

## ORDINANCE NO. 2322

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 4, ARTICLES I, II AND III OF THE CODE OF THE CITY OF MESQUITE; PROVIDING DEFINITIONS; PROVIDING FOR THE SUPERVISION, ACTIVITIES AND ENFORCEMENT; PROVIDING FOR THE REGULATION OF KEEPING DOGS AND CATS IN GENERAL; PROVIDING FOR ANIMALS SUBJECT TO IMPOUNDMENT; PROVIDING FOR QUARANTINE, VACCINATION REQUIRED, RABIES CONTROL AND PROCEDURE, AND QUARANTINE FEE; PROVIDING FOR ADOPTION AND REGISTRATION; PROVIDING FOR REGULATION OF VICIOUS ANIMALS; PROVIDING FOR MISCELLANEOUS AND GENERAL PROVISIONS; PROVIDING A SAVING CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED (\$200.00) FOR EACH OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mesquite has found it necessary to the health, safety and public welfare of the inhabitants of the City to regulate the keeping of animals within the City; and,

WHEREAS, the existing provisions of the Code of the City of Mesquite do not adequately provide such regulation;

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

SECTION 1. That Chapter 4, Article I, Article II and Article III (Animals and Fowl) be and is hereby amended to read as follows, in all other respects, said Chapter to remain in full force and effect:

## CHAPTER 4

## ANIMALS, FOWL AND REPTILES

## ARTICLE 1. IN GENERAL

## SEC. 4.1. PURPOSE.

This chapter shall be liberally construed and applied to promote its underlying purpose of protecting and preserving the public health, safety, and welfare of the community.

## SEC. 4-2. DEFINITIONS.

For the purpose of this chapter:

(a) "ANIMAL" means any living creature, including, but not limited to dogs, cats, cows, horses, birds, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.

(b) "ABANDON" means to leave unattended for more than 72 hours.

(c) "ADULT CAT" means any cat over the age of six (6) months.

(d) "ADULT DOG" means any dog over the age of six (6) months.

(e) "ANIMAL CONTROL" means the animal control division of the city.

(f) "ANIMAL CONTROL OFFICER" means any person designated by the Animal Control Supervisor to enforce the provisions of this chapter.

(g) "ANIMAL NUISANCE" means the keeping of any animal in such a manner as to endanger the public health; to annoy neighbors by the accumulation of animal wastes which cause foul and offensive odors, or is a hazard to any other animal or human being; or by the continued presence on the premises of another.

(h) "CRUELTY" means to inflict pain or suffering and includes any act of neglect or abandonment.

(i) "ENVIRONMENTAL HEALTH OFFICIAL" means the administrative officer designated by the city manager to direct the activities of the Division of Environmental Health and the Division of Animal Control.

(j) "ESTRAY ACT" means the State requirement relating to livestock control. All livestock shall be referred to the County Sheriff's Department for impoundment.

(k) "FOWL" means all of those birds commonly called poultry, but not limited to chickens, ducks, geese, guinea fowl, turkeys, pigeons and all the relatives of those birds which can be kept in pens, coops, cages or enclosures of any kind.

(l) "HEALTH COMMITTEE" means the five-member board established by Ordinance No. 668 and appointed by the City Council. For the purpose of this chapter the Board will hear appeals and may sustain, modify or rescind any official notice or order considered in a hearing process.

(m) "HUMANELY DESTROY" means 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.

(n) "HUMANE TRAP" means a box cage for catching animals in a humane manner.

(o) "IMPOUND" means to seize and hold in the custody of the division of animal control.

(p) "KEPT WITHIN THE CITY" means harboring or owning of animals; they being permanently located or living at any location within the city regardless of where situated.

(q) "OBSERVATION PERIOD" means the ten (10) days following a biting incident during which an animal's health status must be monitored.

(r) "OWNER" means any person, firm or corporation having title to any animal, or a person who has, harbors or keeps, or who causes or permits to be harbored or kept, an animal in his care, or who permits an animal to remain on or about his premises.

(s) "PERSON" means an individual, corporation, firm, partnership, association, business trust, estate or individual trust.

(t) "PROVOKE" means to arouse or stir up purposely, to incite or to invoke attack.

(u) "QUARANTINE" means strict confinement under restraint by closed cage or paddock or in any other manner approved in this chapter on the private premises of the owner or at a facility approved by the Texas Board of Health or its designee, or the City Animal Shelter.

(v) "QUARANTINE PERIOD" means that portion of the observation period during which a biting animal is physically confined for observation.

(w) "REGULATORY AUTHORITY" means the Environmental Health Official of the City of Mesquite or his designated representative.

(x) "RESTRAINT" means secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands; or within the real property limits of its owner and under the control of a responsible person and obedient to that person's commands.

(y) "RUNNING AT LARGE" means not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animal is either on a leash, or held in the hands of the owner or keeper.

(z) "SUPERVISOR OF ANIMAL CONTROL" means the person designated by the Environmental Health Official to supervise all aspects of animal control or his authorized representative.

(aa) "VACCINATION" means an injection of United States Department of Agriculture approved rabies vaccine administered every twelve (12) months by a licensed veterinarian.

(bb) "VICIOUS ANIMAL" means any animal, except a dog assisting a peace officer engaged in law enforcement duties, which without provocation attacks and bites any human being or any domestic animal or which has a known propensity to attack or bite human beings or animals, but does not include an animal which bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented, tortured, or exhibited cruelty to such animal.

(cc) "WILD ANIMAL" shall mean any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated, including, but not limited to skunks, foxes, leopards, panthers, tigers, lions, lynx, ferrets, or any other animal for which there is no approved rabies vaccine.

(dd) "WILD STATE" means living in its original, natural condition; not domesticated. Wildlife refers to animals living in such environment. Wild animal refers to any mammal except the common domestic species (dogs, cats, horses, cattle, swine, sheep and goats) regardless of state of duration of captivity.

SEC. 4-3. SUPERVISOR OF ANIMAL CONTROL; ENFORCEMENT.

(a) The animal control supervisor of the city is hereby designated the local health authority officer for the purpose of the enforcement of this chapter. His duties shall include, but not be limited to, the enforcement of this chapter, supervision of the animal control officers of the city, and aiding the Texas Board of Health in the enforcement of area quarantines, pursuant to Article 4477-6a, V.A.C.S., as may be amended.

(b) Any animal control officer of the city shall have the authority to issue citations for any violation of this chapter and any other power or duty stated within the terms of this chapter. If the person being cited is not present, the animal control officer may send the citation to the alleged offender by registered or certified mail, return receipt requested, by depositing same in the U.S. Mail, postage prepaid.

(c) It shall be unlawful for any person to interfere with any animal control officer in the performance of his duties.

(d) It shall be unlawful for any person to fail to comply with any lawful order of the local health authority officer or any animal control officer of the city.

(e) The local health authority officer, any animal control officer or any peace officer is authorized to, including but not limited to:

(1) Destroy any animal which poses an imminent danger to a person or property or a real or apparent necessity exists for the destruction of an animal; and

(2) Destroy or impound an animal which is diseased or endangers the health of a person or another animal;

(3) Impound any animal hereinafter designated found to be running at large or to be a stray within the city;

(4) Destroy an impounded animal at the city animal shelter or destroy any animal at the scene of injury, disease or sickness where such animal is too large to remove from the scene of injury, disease or sickness to the animal shelter, if the recovery of the animal from injury, disease or sickness is in serious doubt;

(5) Destroy any animal suspected of having rabies, or which animal manifests a disposition to bite, when such animal(s) are found at large or found astray, after having made a reasonable, but unsuccessful effort to capture the animal;

(6) Destroy any stray or impounded vicious animal, unless there is reason to believe that it has an owner, immediately upon impoundment;

(7) Destroy any wild animal immediately upon impoundment;

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(8) Destroy any nursing baby animal excluding livestock impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering;

(9) Destroy an animal where an owner no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition, upon the owner signing a waiver, supplied by the animal shelter, allowing the animal to be immediately euthanized in a humane manner; provided that no warm-blooded animal that has bitten a human or another animal shall be destroyed before the expiration of the ten (10) day quarantine period, except for wild animals.

(f) In addition to any authority derived elsewhere, animal control officers, police and health authorities, are expressly empowered and authorized to go upon public and private premises without warrant for the purpose of enforcement of this chapter and the state statutes and Texas Penal Code relating to animals when necessary to protect the health, welfare and safety of the inhabitants of the city and preserve the peace and quiet thereof.

SEC. 4-4. DOGS AND CATS. GENERAL.

(a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city limits of the City of Mesquite. Such dog must be under the control of said owner, a member of said owner's immediate family or said owner's servant or agent, by means of a leash or chain of sufficient strength and length to control the actions of the dog. At all other times the dog shall be confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the dog from escaping therefrom, inside of a building or secured on the premises by a leash consisting of a metal chain of sufficient strength to prevent the dog from escaping from the premises when the leash is stretched to full length.

(b) It shall be unlawful for any person to keep within the city limits more than three (3) adult dogs and one litter; it shall further be unlawful for any person to keep within the city more than ten (10) dogs whether such dogs are adults or puppies within the meaning of this section.

The provisions of this section shall not be applicable to any properly zoned veterinarian hospital, veterinarian clinic, kennel or place of scientific research.

(c) It shall be unlawful for any person to harbor or keep on his premises or in or about his premises, or premises under his control, any dog which by loud or unusual barking or howling, shall cause the peace and quiet of the neighborhood or the occupants of adjacent premises to be disturbed.

(d) No female dog in heat shall be allowed upon any street, avenue, highway, alley, sidewalk, parkway, park or any public place within the City of Mesquite.

(e) No dog of fierce, dangerous or vicious propensities, whether licensed or not, shall be allowed in the City of Mesquite; provided, however, that dogs used by law enforcement authorities or approved by the animal control supervisor as watch dogs for business establishments and securely confined thereto shall not be deemed within this provision.

(f) It shall be unlawful for any person to keep within the city limits more than three (3) adult cats. However, the provisions of this section shall not be applicable to any properly zoned veterinary hospital/ clinic, kennel or place of scientific research.

(g) It shall be unlawful for the owner of any cat to permit such animal to run at large within the city limits. Such animal must be under the control of the owner by means of a leash or chain of sufficient strength and length to control the actions of the animal. At all other times the cat shall be confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the cat from escaping therefrom, inside of a building, or secured on the premises by a leash of sufficient strength to prevent the animal from escaping from the premises. However, it shall be a defense to prosecution under this section if the cat is wearing a valid registration tag and a valid rabies vaccination tag.

(h) No person shall willfully or knowingly harbor or keep on such person's premises, or elsewhere, any cat that makes or creates an unreasonable disturbance of the peace of any person living in the immediate vicinity, or suffer or permit such cat to make or create frequent or long continued noises by meowing or wailing or otherwise.

#### ARTICLE II. - IMPOUNDMENT

##### SEC. 4-5. ANIMALS SUBJECT TO IMPOUNDMENT

(a) Any animal found to be running at large or found to be a stray in the city, shall be impounded in the city animal shelter. Any dog or cat impounded under this section which is not called for by the owner within seventy-two (72) hours after notification of impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be destroyed humanely or placed for adoption; provided however, final responsibility for location of an impounded animal is that of the owner. The owner of a dog or cat which has been impounded under this section may reclaim such animal upon payment of the impoundment fees, handling charges and any veterinarian bills incurred by the city's animal control for the welfare of the animal, and upon compliance with the vaccination and registration provisions of this chapter.

(b) Any animal infected or kept under conditions which could endanger the public or animal health.

(c) Any animal that creates a nuisance, as defined in Section 4.2 (g).

(d) Any animal running at large, as stipulated in Section 4.3 (e) (3).

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(e) Any animal treated in a manner that is cruel or inhumane.

(f) Any animal that has bitten a human being or needs to be placed under observation for rabies determination.

(g) Any animal violating any provision of this chapter.

**SEC. 4-6. RIGHT OF PROPERTY OWNER TO CONFINE; NOTIFICATION OF ANIMAL CONTROL.**

If any of the animals named in this chapter are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify an animal control officer to come and impound such animal. When so notified, it shall be the duty of an animal control officer to have such animal impounded as herein provided.

**SEC. 4-7. RECLAIMING IMPOUNDED ANIMALS GENERALLY.**

(a) The owner can resume possession of any impounded animal upon payment of impoundment fees, handling fees and any veterinarian bills incurred by animal control for the welfare of the animal, and upon compliance with vaccination and registration provisions of this Chapter.

(b) Any person owning any animal impounded hereunder shall be allowed to take such animal from the place where impounded upon the following conditions:

(1) Upon payment to the city of an impoundment fee of twenty dollars (\$20.00) plus five dollars (\$5.00) per day or fractional part thereof for boarding fees for each day impounded.

(2) Upon a showing by the owner of a valid rabies vaccination certificate. An animal must be vaccinated within twenty-four (24) hours of being reclaimed if it has not been previously vaccinated as required.

(3) That the owner of the animal secure a license tag for such animal as provided herein.

(c) If the owner has not redeemed such impounded animal within three (3) days from its capture and impoundment the animal may be given to a new owner or destroyed humanely. Provided, however, that in special instances wherein an animal has been injured to the extent that a three-day waiting period would constitute cruel treatment such waiting period would not be applicable.

For the purposes of this section such injury shall be deemed to constitute a special instance making the three-day waiting period inapplicable when it reasonably appears that the injury is terminal or will result in substantial physical impairment and causes extreme pain. Examples of conditions indicating such state are substantial blood loss, severed spine, severance of a substantial portion of a member or other portion of the body and other conditions commonly known to result in death.



Decisions on such conditions shall be made by the person or persons designated by the environmental health official or his designee and, when made in good faith, shall be presumed correct and shall not be subject to review, due to the emergency nature of such determination. It is further expressly provided that any person allowing an animal to run at large does hereby consent to the procedures established herein and does thereby authorize the City of Mesquite to act accordingly.

**SEC. 4-8. RECLAIMING ANIMALS UNDER RABIES QUARANTINE.**

If any animal is being held under quarantine or observation for rabies, the owner shall not be entitled to possession until it has been released from quarantine.

**SEC. 4-9. DISPOSITION OF UNRECLAIMED ANIMALS GENERALLY.**

Any animal, except vicious and wild animals, not reclaimed by the owner, may be humanely euthanized after being impounded for seventy-two (72) hours.

**SEC. 4-10. DISPOSITION OF IMPOUNDED VICIOUS OR WILD ANIMALS.**

Any impounded vicious or wild animal, unless there is reason to believe that it has an owner, may be immediately disposed of as may be deemed appropriate by the supervisor of animal control.

**SEC. 4-11. DISPOSITION OF NURSING BABY ANIMALS.**

Any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately euthanized to prevent further suffering.

**SEC. 4-12. ADOPTION OF IMPOUNDED CATS OR DOGS AUTHORIZED.**

Any impounded cat or dog not wearing a registration certificate may be given up for adoption after seventy-two (72) hours, except those under quarantine. Any impounded cat or dog wearing a registration certificate may be given up for adoption after five (5) days of confinement.

**SEC. 4-13. DISPOSITION OF ANIMAL UPON DIRECTION OF OWNER.**

An owner who no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition may sign a written waiver, supplied by animal control, allowing the animal to be immediately euthanized in a humane manner; provided that no warm-blooded animal that has bitten a human being shall be euthanized before expiration of the ten-day quarantine period.

**SEC. 4-14. DISPOSITION OF INJURED OR ILL ANIMALS.**

Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized as determined by the supervisor of animal control.

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ARTICLE III. - QUARANTINE, VACCINATION REQUIRED, RABIES, FEE

SEC. 4-15. AUTHORITY TO QUARANTINE.

The supervisor of animal control shall have the authority to order the quarantine of animals responsible for bite incidents, or suspected of having any zoonotic disease considered to be a hazard to the human population or other animals.

SEC. 4-16. ANIMALS SUBJECT TO QUARANTINE; CONDUCT OF QUARANTINE.

Every animal that bites a human or attacks another animal in an unnatural manner, or has rabies or any other zoonotic disease, or is under suspicion of having rabies or any other zoonotic disease, shall be immediately confined by the owner, who shall promptly notify animal control or an animal control officer of the place where such animal is confined and the reason therefor. The owner shall not permit such animal to come in contact with any other person or animal. The owner shall surrender possession of such animal to animal control on demand for supervised quarantine. Supervised quarantine shall be at the animal shelter or a veterinary hospital, or by any other method of adequate confinement approved by the supervisor of animal control.

SEC. 4-17. QUARANTINE METHOD AND TESTING.

(a) When a dog or cat which has bitten a human has been identified, the owner will be required to place the animal in quarantine. The ten day observation period will begin on the day of the bite incident. The animal must be placed in the animal control facilities specified for this purpose, if available. However, the owner of the animal may request permission from the local health authority for home quarantine if the following criteria can be met.

(1) Secure facilities must be available at the home of the animal's owner, and must be approved by the local health authority.

(2) The animal is currently vaccinated against rabies.

(3) The local health authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the local health authority must be notified by the person having possession of the animal. At the end of the observation period the release from quarantine must be accomplished in writing.

(4) The animal was not in violation of any laws at the time of the bite.

(5) If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to the TDH certified laboratory for rabies diagnosis.

(b) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a TDH certified laboratory for rabies diagnosis.

**SEC. 4-18. PUBLIC AND PRIVATE ENTITIES THAT OPERATE A QUARANTINE FACILITY.**

(a) Quarantining procedures.

(1) Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

(2) The unowned animal may be destroyed for rabies diagnosis prior to the end of the quarantine period.

(3) The local health authority may require a written agreement by the owner or the custodian at the time of quarantine and the animal may be disposed of according to terms of this agreement.

**SEC. 4-19. VACCINATION REQUIRED.**

(a) Vaccination: The owner of each dog or cat shall have the dog or cat vaccinated against rabies at the time it is three (3) months of age and within each subsequent twelve (12) month interval thereafter.

(b) Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by TDH. Information required is as follows:

(1) Owner's name, address and telephone number.

(2) Animal identification. Species, sex, age (3 mo. to 12 mo., 12 mo. or older), size (lbs.), predominant breed, and colors.

(3) Vaccine used, producer, expiration date and serial number.

(4) Date vaccinated.

(5) Rabies tag number.

(6) Veterinarian's signature and license number.

**SEC. 4-20. VIOLATION OF QUARANTINE, CAUSE FOR SEIZURE AND IMPOUNDMENT.**

The violation of quarantine by any person shall be just cause for seizure and impoundment of the quarantined animal by animal control. It shall be unlawful for any person to interrupt the observation period.

**SEC. 4-21. INVESTIGATION OF ANIMAL BITE REPORTS; KILLING OF BITING ANIMALS PROHIBITED.**

All animal bite reports shall be investigated by animal control. Without permission of the supervisor of animal control, it shall be unlawful for any person to kill or remove from the city limits any animal that has bitten a person or other animal, or that has been placed under quarantine, except when it is necessary to kill such animal to protect the life of any person or other animal.

**SEC. 4-22. AUTHORITY TO DIRECT DISPOSITION OF SUSPECTED RABID ANIMALS.**

The supervisor of animal control shall direct the disposition of any animal suspected of being rabid or having any other zoonotic disease considered to be a hazard to any other animal or human being.

**SEC. 4-23. SURRENDER OF CARCASSES OF DEAD ANIMALS SUSPECTED OF RABIES.**

The carcass of any dead animal exposed to rabies or suspected of having been rabid shall, upon demand, be surrendered to animal control.

**SEC. 4-24. MANNER OF DISPOSING OF ANIMALS EXPOSED TO RABIES.**

Every animal that has been bitten by another animal shall be immediately confined by the owner, who shall promptly notify animal control of the place where such animal is confined and the reason therefor. The owner shall not permit such animal to come in contact with any person or animal. Any animal exposed to rabies or exposed to bites from any wild animal which has been determined to be rabid, or any wild animal that is not available for rabies testing for any reason thereof, shall be handled in one of the following manners:

(a) Humane destruction, with notification to, or under supervision of animal control;

(b) If not currently vaccinated, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for six months and given a booster vaccination one month prior to release from isolation; or

(c) If currently vaccinated, immediate revaccination and quarantine for at least ninety (90) days immediately following the date of the exposure.

**SEC. 4-25. REFUSAL TO SURRENDER ANIMAL, ON DEMAND, FOR RABIES CONTROL PURPOSES.**

No person shall fail or refuse to surrender an animal for supervised quarantine or humane destruction, as required herein for rabies control, when demand therefor is made by the supervisor of animal control.

**SEC. 4-26. NOTIFICATION TO ANIMAL CONTROL UPON ESCAPE, SICKNESS OR DEATH OF QUARANTINED ANIMAL.**

Any person having possession of, or responsibility for, any quarantined animal shall immediately notify animal control if such animal escapes, or becomes or appears to become sick, or dies, and in case of death of the animal while under quarantine, shall immediately surrender the dead animal to animal control for diagnostic purposes.

**SEC. 4-27. QUARANTINE FEE.**

The owner of any animal held in quarantine for observation purposes shall be charged five dollars (\$5.00) for every day or fraction of a day an animal is at the animal shelter; this (fee) is in addition to any impoundment fee. Said fees shall be paid in advance by the owner of any animal to be held in quarantine.

**ARTICLE IV. - ADOPTION AND REGISTRATION**

**SEC. 4-28. ADOPTION PROCEDURES.**

(a) An individual may adopt an animal (dogs and cats only) from the city animal shelter under the following conditions:

- (1) The animal has been classified as adoptable by the supervisor of animal control;
- (2) The prospective adopter has proper facilities to care for the animal;
- (3) The prospective adopter obtains all necessary vaccinations and registrations; and,
- (4) The adopter of any dog or cat must have it vaccinated, (and) spayed or neutered, and obtain a license within ten (10) days after adoption or animal control shall have the right of immediate return of the animal to the animal shelter; provided, the supervisor of animal control shall allow additional time in the case of dogs or cats less than six (6) months of age.

(b) The supervisor of animal control may refuse to allow a person to adopt a cat or dog whom he has reason to believe:

- (1) Would not be able to obtain a registration certificate under restrictions of this Code;
- (2) Would not have proper facilities to contain or care for the animal, as required by this Code;
- (3) Wants the dog or cat for the purpose of resale or for purposes other than pet ownership, and (or if he has reason to believe) that the cat or dog would be a hazard to humans or other animals.

**SEC. 4-29. REGISTRATION PROCEDURES AND REQUIREMENTS.**

(a) No owner shall have within the city any dog or cat four (4) months of age or older unless such dog or cat is currently registered with animal control. A current metal registration certificate, issued by animal control or a veterinarian must be affixed to a collar or harness that must be worn by the dog or cat at all times. No dog or cat shall be registered until it has a current rabies vaccination.

(b) All dogs and cats over four (4) months of age must be vaccinated annually for rabies with an antirabies vaccine approved by the city health officer and administered by a duly authorized veterinarian. A metal certificate of vaccination with the year of vaccination, a certificate number and the name, address and phone number of the vaccinating veterinarian must be securely attached to a collar or harness that must be worn by the dog or cat at all times. In addition to the metal certificate, a paper certificate must be issued stating the name of the owner, the address of the owner, a description of the dog or cat, the date of the vaccination, the number of the metal certificate and the kind of vaccine used.

(c) Application for initial issuance or renewal of each registration must be made by the owner, in writing or in person, and be accompanied by a fee of fifteen dollars (\$15.00), unless the cat or dog being registered has been neutered or spayed and proof of such surgical sterilization can be shown to an animal control officer or a veterinarian authorized to issue such registrations; then the fee will be five dollars (\$5.00). If the original current registration certificate is lost or destroyed, the owner may obtain a duplicate registration from the supervisor of animal control by paying a fee of one dollar (\$1.00). Animals may be exempted from the sterilization provision upon written recommendation from a veterinarian that such alteration would be harmful or dangerous to the animal. Animals less than six (6) months of age shall be charged a fee of five (5) dollars.

(d) A registration and/or vaccination certificate (and tag) shall be valid only for the animal for which it was originally issued. Said registration shall be valid for one (1) calendar year.

(e) If there is a change in ownership of a registered dog or cat, the new owner shall have the registration transferred to his name. There shall be no charge for said transfer. Application for such transfer shall be made to animal control in writing or in person.

(f) Fee-exempt registrations may be issued for the following:

- (1) Police or sheriff's department dog; and,
- (2) Dogs trained to assist the auditorily or visually impaired person.

Eligibility for fee-exempt registration does not relieve the owner of his responsibility under other provisions of this chapter.

ARTICLE V. - VICIOUS ANIMALS

SEC. 4-30. VICIOUS OR DANGEROUS ANIMALS.

"VICIOUS ANIMAL" means any animal, except a dog assisting a peace officer engaged in law enforcement duties, which without provocation attacks and bites any human being or any domestic animal or which has a known propensity to attack or bite human beings or animals, but does not include an animal which bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented, tortured, or exhibited cruelty to such animal.

(a) No animal of fierce, dangerous or vicious propensities, whether, licensed or not, shall be allowed in the City of Mesquite; provided, however, that dogs used by law enforcement authorities or approved by the animal control supervisor as watch dogs for business establishments and securely confined thereto shall not be deemed within this provision.

(b) A peace officer or the animal control supervisor may use such force as is reasonably necessary to protect members of the public from any vicious dog or other animal wherein the actions of such animal reasonably appear to constitute an imminent threat of injury to any human being or domestic animal, including, when necessary, taking such animal's life.

(c) When the supervisor of animal control has determined upon the criteria set forth herein that an animal is vicious and is being kept and harbored in the City he may, in addition to the criminal sanctions imposed herein, take the following steps to abate such violation which is herein declared to be a nuisance:

(1) Give written notice to the owner or person having control over the vicious animal or the property upon which the animal is kept or harbored to cease and desist the keeping and harboring of a vicious animal in the City within twenty-four (24) hours. A notice provided for in this section is properly served when it is delivered to the owner of the animal or custodian in charge, or when it is sent by certified mail, return receipt requested, to the last known address of the owner/custodian of the animal.

(2) Upon failure of the owner or person in control of said vicious animal or in control of the property wherein said animal is kept or harbored to comply with said notice, the supervisor of animal control may make affidavit setting forth the facts indicating that such animal is vicious and constitutes an imminent threat to the life and safety of the public by reason thereof and make application to the Judge of the Municipal

Court for a warrant to go upon the premises and secure and impound such vicious animal to be held by animal control pending a hearing if requested by the owner or person having control over the animal or over the property wherein the animal was seized. If no request for hearing has been made within ten (10) days, the animal may be disposed of as in other cases but shall not be let for adoption. Provided, however, that the owner or person from whom the animal was seized may reclaim the animal any time upon assurance satisfactory to the supervisor of animal control, or in case of dispute between the parties, a cash escrow deposit set by the Municipal Judge, that said party will comply with said order of the supervisor of animal control until such time as it may be determined that the order was issued in error and that the keeping of such animal in the City poses no threat or hazard of injury to a human being.

(3) The hearings provided for in this section shall be conducted by the Health Committee at a time and place designated by it. Upon request for hearing the City Health Officer, who shall preside as chairman, shall schedule same as expeditiously as possible but not more than ten (10) days after request is made.

(4) Based upon the record of such hearing, the Health Committee shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. The Health Committee, after hearing, may make any order it deems necessary and appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the city or its destruction if necessary. The Health Committee shall make its decision upon the relative deprivation to the owner or person in control of the animal or others as the facts may indicate and the hazard of injury to members of the public.

(5) The Health Committee may modify the order of the supervisor of animal control by stipulating restrictions on the keeping of the animal as a condition of allowing the animal to remain in the City. If restrictions are imposed, then the keeping or harboring of the animal within the City in violation of any of the restrictions shall constitute the offense of keeping or harboring a vicious animal in the City. Restrictions may include chaining, muzzling or other restraints and measures deemed by the Health Committee to be necessary to the safety of the public.

(6) A written report of the hearing decision shall be furnished to the owner or person having care, control or custody of the animal by the regulatory authority.

(d) The owner of a vicious or dangerous animal shall be held strictly liable for any violation of this section and for any damages caused hereby.



ARTICLE VI - MISCELLANEOUS

SEC. 4-31. FOOD AND SHELTER.

No person shall fail to provide any animal in such person's charge or custody with necessary sustenance, drink, and protection from the elements, or cause any of these acts to be done.

SEC. 4-32. ABANDONMENT.

No person shall abandon any animal, or cause such act to be done.

SEC. 4-33. FIGHT UPON EXHIBITION.

No person shall maintain any place where fowl or any animals are suffered to fight upon exhibition, or for sport upon any wager.

SEC. 4-34. POISONING.

No person shall poison any domestic animal or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning a domestic animal.

SEC. 4-35. DISEASE.

No person shall keep or harbor any animal having tick or flea infestation or any other obvious illness; or heart worm or any other communicable or zoonotic illness transmittable to animal or human, without having sought and obtained appropriate medical treatment.

SEC. 4-36. INJURING ANIMAL BY MOTOR VEHICLE OR OTHER MEANS.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible; any person injuring any domestic animal in any other way or means shall stop at once and render such assistance as may be possible; and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such person shall at once report the accident to the appropriate law enforcement agency or to the animal control officer of the city.

SEC. 4-37. SALE OR POSSESSION OF CERTAIN ANIMALS.

The following animals, because they have a high probability of carrying rabies and constitute a danger to public health shall not be allowed in the City of Mesquite, Texas, and will be excluded from ownership as domestic pets:

(a) Skunk (*Mephitis mephitis*, *Spilogale putorius*, *Spilogale gracilis*, *Mephitis macroura*, *Conepatus mesoleucus*, *Conepatus leuconotus*);

(b) Fox (*Vulpes fulva*);

(c) Raccoon (*Procyon lotor*);

(d) Ringtail (*Bassariscus astutus*);

(e) Bobcat (*Lynx rufus*);

(f) Coyote (*Canis latrans*);

(g) Marten (*Martes martes*);

(h) Ferrets (*Mustela furo*);

Excluded animals may be allowed if they are destined for research institute or public display as in zoos.

**SEC. 4-38. LIVESTOCK - MAXIMUM NUMBER PERMITTED; EXCEPTION.**

No person shall keep within the limits of the city more than two (2) hogs or swine, one cow, one horse, one mule, one jack and one Jenny; provided, that the foregoing shall not be construed to prohibit any person engaged in operating any packinghouse or other similar institution from keeping more than two (2) hogs or one cow for a temporary period of time awaiting their use in connection with the operation and maintenance of such packinghouse or other similar institution. All livestock shall be referred to the County Sheriff's Department for impoundment.

**SEC. 4-39. LOCATION OF PENS AND ENCLOSURES NEAR DWELLINGS.**

Hogs or swine, bovine, equine, goats, sheep, mules, jacks or jennies, all species and subspecies shall be kept in a suitable pen or enclosure situated not less than three hundred (300) feet from any inhabited dwelling; provided, that this distance requirement shall not apply to the dwelling of the owner himself.

**SEC. 4-40. STANDARDS OF SANITATION FOR PENS AND ENCLOSURES.**

All pens and enclosures used as provided in Section 4-39 shall be maintained and kept in such a manner as not to become offensive or disagreeable by reason of odors or otherwise to persons residing in the vicinity thereof nor shall they be maintained or kept in a manner that will breed flies or in any manner cause any injury to the health of the public or any person residing in the vicinity of the pen or enclosure.

**SEC. 4-41. NUISANCE ANIMALS.**

In addition to the foregoing sections 4-38 through 4-40, and cumulative thereof, it is expressly provided that it shall be unlawful to keep or maintain any animal in the city in such a manner as to create a nuisance by reason of excessive noise, odors, flies, disease or such unsightly appearance of animals or premises as to render habitation of adjoining and nearby property unpleasant or unsafe or to substantially lower property values in the city. Where the keeping of animals is expressly permitted by this chapter, such animals must be kept in compliance with this section, taking into consideration the location on the premises where such animals are kept, the facilities provided for such animals and the view presented.

Where necessary to prevent the existence of a nuisance, a keeper of animals may be required to provide proper and sightly facilities for animals, including pens, shelter and fencing, including solid fencing for screening purposes, and may be required to limit the portion of the premises where animals are kept to a portion of such premises, such as the rear yard or a portion thereof, providing a buffer between animals and other property to the extent necessary to prevent a nuisance hereunder.

It shall be unlawful for the owner or person in charge of any animal to allow such animal to foul the property or to defecate on the property of another person without immediately removing such animal waste.

**SEC. 4-42. WILD OR DANGEROUS ANIMALS PROHIBITED; EXCEPTION.**

For the purposes of this section, "dangerous animals" shall mean all animals which are inherently not subject to domestication and including but not limited to all poisonous reptiles of whatever description or any animal for which there is no State Health Department approved rabies vaccine. It shall be a violation of this section for any person to keep dangerous animals, as hereinabove defined, within the city limits.

The prohibitions of this section shall not be applicable to the keeping of any such dangerous animals for the purpose of scientific research or within the confines of a well regulated zoo or zoological garden specifically designed for the housing of such animals.

**SEC. 4-43. GUARD DOGS, SPECIAL PROVISIONS.**

Every person having care, control or custody of any dog which has received guard dog training must register such dog with the supervisor of animal control. Any dog which has received guard dog training may be destroyed when such dog is found running at large. The owners or keepers of guard dogs shall be subject to the other provisions of this section. A fluorescent orange collar identifying the dog as a guard dog must be worn at all times, and the dog must wear a muzzle when out of confinement.

**SECS. 4-44. - 4-50. RESERVED.**

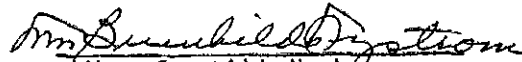
SECTION 2. Chapter 4, Article I, Article II and Article III of the Code Of Ordinances of the City of Mesquite, Texas, and related ordinances, and any other ordinance of the City, or any provision of any other ordinance of the City, in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 3. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than TWO HUNDRED DOLLARS (\$200.00). Each and every violation of the provisions of this Ordinance shall constitute a separate offense. Each and every day shall constitute a separate violation.

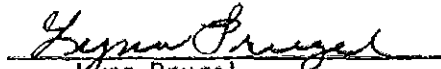
SECTION 4. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, words, clauses and phrases of this Ordinance are severable; and if any word, phrase, clause, sentence or section of this Ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining section, paragraph, word, sentence, clause or phrase of this Ordinance.

SECTION 5. The fact that the present ordinances of the City of Mesquite do not adequately regulate the keeping of animals in the City creates an urgency and an emergency for the preservation of the public health, safety and welfare and requires that this Ordinance shall become effective immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 21st day of July, A.D., 1986.

  
Mrs. Brunhilde Nystrom  
Mayor

ATTEST:

  
Lynn Prugel  
City Secretary

\_\_\_\_\_  
Eiland Archer  
City Attorney