

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2016-37_

AN ORDINANCE OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2015-36 ESTABLISHING ANIMAL NUISANCE REGULATIONS; PROVIDING FOR THE KEEPING OF ANIMALS WITHIN THE CITY; REQUIRING VACCINATION AND IDENTIFICATION OF DOGS AND CATS; ESTABLISHING STANDARDS OF CARE AND CONDUCT FOR ANIMALS; ESTABLISHING PROHIBITED ACTIONS REGARDING ANIMALS; PROVIDING FOR THE CAPTURE AND IMPOUNDMENT OF ANIMALS; ESTABLISHING THE AUTHORITY TO KILL, IMPOUND OR DESTROY ANIMALS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING FOR FEES AND IMPOUNDMENT; PROVIDING FOR CRIMINAL PENALTY AND ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Sandy Oaks is authorized by Local Government Code section 51.001 to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City or to an office or department of the City; and

WHEREAS, the City Council has determined it should adopt this Ordinance to promote the public health, safety and welfare of the community; and

WHEREAS, pursuant to Chapter 826 of the Texas Health and Safety Code, the City Council wishes to adopt regulations that establish a local rabies control programs and require vaccinations; and

WHEREAS, pursuant to Chapter 791 of the Government Code, the City has entered into an Interlocal Agreement with the City of Elmendorf and the City of Selma to provide for the provisions related to this Ordinance for the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:

SECTION 1. FINDINGS INCORPORATED. The findings set forth above are found to be true and correct and incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. ADOPTION OF ORDINANCE. Pursuant to sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the City of Sandy Oaks hereby enacts and adopts

adopts this ordinance which defines animal nuisances, establishes regulations for the keeping of animals, and animal control and establishes the powers of the City of Sandy Oaks.

SECTION 3. DEFINITIONS. The following words and phrases for the purpose of this Ordinance shall have the following meanings unless the contexts clearly indicates otherwise:

Adequate Fencing: a fence which contains any animal upon the owner's or occupier's property and prevents same from escaping.

Animal: unless otherwise stated includes any living creature, including but not limited to dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock, but specifically excluding human beings.

Animal Control Officer: the person or persons designated by the City Council or the Enforcing Agency to represent and act for the City in the impoundment of animals, controlling of stray animals and as otherwise required in this Ordinance.

At large: an animal that is not confined to the premises of its owner by a containment device of sufficient strength and/or height to prevent an animal from escaping there from inside the house or other enclosure or secured on said premises by a leash of sufficient strength to prevent the animal from escaping from said premises and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall not be considered at large when held and controlled by some person by means of a leash or chain of proper strength and length to control the action of the animal or while confined within a vehicle.

Cat: all members of the feline family of either sex, including one spayed or neutered, but not including wild cats that are Dangerous Wild Animals.

City: the City of Sandy Oaks, Texas, a Type A General Law municipality incorporated and operating in Bexar County under the laws of the State of Texas.

City Council: the governing body of the City.

Collar: any neck restraint constructed of nylon leather or similar material specifically designed to be used for an animal for the purpose of placing rabies and identification tags.

Cruel or cruelty: includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, water, care, or shelter, cruelly confined, or caused to fight with another animal.

Custodian: person or agency which feeds, shelters, harbors, owns, has possession or control of, or has the responsibility to control an animal.

Dangerous Wild Animal: Regardless of an individual animal's age or health:

- (a) An animal of a species defined as a dangerous wild animal: in Subchapter E (Dangerous Wild Animals), Chapter 822 (Regulations of Animals), of the Texas Health and Safety Code; or

- (b) An animal of any other species of wild or feral mammals or reptile that by its nature or breeding is capable of inflicting serious bodily injury to a human.

Dog: all members of the canine family of either sex, including one spayed or neutered, except that a dog used for law enforcement by a governmental entity is an instrumentality of the law enforcement officer and is subject only to the rabies provisions of this chapter or as mandated by state law.

Enforcing Agency: the City of Sandy Oaks or its designee retained by or contracted with the City to enforce any provision of this Ordinance.

Exotic animal: any animal not commonly domesticated by man. Small caged animals that are typically sold through pet stores, to include rabbits, indoor caged birds, reptiles, amphibians and small mammals (hamsters, guinea pigs, rats, mice and gerbils, fish typically kept in an aquarium or ornamental ponds and ferrets are not exotic animals.

Fowl: chickens, turkeys, pheasant, peacocks, quail, geese, ducks, or similar feathered animals regardless of age, sex or breed.

Holding Facility: a place identified by the Enforcing Agency for the purpose holding and legally disposing of stray, unrestrained, homeless, abandoned, or unwanted animals.

Livestock: domesticated horses, cattle, goats, sheep or swine or any ruminant that which standing measures less than thirty inches (30") in height at the top of the shoulder regardless of age, sex or breed; or any other domesticated animals that when standing measures less than thirty inches (30") in height at the top of the shoulder other than a dog.

Nuisance: Whatever is dangerous to human life or health, whatever renders the ground, the water, the air or food a hazard or injury to human life or health or that is or threatens to become detrimental to the public health or contributes to urban blight or decay.

Officer: An employee of the Enforcing Agency assigned to the animal control provisions of this Ordinance or other City ordinances, the City Marshal, a Code Enforcement Officer of the City, or a commissioned peace officer.

Owner: Any person who has care custody and control of any animal, harbors or keeps any animal in his/her possession, or who permits any animal to remain on or about his/her premises.

Possession: Actual care custody control or management of a certain animal.

Premises: (1) A parcel of land of one (1) or more contiguous lots owned, leased, or controlled by one (1) or more persons, or (2) A building or part of a building.

Prohibited animals: any animal not normally considered domesticated and capable of or inclined to do serious bodily harm to humans or other animals or fowl as determined by the City. These animals include but are not limited to any venomous lizard or snake, boa constrictor, python, emperor scorpion, bat, raccoon, skunk, fox, bear, elephant, kangaroo, non-human primate, including monkey

and chimpanzee, antelope, deer, wolf, or wolf hybrid, lion, tiger, ocelot, bobcat, or any other large cat, alligator, crocodile, feral swine, and their allies.

Restraint: A chain, rope, tether leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Stray Animal: an animal which is not on a leash or enclosed in a fenced yard.

Vaccination: an injection of any vaccine for rabies approved by the State and administered or supervised by a licensed veterinarian.

Veterinarian: a doctor of veterinary medicine who holds a valid license to practice his/her profession in one or more of the fifty United States.

Veterinary Clinic: a facility or hospital for diagnosis and treatment of animals.

Zoonotic disease: a disease that can be passed between animals and humans.

SECTION 4. ANIMAL NUISANCE REGULATIONS.

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

1. The keeping of an animal which causes frequent or long continued noise, barking, howling, meowing, or whining in such a manner, with such intensity, or with such continued duration, so as to annoy, distress or disturb the quiet comfort of repose of persons of ordinary sensibilities within the vicinity of hearing thereof. It shall create a presumption that a person has knowledge that the animal under his or her control is making or creating an unreasonable disturbance if such person shall have been notified by the animal control officer or any peace officer of such disturbance and failed or refused to correct such disturbance or prevent its recurrence;
2. The keeping of any dog or other animal kept, maintained or harbored within the City corporate limits which has fierce, dangerous or vicious propensities or which has bitten, scratched or otherwise attacked any person or other animal;
3. The keeping of more than seven (7), in any combination, of dogs, cats and ferrets above the age of four (4) months in any of the residential areas within the City limits is prohibited, except the keeping, caretaking or maintaining of a colony or colonies of feral cats registered with the San Antonio Feral Cat Coalition or other organization operating a "Trap-Neuter-Return/Release" program is permitted;
4. The keeping of any animal defined as livestock under this Ordinance in any of the residential areas within the City limits;
5. The keeping of any animal defined as an exotic animal, dangerous wild animal or prohibited animal under this Ordinance within the City limits;

6. The keeping of more than ten (10), in any combination, of fowl other than a rooster and small caged animals above the age of four (4) months in any residential area within the City limits;
 7. The keeping of more than ten (10), in any combination, of dogs, cats, ferrets and livestock in any areas that is not a residential area when allowed by this Ordinance, provided however, livestock of any size may be kept in such an area that exceeds ten (10) acres in size;
 8. The keeping of a rooster in the City limits;
 9. The keeping of any animal, animal pen, cage, shelter or yard in such a manner as to endanger the public health or as to annoy neighbors of ordinary sensibilities by the accumulation of feces and putrid materials which cause foul and offensive odors or the creation of a condition that is a breeding place for fleas or other vector;
 10. The keeping of any animal which habitually deposits body wastes upon or destroys by chewing, scratching, digging or otherwise, property other than that of the owner of such animal;
 11. The keeping of animals for which rabies vaccine is required and which remain unvaccinated against rabies;
 12. The improper disposal of animal waste or feces in such manner as to endanger the public health, cause the accumulation of foul and offensive odors, or to annoy neighbors of ordinary sensibilities; or
 13. The keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health and welfare.
- B. Keeping of animals in the City and restraint:
1. The owner or any person having control over any animal or fowl shall keep the same confined within a building or adequate fencing at all times;
 2. It shall be unlawful to permit any animal to:
 - a. Roam, wander upon, or remain upon any public property or street while unattended by the owner or person having control, or
 - b. Go upon or remain upon any private property without the consent of the owner of the property.
 3. When a dog is being walked or with its owner off its property, the dog must be on a leash and accompanied by the owner at all times. If the dog is without a leash or not accompanied by the owner, it is considered unrestrained and is in violation of this Ordinance.
 4. A cat must remain within the boundaries of its owner's property.

5. Any owner, custodian, or person having control of any animal or fowl shall keep all hay, grain and feed used in connection with the maintenance thereof enclosed in such manner that the same is not accessible to rats, flies, mosquitoes, or other rodents or insects.

C. Keeping of Livestock Within the City

1. Where such livestock is permitted, it shall be unlawful for any person to keep on his/her premises under the person's control any livestock without providing adequate fencing or barriers that will prevent such livestock from leaving the property of the person having control of such animal.
2. It shall be unlawful for any person to ride or allow any type of livestock upon any public school grounds, public park property, or municipal grounds, within the City except those designated as bridle paths or other designated riding or exhibiting areas for livestock. On streets horses shall be ridden as close as possible to the curb and in no event shall horses be allowed on state highways. It shall be unlawful for any person to ride or allow any type of livestock upon the property of another within the City except with the express consent of the owner or person in charge of such property obtained prior thereto. No person shall ride any type of livestock on any public right-of-way before sunrise or after sunset.

SECTION 5. VACCINATION AND IDENTIFICATION REQUIREMENTS.

A. Vaccination Required.

1. Dogs and cats shall be vaccinated as required by this Ordinance.
2. No person shall have within the City any dog or cat four (4) months of age or older for more than thirty (30) days unless such dog or cat is currently vaccinated against rabies.
3. A dog or cat may be administered a vaccination that will be current for a period of one (1) year or a period as determined to be appropriate by a veterinarian and all vaccinations shall be administered according to the label recommendation of the United States Department of Agriculture approved vaccine. The dog or cat must be revaccinated before the expiration of the first and each subsequent current vaccination period.
4. An owner shall ensure his/her dog(s) and cat(s) is vaccinated by a veterinarian and maintain a vaccination certificate. Such vaccination certificate shall reflect the name of the owner, his/her address, a description of the dog or cat, the date of the vaccination, the number of the vaccination tag and the kind of vaccination used.
5. The veterinarian shall provide the owner with a metal tag with one (1) side of which is stamped the words "Rabies Vaccinated" or "Rabbies Vacc.", the year of the vaccination, the veterinarian business name and control number. This tag shall be securely attached to the collar or harness of the dog or cat at all times as provided in subsection B of this Section.

6. It shall be unlawful for any person within the city to own keep possess harbor or allow to remain upon the premises under his control any dog or cat without having proof that such animal is vaccinated against rabies as required by this Section.
7. This Section shall not apply to fish, reptiles, birds, hamsters, guinea pigs, rabbits, rats, mice, gerbils or any animal other than a dog or cat which in the opinion of the licensed veterinarian would be endangered by a rabies vaccination.

B. Collar and tag required for dogs and cats.

1. Dogs and cats shall wear identification tags as required by this Ordinance.
2. To aid in the identification of the pet owner and return of the animal in the event of impoundment, the owner of a dog or cat shall see that a dog or cat wears at all times a collar or harness to which the current rabies tag shall be attached, except as provided in paragraphs 3 or 4 of this subsection. It is unlawful for any person to remove the tag from the collar or harness without the owner's consent.
3. Dogs or cats confined within a residence need not wear their collar or harness nor the rabies tag while within the residence. However, in no case shall a dog or cat be allowed to exit the interior of the residence without wearing its collar or harness with the current rabies tag attached.
4. Dogs or cats competing at approved dog or cat club shows or trials or while being transported to and from such events need not wear their collar or harness or their registration.
5. If such rabies tag is lost or destroyed, the owner is required to obtain a new tag from the veterinarian or veterinary clinic that administered the rabies vaccine.

SECTION 6. STANDARDS OF CARE AND CONDUCT.

A. Every person owning or having charge, care, custody or control of any animal shall:

1. Keep such animal exclusively upon his or her own premises by means of physical restraint or adequate fencing, provided however, that such animal may be off such premises if it is under direct physical control of a competent person as provided by Section 4.
2. Not walk such animal on public property or upon the private property of another without carrying at all times, a suitable bag, container or other suitable instrument for the removal and disposal of animal feces. Disabled persons using trained guide or personal assistance dogs are exempt from this requirement. This requirement does not apply to any peace officer while using an animal in the discharge of law enforcement activities.
3. Not permit such animal to defecate upon any property unless the person immediately removes the feces and properly disposes of it, provided however, that nothing contained in this Ordinance authorizes such person to enter upon the private property of another without permission.

4. Provide proper care for the animal, as follows:

- a. Keep the animal in a clean, sanitary, and healthy condition.
- b. Provide for the animal:
 - i. Regular and adequate amounts of nutritional food that is appropriate for the species and that maintains the animal in good health;
 - ii. A constant and adequate supply of clean, fresh, potable water and keeps the animal hydrated for environmental conditions; and
 - iii. Care and medical treatment for injuries, parasites, and disease that is sufficient to maintain the animal in good health and minimize suffering.

5. Provide proper shelter for the animal as follows:

- a. Provide the animal with shelter that:
 - i. Is large enough for the animal to enter, stand, turn around, and lie down in a natural manner;
 - ii. Keeps the animal dry;
 - iii. Provides the animal with natural or artificial shade from direct sunlight;
 - iv. Protects the animal from excessive heat and cold and other adverse weather condition; and
 - v. Is adequately ventilated.
- b. Provide the animal with exercise space that is large enough to prevent injury and keep the animal in good condition.
- c. The custodian of an animal may not confine the animal to the extent that it is forced to stand, sit or lie in its own excretion.
- d. It is an affirmative defense to prosecution under this subsection if the animal's treatment was directed by a licensed veterinarian.

B. Any outdoor pens, cages or shelters constructed to confine or hold any type of animal must be located in an area that is surrounded by a fence or rock wall, and any pen cage or shelter constructed to confine or hold any type of animal other than a dog or cat must be situated within that area such that the sides or walls of the pens, cages or shelter are a minimum of five (5) feet from any fence or rock wall that is immediately adjacent to a developed or occupied property.

C. An owner or custodian shall confine within a building or enclosure every fierce, dangerous or vicious animal in accordance with all applicable Texas statutes. Confinement shall be in

such a manner that the animal cannot come in contact with any person or animal except for supervised breeding.

D. The animal control officer or other designee of the Enforcing Agency may cause the muzzling, impoundment, secure confinement, quarantine, removal from the City, or humane destruction of any animal on an emergency basis for any reason of public health and safety, including due to:

1. The unprovoked attack by an animal upon any person or animal; or
2. Whenever any lawful patron or visitor of a business is jeopardized by a guard dog, which is not securely confined during hours the business is open to the public.

E. Any such impoundment, confinement and quarantine shall be conducted in accordance with the regulations established by the Enforcing Agency, to include but not be limited to the time and manner of confinement, and the humane destruction of the animal or the return of the animal to its owner.

SECTION 7. PROHIBITED ACTIONS.

A. It shall be unlawful for any person:

1. To sell, trade, barter, lease, rent, give away, or display for commercial purposes any animals on any roadside, public right-of-way, commercial parking lot, or at a flea market or festival;
2. To sell, trade, barter, lease, rent, give away, or display baby fowl or ducklings as pets or novelties, whether dyed or not dyed, colored, or otherwise artificially treated, provided however, this Section shall not be construed to prohibit the display or sale of natural chicks or ducklings in proper breeding facilities for hatcheries or stores engaged in the business of selling the same to be raised for legitimate commercial purposes.
3. To provide grooming, kenneling or boarding of animals for a fee, or to breed and sell more than two (2) litters from one or more animals on the same property in one calendar year, without complying with all applicable requirements of the ordinances of the City to include ordinances regulating the permitted uses in the various zoning districts and ordinances requiring the registration of businesses and the licensing of home occupations.
4. To abandon any animal within the corporate limits of the City.
5. To confine or allow to be confined any animal in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health or well being of the animal due to heat, lack of food or water or any other circumstance which causes suffering, disability or death of the animal.

B. Poisoning of animals prohibited.

1. No person shall in any place accessible to birds, dogs, cats or other animals with the intent to kill or harm such animals, place any substance which has in any manner been treated with any poisonous substance.
 2. The above subsection does not apply to the elimination of rodents such as mice or rats provided that a person is required to not allow the placement of harmful or poisonous substances in places where domestic animals might ingest the harmful or poisonous substance even if the purpose of the substance is to eliminate rodents.
- C. Fight upon exhibition. No person shall maintain any place where fowl or any animals are suffered to fight upon exhibition or for sport upon wager.
- D. Unlawful restraint of a dog.
1. An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
 - a. between the hours of 10:00 p.m. and 6:00 a.m.;
 - b. within 500 feet of the premises of a school; or
 - c. in the case of extreme weather conditions including conditions in which the actual or effective outdoor temperature is below 32 degrees Fahrenheit or a heat advisory has been issued for the jurisdiction by the National Weather Service;
 2. It shall be unlawful to use a restraint that:
 - a. uses a collar that is a pinch-type, prong-type or choke-type or that is not properly fitted to the dog;
 - b. is a length shorter than the greater of (i) five (5) 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 (ii) ten (10) feet;
 - c. is in an unsafe condition; or
 - d. causes injury to the dog.
 3. Exceptions. Subsection 2 does not apply to:
 - a. 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; or
 - b. a dog restrained for a reasonable period not to exceed three hours in a 24 hour period and no longer than is necessary to allow the owner to complete the temporary task that requires the dog to be restrained but those three hours cannot be within the prohibited times of 10:00 p.m. to 6:00 a.m. set

forth above. 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 the state if the activity for which the license is issued is associated with the use or presence of a dog.

4. Penalty.

- a. A person commits an offense if the person knowingly violates this Section.
- b. A peace officer or animal control officer who has probable cause to believe that an owner is violating this Section shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.
- c. A person commits an offense if the person is provided with a statement described in D(3)(b) and fails to comply with this Section within 24 hours of the time the owner is provided with a statement. A first time offense under this Section is a class C misdemeanor. If a person has been previously convicted of this offense the person shall be prosecuted under state law providing for a more serious penalty.
- d. If a person fails to comply with this Section with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.
- e. A person may be prosecuted under this law or any other law or both.

SECTION 8. CAPTURE AND IMPOUNDING OF ANIMALS.

A. The animal control officer shall take into custody the following:

1. Any domestic animal found at large in the City and shall impound the animal in the holding facility as designated by the City or pursuant to any interlocal agreement between the City and other governmental agency providing animal control services pursuant to this Ordinance.
2. Any dog or other animal which has fierce, dangerous or vicious propensities or which has bitten, scratched or otherwise attacked any person and which is at large and is unable to be caught and impounded and which is displaying vicious and dangerous propensities may be destroyed by the Enforcing Agency without notice to the owner.
3. Any dog or other animals infected with rabies and displaying vicious propensities shall be destroyed by the Enforcing Agency without notice to the owner.
4. Any dog or other animal which is found to be injured to the extent that it is past recovery, in the opinion of the veterinarian employed by the city, may be destroyed by said veterinarian, if the owner thereof is unable to be determined, or if the owner cannot be found after reasonable inquiry in the neighborhood where the dog or other animal was located.

5. Such impounded animal shall be held for a period of three (3) days and at the end of that time if the animal has not been redeemed and the proper fee paid as described herein the animal may be adopted or disposed of in a humane and proper method. The Enforcing Agency may destroy or dispose of the animal in a humane or proper method before the expiration of the three (3) day holding period if such circumstances or condition of the animal require such destruction or disposal to preserve the public health and safety of the community.

SECTION 9. AUTHORITY TO KILL, IMPOUND OR DESTROY ANIMALS.

A. The animal control officer shall have the authority to do the following:

1. Kill an animal which poses an imminent danger to a person or property and a real or apparent necessity exists for the destruction of the animal.
2. Impound an animal which is diseased and endangers the health and welfare of another animal or person.
3. Destroy an impounded animal if the animal control officer determines that recovery of the animal is doubtful due to injury or disease.
4. Carry a loaded tranquilizer gun on his/her person or in his/her governmental vehicle when acting in the course and scope of his or her employment the animal control officer approved by the City Marshal or person overseeing animal control for the City and not in violation of any provision of the Texas Penal Code or any other applicable federal state or local law as currently written or as may be amended.
5. Ingress and egress on private property for the purpose of apprehending animals at large.

B. Impoundment fees for dogs or cats.

1. The owner of an impounded animal shall pay a fee to redeem such animal from the City or Enforcing Agency designated by the City. The fee is designated within a fee schedule as established by the City or by a governmental agency providing such services to the City pursuant to an interlocal agreement.
2. Any person claiming a dog or cat that has not been vaccinated or fails to have proof of vaccination within the last year may be cited for failing to vaccinate under Section 5 of this Ordinance.
3. If an owner does not redeem an animal within the time period set forth in Section 8, the animal shall be subject to adoption or other disposition. Any animal that is subject to adoption shall meet all the requirements set forth in Section 8 including payment of fees vaccination and alteration by spaying or neutering as required by subsection C.

C. Vaccination and Spay/Neuter Requirement. An owner whose dog or cat has been impounded and who wishes to redeem the dog or cat must have the dog or cat

vaccinated for rabies when required within five (5) days after redeeming the dog or cat and have the dog or cat spayed or neutered within fourteen (14) days after adoption providing the animal is of the proper age for such procedure.

1. Violation of this subsection may result in the impoundment of the dog or cat as provided in this Ordinance.
2. Dogs and cats exempt from this Section include:
 - i. those under 6 months of age;
 - ii. those unable to be spayed or neutered for health reasons;
 - iii. service dogs helping disabled persons or assisting law enforcement; or
 - iv. purebred dogs or cats that compete in conformation, obedience, and agility events.

D. Failure to release or remove dog.

1. A person commits an offense if he or she knowingly possesses and fails to release a dog to the animal control officer that has been charged with the authority provided by subsection A.
2. A person commits an offense if the person knowingly possesses and fails to remove a dog determined to be dangerous by this Ordinance.

E. Confinement of animals by individuals. If an animal is found upon the premises of another, the occupant of the premises may confine the animal only for so long as reasonably necessary to notify the City and have the animal impounded. In attempting to confine the animal the occupant shall not use any means or force that could constitute cruelty to an animal or behave in a cruel manner as defined by the Texas Penal Code toward the animal.

F. Disposal of dead animals.

1. It shall be the responsibility of the owners of livestock to properly dispose of all dead animals within a twenty-four (24) hour period.
2. It shall be the responsibility of the owner to dispose of dead dogs cats or other animals other than livestock, on his property within twelve (12) hours.
3. The animal service officer has the authority to pick up any dead animal found on public property and dispose of it and assist a citizen with the same if requested. After twenty-four (24) hours, the animal control officer may enter private property and remove any dead animal which the property owner has failed to dispose of.

G. Fees for removal of dead animals.

1. There shall be a fee for the removal of a deceased animal from private property.
2. The fee shall be determined as designated in the fee ordinance. These fees are to be paid by the person or persons owning the animal or having possession thereof.

SECTION 10. REPORTING REQUIREMENTS.

A. Abandonment—Reporting Violations

1. It is unlawful for any person to abandon any animal in the City.
2. Every person having knowledge of a violation shall report immediately to the City of Sandy Oaks Marshal's Office any facts, which could lead to the identification of any person or group of person violating subsection A of this Section. However, nothing in this provision shall subject an individual with knowledge of the violation to prosecution under this Ordinance.
3. It is unlawful for any person having charge or custody of an animal, as owner or otherwise, to place or confine such animals or allow such animals to be placed or confined or to remain in a motor vehicle or livestock trailer under such condition or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or water, or such other circumstances as may reasonably be expected to cause suffering, disability or death.
 - a. Any officer finding an animal in a vehicle or livestock trailer in violation of the provisions in this subsection is authorized to obtain a locksmith at the owner's cost or break and enter the vehicle if necessary to remove the animals.
 - b. Removed animals will be impounded with the Enforcing Agency or a veterinary clinic for safekeeping. Owners may claim their animals upon payment of all reasonable charges or fees that accrued for removals and maintenance of the animals, plus impoundment fees charged by the Enforcing Agency.
 - c. At the time the animals removed from the motor vehicle or livestock trailer, the officer shall leave a written notice bearing his name and title and the address where the animal may be claimed.
 - d. The animal will be retained for a minimum of three (3) days or other time designated by the Enforcing Agency, and if not claimed, may be disposed of by the Enforcing Agency in accordance with their rules and regulations.

B. Rabies—Reporting Requirements. It shall be the duty of the owner, custodian, or veterinarian to report to the City all cases of rabies or suspected rabies of which the owner, custodian, or veterinarian knows or should know. Any animal that has or is suspected of having rabies that has symptoms of rabies has been exposed to rabies or some other facts suggest that rabies is a concern in regard to the animal shall be quarantined as required by law and direction of the City Marshal or animal control officer.

C. Animal bites—Reporting Requirements.

1. A person who knows of an animal bite or scratch to an individual or another animal that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animals to the City of Sandy Oaks Marshal's Office as soon as possible, but not later than twenty-four (24) hours from the time of the incident. The report must include:
 - a. The name and address of the victim and the animal's, owner, if known; and
 - b. Any other information that may help in locating the victim or animals.
2. It shall be the duty of every veterinarian having an animal quarantined for a bite incident to submit a written report to the City as to the condition of the quarantined animals on the initial day of observation and on the fifth day and the tenth day immediately following the date of the bite incident.
3. It shall be the duty of every veterinarian to report immediately to the City his/her diagnosis of any animals observed by him as a rabies suspect.
- D. It shall be the duty of every veterinarian, physician, or other person having knowledge of any zoonotic disease or condition caused by animals which may endanger the public or animal health or create a public nuisance to report same to the City.

SECTION 11. FEES AND IMPOUNDMENT.

- A. The Enforcing Agency is hereby authorized and required to charge the same fees as are established and charged by the respective Enforcing Agency for any service for which the Enforcing Agency has established a fee.
- B. The owner of any animal detained and impounded by the Enforcing Agency shall be entitled to resume possession of such animal upon compliance with the laws and regulations of the Enforcing Agency and the payment of any impoundment, boarding and quarantine fees as established by the Enforcing Agency or has have been established by an Interlocal Agreement between the City and another local governmental agency providing animal care services pursuant to this Ordinance.
- C. Any animal detained or impounded under the provisions of State law or this Ordinance or held by the Enforcing Agency in the jurisdiction of the Enforcing Agency, and not reclaimed in the manner and time period as provided by the laws and regulations of the Enforcing Agency, will become the property of the Enforcing Agency and be subject to its regulations governing animal impoundment, redemption and disposition.

SECTION 12. CRIMINAL PENALTIES AND ENFORCEMENT.

- A. Right of Entry—Interference with Officer.
 1. The City Marshal, animal control officer or other person authorized by the Enforcing Agency to serve as "officers" as this term is defined by this Ordinance, shall be primarily responsible for the enforcement of this Ordinance.

2. The Code Enforcement Officers of the City of Sandy Oaks are additionally responsible for the enforcement of this Ordinance and serve as "officers" as these term is defined by this Ordinance.
 3. For the purpose of discharging the duties imposed by this ordinance and to enforce its provision, any officer is empowered at all reasonable times and upon representation of appropriate credentials, to enter any premises upon which an animal is kept or harbored and to demand the exhibition, by the owner of a dog or cat, of the certificate of vaccination for such dog or cat. It is further provided that any officer may enter, at all reasonable times and upon the presentation of appropriate credentials, the premises where an animal is kept in an allegedly cruel or inhumane manner and demand to examine or impound such animal, when in his/her opinion it requires humane treatment. No officer shall, however, enter a private residence for purposes of making an inspection under this Section without first receiving permission from an occupant of such residence or being authorized to inspect such residence by a magistrate or by order of a court of competent jurisdiction as provided by law.
 4. No person shall interfere with, hinder or molest any officer in the performance of his duty.
 5. Nothing in this Section shall be construed to limit an officer's ability to enter upon a premises when a violation of this Ordinance or other law occurs in their presence and entry is made in accordance with the state and federal law.
- B. Violation—Penalty. Except as otherwise provided by State law, any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed TWO THOUSAND DOLLARS AND NO/100 (\$2,000.00). Each occurrence shall be deemed to be a separate violation. Each day that a violation is permitted to exist shall constitute a separate offense.
- C. Enforcement of Violations.
1. The City Marshal, code enforcement officer or animal control officer shall have the authority to issue citations for any violation of this Ordinance.
 2. It shall be unlawful for any person upon being issued a citation to give the animal control officer any personal identification information other than his true name and address.
 3. It shall be unlawful to fail to appear in accordance with the terms of a citation issued by the animal control officer.
 4. If the person being cited is not present, the animal control officer may send the citation to the alleged offender by certified or registered mail return receipt requested whereupon service shall be deemed complete.
 5. It shall be unlawful for any person to interfere with the animal control officer in the performance of his duties.


SECTION 13. EFFECT OF ORDINANCE ON EXISTING DEED RESTRICTIONS, COVENANTS OR AGREEMENTS. This Ordinance does not supersede a deed restriction, covenant or agreement that is contrary to a provision in this Ordinance relating to the keeping, caretaking or maintaining of animals on residential properties within the City and that exists prior to the time this Ordinance takes effect. It is an affirmative defense to prosecution under this Ordinance if the keeping, caretaking or maintaining of animals on residential property is permitted under a deed restriction, covenant or agreement that exists prior to the time this Ordinance takes effect and a showing of proof of such existence. A person may submit a variance request to be considered by the City Council.

SECTION 14. SEVERABILITY. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase clause sentence paragraph or section.

SECTION 15. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

SECTION 16. PUBLICATION. The City Clerk is hereby authorized and directed to publish the caption of this Ordinance together with the penalty provision contained therein the manner and for the length of time prescribed by law.

PASSED, APPROVED AND ADOPTED THIS 14th day of January, 2016.


Micki L. Ball, Mayor

ATTEST:


Charlotte Rabe, City Clerk