

ORDINANCE NO. O-1783

AN ORDINANCE OF THE CITY OF FATE, TEXAS, AMENDING THE CODE OF ORDINANCES BY REPEALING CHAPTER 4, “ANIMALS”; AND ADOPTING A NEW CHAPTER 4, “ANIMAL CONTROL”, THAT ESTABLISHES AND PROVIDES FOR ANIMAL CONTROL REGULATIONS CONSISTENT WITH THE CITY OF FATE COMPREHENSIVE PLAN; PROVIDING A SAVINGS CLAUSE; PROVIDING A CUMULATIVE AND REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Fate, Texas (“the City”) is a home-rule municipality organized under the laws of the State of Texas; and

WHEREAS, the City Council of the City of Fate (“the City Council”) has the authority and power to adopt and amend ordinances that regulate animals within the City’s incorporated limits; and

WHEREAS, it is the intent of the City Council of the City to provide animal regulations in accordance with the City Comprehensive Plan; and

WHEREAS, the City Council has investigated and determined that it is advantageous, beneficial, and in the best interest of the public health, safety, and welfare to adopt the animal control regulations set forth herein.

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

Section 1. Findings Incorporated. The findings set forth above are incorporated as if fully set forth herein.

Section 2. Chapter 4, “Animals”, of the City of Fate Code of Ordinances is hereby renamed to read in its entirety:

Chapter 4 – Animal Control

Section 3. Chapter 4, “Animal Control”, of the City of Fate Code of Ordinances is hereby amended to read in its entirety as follows:

Sec. 4-1. – Definitions

Abandon. To leave unattended for more than seventy-two (72) hours or without making reasonable arrangements for assumption of custody by another person.

Animal. 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 authority (ACA). Any individual employed, contracted with, designated or appointed by the City for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

Animal Foster Homes. A residential dwelling that accepts the responsibility for stewardship of animals through an affiliation with a public or private animal shelter or animal welfare organization, not to exceed six (6) foster animals at any given time. Permits to operate as a foster home shall be unexpired and issued through the Dallas Pets Alive.

Animal shelter. A facility operated by the City or with which the City has contracted for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Animal units. Animal units (AU) are used in the permitting, registration, and the environmental review process because they allow equal standards for all animals based on size and manure production. An AU is calculated by multiplying the number of animals by an animal unit factor for the specific type of animal. When more than one type of animal is planned for a premises, the number of AU is the sum of the AU for each type of animal.

Apiary. Means any place where one (1) or more colonies of bees are located.

At-large. When an animal is not confined to the premises of its owner by a fence in good repair and of sufficient strength and/or height to prevent the animal from escaping there from, inside the residence or other enclosure, or secured on such premises by a leash of sufficient strength to prevent the animal from escaping from the premises, and so arranged that the animal will remain upon such 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 a person of adequate strength by means of a device, such as a leash, cord, chain, or rope, in good repair and of proper strength and length to control the action of the animal, or while confined within a vehicle. An “invisible fence” will suffice as sufficient restraint so long as the animal is not found outside the premises of the owner.

Beekeeper. A person who owns or has charge of one (1) or more colonies of bees.

Beekeeping equipment. Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.

Bite. Any abrasion, scratch, puncture, tear causing the breaking or piercing of skin caused by an animal.

Cat. All domestic species or varieties of Felis catus, male or female, alive or dead.

Colony. Bees in any hive including queens, workers, or drones.

Dangerous dog. Any dog that, according to the records of the appropriate authority:

- (1) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property;
- (3) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- (4) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

Dangerous wild animal. (As defined in the Texas Health and Safety Code 822.101.)

- (1) A lion; (2) A tiger; (3) An ocelot; (4) A cougar; (5) A leopard; (6) A cheetah; (7) A jaguar; (8) A bobcat; (9) A lynx; (10) A serval; (11) A caracal; (12) A hyena; (13) A bear; (14) A coyote; (15) A jackal; (16) A baboon; (17) A chimpanzee; (18) An orangutan; (19) A gorilla; or (20) Any hybrid of an animal listed in this definition.

Dog. All domesticated members of *Canis lupus familiaris*, male and female, alive or dead.

Enforcement officers. Those authorized to enforce the provisions of this chapter, including but not limited to the local animal authority representative, any animal control authority, or any police officer.

Farms general (livestock/ranch, crops). An area used for growing usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Harboring of animals. The keeping and caring, including but not limited to feeding and providing water, for an animal.

Hive. A frame hive, box hive, box, barrel, log, gum skep, or other artificial or natural receptacle which may be used to house bees.

Honeybee. The common honeybee, *Apis mellifera* species, at any stage of development, but not including the African honeybee, *Apis mellifera scutellata* species, or any hybrid thereof.

Humanely euthanize. To cause the death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or

(2) Utilizes anesthesia produced by an agent which causes painless loss of consciousness with death following such loss of consciousness.

Impound. To seize and hold in the custody of the animal control authority or other authority such as a veterinarian.

Invisible fence. Any fence which cannot be seen with the human eye but that is designed to keep an animal enclosed in a space. Such invisible fence must not be capable of causing pain or discomfort to any human being that crosses its path.

Law enforcement officer. Any peace officer as defined in the Texas Code of Criminal Procedure, [article] 2.12.

Litter. The offspring at one birth of a multiparous animal.

Livestock. Horses, mules, cattle, poultry, hogs, goats and sheep of any and all kinds, fallow deer, llamas, alpacas, emu's and ostriches, and shall include both the male and female species of such animals.

Local Health Authority. The local health authority is designated as the animal control authority (ACA) and has authority to appoint representatives to enforce the provisions of this chapter and to receive reports of animal bites, investigate animal bites, ensure quarantine of possibly rabid animals and otherwise carry out provisions of the state law pertaining to control and eradication of rabies. This term includes animal control authority, law enforcement officers and enforcement officers as defined herein, including their respective designees.

Mason bee. The common mason or blue orchard bee in the genus *Osmia*, of the family Megachilidae.

Observation period. The ten (10) days following a biting incident during which an animal's health status must be monitored.

Owner. A person, who harbors, keeps, possesses, or permits to be harbored, kept, or possessed an animal in his care, on or about his premises, without regard to title, purchase, or acceptance of the animal as a gift.

Person. Any individual, firm, association, partnership, or corporation or any other legal entity.

Police animal. Any animal used by a law enforcement agency or its officers in the administration of official duties.

Premises. Land together with any buildings or structures situated thereon.

Prohibited animal. An animal not normally considered domesticated, including, but not limited to, a venomous lizard, poisonous snake, raccoon, skunk, fox, bear, elephant, kangaroo, monkey, chimpanzee, antelope, white tail or mule deer, any protected, threatened, or endangered

species as defined by the state parks and wildlife commission and the U.S. Fish and Wildlife Service, or any other wild animal capable of, or inclined to do, serious bodily harm to humans, other animals or fowl.

Proper enclosure of a dangerous dog. Secure enclosure of a dangerous dog, means a fenced area or structure 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; and
- (5) In conformance with the requirements for enclosures established by the local animal control authority.

Quarantine. Strict confinement under restraint by closed cage or paddock or in any other manner approved in this chapter or state law on the private premises of the owner or at a facility approved by the state board of health or its designee, the local animal control authority, or at a veterinarian's office.

Residence. Same as a dwelling, City Unified Development Ordinance; also, when used with district, an area of residential regulations.

Severe injury. Any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

Stray animal. Any animal for which there is no identifiable owner or harborer.

Unprovoked. An action by an animal that is not in response to being tormented, abused, teased or assaulted by any person; in response to pain or injury; or in protection for itself or its food, kennel, immediate territory, or nursing offspring.

Vaccinated. Properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed to practice in the state in an amount sufficient to provide an immunity.

Veterinarian. A person licensed to practice veterinary medicine.

Vicious animal. Any individual animal that has on two previous occasions, without provocation, attacked or bitten any person or other animal, or any individual animal which the local health authority or his representative has reason to believe has a dangerous disposition likely to be harmful to humans or other animals.

Wild animal. Includes all species of animals that commonly exist in a natural unconfined state and are usually not domesticated. This shall apply regardless of state or duration of captivity.

The term shall include but is not limited to: foxes, panthers, wolves, alligators, crocodiles, apes, elephants, rhinoceroses, and all forms of poisonous or constricting reptiles, and other like animals. This term is also inclusive of the definition in section 822 of the Texas Health and Safety Code.

Sec. 4-2. – Enforcement

- (a) Enforcement of this chapter shall be the responsibility of the animal control authority.
- (b) The animal control authority shall have the authority to issue citations for any violation of this chapter.
- (c) If a person cited is not present, the animal control authority may send the citation to the alleged offender by registered or certified mail.
- (d) It shall be unlawful for any person to interfere with the animal control authority in the performance of his duties.
- (e) The animal control authority shall have the authority to humanely euthanize and/or destroy any animal in accordance with the provisions of this chapter.
- (f) The animal control authority shall have the authority to use a tranquilizer gun in the lawful discharge of his/her duties.
- (g) Police animals are exempt from the provisions of this chapter.

Sec. 4-3. – Authority to Impound, Destroy, or Muzzle Certain Animals

- (a) The animal control authority shall have the authority to impound an animal which is diseased and could endanger the health and welfare of another animal or person.
- (b) Any law enforcement officer or animal control authority shall have the authority to kill an animal which, in the sole opinion of the police officer or animal control authority, poses an imminent danger to a person or property and where a real or apparent necessity exists for the destruction of the animal.
- (c) The animal control authority shall have the authority to muzzle, or order the owner, handler, or controller of an animal to muzzle, an animal which, in the sole opinion of the animal control authority, poses a threat to the safety or welfare of any person.

Sec. 4-4. Exceptions

- (a) The provisions of section 4-14 of this chapter (relating to animals at-large) shall not apply to cats or to dogs under the age of four (4) months.
- (b) With the exception of sanitation requirements, the noise prohibition and the

prohibition on keeping vicious animals, the provisions of this chapter shall not apply to dogs or cats of nonresidents of the City who are temporarily visiting in the City, which dogs or cats, while out-of-doors, are kept securely under control by a leash, rope or trap, or confined in a vehicle.

Sec. 4-5. Fees

All fees for licensing, daily handling, impoundment, disposal, quarantine, lost or destroyed tags, and/or surrender to the animal shelter are stated in the schedule of fees to be revised from time to time by the Animal Control Authority and approved by the City Council. A copy of the schedule of fees can be obtained from the Animal Control Authority or City Secretary.

Sec. 4-6. Confinement of Animal Involved in Attack

When an animal has bitten, scratched, or otherwise attacked a person or animal, anyone having knowledge of such incident shall immediately notify the animal control authority. Such animal shall then be confined in a veterinary hospital or approved animal shelter designated by the animal control authority for a period of ten (10) days. The cost of such confinement shall be paid by the owner of the animal. Such animal shall, during such period of confinement, be subject to inspection by the animal control authority, other City personnel or a licensed veterinarian. If, after the ten-day period, the owner fails to pick up the animal, the animal control authority may follow the procedure for adoption or disposal of an impounded animal.

State law references – Rabies reports and quarantine, V.T.C.A., Health and Safety Code, sec. 826.041 et seq.; quarantine of animals, V.T.C.A., Health and Safety Code, sec. 826.042.

Sec. 4-7. Vicious Animals

A vicious animal, as defined in Section 4-1 of this Chapter, shall not be allowed in the City limits. Any vicious animal found in the City shall be removed immediately by order of the animal control authority. If the owner of the vicious animal fails to remove such animal, the animal control authority may have such animal impounded and/or destroyed.

Sec. 4-8. Rabies Vaccination of Dogs and Cats

It shall be the duty of the owner or keeper of each dog and cat owned, kept, possessed, harbored or allowed upon the premises of any such person and under such person's control in the City to have such dog or cat vaccinated (as defined herein) against rabies by a licensed veterinarian at least once every three (3) years. The most recent rabies vaccination tag for the animal must be worn by the animal at all times. Such vaccination must be with a protective inoculation with antirabic vaccine recognized and approved by the U.S. Department of Agriculture given in an amount sufficient to provide immunity. It shall be unlawful for an owner or keeper of a dog or cat to fail to have all such animals vaccinated for rabies.

State law reference—Rabies vaccinations, V.T.C.A., Health and Safety Code, sec. 826.021 et seq.

Sec. 4-9. Defecation of Animals on Public or Private Property

It shall be unlawful and an offense for any person to fail to promptly remove and dispose of, in a sanitary manner, feces left by a dog, cat, or other animal being owned, handled, or controlled by that person:

- (1) Upon a public area, including but not limited to walks, parks, recreation areas, sidewalks, parkways, public streets, alleys, school grounds, any common areas of an apartment house, or any common area of an office building; or
- (2) Upon private property other than the premises of the owner, handler or controller of such animal.

Sec. 4-10. Sanitary Conditions

All persons keeping animals within the City shall keep the premises upon which such animal is kept clean and free from noxious and unpleasant odors and shall use some control measure at reasonable intervals so as to keep such premises free from flies, mosquitoes, fleas and other insects. Premises must further be kept clean of animal feces, trash, and etc. as to not create noxious and unpleasant odors.

Sec. 4-11. Noise

- (a) No person shall knowingly keep or harbor any animal that causes loud and unusual or frequent barking, howling, or other noise that disturbs the peace and quiet of any person of ordinary sensibilities.
- (b) It shall serve as prima facie evidence of a violation of this section if an owner allows an unprovoked animal to cause noise described in this section in excess of fifteen (15) minutes.

Sec. 4-12. Limitation Upon the Number of Dogs and Cats Allowed

- (a) Premises Less Than One Acre
It shall be unlawful for any person to keep, harbor, or raise more than six (6) dogs or cats or any combination thereof more than the age of sixteen (16) weeks on any one (1) premise less than one (1) acre within the City.
- (b) Premises One Acre or Greater
It shall be unlawful for any person to keep, harbor, or raise more than six (6) dogs or cats or any combination thereof more than the age of sixteen (16) weeks on any one (1) premise one (1) acre or less within the City. For each acre or fraction thereof greater than one (1) acre a person may keep, harbor, or raise dogs or cats at an animal unit factor of 0.8. The acreage used to calculate the maximum number of dogs or cats or any combination thereof shall be the entire acreage of the premises (instead of the acreage greater than one (1) acre).

<u>Example Calculation #1. Premise Greater than 1 Acre</u>
1. 1.5 acre (AC) premise
2. $1.5 \text{ AC} \times 0.8$ [animal unit factor] = 1.20 additional dogs or cats
3. 6 dogs or cats permitted for 1 acre or less
4. $6 + 1.20 = 7.20$ dogs or cats permitted (numbers below 0.5 shall be rounded down to the next lower whole number).
<u>Example Calculation #2. Premise Greater than 1 Acre</u>
1. 3.2 acre (AC) premise
2. $3.2 \text{ AC} \times 0.8$ [animal unit factor] = 2.56 additional dogs or cats
3. 6 dogs or cats permitted for 1 acre or less
4. $6 + 2.56 = 8.56$ dogs or cats permitted (numbers exceeding 0.5 shall be rounded up to the next higher whole number).

(c) Temporary Keeping of Dogs or Cats

The temporary keeping of more than the maximum permitted number of dogs or cats (as determined by the acreage of the premises) by a pet sitter is allowed for a period not to exceed seven (7) days. In no instance shall the number of dogs or cats under temporary keeping exceed more than six (6) the maximum permitted number of dogs or cats.

(d) Animal Shelters and Animal Foster Homes

Approved animal shelters are exempt from the requirements of this chapter. Animal foster homes with an unexpired permit issued by the Dallas Pets Alive organization is allowed. Any permittee may keep, harbor, or raise animals for a period not to exceed sixteen (16) weeks. In no instance shall the number of foster animals exceed more than six (6) the maximum permitted number of animals as determined by the acreage of the premises.

(e) There is no limit on the amount or size of litters per residence.

(f) Nothing in this chapter allows for commercial kennels or breeders without the proper zoning and special use permit as required by the City Unified Development Ordinance.

Sec. 4-13. Animals; Animal Units; Proper Zoning Required for Farm Animals

(a) It shall be unlawful for any person to possess, harbor, or keep any farm animal on any premises not zoned for residential or agricultural. Farm animals are prohibited on premises used for nonresidential purposes.

(b) Premises Less than Twelve Thousand (12,000) Square Feet

It shall be unlawful for any person to possess, harbor, or keep more than one animal unit per acre as determined by the animal unit matrix. The maximum number of farm animals shall be based off the enclosed area (square feet) of the rear and side yards (instead of the entire area of the premises). An enclosed area shall be defined as the perimeter of a permanent fence which meets the

requirements of the City Unified Development Ordinance. Premises less than 12,000 square feet which do not have an enclosed area shall not possess, harbor, or keep any farm animal.

(c) Premises Twelve Thousand (12,000) Square Feet or Greater

It shall be unlawful for any person to possess, harbor, or keep more than one animal unit per acre as determined by the animal unit matrix.

Animal Unit Calculation Table			
1. Animal Type	2. Number of Animals	3. Animal Unit Factor	4. Number of Animal Units
A. Dairy Cattle			
1. Mature cow over 1,000 pounds		1.4	
2. Mature cow under 1,000 pounds		1.0	
3. Heifer		0.7	
4. Calf		0.2	
B. Beef Cattle			
1. Slaughter steer or stock cow		1.0	
2. Feeder cattle or heifer		0.7	
3. Cow and calf pair		1.2	
4. Calf		0.2	
C. Swine			
1. Over 300 pounds		0.4	
2. Between 55 and 300 pounds		0.3	
3. Under 55 pounds		0.05	
D. Horse, Donkey, Mule			
1. Horse, Donkey, Mule		1.0	
2. Miniature of above (150–250 lbs)		0.25	
E. Sheep, goats and lambs			
1. Sheep, Goats, and Lambs		0.1	
F. Chickens			
1. Laying hen or broiler (liquid manure system)		0.033	
2. Chicken over 5 pounds (dry manure system)		0.005	
3. Chicken under 5 pounds (dry manure system)		0.003	
G. Turkeys			
1. Over 5 pounds		0.018	
2. Under 5 pounds		0.005	
H. Ducks			
1. Ducks		0.01	
I. Animal not listed in item A to H			
I. Animal not listed in item A to H		Avg. weight of the animal in pounds divided by 1,000	
Total number of animal units (Add up all the numbers in column 4)			
http://www.mda.state.mn.us/animals/feedlots/feedlot-dmt/animalunitcalcwksht.aspx			

Example Calculations			
1. Animal Type	2. Number of Animals	3. Animal Unit Factor	4. Number of Animal Units
A. Dairy Cattle; 4. Calf	3	0.2	0.6
C. Swine; 1. Over 300 Pounds	1	0.4	0.4
Total Number of Animal Units			1
The number of animal units is exactly 1 meaning a premise must be at least 1-acre to possess 3 calves and 1 swine over 300 pounds.			
<u>Example Calculation #1. Premise Less than 12,000 Square Feet</u> Laying Hen or Broiler (liquid manure system)			
1. 43,560 square feet (SF) in 1-Acre			
2. $43,560 \text{ SF} \times 0.033$ [animal unit factor] = 1,437 SF / per laying hen			
3. 6,500 SF premise with an enclosed area of 3,700 SF			
4. $3,700 \text{ SF} / 1,437 \text{ SF} = 2.57$ laying hens permitted (numbers exceeding 0.5 shall be rounded up to the next higher whole number).			
<u>Example Calculation #2. Premise Less than 12,000 Square Feet</u> Laying Hen or Broiler (liquid manure system) AND Swine Less than 55 Pounds			
1. 43,560 square feet (SF) in 1-Acre			
2. $43,560 \text{ SF} \times 0.033$ [animal unit factor] = 1,437 SF/per laying hen			
3. $43,560 \text{ SF} \times 0.05$ [animal unit factor] = 2,178 SF/per swine less than 55 pounds			
4. 6,500 SF premise with an enclosed area of 3,700 SF			
5. $1,437 \text{ SF} + 2,178 \text{ SF} = 3,615 \text{ SF} / 3,700 \text{ SF} = 0.97$ animal units. The number of animal units is less than 1 meaning a 6,500 SF premise with an enclosed area of 3,700 SF is permitted to possess 1 laying hen and 1 swine less than 55 pounds.			
<u>Example Calculation #3. Premise 12,000 Square Feet or Greater</u> Laying Hen or Broiler (liquid manure system) AND Swine Less than 55 Pounds			
1. 43,560 square feet (SF) in 1-Acre			
2. $43,560 \text{ SF} \times 0.033$ [animal unit factor] = 1,437 SF/per laying hen			
3. $43,560 \text{ SF} \times 0.05$ [animal unit factor] = 2,178 SF/per swine less than 55 pounds			
4. 12,001 SF premise			
5. $(5 \text{ laying hens} \times 1,437 \text{ SF} = 7,185 \text{ SF}) + (2 \text{ swine less than 55 pounds} \times 2,178 \text{ SF} = 4,356 \text{ SF})$			
6. $7,185 \text{ SF} + 4,356 \text{ SF} = 11,541 \text{ SF} / 12,001 \text{ SF} = 0.96$ animal units. The number of animal units is less than 1 meaning a 12,001 SF premise is permitted to possess 5 laying hens and 2 swine less than 55 pounds.			

Sec. 4-14. – Animals at Large

- (a) It shall be unlawful for any owner to allow a dog or any other animal possessed, kept or harbored by him, other than a cat, to be at-large, as defined in section 4-1 of this chapter.

- (b) Upon the complaint to the animal control authority that a cat has caused a nuisance or hazard to the health or welfare of the human or animal population, a law enforcement officer or animal control authority may determine such cat to be at-large as defined in section 4-1 of this chapter.
- (c) A law enforcement officer or animal control authority is authorized to impound any animal found to be at-large.

State law references—Animals at-large, V.T.C.A., Local Government Code, sec. 215.026; authority to regulate the capture and impoundment of animals, V.T.C.A., Local Government Code, sec. 215.026(c).

Sec. 4-15. – Food and Shelter

No person shall fail to provide any animal in his charge or custody sustenance, drink and protection from the elements, or cause such deprivation to be done. This article does not require shelter for pastured livestock.

Sec. 4-16. – Impoundment; Notice to Owner

- (a) The animal control authority is authorized to capture and impound any animal upon having probable cause to believe the animal to be in violation of any of the City's code or state law, which authorizes or requires the animal's capture and impoundment.
- (b) If, by identification tag, the owner of an impounded animal can be identified, the ACA will make every attempt to return the animal to its home and notify the owner of any violations witnessed by the ACA. Written warnings may be issued to owners. Violators may be impounded and/or citations may be issued to owners of said animal.
- (c) All impounded animals shall be kept for not less than five (5) calendar days. After this period of time, the animal shall be released to the animal control facility and either placed for adoption or humanely destroyed at the discretion of the animal control authority. No record shall be kept by the City as to the disposition of an animal after its release.
- (d) Any animal, whether licensed or unlicensed, which in the professional judgment of the animal control authority, is in great pain and suffering due to injury from which the animal probably will not recover, or which appears to have rabies, and/or which is at-large and is posing an imminent danger to human beings or to other animals, may be destroyed by the ACA in a humane manner.

Sec. 4-17. – Dog Licenses and Tags

(a) License Required

The owner or harbinger of each canine more than four (4) months old in the City shall register the animal with the City animal control authority and obtain a license for such animal from the animal control authority. At the time of application for such license, the

owner shall present an unexpired certificate of vaccination for the animal, a photo of the animal, and pay a licensing fee for each animal, the amount of which is to be designated on the schedule of fees of the City.

(b) Proof of License

A person commits an offense if he possesses within the City an animal which has not been licensed according to Section 4-17(a). The owner of an animal shall, upon request, show to the law enforcement officer or animal control authority enforcing this chapter the receipt for the animal's City registration. The failure or refusal of an owner to produce to the law enforcement officer or animal control authority the receipt for the animal's City registration or a license tag shall constitute prima facie proof that such animal has not been licensed according to the requirement contained in Section 4-17(a).

(c) Issuance of Tag

Upon presentation of the unexpired vaccination certificate, a photo of the animal, and payment of the licensing fee, the animal control authority shall issue to the owner a license tag.

(d) Lost or Destroyed Tags

In the event a license tag is lost or destroyed, a new tag shall be issued by the animal control authority upon presentation of a receipt showing the payment of the license fee and upon the payment of a replacement fee, the amount of which is to be designated on the schedule of fees.

(e) Failure to Obtain Tag

A person commits an offense, without regard to his mental state, if he owns an animal without an unexpired licensing tag for the animal.

(f) Defenses

It is a defense to prosecution that:

1. The animal was younger than four months of age; or
2. The owner of the animal has resided in the City less than 30 days.

(g) Transfer of License

City registration or licensing of an animal is not transferable to another animal.

Sec. 4-18. – Dangerous Dogs

(a) Declaration of Dangerous Dog

1. If the animal control authority has cause to believe that a dog is a dangerous dog as defined by this chapter, he may find and declare such dog a dangerous dog.
2. Within seventy-two (72) hours of declaring a dog dangerous, the animal control authority will notify the person owning the dog of its designation as a dangerous dog and provide him a copy of this chapter. The notification to the owner will be provided in person or through certified mail return receipt requested. The notification will describe the dog and

specify any particular requirements or conditions placed upon the person owning the dog.

3. The notice shall inform the owner of the dog that he may request, in writing, an appeal of the dangerous dog determination within ten (10) days from the receipt of the certified mail or date of the personal notification of the dangerous dog declaration to contest the finding and designation.

(b) Requirement for Owner

1. If the owner of a dog that has been determined dangerous by the animal control authority elects not to appeal that decision pursuant to Section 4-18(b)3, then, within thirty (30) days of the expiration of the ten-day time period for appeal, the owner shall comply with the requirements listed in this article. If the owner of a dog that has been determined dangerous appeals that decision to the municipal court, then such owner shall comply with the requirements of this article within thirty (30) days after such determination by the municipal court. The requirements of this article that must be met are as follows:
 - i. Register the dangerous dog with the animal control authority for the area in which the dog is kept;
 - ii. Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
 - iii. Obtain liability insurance coverage or show financial responsibility in the amount specified by state law to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person.
2. For purposes of this article, a person learns that the person is the owner of a dangerous dog when:
 - i. The owner knows of an attack described in the definitions set forth in Section 4-1 of this chapter;
 - ii. The owner is informed by the animal control authority that the dog is a dangerous dog; or
 - iii. A determination is made by the municipal court that the animal is a dangerous dog.
3. Appeal from dangerous dog determination
 - i. Appeals from the animal control authority's determination that a dog is dangerous will be heard by the municipal court. Upon notice of appeal as prescribed in this article, the municipal court will hear the case at the next trial setting after the request for appeal.

- ii. The appeal is a civil proceeding for the purpose of affirming or reversing the animal control authority's determination of dangerousness. If the dog has been impounded, the municipal court judge may waive any and all fees associated with the impoundment and release the dog to its owner upon reversal of the animal control authority's determination.

Sec. 4-19. – Horses and Other Livestock

- (a) It shall be unlawful for any person to allow horses, mules, cattle, or any other similarly sized animal within (50) feet of any person's dwelling other than the owner's dwelling. It shall be unlawful for any person to allow any other livestock within ten (10) feet of any person's dwelling other than the owner's dwelling.
- (b) Manure and droppings shall be removed from pens, stables, yards, etc., on a regular basis and disposed of in such a manner to keep cleanliness of the premises and free of any nuisance.
- (c) Watering troughs and tanks shall be maintained and cleaned regularly in such a way to prevent the breeding of flies, mosquitoes or other insects.

Sec. 4-20. – Dangerous and Wild Animals

The City hereby adopts V.T.C.A., Health & Safety Code, sections 822.101–116 in its entirety and any subsequent amendments for the regulation and control of dangerous wild animals.

Sec. 4-21. – Beekeeping

- (a) Purpose
The purpose of this chapter is to authorize beekeeping subject to certain requirements intended to avoid problems that may otherwise be associated with beekeeping in populated areas.
- (b) Certain Conduct Unlawful
Notwithstanding compliance with the various requirements of this chapter, it shall be unlawful for any person to maintain an apiary or to keep any colony on any property in a manner that threatens public health or safety, or creates a nuisance.
- (c) Hives on Residential Lots
 1. As provided in this chapter, an apiary, consisting of not more than five (5) hives or an equivalent capacity, may be maintained in the rear yard of any residential lot that is larger than five thousand (5,000) square feet. On a residential lot which is larger than one-half (0.5) acre, the number of hives located on the lot may be increased to ten (10) hives.
 2. A person shall not locate or allow a hive on property owned or occupied by another person without first obtaining written permission from the owner or occupant.

(d) Beekeeping Registration

Each beekeeper shall be registered with the Texas Apiary Inspection Service as provided in the Texas Agricultural Code set forth in Chapter 131, as amended.

(e) Species Allowed

Beekeepers are allowed to keep honeybees or mason bees as defined in section 4-1 of this chapter.

(f) Hives

1. A hive shall be placed on property so the general flight pattern of bees is in a direction that will deter bee contact with humans and domesticated animals.

a. If any portion of a hive is located within fifteen (15) feet from an area which provides public access or from a property line on the lot where an apiary is located, as measured from the nearest point on the hive to the property line, a flyway barrier at least six (6) feet in height shall be established and maintained around the hive except as needed to allow access.

b. Such flyway, if located along the property line or within five (5) feet of the property line, shall consist of:

i. A solid wall

ii. Fence

iii. Dense vegetation; or

iv. combination thereof, which extends at least ten (10) feet beyond the hive in each direction so that bees are forced to fly to an elevation of at least six (6) feet above ground level over property lines in the vicinity of the apiary.

(g) Flyways

Each beekeeper shall ensure that a convenient source of water is available to the colony continuously between March 1 and October 31 of each year. The water shall be in a location that minimizes any nuisance created by bees seeking water on neighboring property.

(h) Water

Each beekeeper shall ensure that no bee comb or other beekeeping equipment is left upon the grounds of an apiary site. Upon removal from a hive, all such equipment shall promptly be disposed of in a sealed container or placed within an enclosed building or other bee-proof enclosure.

(i) Beekeeping Equipment

It shall be unlawful for any person to keep beehives in a manner that is contrary to the provisions of this chapter. Any such violation shall be a class C misdemeanor.

Sec. 4-22. – Penalty; Injunction

(a) Except as specifically provided otherwise, any person violating any of the provisions of this chapter commits an offense and shall be deemed guilty of a class C misdemeanor and, upon conviction, shall be fined, except as otherwise provided herein, in accordance with Section 1-14 of the Code of Ordinances, as amended.

- (b) The City may bring suit in a court of appropriate jurisdiction to enforce the provisions of this section. The City is not required to give bond as a condition to the issuance of injunctive relief.

Section 4. Penalty Clause. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to a penalty as provided by Section 1-14 the Code of Ordinances of the City of Fate, Texas.

Section 6. Savings Clause. All rights and remedies of the City of Fate, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. Cumulative/Repealer Clause. This Ordinance shall be cumulative of all provisions of state or federal law and other ordinances of the City of Fate, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 8. Severability Clause. 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 of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 9. Effective Date. This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Fate, Texas, on this the 2nd day of October, 2017.




Lorne Megyesi, Mayor

ATTEST:


Victoria Raduechel, TRMC, City Secretary

APPROVED AS TO FORM:


Brenda N. McDonald, City Attorney