval of the local rabies control authority may the animal be held in quarantine at any other location.

2.8.2. Any animal quarantined shall be held for a period of ten days from the date of the bite. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.

2.8.3. Upon release of an animal from quarantine if the ownership of the animal is known, such owner has 48 hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided herein this Ordinance without waiting for an additional 72 hours. State Law reference - Quarantine of animals, V.T.C.A., Health and Safety Code §826.042 et seq.

2.9. SUBMISSION OF HEAD FOR RABIES DIAGNOSIS:

2.9.1. If the animal biting or scratching a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the Texas Department of State Health Services for rabies diagnosis.

2.9.2. If an animal being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the

Texas Department of State Health Services for rabies diagnosis. The head of each animal dying while in quarantine shall also be submitted for rabies diagnosis.

2.10. COST OF QUARANTINE OR RABIES DIAGNOSIS:

2.10.1. If, at the end of the required quarantine period, a quarantined animal is found to be free of rabies, the local Rabies Control Authority shall order the release of the animal to the owner if the rabies vaccination provisions of this Ordinance have been complied with and any impoundment fees have been paid by such owner.

2.10.2. If a head is submitted to the Texas Department of State Health Services for rabies diagnosis, the cost of removing the head and shipping it shall be paid by the owner of the animal.

2.10.3. The local Rabies Control Authority may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:

2.10.3.1. The animal has a rabies vaccination certificate,

2.10.3.2. The animal was on property under the control of the animal's owner when the bite or scratch occurred, and

2.10.3.3. The bite or scratch occurred when the animal was acting to defend its owner or the property, or after provocation.

2.10.4. If the animal is a wild animal, the local Rabies Control Authority may order that all fees be paid by the person who was bitten or scratched.

2.11. ENFORCEMENT:

For the purposes of discharging the duties imposed by this Ordinance and to enforce its provisions, any Peace Officer or Animal Control Officer is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the exhibitions by the owner of such animal or the License for such animal in accordance with the provisions of this Ordinance, to include random City-wide canvassing and checks for compliance with the Ordinance. The owner of any animal is required to produce the License and vaccination information for each animal in his/her ownership upon demand by an Animal Control Officer or Peace Officer.

SECTION 4 - LOCAL HEALTH AUTHORITY:

1. For purposes of the Rabies Control Act of 1981, Texas Health & Safety Code, Chapter 826, as amended, the City Building Official is designated as the Local Health Authority.

SECTION 5 - AUTHORITY; RECORDS:

1. THE PROCEDURES ESTABLISHED IN THIS ORDINANCE SHALL BE ADMINISTERED BY THE ANIMAL CONTROL OFFICER, WHO MAY REQUEST THE PERSONNEL, EQUIPMENT AND FACILITIES OF THE POLICE DEPARTMENT OR AUTHORIZED PERSONS, EQUIPMENT AND FACILITIES AS NECESSARY TO IMPLEMENT AND ENFORCE THE PROVISIONS OF THIS ORDINANCE.

2. **RECORDS REQUIRED:** The Animal Control Officer shall maintain for each Animal License Breeder Permit, Commercial Animal Establishment Permit, or impounded animal coming under the purview of this Ordinance;

- 2.1. A file that includes but is not limited to a record of all pertinent names, addresses, and date(s); copies of all correspondence, notices, applications, licenses, permits and certificates; and a record of all other related activities;
- 2.2. A picture of the animal may be supplied by the owner to help establish identity but is optional;
- 2.3. An accurate accounting of all fees and charges of funds and payments collected, including date of payment and identification of payee.

SECTION 6 - RESIDENTIAL ANIMAL LICENSES:

1. **LICENSE REQUIRED:** An Animal License is required in order to harbor any animal within the corporate limits of the City of Cottonwood Shores, Texas.

- 1.1. A Residential Animal License shall be obtained for each animal within the household, not to exceed four (4) dogs and cats total per household.
- 1.2. Citizens of Cottonwood Shores who wish to keep hen chickens must obtain a permit at City Hall and pay a \$10.00 annual fee as long as the coop /pen remains on the property, whether occupied or vacant. The coop / pen must be inspected and approved by the Cottonwood Shores Animal Control Official, prior to population. A one-time inspection fee of \$10.00 shall be charged to the applicant.
- 1.3. Other pet animals are treated on a case-by-case basis but farm animals and wild animals are not allowed to be kept within the City limits. Failure to have a valid, unexpired Animal Permit or License, or to comply with the requirements herein applicable to any holder of such permit or license, shall be deemed a violation of this Ordinance.

2. **LICENSE APPLICATION:** An applicant for a new license must apply on a form provided by the City, accompanied by the License Fee set out in Section 6 by the next business day following acquisition of the animal. Licenses are issued to individual property-owners, to be used on individual and contiguous properties. Multiple non-contiguous properties shall require multiple licenses.

3. **LICENSE FEE:**

- 3.1. The fees related to an Animal License are as follows:
- 3.2. Owner must pay an annual license fee of \$5.00 for each dog or cat licensed with the City.
- 3.3. Owner must pay an additional annual license fee of \$20.00 for each fertile dog or cat licensed with the City.
- 3.4. The reapplication fee for an animal is \$5.00 if they are non-fertile; \$20.00 for a fertile animal and must be paid if reapplication is made as a result of a lost Animal Tag.
- 3.5. Renewals after February 1 are considered late renewals and are subject to a late fee of \$2.50.
- 3.6. All fees paid under Section 6 are non-refundable.
- 3.7. A receipt for all fees paid under this Ordinance shall be furnished to the person paying the fee.
- 3.8. All fees collected under this Ordinance shall be deposited into the General Fund Account for Animal Control line item for the City.

4. **TERM OF LICENSE:**

- 4.1. Licenses expire on the last day of December of the year in which they are issued.
- 4.2. Renewals of existing licenses must be issued on or before the first day of February.

SECTION 7 - BREEDERS AND FOSTER CARE GIVERS:

1. **PERMIT REQUIRED:** A permit is required in order to operate as a Breeder or as a Foster Care Giver within the corporate limits of the City.
 - 1.1. Only members of a nationally or internationally recognized breeders club (AKC, UKC, etc.) shall be permitted to operate a Breeding Facility within the corporate limits of the City.
2. **PERMIT APPLICATION:** An applicant for a new permit, or a permit renewal or transfer, must make application on a form provided by the City, accompanied by the permit fee set out in Section 6.
3. **PERMIT FEE:** The fees related to Breeders and Foster Care Givers are as follows:
 - 3.1. An annual permit fee of \$75.00 to operate a Breeding and/ or Foster Care Facility;
 - 3.2. Renewals after November 1" are considered late renewals and are subject to a late fee of \$37.50.
 - 3.3. A reapplication fee of \$100.00 must be paid if reapplication is made as a result of a permit denial.
 - 3.4. All fees paid under Section 7 are non-refundable.
 - 3.5. A receipt for all fees paid under this Ordinance shall be furnished to the person paying the fee.
 - 3.6. All fees collected under this Ordinance shall be deposited into the General Fund Account Animal Control line item of the City.
4. **TERM OF PERMIT:**
 - 4.1. Permits expire on the last day of December of the year in which they are issued.
 - 4.2. Renewals of existing permits must be issued on or before the first day of February, subject to compliance with applicable provisions of this Ordinance.
 - 4.3. No Residential Animal Permit Fee shall be charged to a Breeder or Foster Care Giver; however, each animal harbored at the Breeding/Foster Care Facility for more than one hundred and twenty (120) days shall be issued an Animal Tag for identification purposes.
5. **MINIMUM STANDARDS:**
 - 5.1. All Breeding/Foster Care Facilities within the City shall meet and maintain the following minimum standards;
 - 5.1.1. Be located not closer than:
 - 5.1.2. Fifty (50) feet from any building used for residential purposes by anyone other than the person maintaining the Breeding/Foster Care Facility or the person's immediate family;
 - 5.1.3. One hundred (100) feet from any school, hospital, church, public park, restaurant, food store, or building where people are employed;
 - 5.1.4. Maintain premises and surrounding grounds in a clean and sanitary manner, in order to keep them free from accumulations of manure, decaying food and refuse;
 - 5.1.5. Utilize airtight receptacles or containers for the storage of manure, decaying food, and refuse;
 - 5.1.6. Dispose of solid waste in a manner that is not offensive or unsanitary;

5.1.7. Be constructed and maintained in order to prevent infestation by rats or other rodents or vermin. The presence of rats in a Breeding/Foster Care Facility is prima facie evidence that the facility is ill-maintained in violation of this Ordinance.

5.1.8. Any person who fails to comply with the requirements of this Ordinance shall be guilty of a Class C Misdemeanor and shall be fined as provided in SECTION 13 of this Ordinance.

5.2. In addition to the requirements of this section, all Breeding/Foster Care Facilities must comply with the City Zoning Ordinance and all other applicable Ordinances, Laws, and governmental rules and regulations.

5.3. Observation of an animal outside of an enclosure is prima facie evidence of an insufficient enclosure.

6. INSPECTIONS: It is a condition of the issuance of any permit authorized by this Ordinance that the Animal Control Officer is permitted, at any time, to inspect the Breeding/Foster Care Facility, its animals, and the property on which such establishment is located.

7. PERMIT REFUSAL OR REVOCATION:

7.1. A new or renewal permit may be refused, or an existing permit revoked if:

7.2. Permission for an inspection in accordance with the provisions of SECTION 7, Item 6. of this Ordinance is refused;

7.3. Upon inspection, the premises of a Breeding Facility are found:

7.3.1. Not to be in compliance with the minimum standards established in SECTION 7, Item 5 of this Ordinance;

7.3.2. To be in an unsanitary or offensive condition or in any condition affecting the health, safety, or general welfare of the public or the animals being maintained on the premises.

7.3.3. The person has falsified any information on the application for a permit;

7.3.4. The person has been convicted in a court having jurisdiction over these matters of;

7.3.4.1. The offense of cruelty to animals;

7.3.4.2. Any violation of this Ordinance;

7.3.4.3. Any other Law governing the protection and keeping of animals.

7.3.5. Upon the revocation of, or refusal to renew a Breeder/Foster Care Permit, the permit holder must remove all animals owned, kept, or harbored at such Breeding Facility within five (5) days.

7.3.6. Any person who is denied a permit or whose permit is revoked:

7.3.7. May not reapply for a period of 30 days from the date of the denial or revocation;

7.3.8. Will be considered to be a new applicant, unless reapplication is made within 180 days from the date of denial or revocation removes all animals owned, kept, or harbored at such Breeding Facility within five (5) days.

7.3.9. Notice of Refusal or Revocation.

7.3.10. Any person who is denied a permit or whose permit is revoked must be given notice of the denial or revocation.

7.3.10.1. The notice must:

7.3.10.1.1. Be dated and in writing;

7.3.10.1.2. State the reason for the denial or revocation;

7.3.10.1.3. Advise that a written request for an informal hearing to show cause why the permit should not have been denied or revoked must be made within five (5) working days of the date of the notice by posting the request to:

7.3.10.1.4. Municipal Judge, City of Cottonwood Shores, 3808 Cottonwood Drive, Cottonwood Shores, Texas 78657

7.3.10.1.5. Advise, if applicable, that the person must remove all animals within five (5) days from the date of the notice.

8. HEARING:

8.1. Timely filing of a written request for an informal hearing stays the denial or revocation of a permit until final action is taken by the Municipal Judge;

8.2. A permit will not be denied or revoked if, after a hearing by the Municipal Judge it is determined that the owner was not in violation of the Ordinance;

8.3. Upon the written request of an addressee of a notice in this Section, the Municipal Judge, shall conduct an informal hearing;

8.4. Written notice of the place, date, and time of such hearing shall be given to the person requesting the hearing, and the person must be given the opportunity to present any evidence that may be pertinent to the hearing;

8.5. The Municipal Judge must determine, after reviewing the evidence presented, whether the addressee was in fact in violation of the Ordinance, and make his or her ruling as set out in SECTION 7 of this Ordinance.

SECTION 8 - COMMERCIAL ANIMAL ESTABLISHMENTS:

1. **PERMIT REQUIRED:** A permit is required in order to operate a Commercial Animal Establishment within the corporate limits of the City.

2. **PERMIT APPLICATION:** An applicant for a new permit, or a permit renewal or transfer, must make application on a form provided by the City, accompanied by the permit fee set out in Section 6.

3. PERMIT FEE:

3.1. The fees related to a Commercial Animal Establishment Permit are as follows:

3.2. The owner of a Commercial Animal Establishment must pay by September 1 an annual permit fee of \$150.00 to operate the commercial animal establishment; however, the fee for permit applications made during the second half of a calendar year are \$75.00.

3.3. Renewals after November 1 are considered late renewals and are subject to a late fee of \$37.50.

3.4. A reapplication fee of \$175.00 must be paid if reapplication is made as a result of a permit denial.

3.5. All fees paid under Section 8 are non-refundable.

3.6. No permit fees are required of any government operated zoological park or any Veterinary hospital or clinic; however, facilities exempted from permit fees are not exempted from the requirement to obtain a permit.

3.7. A receipt for all fees paid under this Ordinance shall be furnished to the person paying the fee.

3.8. All fees collected under this Ordinance shall be deposited into the General Fund Account Animal Control line item of the City.

4. TERM OF PERMIT:

4.1. Permits expire on the last day of December of the year in which they are issued.

4.2. Renewals of existing permits must be issued on or before the first day of February, subject to compliance with applicable provisions of the Ordinance.

5. MINIMUM STANDARDS:

5.1. All Commercial Animal Establishments within the City shall meet and maintain the following minimum standards;

5.2. Be located not closer than:

5.3. Fifty (50) feet from any building used for residential purposes by anyone other than the person maintaining the commercial animal establishment the person's immediate family;

5.4. One hundred (100) feet from any school, hospital, church, public park, restaurant, food store, or building where people are employed;

5.5. Maintain premises and surrounding grounds in a clean and sanitary manner, in order to keep them free from accumulations of manure, decaying food and refuse;

5.6. Utilize airtight receptacles or containers for the storage of manure, decaying food, and refuse;

5.7. Dispose of solid waste in a manner that is not offensive or unsanitary.

5.8. Be constructed and maintained in order to prevent infestation by rats or other rodents or vermin.

The presence of rats in a Commercial Animal Establishment is prima facie evidence that the establishment is maintained in violation of this Ordinance.

6. ANY PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE SHALL BE GUILTY OF A CLASS C MISDEMEANOR AND SHALL BE FINED AS PROVIDED IN SECTION 13.

7. IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, ALL COMMERCIAL ANIMAL ESTABLISHMENTS MUST COMPLY WITH THE CITY ZONING ORDINANCE AND ALL OTHER APPLICABLE ORDINANCES, LAWS, AND GOVERNMENTAL RULES AND REGULATIONS.

8. INSPECTIONS:

8.1. It is a condition of the issuance of any permit authorized by this ordinance that the animal control officer is permitted, at any time, to inspect the commercial animal establishment, its animals, and the property on which such establishment is located.

9. PERMIT REFUSAL OR REVOCATION:

9.1. A new or renewal permit may be re-issued, or an existing permit may be revoked.

9.2. Permission for an inspection in accordance with the provisions of SECTION 8 of this Ordinance is refused;

9.3. Upon inspection, the premises of a Commercial Animal Establishment are found:

9.3.1. Not to be in compliance with the minimum standards established in SECTION 8 of this Ordinance;

9.3.2. To be in an unsanitary or offensive condition or in any condition affecting the health, safety, or general welfare of the public or the animals being maintained on the premises.

9.3.3. The person has falsified any information on the application for a permit;

9.3.4. The person has been convicted in a court having jurisdiction over these matters of:

- 9.3.4.1. The offense of cruelty to animals;
- 9.3.4.2. Any violation of this Ordinance;
- 9.3.4.3. Any other Law governing the protection and keeping of animals.

10. UPON THE REVOCATION OF, OR REFUSAL TO RENEW A COMMERCIAL ANIMAL ESTABLISHMENT PERMIT, THE PERMIT HOLDER MUST REMOVE ALL ANIMALS OWNED, KEPT, OR HARBORED AT SUCH COMMERCIAL ANIMAL ESTABLISHMENT WITHIN FIVE (5) DAYS:

- 10.1. Any person who is denied a permit or whose permit is revoked:
- 10.2. May not reapply for a period of 30 days from the date of the denial or revocation;
- 10.3. Will be considered to be a new applicant, unless reapplication is made within 180 days from the date of denial or revocation.

11. NOTICE OF REFUSAL OR REVOCATION:

- 11.1. Any person who is denied a permit or whose permit is revoked must be given notice of the denial or revocation.
- 11.2. The notice must:
 - 11.2.1. Be dated and in writing;
 - 11.2.2. State the reason for the denial or revocation.

SECTION 9 - INDIVIDUAL ANIMALS; RESIDENTIAL:

1. GENERAL AUTHORITY:

- 1.1. The Animal Control Officer or a designated representative will impound any domestic animal (pet) if the animal is found to be running at large within the City.
- 1.2. Owners may reclaim dogs and cats at the Police Station after payment of impoundment fees. (See SECTION 9, Item 4 of this Ordinance) and will be issued a citation for violation of City Ordinance. Other animals will be sent to an appropriate facility and the owner may claim at that facility.
- 1.3. After five (5) days, unclaimed dogs and cats captured at large will be transported to an established Animal Shelter who will initiate assessment of adoptability of the dog or cat;
- 1.4. Farm Animals within the City shall be reported to the Police, pursuant to the provisions of the Texas Agricultural Code, Chapter 142. The Police shall issue a Citation to the Owner of the Farm Animal(s) who shall become subject to the Fees/Fines as set forth in SECTION 13 of this Ordinance.
- 1.5. The Animal Control Officer, based on the reasonable belief (visual confirmation from public access or complaint from a neighbor within two hundred feet of the social impact zone) that the owner is in violation of this Ordinance, shall issue to any identifiable owner of the animal a Notice of Violation, or request that the Police issue a Citation. A Citation requires the appearance of the owner in Municipal Court for prosecution of the alleged violations of this Ordinance.
- 1.6. The Animal Control Officer may not release the animal into the owner's possession unless the animal is licensed with the City of Cottonwood Shores and the owner provides satisfactory evidence that the animal has had a rabies vaccination within the proceeding thirty-six (36) months for those animals that could be infected by rabies. If an animal that is susceptible to rabies is not vaccinated, the owner

will receive a citation and has fifteen (15) days in which to bring papers verifying vaccination to the Municipal Court.

1.7. The Animal Control Officer may not release an animal to an owner if there are any unresolved violations concerning the animal in detention.

1.8. All dogs/cats (with exception of puppies less than six (6) months) must be kept confined to the owner's physical property via means of fence, kennel, chain, or rope if fence or kennel enclosure is not available. If the pet is able to jump the existing fence, the owner shall install a 45-degree inward extension.

1.9. Should said owner take domestic animal (dog/cat) off private property for the sake of exercise or general enjoyment of animal; said animal must be kept on a leash, and must display current tags as outlined in Ordinance 2001.

1.10. Any animal kept outside must be provided with shelter, shade, water and food. If said animal is kept confined to any unfenced area, said animal must be secured by means that allows animal to move about freely without being tangled in a chain or rope. Accepted devices would be chain link dog run, kennel, harness line, retractable line or electronic perimeter devices. Enclosures must be a minimum of 150 square feet or each dog six (6) months of age or older. (Reference to chain Law Exhibit A, all restraints should be compliant to State Law.)

2. PROVISIONS FOR RESIDENTIAL CHICKEN KEEPING:

2.1. It shall be unlawful and a violation of this Ordinance for chickens to be allowed to run loose. Each bird shall constitute a separate offense and each occurrence within a 24 hour period shall constitute a separate offense.

2.2. All chickens shall be kept within a pen or coop that provides a minimum of four (4) square feet of ground space for every bird and shall not be closer than twenty (20) feet of the property line. A coop may be a moveable structure. Coops shall be constructed according to generally accepted building practices. Penning area, if used, shall not exceed 160 square feet (excluding coop) and is subject to proximity rules as Stated above.

2.3. Three (3) chickens per lot (fifty feet by 100 feet) are allowed with a maximum of ten (10) birds per permit. The keeping of chickens is not allowed at duplex or multi-family residential structures.

2.4. Roosters are prohibited.

2.5. Coops and pens must be kept in good repair and in sanitary condition. Unsanitary conditions may result in citation and revocation of permit for three months for a first offense and one year for subsequent violations. Sanitary conditions are described in the Public Nuisance Ordinance 8007, and succeeding Ordinances. (Permit revocation is governed by language in Section 7, Paragraph 9.3.10 and following this Ordinance 2001).

2.6. Existing chickens shall be grandfathered by the owner's application for permit and payment of associated fees, as required by all seeking permit; granted that the fee is paid within thirty days of the enactment of this Ordinance. Inspection of the premises shall also be required and will incur the same on-time inspection fee, as required by all who seek to keep chickens within the City limits of Cottonwood Shores.

3. IMPOUNDMENT: The City will impound a stray animal for not more than 5 days at the facility behind the Police Department

3.1. The owner of an impounded animal may not take possession of the impounded animal until all fees and charges incurred during the impoundment have been paid in full.

4. FEES/FINES IMPOSED:

4.1. The following fees will be charged by the City and collected by the Court Clerk in accordance with this Ordinance for each dog or cat impounded hereunder:

4.2. An impoundment fee of \$15.00 for the first offense within a twelve (12) month period;

4.3. An impoundment fee of \$25.00 for the second offense within a twelve (12) month period;

4.4. For all animals impounded twice during the previous twelve (12) month period, the fees shall be \$25.00 multiplied by the number of times the animal has been impounded during the previous twelve (12) month period but not exceeding five hundred (\$500.00) dollars;

4.5. A fee of \$7.50 for each 24-hour holding period;

4.6. Court cost as determined by the Municipal Judge.

4.7. All animals will be treated on a case-by-case basis with the appropriate fees and fines determined by costs to the City and determination by the Municipal Judge.

5. FEES COLLECTED:

5.1. All fees and charges incurred under this section will be charged against and are the obligation of the owner of an impounded animal, regardless of the disposition of the animal.

5.2. A receipt for all fees paid under this Ordinance shall be furnished to the person paying the fees.

5.3. All fees collected under this Ordinance shall be deposited into the General Fund Animal Control line item Account of the City.

SECTION 10 - PROHIBITIONS:

1. IT IS A VIOLATION OF THIS ORDINANCE TO:

1.1. Cause a Public Nuisance as defined by the City of Cottonwood Shores Ordinance 8007 and its successors;

1.2. Own or operate a Breeding/Foster Care Facility or Commercial Animal Establishment without having in force or affect a permit issued in accordance with this Ordinance;

1.3. Allow an animal to run at large;

1.4. Fail to keep an animal under restraint and to exercise proper care and control of an animal to prevent it from becoming a public nuisance;

1.5. Tamper with any trap or animal-catching device set out by the Animal Control Officer or a designated representative;

1.5.1. Only humane live-animal traps may be used for capturing animals roaming, unrestrained in the City with the exception of governmental agencies and entities as permitted by State Law.

1.6. Keep within the City an animal subject to contracting rabies which is over the age of four (4) months and fail to:

1.6.1. Have the animal vaccinated for rabies as provided by State Law;

1.6.2. Affix to the animal by either a collar or a harness the current rabies tag when the animal is not on the property of the owner.

1.7. Keep, maintain, use, or have a dangerous, vicious, or wild animal.

1.8. Interfere with, hinder, or molest any City employee in the performance of the employee's duties under this Ordinance.

1.9. Shelter, harbor or own more than a total of four (4) pets per household. Persons known to shelter, harbor or own more than four (4) pets at the time this Ordinance is passed, shall upon the demise of the animals, adhere to the total four (4) rule. Proof that these dogs and cats were owned by the resident must be shown by providing a City registration dated on or before last day of September for each dog and cat or a violation will be cited.

1.10. Newborn animals of less than 120 days of age are not included in the count.

1.11. Farm animals, as per definitions, are prohibited; however, assessment of community impact for permitting farm animals (as defined), shall be determined by consultation with Mayor, Code Enforcement Official and the City Secretary. Any appeal to the decision made under this section shall be made to the City Council and will require a majority vote to overturn.

1.12. It shall be an offense for an animal, kept by a citizen within Cottonwood Shores, to bite a person or other animal.

2. STATE OF TEXAS HOUSE BILL 1411 IS HEREBY ADOPTED IN FULL. (See Exhibit A)

SECTION 11 - DANGEROUS ANIMALS:

1. PURPOSE OF ORDINANCE:

It is the intention of this Ordinance to provide a means of dealing with an animal that is dangerous or, by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this Ordinance and in implementing its provisions, the Animal Control Officer shall recognize the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal. It is also the intention of this Ordinance to provide public safety regarding dangerous wild animals and other potentially dangerous non-domesticated animals, as well as, providing avenues for permitting the safe exhibition of certain animals for public entertainment.

1.1. Dangerous animals:

1.1.1. A dangerous animal shall be defined as an animal which:

1.1.1.1. Has inflicted injury on a human being without provocation on public or private property; or

1.1.1.2. Has killed or severely injured a domestic animal without provocation while off the owner's property; or

1.1.1.3. Is trained or harbored for fighting which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting; or

1.1.1.4. Is a warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the Texas Department of Health (see prohibited animals below); or

1.1.1.5. Is a hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; or

1.1.1.6. Is a venomous or carnivorous fish or reptile or any fish or reptile that grows over six feet in length (see prohibited animals below).

1.1.2. If an animal acts or is defined as Stated above, the Animal Control Officer shall impound the animal immediately if it is at large; or, if it is in the possession of some person, the Animal Control Officer may issue a notice requiring immediate remedial or safeguard measures be taken, or if necessary for public safety, that the animal be taken to a designated location for impoundment. The form of such notice shall be provided for by policy. An animal which is impounded shall not be released until a final determination is made on the disposition of the animal.

1.2. If the Animal Control Officer determines that any animal acts as, or is, deemed herein this Ordinance as a dangerous animal, the Animal Control Officer shall issue a notice to the owner clearly stating the animal's actions or that by definition the animal is determined to be a dangerous animal, such notice may require remedial measures to be taken if appropriate. The notice, the form of which shall be provided for by policy, shall be given to the owner by personal service or by certified mail, return receipt requested. If the dangerous animal is of the types defined in SECTION 11, Item 1.1 herein this Ordinance, the possession of which is subject to an offense under (see prohibited animals below), enforcement shall be under that Ordinance herein under this Section. The owner may file a written appeal to this notice clearly stating the reason(s) for disputing the remedial action(s) or the determination of the animal being deemed a dangerous animal. Such appeals shall be directed to the municipal court within 15 days of service. If no written appeal is received by the municipal court within the prescribed appeal period [the] dangerous animal determination of the Animal Control Officer is presumed to be valid. If the Animal Control Officer's determination is appealed, the municipal court judge shall conduct a hearing to determine the validity of the animal being determined a dangerous animal. The municipal court judge shall make his/her decision on the basis of preponderance of the evidence presented. The municipal court judge may; 1) sustain the determination of dangerous animal and/ or sustain or modify remedial requirements; or 2) unfound the determination and declare the animal as non-dangerous. The decision of the municipal court judge shall be final. If after the appeal hearing the animal is deemed non-dangerous, the owner shall only pay the minimum "at large" impound fee and the animal released. If not impounded "at large" the owner shall pay no impound fee(s).

1.3. It shall be unlawful for the owner or harbinger of an animal determined a dangerous animal under this Ordinance, to permit continued or future "at large" behavior or to disregard valid remedial requirements imposed or safeguard requirements imposed under the processes described herein this Ordinance. Any person who shall violate this provision shall be deemed guilty of an offense.

1.4. If the owner of a dangerous animal cannot be determined after reasonable efforts to do so and after holding the animal for 72 hours, the animal may be disposed of in a humane manner. If the owner of a dangerous animal which has been impounded cannot be located for the delivery service of the notice required herein either in person or by mail, the animal may be disposed of in a humane manner after all reasonable effort has been made to locate such owner.

2. POTENTIALLY DANGEROUS ANIMALS:

2.1. If the Animal Control Officer believes that an animal has exhibited behavior indicating that it represents a potential danger, the Animal Control Officer may initiate an investigation to determine whether or not the animal is potentially dangerous.

2.2. An animal may be defined as "potentially dangerous" if it has engaged in the following conduct:

2.2.1. When unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or

2.2.2. Has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.

2.3. If an animal acts or is defined as Stated in SECTION 11, Item 2.2 of this Ordinance, the Animal Control Officer shall impound the animal immediately if it is at large; or if it is in the possession of some person, the Animal Control authority shall determine the ownership and owners address of such animal.

2.3.1. Written notice and appeal of this determination of potentially dangerous animal and any remedial provisions prescribed shall follow the same processes set-out in SECTION 11, Items 1.2, 1.3 and 1.4 of this Ordinance for dangerous animals. Only "at large" potentially dangerous animals shall be impounded with the appropriate fee paid for the animal's release, no extended impound period awaiting final disposition shall be required.

2.3.2. It shall be unlawful for the owner or harbinger of an animal determined a potentially dangerous animal under this section to permit continued or future "at large" behavior. Any person who shall violate this provision shall be deemed guilty of an offense.

3. EXCEPTIONS:

3.1. The owner of an animal who bites a person or other animal may not be held liable, nor may an animal may be declared dangerous or potentially dangerous if the threat, injury or damage was sustained by a person who at the time:

3.1.1. Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal; or

3.1.2. Was tormenting, abusing or assaulting the animal or has in the past been observed or reported to have tormented, abused or assaulted the animal and the animal was not at large at the time of the offense; or

3.1.3. Was committing or attempting to commit a crime.

3.1.4. If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or

3.1.5. If the dog was injured and responding to pain.

4. THE PROVISIONS OF THIS ORDINANCE SHALL NOT APPLY TO ANIMALS UNDER THE CONTROL OF A GOVERNMENTAL LAW ENFORCEMENT, CORRECTIONAL, OR MILITARY AGENCY.

5. THE PROVISIONS OF THIS ORDINANCE SHALL NOT APPLY TO A DOG WHOSE CONDUCT HAS BROUGHT IT WITHIN THE COVERAGE OF THE V.T.C.A., HEALTH AND SAFETY CODE CHAPTER 822, TO THE EXTENT THAT SAID CHAPTER PREEMPTS LOCAL REGULATION OF THE DOG'S CONDUCT.

6. "NON-LICENSABLE" DANGEROUS DOGS. No person shall own or harbor a "non-licensable" dangerous dog within the City. Such an animal may be impounded as a public nuisance. If impoundment of such "non-licensable" dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harbinger. If an attempt is made to impound a "non-licensable" dangerous dog from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given 24 hours' notice that if the animal is not surrendered to the Animal Control Officer for impoundment

within said 24 hour period, then the animal will be destroyed wherever it is found. After this notice, the “non-licensable” dangerous dog may be destroyed wherever it is found. After this notice, the “non-licensable” dangerous dog may be destroyed during an attempt to impound, if impoundment is attempted.

6.1. Determination of “non-licensable” dangerous dog: A dog is determined to be a

“non-licensable” dangerous dog if it meets the requirements set out in foregoing section, and:

6.1.1. The owner of the dog in question knows of such an attack as defined in this Ordinance; or

6.1.2. The owner is notified by the Animal Control Officer that the dog in question is a “non-licensable” dangerous dog. The Animal Control Officer may find and determine a dog to be a “non-licensable” dangerous dog if:

6.1.3. Upon receipt of an affidavit of complaint signed by one or more individuals made under oath before an individual authorized by Law to take sworn Statements, setting forth an act described in foregoing Ordinance of this Ordinance and set forth as follows:

6.1.3.1. Nature and the date of the act described in foregoing Ordinance,

6.1.3.2. The location of the event,

6.1.3.3. The name and address of the owner of the animal in question, and

6.1.3.4. The description of the animal in question.

6.1.4. The Animal Control Officer has been notified by another agency that the dog has been determined to be dangerous under the State Law.

6.2. Notification of declaration of licensed dangerous dog:

6.2.1. Within five working days of determining a dog to be a licensed dangerous dog, if written notification cannot be given personally to the owner of the dog, the Animal Control Officer will notify, by certified mail, return receipt requested, the person owning the animal of its designation as a “licensable” dangerous dog. In the event that certified mail, return receipt requested, cannot be delivered, the Animal Control Officer may then give notice by ordinary mail.

6.2.2. If the dog is determined to be “licensable” under this title, the notice shall inform the owner of the dog that he/she may appeal the determination to municipal court no later than 15 days after the date the owner is notified of the determination. Failure to appeal the determination of “licensable” dangerous dog within the 15-day period shall result in the Animal Control Officer's determination becoming final.

6.2.3. Upon determination by the Animal Control Officer, that the dog is dangerous, the owners shall be required to secure the animal immediately within an enclosure that meets the requirements of this Ordinance. If the owner fails to do so, the Animal Control Officer shall impound the dog until such enclosure is provided.

6.2.4. The Animal Control Officer shall immediately notify, in writing, adjacent and contiguous property owners of such determination.

6.3. Status of dog on appeal: Pending the outcome of the appeal, the animal must be confined at a Licensed Veterinary clinic or at the animal shelter, the cost of which shall be borne by the owner of the dog in question. If the dog in question is not in the possession of the animal shelter or a Veterinary clinic at the time of the determination, the owner must surrender the dog to the Animal Control Officer when ordered to do so. If the owner fails to immediately surrender the dog to the Animal Control Officer shall have the right to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the City limits. If the dog cannot be taken into custody by the Animal Control Officer, it may be taken into custody by the Animal Control Officer; it may be taken into custody under a search warrant for contraband issued by the municipal judge.

6.4. Defense to determination of “licensable” dangerous dog: The defenses identified in

Ordinance shall serve as defenses to the determination of a dog as a “licensable” dangerous dog and to the prosecution of the owner of that dog.

6.5. Disposition of a “licensable” dangerous dog:

6.5.1. If the municipal court upholds the determination by the Animal Control Officer, the owner shall, no later than ten days after the hearing, comply with the provisions of this Ordinance for the keeping of a licensed dangerous dog in the City and the dog shall be returned to the owner provided all costs involved in the impoundment, holding and medical treatment of the dog are paid.

6.5.2. In the event the municipal court reverses that determination, the dog in question shall be returned to or released to its owner provided the owner has paid all Veterinary medical costs administered to such dog while in the custody of the Animal Control Officer.

6.5.3. The municipal court may order make any reasonable orders for the dog consistent with this Ordinance and Chapter 822 of the Health and Safety Code.

6.5.4. If the Animal Control Officer has information or belief, or has determined that a court of competent jurisdiction has ever made or upheld a determination or declaration that a dog is dangerous, or if the Animal Control Officer has determined that a declaration or determination of dangerous dog became final for failure to appeal or any other reason, under previous or other Ordinances of this City or other cities or State Law, the animal control Officer shall notify the person owning or keeping such dog in writing that the owner shall no later than ten days after the date of the notice comply with the provisions of this Ordinance for the keeping of a licensed dangerous dog in the City of Cottonwood Shores.

7. REQUIREMENTS FOR LICENSEINGAND POSSESSION OF LICENSED DANGEROUS DOG:

7.1 The owner must license the dog with the Animal Control Officer, and pay the fees as required by State Law not later than 30 days after the owner is notified that the dog is dangerous. The license shall not be transferable and shall expire last day of September. The Animal Control Officer shall provide to the owner of the licensed dangerous dog a tag which must be placed on the dog's collar and worn at all times.

7.2. The owner must comply with the following to license the dog:

7.2.1. Present proof of liability insurance or financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog;

7.2.2. Present proof of current rabies vaccination of the licensable dangerous dog;

7.2.3. Present proof that the dog has been altered so as to prevent reproduction;

7.2.4. Provide a proper enclosure which must be inspected and approved by the Animal Control Officer;

7.2.5. Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the owner shall conspicuously display a sign, with a symbol warning, understandable by small children, of the presence of a dangerous dog; and

7.2.6. Further identification may be required and designated by the order of the City.

7.3. When the licensed dangerous dog is taken outside the approved proper enclosure, the animal must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting a person or other animal and the dog must be restrained by a

substantial chain or cable leash having a minimum tensile strength of 1,000 pounds and not to exceed six feet in length.

7.4. Prior to selling or moving the licensed dangerous dog either inside or outside the City limits, the owner must notify the Animal Control Officer of his/her intentions. In the event the dog is moved permanently outside the City limits the owner must comply with the State Law in notifying the Animal Control division in control of the area into which the dog has been moved.

7.5. Anyone bringing a dog into the City limits that have been declared dangerous by another Animal Control authority must notify the Animal Control Officer of the new address where the dog will be kept and upon presentation of the dog's prior registration tag that has not expired shall pay a fee set by the City council, and the Animal Control Officer shall issue a new tag to be placed on the dog's collar. This owner must also comply, with all requirements set out in this Ordinance.

7.6. Penalties for violation of this Ordinance relating to a licensed dangerous dog:

7.6.1. It shall be a violation of this Ordinance if the person is the owner of a licensed dangerous dog and the dog makes an unprovoked attack on another person outside the dog's proper enclosure and causes bodily injury to the other person whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

7.6.2. It shall be a violation of this Ordinance if the person is the owner of a licensed dangerous dog and dog kills or wounds a domestic animal while outside the dog's proper enclosure whether or not the dog was on a leash and securely muzzled or whether or not the dog escaped without fault of the owner.

7.6.3. It shall be a violation of this Ordinance if the person is the owner of a licensed dangerous dog and that dog attacks a person who gains access to the proper enclosure due to negligence on the part of the owner or the owner's agent. This negligence shall include a failure to comply with the notification of ownership of dangerous dog through posting of warning signs in accordance with this Ordinance.

7.6.4. In addition to criminal prosecution, a person who commits an offense under this Ordinance is liable for a civil penalty not to exceed \$10,000.00. The City Attorney of Cottonwood Shores may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this Ordinance shall be retained by the City.

7.7. Exhibitions of certain animals prohibited: No person shall keep, or permit to be kept, on his premises any wild or dangerous animal for display or for exhibition purposes, whether gratuitously or for a fee. This Ordinance shall not be construed so as to apply to a zoo or circus, as listed in definition.

7.8. Prohibited animals: No person may possess a prohibited animal within the City limits. Such prohibited animals 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 or any hybrid of these animals or such other class of animals as may be determined to be dangerous by Animal Control Officer or any other dangerous animal which may be added in the future to the list as a high risk animal in the Texas Rabies Control Act, as amended:

7.8.1. Class mammalia: 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); and order Chiroptera (such as bats).

7.8.2. Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies

(Crotiladae, Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators and their allies (order Loricata) and nonvenomous reptiles over six feet in length.

7.8.3. Brown recluse (*Loxosceles*) and black widow (*Lactrodectus*) spiders.

7.8.4. Prohibited dangerous wild and other nondomestic animals: The animals specified in this section as dangerous wild animals shall be deemed as contraband and no person may possess any individual species and/ or subspecies of the following dangerous wild animals: Order Carnivora, family Felidae (such as lions, tigers, jaguars, leopards and cougars, ocelot, lynx, bob cat, and cheetahs), hyenas, bears, lesser pandas, ferrets from natural habitats, order Primata (such as monkeys, chimpanzees, and apes). No person may possess any individual species of the following animals: Antelope, binturong, miniature pigs, elephants, Vietnamese pot belly pigs, or such other nondomestic species of animal not common to this area.

7.8.5. Violation of Ordinance 2001 SECTION 11, Item 7.7 relating to various prohibited animals:

7.8.5.1. It shall be a violation of this Ordinance if a person keeps or permits to be kept on his premises any wild or dangerous animal for display or exhibition purposes and each day of noncompliance shall constitute a separate offense.

7.8.5.2. It shall be a violation of this Ordinance if a person possesses an animal prohibited under Ordinance 2001 SECTION 11, Item 7.7, and each day of violation shall constitute a separate offense.

7.8.5.3 In addition to any criminal penalty, if a person possesses an animal classified in SECTION 11, Item 7.8.4 as a "dangerous wild animal" in violation of this Ordinance, that person is liable for a civil penalty of not less than \$200.00 and not more than \$2,000.00 for each dangerous wild animal in violation and for each day the violation continues. The City Attorney may bring suit to collect said penalty and costs allowed by statute and such penalty shall be retained by the City.

7.8.5.4. It shall be a violation of this Ordinance to operate a circus or zoo without a valid permit issued pursuant to this article and each day of operation shall constitute a separate offense. In addition to any criminal penalty, if the circus or zoo at the time of the violation is in possession of any "dangerous wild animal", the liability for the civil penalty detailed above, herein may be imposed for each dangerous wild animal possessed.

8. NON-APPLICABILITY:

8.1. This Ordinance does not apply to:

8.1.1. Zoological parks accredited by the American Association of Zoological Parks and Aquariums;

8.1.2. Federally Licensed research institutions;

8.1.3. Any government agency or its employee who uses the animals for an agency related to education, propagation, or behavior program; or

8.1.4. Anyone holding a valid rehabilitation permits from the Texas Parks and Wildlife Department but only for animals which are in rehabilitation and scheduled to be released to the wild.

8.1.5. A research facility as defined by Animal Welfare Act (1 U.S.C. § 2132) and Licensed by the U.S. Secretary of Agriculture.

8.1.6. A dangerous wild animal in the custody and control of a circus company or other similar entity not based in this City and the animal is "in transit".

8.1.7. An animal subject to this Ordinance in the temporary custody and control of a television or motion picture production company during production activities.

8.1.8. Any federal, State, or local governmental entity acting in official capacity and engaging in zoological activities.

8.2. Other than the provisions of this Ordinance regarding dangerous animals, this Ordinance does not apply to an animal that is an FFA or 4-H project and that is and remains in good standing and on an official list of such authorized projects filed with the City by the authorized sponsor of such FFA or 4-H program; provided that such exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the mayor that such animal is not being maintained and cared for in compliance with the standards of such FFA or 4-H program, or is, otherwise, no longer an authorized FFA or 4-H project.

8.3. Guard dogs:

8.3.1. All dogs which are trained and kept solely for the protection of persons and property, residential, commercial or personal, shall be licensed with the Animal Control authority in the same manner and fee as domestic dogs kept for pets, however, a Statement of the dog's intended use as a guard dog must be declared. The utilization of a guard dog shall require that the area or premises in which such dog is confined be conspicuously posted with warning signs at all entrances bearing letters not less than two inches high, stating "Guard Dog on Premises."

8.3.2. The area of premises may be subject to inspection by the Animal Control Officer to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent its coming in contact with the public and that the proper "public" notice signs are posted.

SECTION 12 - DISPOSAL OF DEAD ANIMALS:

1. It shall be the owner's responsibility to remove and properly dispose of a deceased animal within twenty-four (24) hours of the death of the animal. If requested by the owner, the City Animal Control Officer will pick up a deceased domestic animal if the animal has been placed in a sealed clear plastic bag and left in a convenient place adjacent to a public roadway, or at curbside. Last known licensed owner will incur billings.

2. The City Animal Control Officer or other designee by the City shall have the authority to take custody of and dispose of all deceased animals found on any roadway, street, highway, and/or public or private property where the owner cannot otherwise be identified.

SECTION 13 - PENALTY:

Any person found to be violating this Ordinance is guilty of a misdemeanor and, upon conviction, is subject to a fine not less than \$100.00 and not to exceed \$2,000.00 per offense. Each day of such violation constitutes a separate offense.

SECTION 14 - SEVERABILITY:

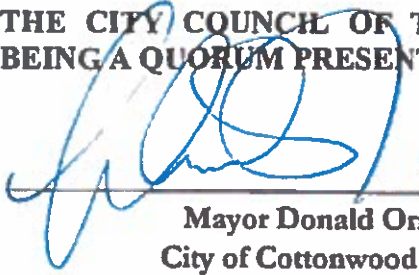
ORIGINAL

Should any word, phrase, sentence, paragraph, or portion of this Ordinance be determined by a court of competent jurisdiction to be invalid for any reason then in that event, such invalidity shall not affect the remaining portions of the Ordinance.

SECTION 15 - EFFECTIVE DATE:

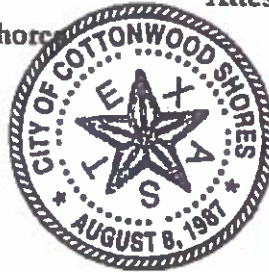
This Ordinance shall become effective upon passage and adoption in accordance with State Law.

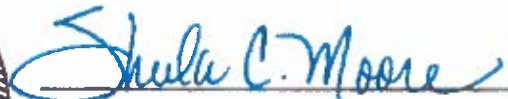
AMENDED ORDINANCE PASSED THIS THE 18th DAY OF JUNE 2015, AT A MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD SHORES, TEXAS, THERE BEING A QUORUM PRESENT, BY 5 YEAS AND 0 NAYS.



Mayor Donald Orr
City of Cottonwood Shores

Attest:





Sheila C. Moore
City Administrator/City Secretary

EXHIBIT A

State of Texas, House Bill # 1411

Section 821.077 -- Unlawful Restraint of Dog.

1. Restraint: Chain, rope, tether, leash, cable or other device that attaches a dog to a stationary object or trolley system.
2. An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
 1. between the hours of 10 pm and 6 am;
 2. within 500 feet of the premises of a school; or
 3. in the case of extreme weather conditions, including condition in which:
 1. the actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 2. a heat advisory has been issued by a local or State authority or jurisdiction, or;
 3. a hurricane, tropical storm, or tornado warning has been issued for the Jurisdiction by The National Weather Service.
3. A restraint unreasonably limits a dog's movement if the restraint:
 1. uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
 2. has to be 5 times the length of the dog, as measures from the tip of the dog's nose to the base of the dog's tail; or 10 feet;
 3. is in an unsafe condition; or
 4. causes injury to the dog.
4. Section 821.078 -- Exceptions:
 1. a dog restrained to a running line, pulley or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;
 2. a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, State, or local authority or jurisdiction;
 3. a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
 4. a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid License issued by this State, if the activity for which the License issued is associated with the use or presence of a dog;
 5. a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
 6. a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.