

ORDINANCE NO. 02022-6

**AN ORDINANCE AMENDING CHAPTER 2, ANIMAL CONTROL, OF
THE CITY OF DAYTON CODE OF ORDINANCES; ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, the City of Dayton is a Texas municipal corporation existing under the laws of the State of Texas; and

WHEREAS, the City of Dayton currently has an ordinance regarding Animal Control within the city limits; and

WHEREAS, the City of Dayton finds it necessary and desirable to amend its Code of Ordinances relative to Animal Control within the City limits.

NOW THEREFORE, BE IT ORDAINED by the City of Dayton, Liberty County, Texas:

SECTION 1. That Chapter 2, Animal Control, of the Code of Ordinances of the City of Dayton, Texas shall be amended to read as follows:

**CHAPTER 2
ANIMAL CONTROL**

ARTICLE 2.100 GENERAL PROVISIONS

Sec. 2.101. Definitions.

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

Adequate shelter means a sturdy structure:

- (A) that provides the dog protection from inclement weather; and
- (B) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

Animal includes all living non-human creatures, domestic or wild, including livestock.

Animal control officer means the individual appointed by the chief of police to act in that capacity, or any officer of the city police department.

At large means not under restraint.

Attack means an unprovoked attack in an aggressive manner on a human in which the victim suffered a scratch, abrasion, bruise, or other physical injury; or on a domestic animal that causes death or injury that requires veterinary treatment.

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

Chief of police means the chief of police for the city.

City manager means the city manager for the city or his authorized designee.

Collar means a band of material specifically designed to be placed around the neck of a dog.

Confined means securely confined indoors, or within an automobile or other vehicle solely for transportation and transported in a humane manner or confined in a securely enclosed and locked pen or structure or fence, electronic or otherwise, upon the premises of the owner of such animal. However, under no circumstances is an electronic or similar fence sufficient to confine an animal in heat or a vicious dog.

Dangerous dog means an animal that:

- (1) Makes an unprovoked attack on a person or another dog 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
- (2) 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.

Dog means a domesticated animal that is a member of the canine family.

Feral Cats are unsocialized outdoor cats who have either never had any physical contact with humans, or human contact has diminished over enough time that he/she is no longer accustomed to it.

Fowl means any wild or domesticated bird.

Guard or attack dog means a dog trained to attack on command or to protect persons or property by attacking or threatening to attack, and who will cease to attack upon command.

Harness means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

Impoundment means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, puppies, cats, kittens or any other animal typically kept on such premises.

Livestock means all farm animals, including, but not limited to, cattle, horses, pigs, sheep, goats, donkeys, and mules.

Microchip means an identifying integrated circuit placed under the skin of an animal, which uses passive RFID (radio frequency identification) technology to identify the animal.

Muzzle means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or animal. Such device shall not interfere with the animal's ability to breathe.

Owner means any person having a right of property in an animal, or who keeps or harbors an animal or who has it in his or her care, or acts as its custodian, or who permits an animal to remain on or about the person's premises. If an animal has more than one owner, all owners are jointly and severally liable for the acts or omissions of an owner.

Quarantine means the humane confinement of an animal for the observation of symptoms for rabies, or other disease, in a secure enclosure that prevents the animal from coming into unplanned contact with any other animal or human being.

Restraint.

- (1) For all animals, the term "restraint" means on the premises of the owner and either (i) in the owner's immediate presence and control and the owner is physically capable of restraining the animal or (ii) confined by a secure physical barrier (e.g., a fence, pen, or electronic fence in good working order), rope, cable, tether, leash or other device that attaches a dog to a stationary object or trolley system; or if off the premises of the owner, secured by leash or lead under the control of a person physically capable of restraining the animal and obedient to that person's commands. In the situation of duplexes, apartment complexes or other multi-residential areas, an animal is not under restraint if the animal is confined within a fence or other physical barrier that encloses the area that is common ground to all tenants, and the animal must be restrained by other allowable methods.
- (2) A dog or puppy may be restrained by a fixed-point rope, cable or tether for no more than eight hours in a 24-hour period.
- (3) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.
- (4) Any rope, cable or tether must be attached to a properly fitting collar or harness worn by the dog or puppy.

Secure enclosure means a fenced area that is:

- (1) Locked;
- (2) Capable of preventing the entry of the general public, including children;

- (3) Capable of preventing the escape or release of a dog;
- (4) Clearly marked as containing a dangerous dog;
- (5) Constructed with vertical boards six feet in length or higher if deemed appropriate by the animal control officer based upon the size of the dog to be kept in the fenced area and its anticipated ability to escape;
- (6) A structure or pen built upon a concrete slab with four sides and a top located in a fenced area at least five feet from the fence; or
- (7) A residential dwelling with all doors and windows closed.

Serious bodily injury means 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.

Severe attack means an unprovoked attack upon a human being in which the victim suffered a severe bite or was shaken violently, and which causes serious physical trauma or death.

Shelter means a clean and sturdy structure that provides an animal with protection from rain, hail, sleet, snow, subfreezing temperatures, sun and excessive heat and is large enough to allow the animal to stand erect, sit, turn around, and lie down in a normal manner.

Stray cat means a cat who was socialized to people at some point in his/her life, but has left or lost her home, or was abandoned, and no longer has regular human contact.

Unprovoked means with respect to an attack or attempt to attack by a dog, means that the dog was not hit, kicked, or struck by a person with any object or part of the attacked person's body nor was any part of the body pulled, pinched, or squeezed or in any other manner provoked by the person attacked.

Wild animal means any live monkey, non-human primate, raccoon, skunk, deer, wildcat, possum, fox, leopard, panther, tiger, lion, lynx, bear, or any other warm-blooded animal that can normally be found in the wild state, and poisonous snakes and reptiles. The term "wild animal" does not include domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), livestock, rodents, nonpoisonous snakes and reptiles, and captive-bred species of common cage birds.

Sec. 2.102. Penalty.

Failure to comply with any provision of this chapter shall constitute a violation. Upon conviction, a person violating any provision of this chapter shall be fined in an amount not less than \$1.00 nor more than \$500.00. Each day a violation of any provision contained herein exists shall constitute a separate offense.

Sec. 2.103. Right of entry of animal control officer.

- (a) The animal control authority is specifically authorized to enter onto private property, other than a private dwelling, for the purpose of impoundment of an animal observed to be or to have been running at large or for the purpose of issuance of a citation to the owner of the animal or both.
- (b) The animal control authority shall have authority, in accordance with the provisions of chapter 821 of the Texas Health and Safety Code, to obtain a warrant for seizure and impoundment of any animal the subject of an investigation for cruel treatment as defined by chapter 821 of the Texas Health and Safety Code, pending a hearing and order by the judge of the municipal court or other court of competent jurisdiction regarding disposition of the animal. Procedures regarding the disposition of the animal(s) shall be in accordance with the provisions of this chapter and chapter 821 of the Texas Health and Safety Code.
- (c) In the event the owner of a dangerous animal fails to deliver the animal to the animal control authority as required by this chapter, the animal control authority shall request from the municipal court the issuance of a warrant for seizure of the animal.

Sec. 2.104. Interference with animal control officer.

It shall be unlawful for any person to interfere with, hinder or molest the animal control officer or their assistants in execution or performance of their duty under the provisions of this chapter.

Sec. 2.105. Animal shelter.

There shall be erected and maintained, under the supervision of the chief of police, a suitable building and kennels, to be known as the animal shelter, for the confinement of all animals found free of restraint and/or in violation of the provisions of this chapter. The animal shelter shall be kept in a sanitary condition and all animals taken up and impounded therein shall be properly fed and watered while confined in such building and kennels and shall be treated in a humane manner while so confined.

Sec. 2.106. Impoundment authorized; procedures; fees.

- (a) The animal control officer shall have authority to impound the following:
 - (1) Any dog, stray cat, or feral cat found free of restraint and not on its owner's property;
 - (2) Any dog or cat which has not been redeemed by its owners in accordance with the provisions of this chapter;
 - (3) Any dog, cat, or other animal exhibiting symptoms of rabies;
 - (4) Any dog or cat not vaccinated for rabies.
- (b) The animal control officer shall have authority to immediately destroy humanely any impounded dog, cat or other animal whose retention because of feral or fractious behavior

would be detrimental to the health and welfare of other animals in the animal shelter or in the community.

- (c) Animals that are sick or injured wearing no apparent identification through which ownership can be determined may be kept zero to seventy-two (72) hours at the discretion of the animal control officer after consultation with a veterinarian licensed in this state. The animal may be humanely destroyed within the written time advised by the veterinarian. The requirement to consult with a veterinarian licensed in this state as set forth in this subsection shall not apply to a mortally wounded animal when the animal control officer determines that it is in the best interest of the animal to immediately destroy it humanely.
- (d) The animal control officer will contact owners of tagged, microchipped or licensed animals found sick or injured for their choice of treatment or euthanasia. The owner of the animal shall be responsible for any fees associated with treatment or euthanasia. In cases when identified owners cannot be contacted, the animal control officer will follow the written advice of a veterinarian licensed in the state.
- (e) Except as otherwise provided in sections 2.106(c), 2.205, 2.365, 2.402, and 2.403, all animals impounded under the provisions of this chapter shall be held at least five (5) working days, during which time the owner may reclaim and redeem such animal upon paying to the animal control officer the charges due and upon showing proof that they have an area sufficient to restrain the dog. Dogs and cats shall be released upon evidence of vaccination or provisionally for vaccination, in which case evidence of vaccination will be presented within five (5) working days. Animals that have not been adopted or reclaimed within said five (5) day period may be humanely euthanized by the Animal Control Officer or his/her designee.
- (f) For every animal reclaimed and redeemed from confinement in the animal shelter, the owner of the animal shall pay the impound fee and the daily boarding fee as set by city council.

Sec. 2.107. Interference with impoundment.

It shall be unlawful for any person to interfere with the impoundment of any animal within an animal control vehicle or live trap or within the animal shelter.

Sec. 2.108. Keeping wild animal.

It shall be unlawful for any person to own or possess a wild animal within the city limits; provided, however, wild animals may be kept for exhibition purposes by circuses, zoos and educational institutions in accordance with all laws and regulations.

Sec. 2.109. Authority to kill certain animals at large.

If any animal is found at large in violation of this chapter that cannot be safely taken up and impounded and either poses a threat to a person or the public or is seriously injured, such animal may be killed by any police officer or animal control officer. Nothing in this section shall be construed to prevent a police officer or animal control officer from killing an animal in self-defense.

Sec. 2.110. Animals in city parks.

- (a) It shall be unlawful for any owner, or any other person having an animal under his or her care or control, to take, allow, or let such animal enter upon any park owned, operated, or maintained by the city unless said animal is restrained by that person with a leash or lead of a length not to exceed ten feet.
- (b) Animals are strictly prohibited from the following locations within city parks:
 - (1) All playground areas, whether fenced or unfenced;
 - (2) All water parks, swimming pools, and other water attractions, not including lakes or ponds, whether fenced or unfenced;
 - (3) All covered pavilions; and
 - (4) All baseball, softball, and T-ball fields and areas immediately surrounding said fields where spectators congregate.
- (c) The following shall be exceptions to this prohibition:
 - (1) Any law enforcement animal; and
 - (2) Dogs located in an enclosed dog park operated by the city; and
 - (3) Service dogs.

Sec. 2.111. Unlawful Restraint of Dog; Offense.

- (a) An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
 - (1) adequate shelter;
 - (2) an area that allows the dog to avoid standing water and exposure to excessive animal waste;
 - (3) shade from direct sunlight; and
 - (4) potable water.
- (b) An owner may not restrain a dog outside and unattended by use of a restraint that:
 - (1) is a chain;
 - (2) has weights attached;
 - (3) is shorter in length than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) ten (10) feet

(4) is attached to a collar or harness not properly fitted.

(c) A person commits an offense if the person knowingly violates this section. The restraint of each dog that is in violation is a separate offense.

(d) An offense under this section is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted under this section.

(e) If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Sec. 2.112. Exceptions.

(a) Section 2.111 does not apply to:

- (1) the use of a restraint on a dog in a public camping or recreational area in compliance with the requirements of the public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
- (2) the use of a restraint on a dog while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by this state provided the activity is associated with the use or presence of a dog;
- (3) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business or shepherding or herding cattle or livestock;
- (4) the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of cultivating agricultural products;
- (5) a dog left unattended in an open-air truck bed only for the time reasonable necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;
- (6) a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in an activity that requires the dog to be temporarily restrained; or
- (7) a dog restrained while the owner and dog are engaged in, or actively training for, hunting or field training.

(b) Section 2.111 (b)(3) does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subdivision.

(c) This ordinance does not prohibit a person from walking a dog with a handheld leash.

ARTICLE 2.200. LIVESTOCK AND FOWL

Sec. 2.201. Livestock at large or tied near street or alley.

It shall be unlawful for any person who is the owner or keeper of any livestock to permit such animal to run at large or to stake or otherwise tie or make fast by rope or otherwise any such animal so that the animal may be in and upon any street or alley within the city.

Sec. 2.202. Enclosure required.

Any person owning or keeping any livestock or domestic fowl within the city shall be required to keep such livestock or domestic fowl adequately penned in an enclosure sufficiently secure to prevent escape from the owner's property. It shall be a class C misdemeanor if any person's animals, including livestock, are allowed to roam free in the city.

Sec. 2.203. Keeping of livestock.

- (a) Livestock or fowl allowed on a piece of property shall be limited to the number of animals that can be safely kept on the property in a safe, healthy and sanitary manner.
- (b) All stables, barns, pens, or other areas where livestock or fowl are kept shall be maintained in a clean and sanitary condition so as to prevent obnoxious odors, the attraction and breeding of flies and/or rodents or the creation of any health hazard.
- (c) Livestock and fowl shall be kept in accordance with generally accepted agricultural production practices.

Sec. 2.204. Fowl at large.

It shall be unlawful for the owner, keeper or person in control of any chicken or other domestic fowl to permit it to run at large in the city.

Sec. 2.205. Impoundment.

The chief of police, any police officer, or the animal control officer shall take up and impound, or cause to be impounded by the Liberty County Sheriff, or his designee, any animal found in violation of this article and proceed with the sale of such animal unless redeemed by the owner or caretaker as provided in chapter 142 of the Texas Agriculture Code.

Sec. 2.206. Identification for livestock.

Any person owning or keeping any livestock within the city shall be required to place an identifying mark on such livestock, such as a brand, tag, band, tattoo or license, by which the chief of police, any police officer, or the animal control officer can identify the ownership of such livestock. The animal control officer shall have the right to inspect livestock to determine if they have been properly identified in accordance with this section.

Sec. 2.207. Future Farmers of America and 4-H projects.

Members of a chapter of the Future Farmers of America (FFA) or a 4-H club shall have the right to raise livestock and/or fowl within the city provided that the animals can be safely kept in a safe, healthy and sanitary manner.

ARTICLE 2.300. DOGS AND CATS

DIVISION 1. GENERALLY

Sec. 2.301. Nuisances.

(a) *Prohibited conditions.* The following acts and conditions are hereby declared to be a nuisance and are prohibited within the city limits:

- (1) Harboring or maintaining more dogs or cats in an enclosure than is safe, healthy, and sanitary;
- (2) Harboring or maintaining any dog or cat in an enclosure unless the enclosure is kept clean and sanitary and free of offensive odors;
- (3) Harboring or maintaining any dog in an enclosure unless the excrement from the dog is cleaned up and disposed of in a sanitary and timely manner.

(b) *Abatement.*

- (1) Whenever any nuisance as defined in subsection (a) of this section shall exist, the chief of police shall notify, in writing, the owner or occupant of the premises where the nuisance exists and shall order the owner or occupant to abate or remove the nuisance described in such notice within such time as specified in the notice.
- (2) Within the period of time given in the order for abatement, the owner or occupant shall have the right to appear in the office of the chief of police to show cause why the order should not or cannot be complied with, and the chief of police may give such extension of time for the abatement of the nuisance as may be necessary if there is not an immediate danger to public health.

Sec. 2.302. Dogs at large; confinement of certain dogs and female dogs in heat; penalties.

- (a) Except as provided in section 2.111 herein, it shall be unlawful for the owner of any dog to permit or allow the dog to run or be at large upon any public street, highway, alley, court, square, park, sidewalk or other public ground, public property, or private property not owned by the dog's owner, without said property owner's permission, within the city.
- (b) It shall be unlawful for the owner or any person in control of any dog of dangerous or vicious propensities, or any female dog in heat, to allow the dog to be upon any public street, highway, alley, court, square, park, sidewalk or other public ground or public property within the city.
- (c) Any dog that is found in violation of this section may be impounded by the city's animal control officer. Dogs impounded in the city animal shelter shall be kept until retrieved by their owner, unless otherwise discussed in this ordinance. If the dog is not retrieved by its owner within five (5) days, the animal shall become the property of the city and it may be destroyed or placed for adoption.
- (d) Any dog that is found at large more than three times may be declared a nuisance dog at the discretion of the animal control officer. Nuisance dogs impounded in the city animal shelter shall be kept until the nuisance has been abated. If the nuisance is not abated within a reasonable time, as determined by the animal control officer, then the animal shall become the property of the city and the animal may be destroyed or placed for adoption.
- (e) A first violation of this section shall be punishable by a fine of \$250.00, and all subsequent violations of this section shall be punishable by a fine of \$500.00 per offense.

Sec. 2.303. Identification of dogs and cats.

- (a) It shall be unlawful for any person to own, keep, or harbor any dog or cat over the age of four months within the city unless such dog or cat has a collar with the owner's telephone number on it.
- (b) It shall be an affirmative defense to prosecution under subsection (a) of this section that the animal was a feral cat participating in a trap, neuter, and return program approved by the city.
- (c) It shall be an affirmative defense to prosecution under subsection (a) of this section that the animal has been in the city for less than 30 days.

Sec. 2.304. Basic care for dogs and cats.

It shall be unlawful for the owner or custodian of any dog or cat to refuse or fail to provide such dog or cat with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment, and adequate shelter to protect such animal from hot, stormy, cold or inclement weather.

Sec. 2.305. Refusal to quarantine or to deliver to humane officer.

Any person who shall refuse to voluntarily quarantine his dog or cat upon notification by the humane officer of the necessity therefor, or who shall refuse to deliver any unvaccinated animal or other animal subject to impoundment under this article to the humane officer or any of his deputies, upon demand for impounding, shall be deemed guilty of a misdemeanor.

Sec. 2.306. Inspection by humane officer.

The humane officer or his authorized deputies shall have the right, at any reasonable time, to inspect any dog or cat to determine if such dog or cat is identified and vaccinated as required by this article.

Secs. 2.307—2.330. Reserved.

DIVISION 2. DANGEROUS DOGS

Sec. 2.331. Requirements for owner.

- (a) Not later than the 30th day after a person learns that he or she is the owner of a dangerous dog, the person shall:
 - (1) Register the dangerous dog with animal control;
 - (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
 - (3) Muzzle the dog when it is outside the secure enclosure;
 - (4) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person;
 - (5) Have the dangerous dog spayed or neutered.
- (b) For the purposes of this section, a person learns that he or she is the owner of a dangerous dog when:
 - (1) The owner knows of an attack described in the definition of "dangerous dog" hereinabove; or
 - (2) The owner is informed by the animal control officer that the dog is a dangerous dog.
- (c) If a person reports an incident described by in the definition of "dangerous dog" hereinabove, the animal control officer shall investigate the incident. If, after receiving the sworn statements of any witnesses, the chief of police or his designee determines the dog is a dangerous dog, he or she shall notify the owner of that fact in writing by certified mail or by delivering said notice to the owner by the chief of police or his designee.

- (d) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the person is a dangerous dog, may appeal the determination of the chief of police or his designee to the municipal court. An owner may appeal the decision of the municipal court in the same manner for other civil cases. At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the dog's dangerousness. Criteria to be considered in the hearing shall include but not be limited to the following:
 - (1) Provocation;
 - (2) Severity of attack or injury to a person or animal;
 - (3) Previous aggressive history of the dog;
 - (4) Observable behavior of the dog;
 - (5) Site and circumstances of the incident; and
 - (6) Statements from interested parties.

Sec. 2.332. Registration.

- (a) The animal control officer shall annually register a dangerous dog if the owner presents proof of liability insurance or financial responsibility, as required by section 2.361, current rabies vaccination, and proof of sterilization of the dangerous dog, and has a secure enclosure in which the dangerous dog will be kept that is inspected and approved by the animal control officer.
- (b) The owner of a dangerous dog shall pay an annual registration fee as set by the city council.
- (c) The animal control officer shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar. The collar must be fluorescent orange.
- (d) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control officer for the area in which the new address is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee, the animal control officer shall issue a new registration tag to be placed on the dangerous dog's collar.
- (e) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

Sec. 2.333. Attack by dangerous dog.

- (a) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

- (b) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by the animal control officer or a licensed veterinarian.

Sec. 2.334. Defenses.

- (a) It is a defense to prosecution under this division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.
- (b) It is a defense to prosecution under this division that the person is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
- (c) It is a defense to prosecution under this division that the person is a dog trainer or an employee of a guard dog company under the Private Security Act (V.T.C.A., Occupations Code, chapter 1702).

Sec. 2.335. Seizure of dog causing death of or serious bodily injury to person.

- (a) The municipal court shall order the animal control officer to seize a dog and shall issue an order authorizing the seizure:
 - (1) On the sworn complaint of any person, including the city attorney, animal control officer, or a peace officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
 - (2) On a showing of probable cause to believe that the dog caused the death of or serious bodily injury to the person stated in the complaint.
- (b) The animal control officer 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.
- (c) Any expense associated with seizure of a dog under this section shall be the responsibility of the owner.
- (d) 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 tenth day after the date on which the order of seizure is issued.
- (e) The court shall give written notice of the time and place of the hearing to:
 - (1) The owner of the dog or the person from whom the dog was seized; and
 - (2) The person who made the complaint.
- (f) Any interested party, including the city attorney, is entitled to present evidence at the hearing.

- (g) 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 person from whom the dog was seized; or
 - (3) Any other person authorized to take possession of the dog.
- (h) 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 person from whom the dog was seized; or
 - (3) Any other person authorized to take possession of the dog.
- (i) 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, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:
 - a. 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
 - b. The injured person was at least ten years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred.
 - (2) The dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least ten years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
 - (3) The attack, bite, or mauling occurred during an arrest or other action of peace officer while the peace officer was using the dog for law enforcement purposes;
 - (4) The dog was defending a person from an assault or person's property from damage or theft by the injured person; or
 - (5) The injured person was younger than ten years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than ten years of age from entering.

Sec. 2.336. Destruction of dog causing death of or serious bodily injury to person.

- (a) The destruction of a dog under this division 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.
- (b) The city will destroy the carcass of a dog destroyed under this section.
- (c) Any cost associated with the provisions of this section shall be the owner's responsibility.

ARTICLE 2.400. RABIES CONTROL

Sec. 2.401. Rabies vaccination.

- (a) The custodian (excluding animal shelters as defined in the Texas Health and Safety Code, section 823.001) of each dog or cat shall have the animal vaccinated against rabies by 16 weeks of age. The animal must be vaccinated by or under the direct supervision of a veterinarian with rabies vaccine licensed by the United States Department of Agriculture for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine. The attending veterinarian has discretion as to when the subsequent vaccination will be scheduled as long as the revaccination due date does not exceed the recommended interval for booster vaccination as established by the manufacturer. The custodian shall retain each vaccination certificate until the animal receives a subsequent booster. Livestock (especially those that have frequent contact with humans), domestic ferrets, and wolf-dog hybrids should be vaccinated against rabies. The administration of a rabies vaccine in a species for which no licensed vaccine is available is at the discretion of the veterinarian; however, an animal receiving a rabies vaccine under these conditions will not be considered to be vaccinated against rabies virus in potential rabies exposure situations.
- (b) An official rabies vaccination certificate shall be issued for each animal by the veterinarian responsible for administration of the vaccine and contain the following information:
 - (1) Custodian's name, address, and telephone number;
 - (2) Animal identification: species, sex (including neutered if applicable), approximate age, size (pounds), predominant breed and colors;
 - (3) Vaccine used: product name, manufacturer, and serial number;
 - (4) Date vaccinated;
 - (5) Revaccination due date;

- (6) Rabies tag number;
- (7) Veterinarian's signature, signature stamp, or computerized signature, plus address and license number.
- (c) Each veterinarian who issues a rabies vaccination certificate, or the veterinary practice where the certificate was issued, shall retain a readily retrievable copy of the certificate for a period of not less than two years after the revaccination due date.
- (d) If a veterinarian ceases the practice of veterinary medicine, the duplicate rabies vaccination certificate retained by that practice shall be turned over to the local rabies control authority. This does not apply to the sale or lease of a practice, when the records of the practice are transferred to a new owner.
- (e) The animal control officer shall provide to the owner of a vaccinated dog or cat a registration tag. The owner must place the tag on the dog or cat's collar. The collar must be fluorescent orange.

Sec. 2.402. Local rabies control authority.

- (a) The chief of police is designated as the local rabies control authority to enforce the provisions of the Rabies Control Act of 1981 (V.T.C.A., Health and Safety Code, title 10, Health and Safety of Animals, chapter 826, Rabies).
- (b) The duties of the local rabies control authority shall include, but are not limited to, the enforcement of:
 - (1) The provisions of the Rabies Control Act of 1981, and the rules of the state board of health which comprise the minimum standards for rabies control;
 - (2) The ordinances of the city;
 - (3) The rules adopted by the state board of health with regard to area quarantine provisions.
- (c) The city manager shall appoint such assistants to the local rabies control authority as may be required. It shall be the duty of the local rabies control authority or his designee to pick up and impound all dogs and cats, the owners of which have violated or are violating this article. Such officer shall keep and properly care for all dogs and cats impounded, humanely destroy all dogs and cats that have not been redeemed, and perform such other duties as may be directed under this article.
- (d) The local rabies control authority shall report in writing to the city manager once each month the total number of dogs and cats impounded, the total number of dogs and cats redeemed, and the total number of dogs and cats destroyed under this article.

Sec. 2.403. Report of animal biting person; confinement and observation of biting animal.

Whenever any animal subject to having rabies bites a person, the owner of the biting animal or the person observing the incident shall immediately report the incident to the local rabies control authority or animal control office. Any police officer or animal control officer shall complete an animal bite report. The animal making the attack shall be placed under observation, at the owner's expense, for a period of ten days (240 hours), from the time of the bite, and held in the animal shelter or a veterinary hospital operated by a licensed veterinarian within the county, except:

- (1) In cases where the animal bites a member of the immediate family of the owner and has been currently vaccinated for rabies and the local rabies control authority has determined the owner has adequate facilities to prevent the animal's escape and that the animal will be isolated from contact from any other family pet.
- (2) Any guard or police dog currently vaccinated and licensed, but only when the bite occurs in line of duty, and only if any lawful patrol or visitor of a business is not jeopardized by the guard dog during the hours said business is open to the public. Any guard or police dog currently vaccinated and licensed that is involved in a bite incident while in the performance of its guard or police duties shall be allowed to continue on duty under observation. Where an exception is granted, the owner of the animal shall be responsible for confining the animal so as to prevent further exposure to humans or other animals during the observation period.

Sec. 2.404. Seizure of biting animal.

- (a) The violation of observation confinement of the biting animal shall be just cause for seizure and confinement of the animal in the animal shelter of the city or a veterinary hospital operated by a licensed veterinarian.
- (b) No biting animal shall be released from observation unless a licensed veterinarian or local rabies control authority certifies in writing that the animal is not showing any symptoms of rabies and that the animal is vaccinated against rabies upon redemption. Exemption from placing such animal in the animal shelter or in a veterinary hospital shall not exempt such owner from securing a proper release as provided above.
- (c) Whenever any animal subject to having rabies bites a person and the owner or person in control of such animal fails, neglects or refuses to deliver such animal to the animal shelter or licensed veterinary clinic in the county as provided by section 2.402 and such fact is made known to the judge of the municipal court upon affidavit of a credible person, it shall be the duty of such judge to issue a written order directed to the animal control officer ordering him or her to seize such animal and deliver it to the animal shelter instantler.
- (d) Any person who resists or interferes with the officer in the enforcement of such order may be proceeded against under this chapter or the Penal Code of the state or by contempt proceedings in municipal court or all of these.
- (e) The owner of any animal confined in the animal shelter under the provisions of this section shall pay the quarantine fee as established from time to time by the city council. If the animal

is confined in a veterinary hospital, the owner of the animal shall pay the fee established by that facility.

Sec. 2.405. Animal bitten by rabid animal.

The animal control officer shall serve notice in writing upon an owner of a dog, cat, or other animal known to have been bitten by an animal known or suspected of being infected with rabies, requiring such owner to have the dog or other animal examined and treated within 24 hours by a licensed veterinarian. In such cases that the biting animal is not captured and is high risk for rabies or is captured and tests positive for rabies, the owner of the animal bitten shall have the animal vaccinated against rabies and placed into isolation for the period of time according to its vaccination status at the time of the bite, as defined by state board of health rule 169.30 (Disposition of Animals Exposed to Rabies), or be humanely killed.

Sec. 2.406. Submission of rabies specimens.

The heads of animals that have died of rabies or suspected of having rabies shall be turned over to the animal control officer for dispatch to an authorized laboratory for fluorescent rabies antibody testing.

Sec. 2.407. Report of suspected rabid animals.

Whenever a dog, cat, or other animal is infected with rabies or suspected of being infected with rabies or has been bitten by an animal known or suspected of being infected with rabies, the owner of the animal, or any person having knowledge thereof, shall immediately notify the animal control officer where the animal may be found.

SECTION 2. That the provisions of this ordinance are severable and the invalidity of any word, phrase or part of this ordinance shall not affect the validity or effectiveness of the remainder of this ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. That it is hereby officially found and determined that the meetings at which this ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given as required by law.

SECTION 5. That this ordinance shall take effect from and after the date of its publication in the newspaper in accordance with Texas law.

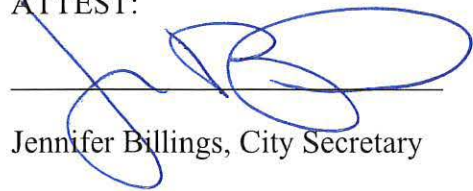
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Dayton, this the 18 day of APRIL, 2022.

CITY OF DAYTON, TEXAS

A handwritten signature in blue ink, appearing to read "Caroline Wadzeck", written over a horizontal line.

Caroline Wadzeck, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Jennifer Billings", written over a horizontal line.

Jennifer Billings, City Secretary