

ORDINANCE NO. 4826

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE, AS AMENDED, BY REPEALING AND REPLACING CHAPTER 4 “ANIMALS” THEREBY ADOPTING A NEW CHAPTER 4 “ANIMALS”; REVISING AND REPEALING CERTAIN OTHER ARTICLES, DIVISIONS, AND SECTIONS IN THE MESQUITE CITY CODE RELATED TO PROVISIONS THAT WILL NOW BE ADDRESSED IN THE NEW CHAPTER 4; AND REVISING ARTICLE I AND REVISING, REPEALING, AND REPLACING ARTICLE III IN APPENDIX D “COMPREHENSIVE FEE SCHEDULE” OF THE MESQUITE CITY CODE, AS AMENDED, TO REORGANIZE ARTICLE III TO BE TITLED “ANIMAL SERVICES DIVISION” AND REVISE AND ADD NEW FEES ASSOCIATED WITH THE ANIMAL SERVICES DIVISION; PROVIDING A REPEALING CLAUSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

**WHEREAS**, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”) to protect the public health, safety, and welfare; and

**WHEREAS**, the City of Mesquite, Texas, (“**City**”) is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

**WHEREAS**, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

**WHEREAS**, the City shall have the power to enact and enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

**WHEREAS**, a home-rule municipality may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

**WHEREAS**, the City shall have the power to provide for license, permit, and inspection fees, pursuant to Article III, [Section 28](#) of the Mesquite City Charter; and

**WHEREAS**, on September 25, 2019, the City staff formed an Animal Ordinance Review Committee, for the purposes of providing input and review of proposed highlights regarding a proposed new Chapter 4 “Animal” ordinance on a monthly basis; and

**WHEREAS**, City staff continued their work on a proposed draft of the new Chapter 4 Animal ordinance and the Animal Ordinance Review Committee continued to meet throughout the Fall of 2019 and continued until early Spring 2020; and

**WHEREAS**, on March 11, 2020, the World Health Organization declared a novel coronavirus now designated SARS-CoV2 Coronavirus (COVID-19) a worldwide pandemic; and

**WHEREAS**, on March 13, 2020, President Donald J. Trump issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, followed by the Governor of Texas, Greg Abbott, issuing a State of Disaster, followed by the Mayor of Mesquite, Bruce Archer, issuing a Local State of Disaster related to COVID-19; and

**WHEREAS**, during the remaining months of Spring and Summer 2020 the work on the proposed new animal ordinance was paused to allow City staff to work and react to the impacts the COVID-19 pandemic was having on City operations; and

**WHEREAS**, in Fall 2020, work began again on the new proposed animal ordinance; and

**WHEREAS**, on September 24, 2020, the City’s Animal Advisory Board/Committee reviewed the highlights of changes being proposed and provided input while approving of the proposed highlighted revisions; and

**WHEREAS**, on October 15, 2020, the Animal Services Division of Neighborhood Services held a virtual Community Input Meeting to discuss and receive feedback from the residents of Mesquite regarding the highlights of the proposed new animal ordinance; and

**WHEREAS**, on November 2, 2020, Director of Neighborhood Services, Maria Martinez, briefed the City Council regarding the highlights of the new proposed animal ordinance and received input from the City Council on items discussed; and

**WHEREAS**, upon full review and consideration of all matters attendant and related thereto, the City Council is of the opinion this ordinance should be approved and adopted.

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

**SECTION 1. Recitals Incorporated.** The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

**SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT.**

**Chapter 10, Article VI, Division 1. Generally.** Repeal and delete Sec. 10-168. – “Keeping of bees” from Mesquite City Code, as amended, and reserve the section as follows:

\* \* \*

Chapter 10. OFFENSES – MISCELLANEOUS

\* \* \*

Article VI. – NUISANCES

\* \* \*

Division 1. – Generally

\* \* \*

Sec. 10-168 – Reserved.

\* \* \*

**SECTION 3. MESQUITE CITY CODE TEXT AMENDMENT.**

**Chapter 10, Article III. Noise.** Repeal and replace subsection (b)(1) of Section 10-73 of the Mesquite City Code, as amended, to now read as follows:

\* \* \*

Chapter 10. OFFENSES – MISCELLANEOUS

\* \* \*

Article III. – NOISE

\* \* \*

Sec. 10-73. Noise prohibited.

\* \* \*

(b) (1) *Animals.* See Chapter 4 – ANIMALS, Section 4-266. Noise made by animals.

\* \* \*

**SECTION 4. MESQUITE CITY CODE TEXT AMENDMENT:**

**Chapter 4 - Animals.** That Chapter 4 “Animals” of the Mesquite City Code, as amended, is hereby amended by repealing and replacing Chapter 4 “Animals” and said new Chapter for animals shall now read as identified in **EXHIBIT A** attached hereto and made a part hereof, and in all other respects, the remaining Chapters of the Mesquite City Code shall remain in full force and effect.

**SECTION 5. MESQUITE CITY CODE TEXT AMENDMENT:**

**Appendix D - Comprehensive Fee Schedule.** Article I and Article III of Appendix D – the Comprehensive Fee Schedule of the Mesquite City Code, as amended, is hereby amended as marked in **EXHIBIT B** and shall now read as identified in **EXHIBIT C** attached hereto and made a part hereof, and in all other respects, the remaining Articles of Appendix D shall remain in full force and effect.

**SECTION 6. Authorization of transitional provisions.** The City Secretary is hereby authorized to make a one-time adjustment to the Animal Services Advisory Committee members' terms, as necessary, to coordinate with the position number and expiring years as identified in the new Chapter 4 – Animals, Article II, Section 4-25.

**SECTION 7. Repealing Clause.** That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

**SECTION 8. Conflicts Resolution Clause.** In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

**SECTION 9. Severability Clause.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

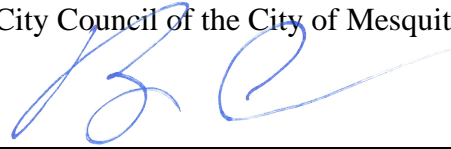
**SECTION 10. Savings Clause.** An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 11. Penalty Clause. Criminal.** Any violation of the provisions or terms of this ordinance by any "person," as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine not to exceed TWO THOUSAND (\$2,000.00) dollars for each offense, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended. **Civil.** The City may also file any other civil actions for enforcement of this ordinance as authorized by law. **Maximum penalties.** If the maximum penalties provided for by this ordinance for an offense or civil action is greater than the maximum penalty provided for the same offense or civil action under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense or civil action shall be the maximum penalty provided by the laws of the State of Texas.

**SECTION 12. Publication.** This ordinance shall be published in the City's official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

**SECTION 13. Effective Date.** This ordinance after its passage and publication shall take effect on, and be in force from and after, **JANUARY 1, 2021** in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

**DULY PASSED AND APPROVED** by the City Council of the City of Mesquite, Texas,  
on the **16th day of NOVEMBER, 2020.**



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**Bruce Archer**  
Mayor

**ATTEST:**



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**Sonja Land**  
City Secretary

**APPROVED AS TO LEGAL FORM:**



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**David L. Paschall**  
City Attorney

## **EXHIBIT A**

**To Ordinance No. 4826**

**Chapter 4 – ANIMALS**

## **Chapter 4 – ANIMALS**

- Article I. In General
- Article II. Animal Services Advisory Committee
- Article III. Administration
  - Division 1. Organization
  - Division 2. Records
  - Division 3. Miscellaneous
- Article IV. Enforcement Agents
- Article V. Citations and Penalties
  - Division 1. Citations
  - Division 2. Penalties
- Article VI. Prohibited Acts and Miscellaneous Offenses
- Article VII. Animal Nuisances
  - Division 1. In General
  - Division 2. Offenses
  - Division 3. Reporting and Complaints
  - Division 4. Court Hearing – Continuing Animal Nuisance
- Article VIII. Care and Treatment of Animals
  - Division 1. In General
  - Division 2. Offenses
  - Division 3. Court Hearing – Inhumane or Cruelly Treated Animals
- Article IX. Multiple Animals
  - Division 1. Offenses
  - Division 2. Multiple Pet Permit
  - Division 3. Breeder Permit
  - Division 4. Appeals of Administrative Decisions
- Article X. Rabies and Zoonosis Control
  - Division 1. Minimum Standards and Rabies Vaccinations
  - Division 2. Reports and Incidents
  - Division 3. Quarantine
- Article XI. Impoundment, Reclaiming, and Other Disposition of Animals
  - Division 1. Impoundment Facilities
  - Division 2. Impoundment of Animals
  - Division 3. Reclaiming Impounded Animals
  - Division 4. Other Disposition of Impounded Animals
- Article XII. Dangerous Animals (to Humans)
  - Division 1. Dogs Causing Death or Serious Bodily Injury to a Person
  - Division 2. Dangerous Dogs and Dangerous Animals
- Article XIII. Aggressive Animals (to Animals)
- Article XIV. Regulated and Prohibited Animals and Other Species
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## Chapter 4 – ANIMALS

### *State Law references—*

#### **Texas Health and Safety Code:**

Texas Health and Safety Code, Title 10 Health and Safety of Animals, Chapter 821 Treatment and Disposition of Animals:

Treatment of Animals, Texas Health and Safety Code, Subchapter A, § 821.001 et seq.;  
Disposition of Cruelly Treated Animals, Texas Health and Safety Code, Subchapter B, § 821.021 et seq.;  
Euthanasia of Animals, Texas Health and Safety Code, Subchapter C, § 821.051 et seq.; and  
Unlawful Restraint of Dog, Texas Health and Safety Code, Subchapter D, § 821.076 et seq.

Texas Health and Safety Code, Title 10 Health and Safety of Animals, Chapter 822 Regulation of Animals:

General Provisions; Dogs that Attack Persons or are a Danger to Persons, Texas Health and Safety Code, Subchapter A, § 822.001 et seq.;  
Dogs and Coyotes that are a Danger to Animals, Texas Health and Safety Code, Subchapter B, § 822.011 et seq.;  
Dangerous Dogs, Texas Health and Safety Code, Subchapter D, § 822.041 et seq.; and  
Dangerous Wild Animals, Texas Health and Safety Code, Subchapter E, § 822.101 et seq.

Animal Shelters, Texas Health and Safety Code, Title 10, Chapter 823, § 823.001 et seq.;  
Predatory Animals and Animal Pests, Texas Health and Safety Code, Title 10, Chapter 825, § 825.001 et seq.;  
Rabies Control Act of 1981, Texas Health and Safety Code, Title 10, Chapter 826, § 826.001 et seq.;  
Dog and Cat Sterilization, Texas Health and Safety Code, Title 10, Chapter 828, § 828.001 et seq.;  
Animal Control Officer Training, Texas Health and Safety Code, Title 10, Chapter 829, § 829.001 et seq.;

#### **Texas Penal Code:**

Cruelty to livestock animals, Texas Penal Code, Title 9, § 42.09;  
Cruelty to non-livestock animals, Texas Penal Code, Title 9, § 42.092;  
Attack on assistance animals, Texas Penal Code, Title 9, § 42.091;  
Dogfighting, Texas Penal Code, Title 9, § 42.10;  
Cockfighting, Texas Penal Code, Title 9, § 42.105.

#### **Texas Administrative Code:**

Rabies Control and Eradication, Texas Administrative Code, Title 25, Part 1, Chapter 169, [Subchapter A, § 169.21](#) et seq.

## **ARTICLE I. - IN GENERAL**

### **Sec. 4-1. - Short title.**

This chapter may be cited as the “Mesquite Animal Code.”

### **Sec. 4-2. - Purpose.**

This chapter has been established for the purpose of protecting the general health, safety, and welfare of the City’s inhabitants including animals.

### **Sec. 4-3. - Incorporation by reference.**

Any reference made in this chapter to any other law, statute, code, ordinance, rule or regulation is intended to incorporate such material as it presently exists and also any future amendments, changes, revisions, repeals or recodifications of such material, unless otherwise expressly provided.

### **Sec. 4-4. - Fees.**

- (a) All fees for this chapter shall be reviewed, set, and adopted by the City Council.
- (b) The Animal Services Manager, or his or her designee, shall have the authority and discretion to reduce, refund, or waive fees under this chapter.
- (c) Fee amounts are located in the Mesquite City Code, [Appendix D – Comprehensive Fee Schedule](#); Article III. “Animal Services Division”.

### **Sec. 4-5. - Mesquite Municipal Court jurisdiction.**

- (a) *In general.* In accordance with the City Charter, Article IV, [Section 27](#), Municipal Court has both criminal jurisdiction and civil jurisdiction to the full extent as may be authorized by State law, Mesquite City Charter, Mesquite City Code, and this chapter.
- (b) *Criminal jurisdiction.* The Municipal Court has exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that arise under the ordinances of the municipality and are punishable by a fine in accordance with Texas Code of Criminal Procedure, Title 1, Chapter 4, Article 4.14, or successor, and as amended, and in accordance with Mesquite City Code, Chapter 1, [Section 1-6](#).
- (c) *Civil jurisdiction.* The Municipal Court shall have all civil authority and jurisdiction as provided by law or statute for matters arising under this section.
  - (1) Hearings conducted under this chapter shall be conducted under the authorizing statute.
  - (2) Hearings without specific authorizing statute shall be conducted under the authority of Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Subchapter C, Section 54.043, titled Alternative Adjudication Process.
    - a. Unless otherwise stated, the Municipal Court judge, by this section, is hereby appointed as hearing officer for these matters.
    - b. The processes listed within each discrete Division of this Chapter applicable to the hearing, shall be considered the civil adjudication process as adopted by ordinance.
- (d) *Civil Warrants.* In addition to all criminal and/or statutory warrant authority provided to the Municipal Court, and in accordance with Texas Government Code, Title 2, Subtitle A, Chapter 30, Subchapter A, § 30.00005 (d), or successor, and as amended, the Municipal Court has the authority to issue:
  - (1) search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation, or for any other purpose authorized by law; and



- (2) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises, or for any other purpose authorized by law.
- (e) *Hearing – cruelly treated animals.* The Municipal Court has the authority to determine, after notice and hearing, whether an animal has been cruelly treated for the purpose of disposition of the animal, pursuant to Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.021 et seq., or successor, and as amended.
- (f) *Hearing – dogs causing death or serious bodily injury to a person.* The Municipal Court has the authority to determine, after notice and hearing, whether a dog caused the death of a person or the serious bodily injury to a person, in accordance with Texas Health and Safety Code, Title 10, Chapter 822, Subchapter A, § 822.001 et seq., or successor, and as amended.
- (g) *Hearing – dangerous dogs.* The Municipal Court shall hereby have the authority to determine, after notice and hearing, whether a dog is a dangerous dog, in accordance with Texas Health and Safety Code, Title 10, Chapter 822, Subchapter D, § 822.0422 (a), or successor, and as amended.
- (h) Nothing in this section shall be construed to limit the Municipal Court’s jurisdiction or authority, nor shall the listing of individual chapters or sections operate as an indication of limitation, and the Court retains all other jurisdiction and authority as permitted under the law.

**Cross reference** – Creation and jurisdiction of municipal court; fines; Article IV, [Section 27](#).

**State law reference** – Jurisdiction of Municipal Court; Code of Criminal Procedure, Title 1, Chapter 4, Art. 4.14.

**Sec. 4-6. - General authority for enforcement.**

- (a) The City has full authority to enforce its ordinances with both criminal prosecutions and civil actions to the full extent permitted by law.
- (b) In accordance with Mesquite City Code, Chapter 1, [Section 1-7](#), Animal Services Officers have authority to issue citations to persons to appear in Municipal Court.
- (c) Nothing in this section shall be construed to limit the City’s authority or powers and the City retains all such authority and powers as permitted under the law.

**Cross reference** – Authority to issue citations to appear in Municipal Court, Ch. 1, [Section 1-7](#).

**Sec. 4-7. - Abbreviations and acronyms.**

The following abbreviations and acronyms may be used within this chapter or other City resource materials:

- 1. FFA: Future Farmers of America
- 2. LRCA: Local Rabies Control Authority
- 3. LRCI: Local Rabies Control Incident
- 4. PIA: Public Information Act
- 5. RLO: Records Liaison Officer
- 6. RMO: Records Management Officer
- 7. U.S.: United States

Sec. 4-8. - **Definitions.**

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

**Abandon, Abandoned, or Abandonment** shall mean an animal abandoned while in the person's custody without making reasonable arrangements for assumption of custody by another person. *Abandon, Abandoned, or Abandonment* includes, but may not be limited to, the following:

- (1) to abandon an animal at an Animal Services Facility without formally surrendering an animal to a staff member; or
- (2) a failure to reclaim an animal from an Animal Services Facility; or
- (3) to abandon an animal on public property; or
- (4) to abandon an animal on private property or at any place of business for a period of twenty-four (24) hours, or more, after notice is posted; or
- (5) abandon an animal by leaving the animal with any person that has not consented, or has revoked consent, to be responsible for the care of the animal.

**Adult animal** means an animal that is four (4) months of age or older.

**Animal** means any living organism of the Kingdom Animalia that breathes and feeds on organic material. When used in this chapter the term "animal" includes, but is not limited to, dogs, cats, livestock, fowl, vertebrates, fish, and hermit crabs.

**Animal Control Authority** means the person designated by the governing body of a municipality to enforce the Texas Health and Safety Code, Chapter 822, Subchapter D, as amended.

**Animal nuisance** shall mean a public nuisance created within the City in violation of Article VII or this chapter.

**Animal Rescue Organization** means a non-profit organization incorporated under state law and exempt from federal taxation under Section 501(c)(3) of the federal Internal Revenue Code, as amended, and whose principal purpose is the prevention of cruelty to animals and whose principal activity is to rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and to adopt them to good homes.

**Animal Services Division** means a division of Neighborhood Services which is under the supervision of the City Manager and his or her designees.

**Animal Services Facility** means the **Animal Shelter and Adoption Center**, or any other temporary facility designated by the city council as a municipal animal shelter, for the temporary confinement, safekeeping, and control of animals which come into the custody of the City.

**Animal Services Manager** means the manager of the City Animal Services Division and his or her authorized designees.

**Animal Services Officer or Animal Control Officer** means a person designated by the City to represent and act for the City in the impounding of animals, controlling of animals running at large, and enforcing the provisions of this chapter and all regulations relating to animals as authorized by state or federal law.

**Animal Shelter and Adoption Center** means the **Animal Services Facility** established and operated by the City for the temporary confinement, safekeeping, and control of animals which come into the custody of the City.

**Assistance animal** means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability pursuant to V.T.C.A., Human Resources Code, Title 8, Chapter 121, § 121.002, or successor, and as amended. See also "**service animal**".

**At large** means:

- (1) **On premises of owner or keeper.** Any domestic animal, excluding livestock, not confined to the premises of the Owner or Keeper by some physical means of sufficient height, strength, length, and/or manner of construction to preclude the animal from leaving the premises of the Owner or Keeper.
- (2) **Off premises of owner or keeper.** Any domestic animal, excluding livestock, which is not physically and continually restrained by some person, by means of a leash or chain of proper strength and length to preclude the animal from making unsolicited contact with any animal, person, their clothing, their property, and/or their premises.
- (3) **Livestock.** See the definition for *estrays*.
- (4) **Exclusions.** The term *at large* shall not apply to:
  - a. Any animal confined within a cage, automobile, truck, trailer, or any other vehicle or conveyance of its Owner or Keeper.
  - b. Any dog lawfully allowed in an authorized off-leash site or dog park.

**Basic grooming** means maintaining the eyes, ears, beaks, hooves, feet, nails, coat, and skin of an animal in such a manner that is reasonably necessary for the health and safety of the animal.

**Bee** means any stage of the common domestic honey bee (*Apis mellifera*).

**Bodily injury** means physical pain, illness, or any impairment of physical condition. This term includes, but is not limited to, a bite or scratch wound, and any bodily injury resulting from the victim (person or animal) attempting to escape or prevent contact with the attacking animal. See also *serious bodily injury*.

**Business day** means Monday, Tuesday, Wednesday, Thursday, or Friday unless any of those days fall on a City holiday, as recognized on the City's official holiday schedule and as posted on its website, then said day shall not be counted as a business day.

**Cat** or **domestic cat** means any member of *Felis domesticus*.

**City** shall mean the City of Mesquite, Texas.

**Continuing animal nuisance** See definition in Section 4-304 ("Continuing animal nuisance" defined).

**Cruel treatment of an animal or cruelly treated** means, for purposes of this chapter, animals that have been cruelly treated as defined by Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.021, or successor, and as amended, and includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by Section 21.09, Penal Code. See also "**Inhumane treatment or Inhumanly treated animals**".

**Currently vaccinated** in rabies exposure situations means, a minimum of thirty (30) days must have elapsed since the initial vaccination and the time elapsed since the most recent vaccination must not have exceeded the recommended interval vaccination or booster vaccination as established by the manufacturer.

**Direct physical control** means having precautions in place so the person may exercise physical control over the animal in the event it should become necessary to do so to protect the animal, a human, or another animal from harm. For the purposes of this chapter, voice control, shock collars, e-collars, and collar-mounted electronic training devices, regardless of the animal's proximity or training status, shall not be considered direct physical control.

**Dog or Domestic dog** means a member of *Canis familiaris* which is not a hybrid of *Canis familiaris* and another canine species.

**Domestic animal** shall mean:

- (a) any animal, or other species, that lawfully may be *commonly kept as a pet*, or as *livestock*, within the City so long as all of the required provisions of this chapter, and the Mesquite Zoning Ordinance ([Appendix C](#)) if applicable, are met, and ownership or possession of said animal is not prohibited by any international, federal, local, or state law.
- (b) An animal, or other species, *commonly kept as a pet* and shall include, but not be limited to:
  - (1) Amphibians (nonpoisonous): Any nonpoisonous frogs, newts, salamanders, or toads commonly kept as pets.
  - (2) Birds: Any birds commonly kept as pets, pigeons, or any bird kept for falconry purposes by a state and federally permitted falconer.
  - (3) Fish: Any fish commonly kept as pets.
  - (4) Mammals: Any mammals commonly kept as pets including, but not limited to, domestic cats, domestic dogs, ferrets, potbellied pigs, rabbits, or sugar gliders.
  - (5) Reptiles (commonly kept as pets and nonvenomous): Any nonvenomous lizards or snakes, and turtles; and:
    - a. that does not typically reach total lengths greater than six (6) feet; or
    - b. that is six (6) feet, or less, in length at maturity.
  - (6) Rodents: Chinchillas, gerbils, guinea pigs, hamsters, hedgehogs, mice, or rats.
- (c) *Livestock*, as defined in Section 4-781 (Livestock defined).

**Enclosure** shall be designed so as to prevent:

- (1) any animal confined within from escaping; and
- (2) the parts of an animal confined within from extending over, under, or through the enclosure.

**Enforcement Agent** means any authorized person designated by the City Manager to enforce and administer this chapter including, but may not be limited to, the Animal Services Manager, Animal Services Officers, or any Peace Officer.

**Estray** means any branded or unbranded livestock, fowl, exotic livestock, or exotic fowl found running at large.

**Euthanasia** means to put an animal to death in a humane manner using methods authorized by state and federal laws.

**Exotic animal** means a wild animal that is nonindigenous to Texas.

**Fenced yard** means an area that is completely or partially surrounded by a substantial fence of sufficient strength, height, construction, materials, and design so as to prevent:

- (1) any animal confined within from escaping; and
- (2) the parts of an animal confined within from extending over, under, or through the enclosure.

**Feral animal** means any unowned, untamed animal living in a “wild state” that will not voluntarily accept handling by human beings despite usually being considered a domestic animal.

**Foster agreement** means an Agreement entered into between the City and an Animal Rescue Organization, or authorized person, whereby:

- (1) the Organization, or authorized person, becomes the *Keeper* of the animal;
- (2) while working to temporarily aid the sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animal; and
- (3) any transfer of ownership to an adopter shall only be authorized and conducted by the City.

**Humane trap** means any trap designed to capture an animal without injuring the animal.

**Hybrid** means any animal formed of the union of two different species.

**Identification** means any acceptable method, such as microchipping, registration tag, or tattoo, which can be used to readily trace the current ownership of an animal.

**Impound** means the placing of an animal in the City's Animal Services Facility or any other facility authorized by the City.

**Inhumane treatment of an animal or Inhumanly treated** means animals neglected by any person violating any provision of Article VIII "Care and Treatment of Animals." See also "**Cruel treatment or Cruelly treated animals**".

**Keeper** is defined as a person currently having, or previously having had, care, custody, possession, or control of an animal. This term shall include persons who are in temporary possession of the animal, including but not limited to, pet sitters, groomers, boarders, walkers, and trainers.

**Keeper's agent** means a person who has been authorized by the Keeper to act on his or her behalf.

**Livestock.** See definition in Section 4-781 (Livestock defined).

**Local Rabies Control Authority (LRCA)** means the person designated by the governing body of a municipality to enforce the Chapter 826 of the Texas Health and Safety Code, Texas Rabies Control Act of 1981, as amended.

**Local rabies control incident (LRCI)** means any bite, scratch, or other injury to a person caused by a warm-blooded animal that breaks the victim's skin and/or causes him or her to bleed and potentially come into contact with the injuring animal's saliva and could therefore allow the rabies virus to be transmitted from the animal to the person.

**Loft** means any box, cage, container, or other enclosure of whatever kind for the keeping or confinement of pigeons.

**Microchip or Microchip implant** means a passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners. The microchip implant shall be supplied with an exterior collar-type tag for purposes of an external means of notifying others that the animal has been implanted with a microchip.

**Microchip reader** means an electronic scanner with an operating frequency that is able to detect a microchip that has been implanted in an animal and displays the number of the microchip to its operator. The microchip reader shall be of a type that activates and displays the number of a microchip manufactured by multiple vendors.

**Municipal Court** shall mean the Mesquite Municipal Court, in Mesquite, Texas.

**New owner** means a person who is legally competent to enter into a binding contract and who is adopting a dog or cat from the City or an Animal Rescue Organization.

**Own** means to have legal right of possession.

**Owner** means:

- (1) any person or persons, firm, partnership, corporation, association or entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal; or
- (2) the occupant, owner, or head of household of any premises where an animal remains for seventy-two (72) hours or more shall be presumed to be the owner of the animal. The presumption may be rebutted with proof that the animal has been reported to the Animal Services Division as a stray animal as required in Section 4-205 (Retention of animal at large) of this chapter; or
- (3) A property owner, occupant, or head of household of any premises on which a dog, cat, or other domestic animal remains, or customarily returns to, is an owner for purposes of this chapter; or
- (4) If a person under the age of seventeen (17) years owns, or otherwise possesses an animal, the parent, legal guardian, or the head of the household shall be the owner for purposes of this chapter.
- (5) There may be more than one (1) person who is the Owner or responsible person for an animal.

**Owner's agent** means a person who has been authorized by the Owner to act on his or her behalf.

**Person** shall have the meaning assigned in Chapter 1, [Section 1-2](#) of the Code. The term person shall include the term **Owner**.

**Pigeon** means a member of the family Columbidae and shall include but not be limited to "Racing Pigeons", "Fancy Pigeons", "Sporting Pigeons" and "Common Pigeons".

**Private owner** means an owner who is not a permitted commercial breeder or licensed animal establishment.

**Prohibited Animal.** See Section 4-811 (Prohibited animals defined).

**Quarantine** means to confine and isolate from human beings and other animals in a state-approved quarantine facility or in compliance with all stipulations of a home quarantine when allowed by the Local Rabies Control Authority. The quarantine period for a dog or cat for rabies observation is two hundred forty (240) hours (10-days) from the date and time of the bite, scratch or other exposure, or as specified by state law or rule.

**Restrain** means to control an animal by physical means.

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

**Serious bodily injury** means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional, or in the case of an injured animal from a veterinarian, and would require hospitalization without regard to whether the person actually sought medical treatment for themselves or any injured animal. See also *bodily injury*.

**Service animal** means a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability pursuant to V.T.C.A., Human Resources Code, Title 8, Chapter 121, § 121.002, or successor, and as amended. See also "**assistance animal**".

**Sidewalk** means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

**State.** The words "the state" or "this state" shall be construed to mean the State of Texas.

**Sterilization** means the surgical removal of the reproductive organs of a dog or cat or the use of nonsurgical methods and technologies approved by the United States Food and Drug Administration or the United States Department of Agriculture to permanently render the animal unable to reproduce.

**Stray** means an animal wandering at large or is lost.

**Street** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**Tether** means a chain, rope, tether, leash, cable, or other device that attaches an animal to a stationary object or trolley system.

**Texas Rabies Control Act of 1981** means Chapter 826 of the Texas Health and Safety Code, or successor and as amended.

**Transfer agreement** means an Agreement entered into between the City and an Animal Rescue Organization whereby:

- (1) the Organization becomes the *Owner* of the animal in anticipation of a future transfer to an adopter;
- (2) while working to temporarily aid the sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animal; and
- (3) any transfer of ownership to an adopter is authorized to be conducted by the Organization.

**Unrestrained** shall mean a situation where an animal is found to be without physical restraint provided in the form of a barrier such as a fence, restraint, tether, or leash providing positive control of the animal and inhibiting the animal from getting off the occupant's property or away from physical control by the Owner/Keeper.

**Wild animal** means any nondomestic creature (mammal, amphibian, reptile, or fowl) that is of a species that is wild by nature and that can normally be found in the "wild state" and that is not naturally tame or gentle but is of a wild nature or disposition; or that, because of its size, vicious nature, and other characteristics, would constitute a danger to human life, property or domestic animals, if not kept or maintained in a safe and secure manner. A wild animal is also any animal that is restricted from ownership by any international, federal, or state law or any animal which is, or may be hereafter, listed as a "high risk" animal in the Texas Rabies Control Act. Wild Animals include, but are not limited to, exotic animals, wildlife, all nonhuman primates, all forms of venomous snakes and poisonous reptiles, and nonvenomous snakes and nonpoisonous reptiles that will exceed a length of six (6) feet when mature.

**Wild state** means living in its original or otherwise natural condition, not domesticated.

**Wildlife** means wild animals living in such conditions of a "wild state."

**Wildlife educational center** means an organization that has met all of the State and federal requirements to possess and display wild or domestic animals for educational purposes.

**Wildlife rehabilitator** means a person holding all current State and/or federal permits needed to temporarily house allowed native wild animal species in his or her possession with the goal of rehabilitating the animal(s) and releasing it back into its natural habitat in accordance with all State and federal laws.

**Year.** The word "year" shall mean twelve (12) consecutive months.

**Secs. 4-9 – 4-20. – Reserved.**

## ARTICLE II. - ANIMAL SERVICES ADVISORY COMMITTEE

### Sec. 4-21. - Establishment of Animal Services Advisory Committee.

The Mesquite Animal Services Advisory Committee has been established, in accordance with State law, pursuant to this article.

**State law reference** – Advisory Committee, V.T.C.A. Health & Safety Code, Title 10, Chapter 823, [§ 823.005](#).

### Sec. 4-22. - Purpose.

- (a) The Mesquite Animal Services Advisory Committee serves in an advisory capacity and shall make recommendations to the City Council and City staff regarding animal shelter operations and other matters in order to comply with Texas Health and Safety Code Chapter 823 “Animal Shelters,” or successor, and as amended.
- (b) The Animal Services Advisory Committee may also make recommendations to the City Council and City Staff in connection with the operation of the Animal Services Division, as well as such other animal welfare matters as may be required by the City Council or City staff.
- (c) The Animal Services Advisory Committee may also perform such other duties as may be assigned by the City Council.

**State law reference** – Advisory Committee, V.T.C.A. Health & Safety Code, Title 10, Chapter 823, [§ 823.005](#).

### Sec. 4-23. - Requirements.

- (a) *Advisory committee required.* The City Council is required to appoint an advisory committee to assist in complying with the requirements of Chapter 823 of the Texas Health and Safety Code, or successor, and as amended.
- (b) *Minimum members.* The Mesquite Animal Services Advisory Committee shall be composed of at least the following persons:
  - (1) one licensed veterinarian;
  - (2) one county or municipal official;
  - (3) one person whose duties include the daily operation of an animal shelter; and
  - (4) one representative from an animal welfare organization or animal rescue organization.
- (c) *Meetings.*
  - (1) The advisory committee shall meet at least three (3) times per calendar year pursuant to Section 823.005 Texas Health and Safety Code, or successor, and as amended.
  - (2) The City Council hereby encourages the Animal Services Advisory Committee to meet at a minimum quarterly, four (4) times, per calendar year.

**State law reference** – Advisory Committee, V.T.C.A. Health & Safety Code, Title 10, Chapter 823, [§ 823.005](#).

### Sec. 4-24. - Members.

Nine (9) regular members shall be appointed by the City Council in accordance with this article.



**Sec. 4-25. - Organization.**

The City Council shall appoint nine (9) regular members by majority vote to serve a term of office in a specified position as designated below.

- Position No. 1.** Appointed for a term of office expiring in odd-numbered years.  
A licensed veterinarian with a practice within the city limits of Mesquite.
- Position No. 2.** Appointed for a term of office expiring in even-numbered years.  
A county or municipal official.
- Position No. 3.** Appointed for a term of office expiring in odd-numbered years.  
An individual whose duties include the daily operation of an animal shelter.
- Position No. 4.** Appointed for a term of office expiring in even-numbered years.  
A representative from Animal Rescue Organizations that are approved to provide rescue services for the Mesquite Animal Shelter.
- Position No. 5.** Appointed for a term of office expiring in odd-numbered years.  
A representative from Animal Rescue Organizations that are approved to provide rescue services for the Mesquite Animal Shelter.
- Position No. 6.** Appointed for a term of office expiring in even-numbered years.  
Any resident and qualified voter of the City of Mesquite, Texas.
- Position No. 7.** Appointed for a term of office expiring in odd-numbered years.  
Any resident and qualified voter of the City of Mesquite, Texas.
- Position No. 8.** Appointed for a term of office expiring in even-numbered years.  
Any resident and qualified voter of the City of Mesquite, Texas.
- Position No. 9.** Appointed for a term of office expiring in odd-numbered years.  
Any resident and qualified voter of the City of Mesquite, Texas.

**Sec. 4-26. - Chair and vice-chair.**

- (a) *Election.* Each board or commission shall elect a chairperson ("Chair") and vice-chairperson ("Vice-Chair") by majority vote of its regular members.
- (b) *Terms of Officers.* The terms for Chair and Vice-chair shall be for approximately one (1) year and shall expire on the 31st day of December. A regular member may serve as Chair or Vice-Chair for consecutive terms.
- (c) *Chairperson.* The Chair shall have the following responsibilities and duties:
  - (1) Shall preside at the meetings.
  - (2) Shall be the spokesperson (along with his or her designees) when requested.
  - (3) Shall represent the board or commission (along with his or her designees) when requested in its work with city, county, state or federal departments, agencies, boards, committees, and commissions.
  - (4) Shall be the authorized signatory for the board or commission.
- (d) *Vice-chairperson.* In the absence of the Chair, or when requested by the Chair, the Vice-chair shall perform the duties of the Chair.

**Sec. 4-27. - Rules of procedure.**

The Animal Services Advisory Committee shall be governed by the most recent revision of Robert's Rules of Order.

**Sec. 4-28. - Quorum.**

To conduct the business of the Animal Services Advisory Committee a quorum shall be present. A quorum shall be calculated as a majority number of the regular member positions appointed.

**Sec. 4-29. - Attendance.**

Attendance at all meetings is encouraged. Should a member fail to attend two (2) consecutive meetings without prior notification to the Chair, or City staff Committee Liaison, of such absences, that member immediately forfeits his or her office, and the City Secretary shall notify the City Council and the Chair of the vacancy.

**Sec. 4-30. - Vacancy.**

The City Council shall seek to appoint a new member to the Animal Services Advisory Committee. When a vacancy occurs during a term of office, the person selected as the replacement member shall be appointed only for the unexpired portion of the original term.

**Secs. 4-31 – 4-50. – Reserved.**

## ARTICLE III. - ADMINISTRATION

### DIVISION 1. - ORGANIZATION.

#### Sec. 4-51. - Animal Services Division.

There is hereby created an Animal Services Division, of Neighborhood Services, which is under the supervision of the City Manager and his or her designees.

**Charter reference** – City Manager; Powers and duties, Art. VIII, [Section 1](#) and [Section 3](#).

#### Sec. 4-52. - Animal Services Manager.

- (a) *Position.* The City Manager shall designate a qualified person who shall be, or become, an employee of the City to serve as the Animal Services Manager of the City's Animal Services Division. Pursuant to this ordinance, the Animal Services Manager is the designated Local Rabies Control Authority and Animal Control Authority.
- (b) *Duties of Animal Services Manager.* The duties and authority of the Animal Services Manager are established by State law, this Mesquite Animal Code, and include, but may not be limited to:
- (a) Supervise the Animal Services Division operations of the City.
  - (b) Supervise the Animal Services Officers of the City.
  - (c) Aiding the State Board of Health in administering the rabies control program, pursuant to V.T.C.A. Health and Safety Code, Chapter 826, or successor, and as amended.
  - (d) Aid the State Board of Health in the enforcement of area quarantines, pursuant to V.T.C.A. Health and Safety Code, Chapter 826, or successor, and as amended.

**Charter reference** – City Manager; Powers and duties, Art. VIII, [Section 3](#).

**Cross reference** – Enforcement Agents; Article IV.

#### Sec. 4-53. - Animal Services officers.

The City may employ animal services officers to assist the Animal Services Manager in the carrying out of his or her duties.

#### Secs. 4-54 – 4-70. – Reserved.

## DIVISION 2. - RECORDS.

### Sec. 4-71. - Records – property of the City.

The Animal Services Division records are the property of the City of Mesquite, Texas.

### Sec. 4-72. - Records management and records retention.

- (a) *Records Management Program and Records Management Plan.* The “[Local Government Records Act](#)”, as amended, requires each local government establish by ordinance an active and continuing Records Management Program to be administered by a Records Management Officer. The City’s Records Management Program is established and authorized by the City Council pursuant to a City ordinance. The Animal Services Division shall comply with both the Records Management Program, established by City ordinance, and the Records Management Plan containing plan documents and guidance, located on the internal [City Secretary’s Intranet page](#).
- (b) *Record Liaison Officers.* The Animal Services Manager, and his or her designees, shall retain records and seek assistance from the Animal Services Division’s Record Liaison Officer(s) as needed for compliance with the City’s Records Management Plan.

**Cross reference** – “Records Management Program” adopted in City Council [Ordinance No. 2714](#), as amended, December 3, 1990.

**State law reference** – “[Local Government Records Act](#)”, Texas Local Government Code, Title 6, Subtitle C.

### Sec. 4-73. - Records – impoundment and disposition of animals.

The following records, including but not limited to, shall be maintained by the Animal Services Division regarding impoundment and disposition of animals:

- (1) Description of all animals and wildlife impounded.
- (2) Date of impoundment.
- (3) Date the animal was reclaimed (if applicable) or date of other disposition of the animal.
- (4) Information regarding the disposition of all animals:
  - a. Reclaim;
  - b. Transfer (to another governmental entity or to an Animal Rescue Organization);
  - c. Adoption;
  - d. Euthanasia;
  - e. Died in care;
  - f. Release to wild; and
  - g. Trap, neuter and release.
- (5) Identifying information regarding reclaiming or other disposition of the animal:
  - a. *Reclaim* – *The owner or keeper of the animal reclaims the animal.* The owner’s or keeper’s identifying information such as name, physical address, mailing address, e-mail address, and phone number.
  - b. *Transfer* – *The animal is transferred to another governmental entity or to an Animal Rescue Organization for later placement with an adopter.* The governmental entity or Animal Rescue Organization’s identifying information such as physical address, mailing address, e-mail address, web-site, and phone number.
  - c. *Adoption* – *The animal is adopted, and the adopter becomes the new owner of the animal.* The adopter’s identifying information such as name, physical address, mailing address, e-mail address, and phone number.

- d. *Euthanasia* – *The animal is euthanized while in the custody of the City.* Records in accordance with State law shall be maintained regarding humane euthanasia of any animal.
- e. *Died in care.* Animal record.
- f. *Release to wild.* Animal record from impoundment to release.
- g. *Trap, neuter, and release.* Animal record, impoundment, sterilization, and release.\
- h. *Fees collected.* The amount of fees owed and the amount collected by the City for the reclaiming or adoption of each animal.

**State law reference** – Standards for Animal Shelters, V.T.C.A. Health & Safety Code, Title 10, Chapter 823, [§ 823.003](#).

**Cross reference** –Article III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-74. - Records requests made pursuant to the Texas Public Information Act (PIA).**

(a) *In general.*

- (1) The City of Mesquite is governed by Chapter 552, Texas Government Code, the “Texas Public Information Act” (the “Act” or “PIA”), which establishes requirements for governmental bodies to respond to written requests from members of the “public” for access and/or reproductions of public information and records.
- (2) The Animal Services Division, in cooperation with the City’s Officer for Public Information (i.e. City Secretary) and the Public Information Coordinator, shall comply with the PIA when requests are made for records pursuant to the Act.

(b) Specific types of records requests:

(1) *Animal adoption information.*

- a. Pursuant to Section 552.1177 of the Public Information Act, or successor, and as amended, the personal identifying information of a person (i.e. an “adopter”) who obtains ownership or control of an animal is confidential and excepted from the disclosure requirements of the Texas Public Information Act.
- b. The State has implemented the above-mentioned privacy protections for those “persons” who “adopt” an animal from a municipal Animal Services Facility to help prevent harassment or unwanted contact by someone attempting to reclaim the animal.

(2) *Animal transfer information.*

a. *Agreements.*

- 1. *Foster Agreement.* When an animal is transferred to an Animal Rescue Organization, or other authorized person, via a Foster Agreement the organization or person is the *Keeper* of the animal and not a “person” that has obtained “ownership” for purposes of adoption, regardless of whether the transfer results in a transfer of actual legal ownership.
- 2. *Transfer Agreement.* When an animal is transferred to an Animal Rescue Organization via a Transfer Agreement the organization is the *Owner* of the animal but is not a “person” that has obtained “ownership” for purposes of adoption, regardless of whether the transfer results in a transfer of actual legal ownership.

- b. The Animal Rescue Organization's, or other authorized person's, identifying information is not considered confidential and may be disclosed if a records request is made pursuant to the Texas Public Information Act.
  
- (3) *Confidentiality of Certain Information in Rabies Vaccination Certificate.* Pursuant to Section 826.0211 of the Texas Health and Safety Code, or successor, and as amended, information contained in a rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an owner or an address, telephone number, or other personally identifying information of an owner of a vaccinated animal is confidential and not subject to disclosure, unless otherwise provided, under Chapter 552, Texas Government Code, the "Texas Public Information Act."
  
- (4) *Confidentiality of certain information in dog and cat registry.* Pursuant to Section 826.0311 of the Texas Health and Safety Code, or successor, and as amended, information that identifies or tends to identify the owner or an address, telephone number, or other personally identifying information of the owner of the registered dog or cat is confidential and not subject to disclosure, unless otherwise provided, under Chapter 552, Texas Government Code, the "Texas Public Information Act."

**State law references –**

Confidentiality of certain information, V.T.C.A. Government Code, Chapter 552, [§ 552.1177](#).

Confidentiality of certain information in dog and cat registry; V.T.C.A. Health and Safety Code, [§ 826.0311](#).

Confidentiality of Certain Information in Rabies Vaccination Certificate; V.T.C.A. Health and Safety Code, [§ 826.0211](#).

**Secs. 4-75 – 4-90. – Reserved.**

**DIVISION 3. - MISCELLANEOUS.**

**Sec. 4-91. - Donations made to Animal Services Division.**

Unless otherwise provided, the Animal Services Manager, or his or her designees, is authorized to accept on behalf of the City the following types of donations for the care of animals, in the custody and control of the City, for associated facilities, and for other animal related matters.

- (1) *Personal property.* The receipt of donations of personal property including, but not limited to, the following:
  - a. *Goods.* Donations of items such as beds, blankets, toys, food, and treats.
  - b. *Money.*
    1. *\$50,000 or less.* The receipt of a monetary donation in the amount of fifty thousand dollars (\$50,000) or less, including cash, checks, and other forms of payment may be accepted by the Animal Services Manager, or his or her authorized designees, when said monetary donation is made for the benefit of the Animal Services Division.
    2. *More than \$50,000.* The receipt of a monetary donation exceeding fifty thousand dollars (\$50,000) shall be approved by the City Council pursuant to Chapter 2, [Section 2-5](#).
- (2) *Real property.* The City's receipt of donations of real property shall be conducted in accordance with Chapter 2, [Section 2-5](#).

**Secs. 4-92 – 4-120. – Reserved.**

## **ARTICLE IV. - ENFORCEMENT AGENTS**

### **Sec. 4-121. - Designated enforcement agents.**

The Animal Services Manager, Animal Services Officers, Peace Officers, any employee designated by the City Manager, and any other person as authorized by State or other law having jurisdiction within the City of Mesquite, are hereby designated the authorized enforcement agents for this chapter.

### **Sec. 4-122. - Local Rabies Control Authority.**

- (a) The Animal Services Manager, or his or her designees, is hereby designated as the local rabies control authority for the purpose of enforcement of this chapter and V.T.C.A. Health & Safety Code, Chapter 826, as amended.
- (b) If the Animal Services Manager position is vacant or he or she is unavailable, and his or her designee has not been identified, then the City Manager shall designate the Local Rabies Control Authority.

**State law reference** – Designation of local rabies control authority; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, [§ 826.017](#).

### **Sec. 4-123. - Animal Control Authority.**

- (a) The Animal Services Manager, or his or her designees, is hereby designated as the Animal Control Authority for the purpose of enforcement of this chapter and V.T.C.A. Health & Safety Code, Chapter 822, Subchapter D, as amended.
- (b) If the Animal Services Manager position is vacant or he or she is unavailable, and his or her designee has not been identified, then the City Manager shall designate the Animal Control Authority.

**State law reference** – Designation of animal control authority; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, Subchapter D, [§ 822.041](#).

### **Sec. 4-124. - Enforcement duty and authority.**

- (a) The Animal Services Manager, Animal Services Officers, Peace Officers, and any employee designated by the City Manager shall have the duty and authority to act on behalf of the City and the Animal Services Division in taking any lawful actions as required to enforce the provisions of this chapter.
- (b) The Animal Services Manager, Animal Services Officers, and any other City employee designated by the Department Director may issue one (1) or more citations to a person to appear in Municipal Court if the City employee reasonably believes that the person has engaged in conduct that violates a law or ordinance.

**Cross reference** – Authority to issue citations to appear in Municipal Court, Ch. 1, [Section 1-7](#).

### **Sec. 4-125. - Duties of enforcement agents.**

- (a) The enforcement agents identified in this article shall have the duty to enforce this Mesquite Animal Code.
- (b) Duties of Enforcement Agents shall include, but may not be limited to:
  - (1) Administer and enforce all laws and regulations of the State pertaining to animals which authorize the Local Rabies Control Authority or other enforcement agents to enforce the same.
  - (2) Administer and enforce the animal ordinances, regulations, and policies of the City.
  - (3) Aid the State Board of Health in administering the rabies control program, pursuant to V.T.C.A. Health and Safety Code, Chapter 826, or successor, and as amended.
  - (4) Aid the State Board of Health in the enforcement of area quarantines, pursuant to V.T.C.A. Health and Safety Code, Chapter 826, or successor, and as amended.



- (5) Animal Services Officers shall receive training in accordance with V.T.C.A. Health and Safety Code, Chapter 829, or successor, and as amended.

**Sec. 4-126. - Authority of enforcement agents.**

- (a) *In general.* The Animal Services Manager and his or her designees including any Animal Services Officer, Peace Officer, or any other authorized Enforcement Agent shall have the authority, to carry out any power or duty stated within the terms of this chapter or in accordance with State law, including, but may not be limited to the following provisions in this section.
- (b) *Issue citations.*
- (1) Issue citations for any violation of this chapter in addition to any other authority provided pursuant to [Section 1-7](#) of this Code.
- (2) If the person being cited is not present, the Animal Services Officer shall send the citation to the Municipal Court to institute a court summons.
- (c) *File sworn affidavits and request Court hearings.* Any Enforcement Agent may file sworn affidavits and request a court hearing in accordance with State, federal, or local law.
- (d) *Right of entry and inspection.*
- (1) *In general.* Enforcement Agents have the right of entry for purposes of enforcing the provisions of this chapter to the full extent permitted under the law.
- (2) *Pursuit of animals.* Enforcement Agents are authorized to enter upon public or private property to the full extent permitted by law. See also Section 4-582 (Right of entry – for capturing and impounding an animal).
- (3) *Inspection.* Enforcement Agents, bearing proper credentials and identification, are authorized to enter upon public or private property for the purpose of discharging the duties imposed by the provisions of this chapter, or other applicable laws, and to enforce the same, to the full extent permitted by law.
- (4) *Imminent and/or immediate danger to an animal.*
- a. *Reasonable suspicion of imminent danger to an animal(s).* If an Enforcement Agent has reasonable suspicion to believe that the life of the animal may be in imminent danger, the Enforcement Agent may enter private property and the curtilage of the premises (e.g. within the fence) to correct the threat to the animal's life so long as, any foreseeable damage to property, if any, is minimal.
- b. *Immediate danger to animal(s).*
1. An Enforcement Agent who has probable cause to believe an animal is in immediate danger may remove the animal from the situation by the quickest and most reasonable means available; and
2. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, an Enforcement Agent who has probable cause to believe an animal is in immediate danger may enter upon private property without warrant, except dwellings, to the full extent permitted by law.

- (5) *Search and Seizure Warrants.* Enforcement Agents may seek a warrant from a court as authorized by law.
  
- (e) *Impoundment.* Impound animals as authorized by this Chapter. See Article XI, Division 2 (Impoundment of animals).
  
- (f) *Destruction.* In exigent circumstances, kill any animal in which:
  - (1) Poses an imminent danger to a person or property.
  - (2) A real or apparent immediate necessity exists for the destruction of the animal.
  - (3) Is suspected of having rabies when such animal is found running at large or found astray after having made a reasonable, but unsuccessful, effort to capture the animal.
  
- (g) *Euthanasia.* Humanely euthanize any impounded animal in accordance with this chapter. See Section 4-624 (Euthanasia).

**Secs. 4-127 – 4-150. – Reserved.**

## ARTICLE V. - CITATIONS AND PENALTIES

### DIVISION 1. - CITATIONS.

#### Sec. 4-151. - Issuance of a citation.

Enforcement Agents may issue a citation to the Owner or Keeper of an animal found in violation of this chapter as authorized by Mesquite City Code, Chapter 1, [Section 1-7](#) and this section.

#### Sec. 4-152. - Processing of citation.

Upon receipt of a completed citation, the Municipal Court Clerk shall process the citation in the same manner as a citation issued by a peace officer.

**Cross reference** – Authority to issue citations to appear in Municipal Court, Ch. 1, [Section 1-7](#).

**Secs. 4-153 – 4-170. – Reserved.**

**DIVISION 2. - PENALTIES.**

**Sec. 4-171. - In general.**

Nothing in this ordinance prohibits the City from pursuing civil and criminal enforcement remedies and penalties concurrently or availing itself of any other remedy allowed by law.

**Sec. 4-172. - Class C misdemeanor and criminal penalty.**

- (a) A person who violates this chapter commits a Class C misdemeanor punishable by a fine not to exceed:
- (1) two thousand dollars (\$2,000) if the provision violated governs public health or sanitation; or
  - (2) the amount fixed by state law if the violation is one for which the state has fixed a fine; or
  - (3) five hundred dollars (\$500) for all other offenses.
- (b) A person violating a provision of this chapter commits a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.

**Sec. 4-173. - Culpable mental state.**

For the purpose of violations under this chapter, the requirement of a culpable mental state is expressly waived, unless otherwise stated, and is not an element of the offense required to be proven for conviction of the offense. An offense not requiring a culpable mental state shall be punishable by a fine of not more than five hundred dollars (\$500.00).

**State law references –**

Requirement of culpability, V.T.C.A. Penal Code, § 6.02.  
Definition of culpable mental states, V.T.C.A. Penal Code, §6.03

**Sec. 4-174. - Civil enforcement remedies, procedures, and civil penalties.**

In addition to, or in lieu of, imposing a criminal penalty, the City may also bring any other civil action as may be permitted under the law.

**State law references –**

V.T.C.A. Local Government Code, Chapter 54, [§ 54.012](#)(5) and (11); and [§ 54.017](#).  
V.T.C.A. Local Government Code, Chapter 211, [§ 211.012](#).

**Sec. 4-175. - Additional judicial authority.**

- (a) In addition to imposing a fine against a person convicted of an offense under this chapter, a court may do one (1) or more of the following, including, but not limited to:
- (1) require the person, at the person's expense, to attend a responsible pet ownership program approved by the Animal Services Manager;
  - (2) revoke any permit issued to the person under this chapter;
  - (3) prohibit a person from owning animals in the City for any time period as determined by a judge, following a determination that an animal was "cruelly treated" under the Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.021 et seq., or successor and as amended, and in accordance with this chapter;
  - (4) require the Owner or Keeper of an animal to spay or neuter the animal within a time period specified by the court;
  - (5) require the Owner or Keeper of an animal to microchip the animal within a time period specified by the court; or
  - (6) impose any other conditions or restrictions that would reasonably abate the violation for which the person was convicted.

- (b) If a court requires any provision in accordance with this section the provision shall be identified in the Court Order.

**Secs. 4-176 – 4-200. – Reserved.**

## **ARTICLE VI. - PROHIBITED ACTS AND MISCELLANEOUS OFFENSES**

### **Sec. 4-201. - Violations in general.**

A person who violates a provision of this chapter, or who fails to perform an act required of him/her by this chapter, commits an offense.

### **Sec. 4-202. - Interference with enforcement prohibited.**

It shall be a violation of this chapter and unlawful for any person to knowingly prevent, interfere with, or obstruct the Animal Services Manager and his or her designees including Animal Services Officers or Peace Officers in the performance of his or her duties.

### **Sec. 4-203. - Failure to comply with lawful orders from enforcement agents.**

It shall be a violation of this chapter and unlawful for any person to fail to comply with any lawful order of the:

- (1) Local Rabies Control Authority;
- (2) Animal Control Authority; and
- (3) Animal Services Manager and his or her designees including Animal Services Officers or Peace Officers of the City.

### **Sec. 4-204. - Making a false report.**

It shall be a violation of this chapter and unlawful for any person to knowingly make a false report to Enforcement Agents.

### **Sec. 4-205. - Retention of animals at large.**

- (a) *Offense.* A person commits an offense if the person confines an animal at large, other than one already owned by the person, on his or her property without notifying the Animal Services Division of the confinement within twenty-four (24) hours.
- (b) *Defense.* It is a defense to prosecution that the person notified the Owner or Keeper of the animal and the person disclosed the animal's confined location within twenty-four (24) hours.

#### **Cross references –**

"At large" defined; Section 4-8.  
Animal at large; Section 4-262.

### **Sec. 4-206. - Sale of animals from public property.**

A person commits an offense if he sells, exchanges, barter or gives, or offers to sell, exchanges, barter, or give away, or gives away, any animal from:

- (1) any public property; or
- (2) any property to which the public has access that does not have a valid certificate of occupancy allowing the sale of animals on the property.

**Secs. 4-207 – 4-250. – Reserved.**

## ARTICLE VII. - ANIMAL NUISANCES.

### DIVISION 1. - IN GENERAL.

#### Sec. 4-251. - Authority.

The City may define and prohibit any nuisance within the limits of the municipality and within 5,000 feet outside the City limits. The City may also enforce all ordinances necessary to prevent and summarily abate and remove a nuisance.

**State law reference** – Nuisance; V.T.C.A., Local Government Code, Title 7, Subtitle A, Chapter 217, Subchapter C, § 217.024.

#### Secs. 4-252 – 4-260. – Reserved.

### DIVISION 2. - OFFENSES.

#### Sec. 4-261. - In general.

- (a) *Misdemeanor criminal violations.* An animal Owner or Keeper of an animal commits a Class C misdemeanor criminal offense if by act, omission, or possession he or she creates an animal nuisance by violating any provision of this division.
- (b) *Continuing animal nuisance.* In accordance with process and procedures identified in Division 4, after the third (3rd) offense in the City, resulting in a guilty plea, guilty verdict, or a plea of no contest including a deferred disposition or adjudication, in any consecutive eighteen (18) month period, on affidavit of an Enforcement Agent, the City Attorney or his or her designee may petition the Municipal Court for a hearing to determine if such animal or animals is a continuing animal nuisance.
- (c) *Impoundment of animals creating an animal nuisance.* Enforcement Agents, or other law enforcement officers, shall have the power to impound animals which create an animal nuisance for the purpose of abating the nuisance.

**State law reference** – Nuisance; V.T.C.A., Local Government Code, Title 7, Subtitle A, Chapter 217, Subchapter C, § 217.024.

**Cross references –**

“Animal nuisance” defined; Section 4-8.

Authority of Enforcement Agents; Section 4-126.

Right of entry – for capturing and impounding an animal; Section 4-582.

Court Hearing – Continuing Animal Nuisance; Art. VII, Division 4.

#### Sec. 4-262. - Animal at large.

- (a) *Offense.* A person commits an offense if the person is an Owner or Keeper of an animal and the person permits, or by insufficient control allowed the animal to be at large as defined by this chapter.
- (b) *Defense.* It is a defense to prosecution that the animal was at large due to forces of nature, fire, or the criminal act of a third party who was not residing at the animal Owner's or Keeper's residence.

**Cross references –**

“At large” defined; Section 4-8.

Retention of animal at large; Section 4-205.

Reporting and complaints (of animal nuisances); Art. VII, Division 3.

#### Sec. 4-263. - Unlawful releasing of confined animal.

A person commits an offense if the person causes an animal not owned by him to be at large by intentionally, knowingly, recklessly, or with criminal negligence releases a confined animal.

**Cross reference** – Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-264. - Domestic animal bites – persons and other animals.**

- (a) *Offense.* A person commits an offense if:
- (1) the person is the Owner or Keeper of a domestic animal, excluding dogs; and
  - (2) the person fails to secure the domestic animal; and
  - (3) the animal makes an unprovoked bite that causes bodily injury:
    - a. to another person, or
    - b. to another legally restrained domestic animal, or
    - c. to livestock; and
  - (4) that occurs at a location other than the Owner's or Keeper's real property, or in or on the Owner's or Keeper's motor vehicle or boat.
- (b) *Defense.* It is a defense to prosecution under this section that the person is a veterinarian, a veterinary clinic employee, a peace officer, a person employed by the City, or a subdivision of the City, to deal with stray animals and has temporary ownership, custody, or control of the animal in connection to that position.

**Cross references –**

Quarantine; Article X; Division 3.  
Dog bites – persons and other animals; Section 4-265.  
Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-265. - Dog bites – persons and other animals.**

- (a) *Offense.* A person commits an offense if:
- (1) the person is the Owner or Keeper of a dog; and
  - (2) the person fails to secure the dog; and
  - (3) the dog makes an unprovoked bite that causes bodily injury:
    - a. to another person, or
    - b. to a legally restrained domestic animal, or
    - c. to livestock; and
  - (4) that occurs at a location other than the owner's or keeper's real property, or in or on the Owner's or Keeper's motor vehicle or boat.
- (b) *Defense.* It is a defense to prosecution under this section that the person:
- (1) is a veterinarian, a veterinary clinic employee, a peace officer, a person employed by the city, or a subdivision of the City, to deal with stray animals and has temporary ownership, custody, or control of the dog in connection to that position; or
  - (2) is an employee of a law enforcement agency and trains dogs or uses dogs for law enforcement or corrections purposes and is training or using the dog in connection with the person's official capacity.

**Cross references –**

Quarantine; Article X; Division 3.  
Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-266. - Noise made by animals.**

- (a) *Offense.* The Owner or Keeper commits an offense if he or she allowed an animal to unreasonably bark, howl, crow, or make other unreasonably loud noise, unprovoked, that disturbs the peace and quiet of a person of ordinary sensibilities.
- (1) Unreasonable is defined as disturbing the peace and quiet of a person of ordinary sensibilities; and
    - a. the recorded loud animal noise event continued for a period of at least 15-minutes; or
    - b. sporadic intervals of recorded loud animal noise over the course of a 15-minute interval.
  - (2) “Recorded” may include video recordings or audio recordings.
  - (3) “Unprovoked” shall mean not deliberately caused by the complaining witness, or other person. Actions of provocation may include, but not be limited to, standing along a fence line, taunting, teasing, or whistling.
- (b) No prosecution of an alleged violation, under this section, may proceed unless:
- (1) there is a “complaining witness”; and
  - (2) the recording is of sufficient quality to authenticate the location, time, and date of the alleged disturbance. Any recording sought to conform with this requirement must be of a duration capable of establishing unreasonable as defined under subsection (a)(1).
- (c) In any prosecution of a violation of this section, recorded proof that the noise was unreasonable, as defined above in subsections (a)(1) and (a)(2), shall be prima facie evidence of a violation of this section and that the same constitutes a nuisance.

**Cross references –**

Reporting and complaints (of animal nuisances); Art. VII, Division 3.  
Noise prohibited; Chapter 10, Art. III, [Section 10-73](#).

**Sec. 4-267. - Animal waste.**

- (a) *Offenses.* A person commits an offense if the person is the Owner or Keeper of an animal and the person:
- (1) fails to immediately remove and dispose of any feces the animal produces from public property or private property not his own;
  - (2) permits, either willfully or through failure to exercise care and control, any animal to urinate or defecate upon the sidewalk, parkway, or any public street; or
  - (3) permits, either willfully or through failure to exercise care and control, any animal to urinate or defecate upon the floor or wall of any common area, including in any entranceway or stairway, on public property or private property not his own.
- (b) *Defenses.*
- (1) It is a defense to prosecution that:
    - a. The property where the animal defecated was owned, leased, or controlled by the Owner(s) or Keeper(s) of the animal at the time it defecated;
    - b. The animal was an assistance animal, and at the time it defecated, the animal was in the presence of its disabled person or was present on the property of its disabled person;



- c. The owner of the property or person in control of the property had given prior consent for the animal to defecate on the property;
  - d. The animal is a police service animal being used in official law enforcement activities; or
  - e. The animal is under the direction and control of a non-profit search and rescue organization participating in an authorized search and rescue activity.
- (2) It is an affirmative defense to prosecution if the Owner or Keeper proves by a preponderance of the evidence that the Owner or Keeper, within a reasonable time, removes the waste. A reasonable time shall be defined for purposes of this subsection as no more than fifteen (15) minutes.

**Cross references –**

Reporting and complaints (of animal nuisances); Art. VII, Division 3.  
Animal Waste; [Section 10.5-20](#).

**Sec. 4-268. - Unsanitary and hazardous conditions.**

A person commits an offense if the person is an Owner or Keeper of an animal and the person permits, or by insufficient control allowed the creation of any unsanitary or hazardous condition on property that:

- (1) renders the ground, the water, the air, or the food hazardous or injurious to human or animal life or health; or
- (2) is offensive to the senses by reason of odor that is disagreeable to persons residing in the vicinity thereof or to the public at large; or
- (3) is unsanitary and detrimental to the public health; or
- (4) is conducive to the breeding of flies, mosquitoes, ticks, fleas, or other pests.

**Cross reference –** Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-269. - Slaughtering of animals.**

It shall be unlawful for any person to slaughter, skin, or defeather an animal in an area that is open to the view of the general public, unless as part of a licensed business.

**Cross reference –** Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-270. - Display of animal carcass.**

- (a) *Offense.* It shall be unlawful for any person to butcher or display the carcass of an animal in the view of the general public.
- (b) *Defenses.* It is a defense to prosecution where:
  - (1) an animal carcass is being cooked over a barbecue pit or other cooking fire.
  - (2) an animal, or part thereof, is prepared by a taxidermist for the purpose of display.

**Cross reference –** Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-271. - Dead animals.**

It shall be unlawful for any person to permit the carcass of any dead animal to be, or remain, upon any property under his or her control for more than twenty-four (24) hours after the death of the animal.

**Cross reference –** Reporting and complaints (of animal nuisances); Art. VII, Division 3.

**Sec. 4-272. - Unlawful disposal of dead animals.**

(a) *Offenses.*

- (1) It shall be unlawful for any person to improperly dispose of the carcass of any dead animal.
- (2) It shall be unlawful for any person to bury any dead animal upon any property under his or her control.

- (b) Permissible methods for disposing of dead animals may be found in Section 4-331 (Disposal of dead animals – permissible methods).

**Cross reference** – Reporting and complaints of animal nuisances; Art. VII, Division 3.

**Sec. 4-273. - Keeping of bees.**

It shall be unlawful and a nuisance for any person owning or being in control of any premises within the City, other than land zoned "A" Agricultural, to keep, suffer, or permit more than two (2) hives of bees on such premises.

**Cross references –**

Bees; Art. XIV, Section 4-861.

Mesquite Zoning Ordinance, [Appendix C](#).

**State Law reference—** Bees, V.T.C.A. Agriculture Code, § 131.001 et seq.

**Secs. 4-274 – 4-290. – Reserved.**

**DIVISION 3. - REPORTING AND COMPLAINTS.**

**Sec. 4-291. - Reporting.**

A person may contact the Animal Services Division, or any Enforcement Agent, to report an alleged animal nuisance violation in accordance with this Article.

**Sec. 4-292. - Actions upon receipt of a reported alleged violation.**

- (a) *Issuance of citation at the time of the alleged violation.* Enforcement Agent may issue a citation to the alleged violator at the location where the alleged violation(s) occurred, or any other manner authorized by law.
- (b) *Filing a complaint with the Animal Services Division or the City Municipal Court.*
  - (1) *Affidavit and evidence.*
    - a. A person who is disturbed by an animal or animal nuisance, as identified in Division 2, may file a sworn affidavit with the Animal Services Division or the Municipal Court.
    - b. The sworn affidavit must include the name, address of the complaining witness, the exact address of the alleged violation or disturbance, a description of the alleged animal causing the violation or disturbance, and the date(s) and time(s) of the alleged violation or disturbance. The complaining witness may also provide any recordings, videos, photos, or other evidence if applicable.
  - (2) *Animal Services Division.* The Animal Control Authority, or any Enforcement Agent, who receives an affidavit in accordance with this section may, after investigation, forward said affidavit, along with any recordings, videos, photos, and any other evidence provided, to the Municipal Court for prosecution.
  - (3) *Municipal Court.* Upon receipt of the affidavit, along with any recordings, videos, photos, and any other evidence provided, the City Attorney or his or her designee, will review and determine whether a formal complaint shall be drafted for prosecution.

**Cross reference** – Offenses; Division 2, Article VII.

**Secs. 4-293 – 4-300. – Reserved.**

**DIVISION 4. - COURT HEARING FOR DETERMINATION OF A CONTINUING ANIMAL NUISANCE.**

**Sec. 4-301. - In general.**

This division outlines the process and procedures for a hearing to be conducted at Municipal Court to determine whether an animal, or animals, is a “continuing animal nuisance” for the purpose of abatement of the nuisance and the disposition of the animal(s). Any such hearing under this division, is in addition to, and separate from, proceedings resulting from the issuance of a criminal citation for violation of this chapter.

**Sec. 4-302. - Authority of Municipal Court.**

- (a) *Determination of a continued animal nuisance.* The Municipal Court judge may make the determination, after notice and hearing, upon a preponderance of the evidence, that an animal is considered a continuing animal nuisance and may order abatement measures and disposition of the animal(s).
- (b) *Noncompliance.* The Municipal Court judge may make the determination, after notice and hearing, upon a preponderance of the evidence, whether any Owner or Keeper of an animal, that has been previously declared a continuing animal nuisance, has complied with the requirements as provided for in this division or by Court Order.
- (c) The Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross reference** – Mesquite Municipal Court jurisdiction; Section 4-5.

**Sec. 4-303. - Initiating a hearing.**

- (a) *In general.* On affidavit of any Enforcement Agent, the City Attorney or his or her designee, may petition the Municipal Court for a hearing to determine whether the animal is a continuing animal nuisance for the purpose of abatement of the nuisance and the disposition of the animal(s).
- (b) *Criteria.* After the third (3rd) offense in the City, resulting in a guilty plea, guilty verdict, or a plea of no contest including a deferred disposition or adjudication, of violating the sections identified herein in any consecutive eighteen (18) month period, on affidavit of an Enforcement Agent, the City Attorney or his or her designee, may petition the Municipal Court for a hearing to determine if such animal or animals is a continuing animal nuisance.
  - (1) Section 4-262. - Animal at large.
  - (2) Section 4-263. - Unlawful releasing of confined animal.
  - (3) Section 4-264. - Domestic animal bites,
  - (4) Section 4-265. - Dog bites.
  - (5) Section 4-266. - Noise made by animals.
  - (6) Section 4-267. - Animal waste.
  - (7) Section 4-268. - Unsanitary and hazardous conditions.
  - (8) Section 4-328. - Tethering Animals – Unlawful restraint of an animal.
  - (9) Section 4-371. - Pet Limits – Restriction on number of cats and dogs kept on premises.
  - (10) Section 4-372. - Pet Limits – Restriction on number of domestic animals kept on premises
  - (11) Section 4-375. - Offenses related to Multiple Pet Permit or Breeder Permit.
  - (12) Section 4-494. - Offenses – Regarding rabies vaccination and proof of vaccination.

**Sec. 4-304. - “Continuing animal nuisance” defined.**

A *continuing animal nuisance* in this division is defined as an irresponsible action of ownership or control of an animal(s) that endangers the public health, public safety, or public welfare; an action that offends the public morals; or an action that endangers life or health, gives unreasonable offense to the senses, or obstructs the reasonable and comfortable use of another's property.

**Sec. 4-305. - Notice.**

- (a) *Set date of hearing.* If the animal was seized and impounded, the hearing must be held not later than the tenth (10<sup>th</sup>) calendar day after the date on which animal was seized and impounded. If the animal has not been impounded, the Court shall set a hearing in accordance with its rules or law.
- (b) *Notice.*
  - (1) The Municipal Court shall give written notice of the date, time, and place of the hearing, to:
    - a. the Owner(s) or Keeper(s) of the animal(s);
    - b. all person(s) who made the previous complaint or /report, if such information is available; and
    - c. the Animal Control Authority.
  - (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**Sec. 4-306. - Hearing.**

Any interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Reporting parties of previous complaints/reports;
- (4) Any witnesses; and
- (5) Owner(s) or Keeper(s) of the animal(s).

**Sec. 4-307. - Order of disposition or return of the animal.**

- (a) *Court determines the animal is not a continuing animal nuisance.*
  - (1) Upon determination that the animal is not a continuing animal nuisance the Court shall issue a Court Order that the animal be promptly returned (if applicable) to its Owner(s) or Keeper(s).
  - (2) The Municipal Court judge shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner(s) or Keeper(s).
- (b) *Court declares the animal a continuing animal nuisance.* Upon determination that the animal is a continuing animal nuisance, the Court shall issue a Court Order including the animal's disposition, as is necessary to preserve the public health, safety, or welfare. The Court may order any one (1) or more of the following, including, but not limited to:
  - (1) Order the impoundment of any animal owned by the person, forfeiting the person's ownership of the animal, and awarding sole possession of the animal to the City. Disposition of the animal may be in accordance with Article XI, Division 4 (Other Disposition of Impounded Animals), except that the animal may not be returned to the location where the animal resided at the time of the nuisance action;
  - (2) Suspension of the person's right to own an animal in the City for a period of time as specified by the court;

- (3) Removal of the animal from the city limits of Mesquite;
- (4) Return the animal to the Owner(s) or Keeper(s) with or without conditions as may be set by the Court; or
- (5) Require any one or more provisions as provided in Section 4-175 (Additional judicial authority).
- (6) If the Owner Keeper of such animal fails to remove such animal as provided for by the Court Order, such animal may be seized and impounded and the City's disposition of the animal may be in accordance with Article XI, Division 4 (Other Disposition of Impounded Animals).

**Cross references –**

Continuing Animal Nuisance defined; Section 4-304.  
Other Disposition of Impounded Animals; Division 4, Article XI.  
Additional judicial authority; Section 4-175.

**Sec. 4-308. - Time period for compliance with court order.**

- (a) After an Order is issued by the Municipal Court, the Owner(s) or Keeper(s) shall:
  - (1) comply with the order within the time specified in the Court Order, or
  - (2) if no time for compliance is specified in the order, no later than the 30th calendar day after the Court Order is signed by the Judge.
- (b) If the Judge orders that an animal is to be removed from the City limits, the Owner(s) or Keeper(s) shall provide the address of the location of the animal to the Animal Services Manager in writing within ten (10) calendar days after the signing of the Court Order. The date the Court Order is signed shall be considered Day Zero (0).

**Sec. 4-309. - Appeal.**

A person may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**Sec. 4-310. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the order. The date of the Municipal Court's order shall be considered Day Zero (0).
- (b) *Date of euthanasia or other disposition.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction, if ordered by the court, the dog or other animal may be euthanized, or other disposition shall be made in accordance with the Court Order, on the sixteenth (16th) calendar day following the order of the Municipal Court. The date of the Municipal Court's Order shall be considered Day Zero (0). Otherwise, if appealed, the date of euthanasia or other disposition shall be the date the Court's Order becomes final as may be determined by a court of appropriate jurisdiction.

**Sec. 4-311. - Offenses.**

- (a) When the court orders an animal to be removed from the city limits of Mesquite, the failure to remove the animal shall be an offense, and each day thereafter that such person fails to remove such animal shall constitute a separate offense.
- (b) The failure to provide the address of the location of the animal as described in Sec. 4-308 (b) within the time period shall be an offense and each day thereafter that such information is not provided shall constitute a separate offense.

**Secs. 4-312 – 4-320. – Reserved.**

## **ARTICLE VIII. - CARE AND TREATMENT OF ANIMALS**

### **DIVISION 1. - IN GENERAL.**

#### **Sec. 4-321. - In general.**

Domestic animals shall be provided proper care and treatment, in accordance with this article, by Owner(s) or Keeper(s) of any animal. If a person violates this division, in addition to receiving a criminal citation, civil enforcement remedies may also be imposed whereby the animal(s) may be seized and impounded pending a Municipal Court Hearing to determine if the animal was inhumanely treated and to determine the disposition of the animal(s).

#### **Cross references –**

“Cruel treatment of an animal or Cruelly treated” defined; Section 4-8.

“Inhumane treatment of an animal or Inhumanely treated” defined; Section 4-8.

#### **Secs. 4-322 – 4-325. – Reserved.**

### **DIVISION 2. - OFFENSES.**

#### **Sec. 4-326. - Inhumane treatment of animals.**

- (a) A person commits an offense, either through his or her action or omission, if he or she:
- (1) Docks the tail or removes the dew claws of an animal over five (5) days of age, or crops the ears of an animal of any age, unless he is licensed to practice veterinary medicine in the state;
  - (2) Transfers ownership or otherwise physically removes from its mother any dog, cat, ferret, or rabbit less than six (6) weeks old, or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
  - (3) Dyes or otherwise artificially colors any animal;
  - (4) Displays, transfers ownership, or offers to transfer ownership of any dyed or otherwise artificially colored animal;
  - (5) Abandons any animal or commits an act of abandonment, as defined in this chapter;
  - (6) Fails to reclaim any animal that he or she owns, or has care, custody, or control of from the Animal Services Facility or any person who had temporary possession of the animal;
  - (7) Fails to notify the department within twenty-four (24) hours after a motor vehicle being operated by him strikes an animal;
  - (8) Euthanizes, kills, or attempts to euthanize or kill, an animal in a manner other than one allowed in this chapter;
  - (9) Carries or transports an animal in any motor vehicle, conveyance, or trailer and fails to effectively restrain the animal so as to prevent the animal from leaving or being accidentally thrown from the vehicle, conveyance, or trailer;
  - (10) Places or confines an animal, or allowed an animal to be placed or confined, in an unattended motor vehicle, trailer, or other conveyance in violation of this article (Section 4-327);
  - (11) Causes or allowed an animal to remain in its own filth;
  - (12) Owns or has care, custody, or control of an animal having an infestation of ticks, fleas, or other parasites, without having the animal treated by a veterinarian or following a proper commercially available treatment regimen for the infestation;
  - (13) Owns or has care, custody, or control of an animal having an obvious or diagnosed illness, injury, or communicable illness transmittable to animal or human, without having the animal treated by a veterinarian or following a proper treatment regimen for the injury or illness;

- (14) Fails to provide basic grooming, as defined by this chapter, for an animal affecting its quality of life;
  - (15) Causes, allowed, or trains an animal to fight another animal or possesses animal fighting paraphernalia such as dog-fighting equipment, as described in Texas Penal Code 42.10 and as further defined in Article 18.18(g) of the Texas Code of Criminal Procedure, or cockfighting paraphernalia as described in Texas Penal Code 42.105;
  - (16) Fails to adequately provide an animal owned by him or under his care, custody, or control with one (1) or more necessities of life, including but not limited to, air or adequate ventilation, food and potable water (adequate for the size of the animal to maintain a healthy animal), sanitary conditions, shelter, or protection from the heat, cold, or other environmental conditions, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal;
  - (17) Exposes an animal to harsh weather temperatures, for a prolonged period, exceeding ninety (90) degrees or below forty-five (45) degrees Fahrenheit such that may cause bodily injury, serious bodily injury, or death of the animal;
  - (18) Mutilates or allowed to be mutilated any dead animal for reasons other than food preparation or taxidermy. Dissection in compliance with medical or veterinary research, medical or veterinary necropsy, and bona fide educational use of dead animals shall not be considered mutilation;
  - (19) Attaches or allowed to be attached a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
  - (20) Attaches or allowed to be attached a tether in violation of this article (Section 4-328);
  - (21) Uses a tether and the dog does not have access to shade, dry shelter, and a tip-proof water supply;
  - (22) Commits any act of bestiality as prohibited in Texas Penal Code, Title 5, Chapter 21, Section 21.09, or successor and as amended; or
  - (23) Teases, taunts, or provokes an aggressive reaction from an animal.
- (b) *Exclusion.* This section shall not be interpreted to restrict the lawful activities and legitimate operations of rodeos, 4H Clubs, FFA Clubs, or the like.
- (c) *Seizure and impoundment.* Animals seized pursuant to this section may be impounded by any Enforcement Agent.
- (d) *Criminal citation.* An Enforcement Agent may issue a criminal citation for violation of this article. The criminal citation is a separate action from a Court hearing described below in subsection (e).
- (e) *Court hearing to determine "inhumane treatment" or "cruel treatment" and the disposition of an animal.* In addition the authority to issue a criminal citation for violation of this chapter and authority to seize and impound the animal, proceedings may be instituted in Municipal Court in accordance with Division 2 of this article for a hearing to determine whether the animal was "inhumanely treated" or "cruelly treated" as defined by this chapter, and to determine the disposition of the animal.

**Cross references –**

"Abandon, Abandoned, or Abandonment" defined; Section 4-8.  
"Cruel treatment of an animal or Cruelly treated" defined; Section 4-8.  
"Inhumane treatment of an animal or Inhumanely treated" defined; Section 4-8.

**Similar State law provisions –**

Unlawful Restraint of Dog; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter D; § 821.076.  
Cruelty to Livestock Animals; V.T.C.A. Penal Code, Title 9, Chapter 42; § 42.09.  
Cruelty to Nonlivestock Animals; V.T.C.A. Penal Code, Title 9, Chapter 42; § 42.092.  
Dog fighting; V.T.C.A. Penal Code, Title 9, Chapter 42; § 42.10.  
Cock fighting; V.T.C.A. Penal Code, Title 9, Chapter 42; § 42.105.  
Disposition of Cruelly Treated Animals; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.021 et seq.



**Sec. 4-327. - Confinement of animals in unattended motor vehicles, etc.**

(a) *Offenses.*

- (1) A person commits an offense if he or she knowingly confines a dog, cat, or other animal in an unattended motor vehicle, trailer, or other conveyance for any time period under conditions that, in the opinion of a trained Peace Officer, Animal Services Officer, or licensed veterinarian, immediately endangers the health of the animal due to extreme temperatures, lack of adequate ventilation, or other circumstances that could reasonably be expected to cause the suffering, disability, or death of the animal and as demonstrated by, but not limited to, the animal's excessive drooling or panting, lethargic behavior, collapse, vomiting, or convulsions.
- (2) A person commits an offense if he or she places or confines an animal, or allowed an animal to be placed or confined, in an unattended motor vehicle, trailer, or other conveyance without providing adequately for the necessities of life, including air or adequate ventilation, food, potable water, sanitary conditions, shelter, or protection from the heat, cold, or other environmental condition, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal.

(b) *Removal, Seizure, and Impoundment.*

(1) *Removal.*

- a. If an animal is confined and suffering as described in subsection (a)(1), a Peace Officer, Animal Services Officer, or licensed veterinarian is authorized to immediately remove an animal from a motor vehicle, trailer, or other conveyance using any reasonable means, including breaking a window or lock.
- b. If an animal is confined as described in subsection (a)(2), a Peace Officer, Animal Services Officer, or licensed veterinarian, after reasonably attempting to locate the animal's Owner or Keeper, may remove an animal from the motor vehicle, trailer, or the like using any reasonable means, including breaking a window or lock.
- c. If professional services are required to remove the animal from the vehicle, the Owner or Keeper is responsible for the cost of professional services.
- d. A Peace Officer, Animal Services Officer, or licensed veterinarian who removes an animal from a motor vehicle, trailer, or the like in accordance with this section is not liable for any resulting property damage.
- e. This section does not create a cause of action for damages or for enforcement of this section.

(2) *Seizure and impoundment.* Animals seized pursuant to this section may be impounded by any Enforcement Agent.

(c) *Criminal citation.* An Enforcement Agent may issue a criminal citation for violation of this article. The criminal citation is a separate action from a Court hearing described below in subsection (d).

(d) *Court hearing to determine the disposition of the animal.* In addition to having the authority to issue a criminal citation for violation of this chapter and the authority to seize and impound the animal, proceedings may be instituted in Municipal Court in accordance with Division 2 of this article for a hearing to determine whether the animal was "inhumanely treated" or "cruelly treated" as defined by this chapter, and to determine the disposition of the animal.

**Similar State law provisions –**

Disposition of Cruelly Treated Animals; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.021 et seq.

**Cross references –**

"Cruel treatment of an animal or Cruelly treated" defined; Section 4-8.

"Inhumane treatment of an animal or Inhumanely treated" defined; Section 4-8.

**Sec. 4-328. - Tethering animals – unlawful restraint of an animal.**

- (a) *Offense.* A person commits an offense if he or she tethers an animal to a stationary object for any length of time.
- (b) *Defense.* It shall be a defense to prosecution that the restraint is located on the owner's property, or for a lawful animal event, veterinary treatment, grooming, training, law enforcement activity, or when needed to protect the safety or welfare of a person or animal, provided that all of the following conditions are met:
  - (1) The animal's owner maintains continuous, direct physical control of the animal throughout the period of restraint; and
  - (2) The tether is attached to a properly fitting collar or harness and is not wrapped around the animal's neck. Choke or prong-type collars are prohibited; and
  - (3) The tether is designed and placed in a manner to prevent entanglement or injury; and
  - (4) The tether does not allow the animal to move outside the person's property or come within ten (10) feet of public property if tethered outside a fenced area; and
  - (5) The tether shall not be less than 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; and
  - (6) The tether shall not be less than ten (10) feet; and
  - (7) The tether shall not be greater than ten (10) percent of the dog's weight.
- (c) *Seizure and impoundment.* Animals seized pursuant to this section may be impounded by any Enforcement Agent.
- (d) *Criminal citation.* An Enforcement Agent may issue a criminal citation for violation of this article. The criminal citation is a separate action from a Court hearing described below in subsection (e).
- (e) *Court hearing to determine the disposition of the animal.* In addition to the authority to issue a criminal citation for violation of this chapter and authority to seize and impound the animal, proceedings may be instituted in Municipal Court in accordance with Division 2 of this article for a hearing to determine whether the animal was "inhumanely treated" or "cruelly treated" as defined by this chapter, and to determine the disposition of the animal.

**Similar State law provisions –** Unlawful Restraint of Dog; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter D; § 821.076.

**Cross references –**

"Cruel treatment of an animal or Cruelly treated" defined; Section 4-8.  
"Inhumane treatment of an animal or Inhumanely treated" defined; Section 4-8.  
Court Hearing – Inhumane or Cruelly Treated Animals; Art. VIII, Division 2.

**Sec. 4-329. - Outdoor enclosure requirements for dogs – fenced yards; dog runs; shelters.**

- (a) *In general.* When a dog is kept outdoors, the Owner or Keeper shall provide both a confinement area and an adequate dog shelter within the confinement area.
- (b) *Confinement area requirements.* The outdoor confinement area required by this section shall be one of the following: (1) a fenced yard, as defined by this chapter, (2) dog enclosure, or (3) outside dog run. Whichever confinement area is utilized must comply with the following requirements:
  - (1) *Fenced yard.* A fence shall comply with the requirements pursuant to [Section 5-150](#), and all other applicable requirements under the City Code and the Mesquite Zoning Ordinance. A fenced yard shall be completely or partially surrounded by a substantial fence of sufficient strength, height, construction, materials, and designed so as to prevent:
    - a. any animal confined within from escaping; and
    - b. the parts of an animal confined within from extending over, under, or through the enclosure.
  - (2) *Dog enclosure.* A dog enclosure shall be designed so as to prevent:
    - a. any dog confined within from escaping; and
    - b. the parts of the dog confined within from extending over, under, or through the enclosure; and
    - c. shall include an open area of at least one hundred (100) square feet for one (1) dog, plus an additional thirty (30) square feet for each additional dog.
  - (3) *Dog run.* A dog run shall be designed so as to prevent:
    - a. any dog confined within from escaping; and
    - b. the parts of the dog confined within from extending over, under, or through the enclosure; and
    - c. the dog run shall be an enclosure at least three (3) feet wide, by ten (10) feet long, and six (6) feet high, with the width increased by one (1) foot for dogs over one hundred (100) pounds; and
    - d. a dog run confinement area shall be constructed of a chain link or similar material, and with ground covering, dirt covering, turf, mulch, or the like.
- (c) *Shelter.* The dog shelter must comply with the following requirements:
  - (1) be watertight, with a solid roof, enclosed sides (at least 3 sides), a doorway, and a solid level floor raised at least two (2) inches from the ground; and
  - (2) must be large enough for the dog to enter, stand, turn around and lie down, but small enough to prevent the loss of body heat during cold weather; and
  - (3) must be adequately ventilated and kept dry; and
  - (4) the dog shelter within the confinement area must have sufficient natural or artificial shade to protect the dog from direct sunlight.
- (d) *Offenses.*
  - (1) A person commits an offense when in violation of this section.
  - (2) A person commits an offense if the person fails to maintain a confinement area sufficiently to ensure confinement of the dog within the fenced yard, dog enclosure, or dog run.
  - (3) A person commits an offense if the person fails to provide a dog shelter within the confinement area that complies with subsection (c).
- (e) *Seizure and impoundment.* Animals seized pursuant to this section may be impounded by any Enforcement Agent.

- (f) *Criminal citation.* An Enforcement Agent may issue a criminal citation for violation of this article. The criminal citation is a separate action from a Court hearing described below in subsection (g).
- (g) *Court hearing to determine the disposition of the animal.* In addition to the authority to issue a criminal citation for violation of this chapter and the authority to seize and impound the animal, proceedings may be instituted in Municipal Court in accordance with Division 2 of this article for a hearing to determine whether the animal was “inhumanely treated” or “cruelly treated” as defined by this chapter, and to determine the disposition of the animal.

**Cross references –**

“Cruel treatment of an animal or Cruelly treated” defined; Section 4-8.  
“Inhumane treatment of an animal or Inhumanely treated” defined; Section 4-8.  
Court Hearing – Inhumane or Cruelly Treated Animals; Art. VIII, Division 2.

**Sec. 4-330. - Placement and baiting of animal traps and poison.**

- (a) *Humane traps required.*
  - (1) Humane traps, as defined by this chapter, shall be used to trap animals within the City, whether on public or private property.
  - (2) The person who places the trap, or who requests its placement, shall be responsible for checking the trap, the care of the animal while it is in the trap, and the notification to the Animal Services Division of any captured animal.
  - (3) All traps shall be checked at least daily.
- (b) *Traps on public property require authorization.*
  - (1) No traps shall be placed upon public property without written permission from the Animal Services Division.
  - (2) If authorization is granted, the person shall obtain a permit in accordance with subsection (c).
  - (3) It shall be the responsibility of the person setting the trap to properly label the trap indicating the name and contact information for the owner and the date permission was obtained from the Animal Services Division.
- (c) *Permit for trapping and trap rental.*
  - (1) *Permit.* The Animal Services Manager, or his or her designee, shall issue a permit to an applicant to trap for a period of at least two (2) weeks and not to exceed one year, and restricting the placement of traps so as not to endanger other domestic animals, wild animals, or humans. There is no fee associated with the permit.
  - (2) *Trap rental and fee.* A person may rent a trap from the City for a period not to exceed two (2) weeks, unless otherwise authorized by the Animal Services Manager. There is a refundable deposit required for any trap rented from the City. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-102 (Animal permit fees) for applicable fees.
- (d) *Captured animals.*
  - (1) *Domesticated animals.* All captured domesticated animals shall be turned over to the Animal Services Division, unless the animal is captured as part of a feral animal neutering program that has obtained written permission from the Animal Services Manager to place traps within the City.
  - (2) *Wild animals and prohibited animals.* All captured prohibited animals, as identified in Section 4-811, including wild animals shall be turned over to the Animal Services Division, a wildlife educational center, or state-licensed wildlife rehabilitator within twenty-four (24) hours.

- (e) *Offenses.* It shall be unlawful, and a person commits an offense if he or she:
- (1) Places, or places and baits, or allowed the placing or placing and baiting, of a steel-jawed trap (commonly known as a "bear trap", "wolf trap", "leg hold trap", or "coyote trap"), a body hold trap (commonly known as "connibear trap"), any snare trap, any noose-type trap, or any other trap designed, used, or adapted to be lethal or cause serious bodily injury or death of an animal; or
  - (2) Places or allowed the placing of any substance, article, or bait that has in any manner been treated with any poisonous or toxic substance, including anti-freeze, or any drug in any place accessible to human beings, birds, dogs, cats, or other animals with the intent to kill or harm animals; or
  - (3) Fails to check a trap he has placed, placed and baited, or allowed to be placed or placed and baited at least once every twenty-four (24) hours; or
  - (4) Places, or places and baits, or allowed the placing or placing and baiting of any trap when the overnight temperature is expected to be over ninety (90) degrees or below forty (40) degrees Fahrenheit without first obtaining written permission from the Animal Services Manager or his or her designee; or
  - (5) Places, or places and baits, or allowed the placing or placing and baiting of any trap under conditions which may endanger the health of the animal due to exposure to rain, snow, extreme temperatures, lack of food or water, or under other circumstances that may cause bodily injury, serious bodily injury or death of the animal, whether or not such injury occurs; or
  - (6) Euthanizes, kills, or attempts to euthanize or kill a trapped animal in a manner other than one specifically allowed in this chapter; or
  - (7) Places or places and baits a trap, or allowed the placing or placing and baiting of any trap designed for trapping animals in any highway, street, alley, or other public place within the incorporated limits of the City unless specific written permission by the Animal Services Manager, or his or her designee, has been granted. This subsection shall not apply to an Enforcement Agent or an agency working in compliance with written permission from the Animal Services Manager for placing the trap on public property; or
  - (8) Removes, alters, damages, or otherwise tampers with a trap or equipment belonging to or placed at the request of the Animal Services Manager; or
  - (9) Places, or places and baits a trap, other than a commercially available trap solely designed to exterminate mice, rats, or insects, for commercial profit, without identifying the trap with the name, telephone number, and Texas Department of Agriculture Structural Pest Control Applicator license number of the applicator who placed or placed and baited the trap.
- (f) *Exclusion.* This section shall not be interpreted to restrict the extermination of rats, mice, or insects, through the use of traps, poisons, or other commercially available means when used in that person's residence, property, accessory structure, or commercial establishment and in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that does not violate any other section of this chapter.
- (g) *Confiscated traps.* Any trap found to be set in violation of this chapter may be confiscated by an Enforcement Agent and held as evidence in the case for the offense.

**State Law reference** – Wildlife Conservation Act of 1983; V.T.C.A. Parks and Wildlife Code, § 61.001 et seq.

**Cross references** –

"Cruel treatment of an animal or Cruelly treated" defined; Section 4-8.

"Inhumane treatment of an animal or Inhumanely treated" defined; Section 4-8.

Court Hearing – Inhumane or Cruelly Treated of Animals; Art. VIII, Division 2.

**Sec. 4-331. - Disposal of dead animals – permissible methods.**

Deceased animals shall be disposed of properly so as to not create an animal nuisance. Any of the following disposal methods are permissible and are not exclusive:

- (1) Request for the Animal Services Division to remove the dead animal; or
- (2) Utilization of veterinarian service providers; or
- (3) Utilization of cremation services and/or pet cemeteries; or
- (4) Bring the dead animal to the Animal Services Facility.

**Cross reference** – Unlawful disposal of dead animals; Section 4-272.

**Secs. 4-332 – 4-340. – Reserved.**

**DIVISION 3. - COURT HEARING – INHUMANE OR CRUELLY TREATED ANIMALS.**

**Sec. 4-341. - In general.**

- (a) This division outlines the process and procedures for animals seized pursuant to this article, for alleged “inhumane treatment of an animal” or alleged “cruel treatment of an animal”, as defined by this chapter, that have been impounded.
- (b) Municipal Court hearings for animals seized for allegedly being “cruelly treated”, as defined by this chapter, pursuant to Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.021 et seq., or successor, and as amended, are conducted pursuant to State law and said Subchapter B “Disposition of Cruelly Treated Animals” is hereby adopted by reference for all purposes.
- (c) Any hearing under this division, or pursuant to State law, is in addition to, and separate from, proceedings resulting from the issuance of a criminal citation for violation of this chapter or State law.

**Cross references –**

“Cruel treatment of an animal or Cruelly treated” defined; Section 4-8.  
“Inhumane treatment of an animal or Inhumanely treated” defined; Section 4-8.

**State law reference –**

Disposition of Cruelly Treated Animals; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.021 et seq.

**Sec. 4-342. - Authority of Municipal Court.**

- (a) *Inhumane treatment of an animal.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that an animal has been “inhumanely treated” and may order disposition of the animal in accordance with this division.
- (b) The Municipal Court may conduct a hearing pursuant to State law for animals alleged to have been “cruelly treated” pursuant to Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.021 et seq., or successor, and as amended, for the purpose of disposition of the animal.
- (c) The Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross references –**

Mesquite Municipal Court jurisdiction; Section 4-5.  
Additional judicial authority; Section 4-175.  
“Cruel treatment of an animal or Cruelly treated” defined; Section 4-8.  
“Inhumane treatment of an animal or Inhumanely treated” defined; Section 4-8.

**State law reference –**

Disposition of Cruelly Treated Animals; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.021 et seq.

**Sec. 4-343. - Initiate a hearing.**

- (a) *In general.* Animals seized pursuant to this article may be impounded, and on affidavit of any Enforcement Agent, the City Attorney or his or her designee, may petition the Municipal Court for a hearing to determine whether the animal was inhumanely treated or cruelly treated and to determine the disposition of the animal.
- (b) *Seizure.*
  - (1) *Seizure pursuant to a warrant.* If an Enforcement Agent has probable cause to believe that an animal has been or is being “inhumanely treated” or “cruelly treated” as defined by this chapter, the officer may apply to the Municipal Court for a warrant to seize the animal. The Municipal Court judge, upon a showing of probable cause to believe that the animal has been or is being “inhumanely treated” or “cruelly treated” shall issue the warrant, and set a date and time for a hearing to be conducted within ten (10) calendar days of the date of the issuance of the warrant. The purpose of the hearing is to determine if the animal has been or is being “inhumanely treated” or “cruelly treated” for the purpose of disposition of the animal.

- (2) *Seizure without warrant.* In exigent circumstances, where the animal is in immediate danger or as otherwise provided by law, the animal may be seized and impounded. Upon affidavit of any Enforcement Officer, the City Attorney or his or her designee, may petition the Court for a hearing to determine if the animal has been or is being “inhumanely treated” or “cruelly treated” for the purpose of disposition of the animal. The hearing shall be conducted within ten (10) calendar days of the date of seizure and impoundment.
- (c) If the City Attorney, or his or her designee, does not request a hearing, then the animal shall be returned to the Owner or Keeper of the animal at the time of the seizure, upon request by said Owner or Keeper.

**Cross references –**

“Cruel treatment of an animal or Cruelly treated” defined; Section 4-8.  
“Inhumane treatment of an animal or Inhumanely treated” defined; Section 4-8.

**Similar State law provisions –**

Seizure of Cruelly Treated Animal; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.022.

**Sec. 4-344. - Notice.**

- (a) *Set date of hearing.* The hearing must be held within ten (10) calendar days of the issuance of a seizure warrant; or in the case of no warrant, within ten (10) calendar days of the date on which the animal is seized and impounded. If the animal has not been impounded, the Court shall set a hearing in accordance with its rules or law.
- (b) *Notice.*
  - (1) The Municipal Court shall give written notice of the date, time, and place of the hearing to:
    - a. the Owner or Keeper of the animal(s); and
    - b. the Animal Control Authority.
  - (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**Similar State law provisions –**

Seizure of Cruelly Treated Animal; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.022.

**Sec. 4-345. - Hearing**

Each interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Any witnesses; and
- (4) Owner(s) or Keeper(s) of the animal.

**Similar State law provisions –**

Hearing; Order of Disposition or Return of Animal; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.023.



**Sec. 4-346. - Order of disposition or return of animal.**

- (a) *Inhumane treatment of an animal.*
- (1) *Court determines the animal has not been inhumanely treated.*
- a. Upon determination that the animal was not inhumanely treated the Court shall issue a court order that the animal be promptly returned to its Owner's or Keeper's custody.
  - b. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner or Keeper.
- (2) *Court determines the animal was treated inhumanely.* Upon determination that the animal was treated inhumanely, then the Municipal Court judge *may* order any one (1) or more of the following, including, but not limited to:
- a. Order the impoundment of any animal owned by the person, forfeiting the person's ownership or possession of the animal(s), and awarding sole possession of the animal(s) to the City. Disposition of the animal may be in accordance with Article XI, Division 4 (Other Disposition of Impounded Animals), except that the animal may not be returned to the Owner or Keeper;
  - b. Order the animal humanely euthanized if the court decides that it's in the best interests of the animal or that the public health and safety would be served by doing so;
  - c. Suspension of the person's right to own an animal in the City for any period of time as specified by the court;
  - d. Return of the animal to the Owner or Keeper with or without conditions as may be set by the Court; or
  - e. Require any one or more provisions as provided in Section 4-175 (Additional judicial authority).
- (b) *Cruel treatment of an animal.*
- (1) *Court determines the animal has not been cruelly treated.*
- a. Upon determination that the animal was not cruelly treated the Court shall issue a Court Order that the animal be promptly returned to its Owner's or Keeper's custody.
  - b. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner or Keeper.
- (2) *Court determines the animal was cruelly treated.* Upon determination that the animal was cruelly treated, the Judge shall make an order of disposition in accordance with Texas Health and Safety Code, Title 10, Chapter 821, Subchapter B, § 821.023, or successor, and as amended. In addition, the Judge may suspend the person's right to own an animal in the City for any period of time as specified by the court.

**State law reference –**

Hearing; Order of Disposition or Return of Animal; V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.023.

**Cross references –**

"Cruel treatment of an animal or cruelly treated" defined; Section 4-8.

"Inhumane treatment of an animal or Inhumanely treated" defined; Section 4-8.

Other Disposition of Impounded Animals; Division 4, Article XI.

Additional judicial authority; Section 4-175.

**Sec. 4-347. - Appeal.**

A person may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**State law reference –**

Appeal (for "cruelly treated" animal); V.T.C.A. Health and Safety Code, Title 10, Chapter 821, Subchapter B; § 821.025.

**Sec. 4-348. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the order. The date of the Municipal Court's Order shall be considered Day Zero (0).
  
- (b) *Date of euthanasia or other disposition.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction, if ordered by the Court, the dog or other animal may be euthanized, or other disposition made as authorized, on the sixteenth (16th) calendar day following the order of the Municipal Court. The date of the Municipal Court's Order shall be considered Day Zero (0). Otherwise, if appealed, the date of euthanasia or other disposition shall be the date the Court's Order becomes final as may be determined by a court of appropriate jurisdiction.

**Secs. 4-349 – 4-370. – Reserved.**

## ARTICLE IX. - MULTIPLE ANIMALS.

### DIVISION 1. - OFFENSES.

#### Sec. 4-371. - **Pet limits – restriction on number of cats and dogs kept on premises.**

- (a) *Offense.* It is unlawful to keep or harbor more than three (3) adult cats or three (3) adult dogs beyond the normal weaning age on any premises used or zoned for residential purposes.
- (b) *Affirmative defenses.*

It is an affirmative defense to prosecution if the Owner or Keeper proves by a preponderance of the evidence that:

- (1) he or she holds a valid “multiple pet permit” and the animal(s) are authorized in the permit; or
- (2) he or she holds a valid “multiple pet permit” and a “breeder permit” and the animal(s) are authorized pursuant to the permit(s); or
- (3) he or she is affiliated with an approved Animal Rescue Organization, in good-standing, providing temporary foster care; or
- (4) the animal is under six (6) months of age.

**Cross references –**

Multiple pet permit; Article IX; Division 2.  
Breeder permit; Article IX; Division 3.  
Mesquite Zoning Ordinance ([Appendix C](#)).

#### Sec. 4-372. - **Pet limits – restriction on number of domestic animals kept on premises.**

- (a) *Offense.* It is unlawful to keep or harbor more than ten (10) adult domestic animals, as defined in this chapter, (but excluding livestock, cats, dogs, and fish), on any premises used or zoned for residential purposes.
- (b) *Affirmative defenses.*

It is an affirmative defense to prosecution if the Owner or Keeper proves by a preponderance of the evidence that:

- (1) the person holds a valid “multiple pet permit” and the animal(s) are authorized pursuant to the permit; or
- (2) the person holds a valid “multiple pet permit” and a “breeder permit” and the animal(s) are authorized pursuant to the permit(s); or
- (3) he or she is affiliated with an approved Animal Rescue Organization, in good-standing, providing temporary foster care; or
- (4) the person is affiliated with an Animal Rescue Organization; or
- (5) the animal is under six (6) months of age.

**Cross references –**

“Domestic animal” defined; Section 4-8.  
Multiple pet permit; Article IX; Division 2.  
Breeder permit; Article IX; Division 3.  
Mesquite Zoning Ordinance ([Appendix C](#)).

**Sec. 4-373. - Livestock quantities.**

A person may keep livestock in accordance with this chapter and in locations and quantities within the City limits in accordance with the Mesquite Zoning Ordinance ([Appendix C](#)) and/or an approved Special Exception granted by the Board of Adjustment.

**Cross reference** – Article XIV – Regulated and Prohibited Animals and Other Species, Division I – Livestock.

**Sec. 4-374. - Breeding domestic animals on residential premises.**

- (a) *Offense.* A person commits an offense if he or she during any consecutive twelve (12) month period advertises, displays, transfers ownership, or offers to transfer ownership of the following (whichever is greater):
- (1) more than twelve (12) domestic animals of any breeding animal; or
  - (2) more than two (2) litters, clutches, or other groups of offspring of any breeding animal.
- (b) *Defense.* It is a defense to prosecution that a person holds a valid Breeder Permit authorizing an alternative to the requirements in subsection (a).

**Cross reference** – Breeder permit; Article IX; Division 3.

**Sec. 4-375. - Offenses related to multiple pet permit or breeder permit.**

- (a) A holder of a multiple pet permit or breeder permit commits an offense by refusal, upon request by an Enforcement Agent during reasonable hours, to make his or her animals, premises, facilities, equipment, and any necessary registrations or permits, available for inspection.
- (b) A holder of a multiple pet permit and/or a breeder permit commits an offense if he or she refuses to show the permit upon request by an Enforcement Agent.
- (c) A holder of a multiple pet permit and/or a breeder permit commits an offense by harboring more animals than authorized in the permit.
- (d) A holder of a multiple pet permit and/or a breeder permit commits an offense by harboring animals, or other species, not authorized in the permit.

**Cross references –**

Multiple pet permit; Article IX; Division 2.  
Breeder permit; Article IX; Division 3.

**Secs. 4-376 – 4-390. – Reserved.**

**DIVISION 2. - MULTIPLE PET PERMIT.**

**Sec. 4-391. - In general.**

A multiple pet permit is required to have additional adult pets on any premises in addition to the allowable limit(s) identified in Division 1. A multiple pet permit may be issued for persons desiring to keep the following on any residential premises for non-commercial purposes:

- (1) more than three (3) adult cats;
- (2) more than three (3) adult dogs; or
- (3) more than ten (10) adult domestic animals, as defined in this chapter, (but excluding livestock, cats, dogs, and fish).

**Cross reference –**

Pet limits – Restriction on number of cats and dogs kept on premises; Section 4-371.

Pet limits – Restriction on number of other domestic animals kept on premises; Section 4-372.

**Sec. 4-392. - Application.**

To obtain a multiple pet permit, a person must make application with the Animal Services Manager and the following requirements must be met for issuance of a multiple pet permit:

- (1) Name, date of birth, and address of applicant (address should match location where the animals will be kept); and
- (2) all information and materials specified in the application have been submitted; and
- (3) requested number of adult domestic animals, excluding livestock, that will be kept at the location; and
- (4) proof of current rabies vaccination, sterilization (if applicable); and
- (5) microchip required and microchip identification information shall be provided; and
- (6) application processing fee.

**Cross reference –** Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-393. - Action by the Animal Services Manager.**

- (a) The Animal Services Manager, or his or her designee, shall review the application and determine if the application is complete. If the application is not complete, the Animal Services Manager shall notify the applicant in writing and shall allow a reasonable time for the application to be revised.
- (b) The Animal Services Manager, or his or her designee, may elect to conduct an inspection of the premises, prior to making a decision regarding the issuance of any permit, due to the contents of the application and specific request(s).

**Sec. 4-394. - Decision.**

- (a) The Animal Services Manager may issue a multiple pet permit if after review of the application:
  - (1) the application is determined to be complete;
  - (2) the description of the premises and the accommodations for the keeping of the multiple pets appears to be suitable; and
  - (3) the application processing fee has been submitted.
- (b) The Animal Services Manager, in making his or her decision, may take any of the following actions regarding the application for a multiple pet permit:
  - (1) Approval;
  - (2) Approval with modifications; or
  - (3) Denial.

- (c) The Animal Services Manager may require that a multiple pet permit be:
  - (1) Effective for a specified time period; or
  - (2) Subject to one or more conditions.
- (d) Modifications and Conditions.
  - (1) *Granting a multiple pet permit approval with a modification.* The Animal Services Manager may grant a multiple pet permit that is modified from the request made in the application. Such instances include, but may not be limited to, modifying the number of requested pets or modifying the requested types of pets that will be allowable under the permit.
  - (2) *Granting a multiple pet permit with conditions and restrictions.* The Animal Services Manager may impose such conditions and restrictions upon the multiple pet permit as may be deemed necessary for the protection of the public health, safety, and welfare.

**Sec. 4-395. - Initial permit and fee.**

- (a) *Time period.* The initial permit shall be valid for the duration of the calendar year in which it was issued and will expire on December 31st, unless revoked or unless another time period is specified in the multiple pet permit.
- (b) *Fee.* The application processing fee shall serve as the permit fee for the initial permit issued.

**Cross reference** – Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-396. - Permit renewal and fee.**

- (a) *Time period.* Permits expire on December 31<sup>st</sup> each year unless revoked or unless another time period is specified in the multiple pet permit.
- (b) *Renewal.* A person wishing to continue to keep multiple animals in accordance with the authorized permit shall renew their multiple pet permit each calendar year no later than January 1st. It is a defense to prosecution that the permit expiring on December 31st, was renewed within the following month on or prior to January 31st.
- (c) *Fee.* There is an annual fee associated with holding a multiple pet permit.

**Cross reference** – Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-397. - Revocation of multiple pet permit.**

- (a) A multiple pet permit may be revoked by the Animal Services Manager at any time if any of the following occurs:
  - (1) After the third (3rd) animal noise violation in the City resulting in a guilty plea, guilty verdict, or a plea of no contest including a deferred disposition or adjudication; or
  - (2) If the Municipal Court makes a determination that an animal, or animals, authorized under the permit, is a continuing animal nuisance as defined by this chapter; or
  - (3) If the indoor or outdoor areas for the animals are not maintained in a sanitary condition; or
  - (4) If any provisions of this chapter are violated by the person holding the multiple pet permit; or
  - (5) Subject to the exceptions identified in subsection (b), a multiple pet permit may be revoked if any of the following occur:
    - a. If any person is bitten by any of the animals on the premises; or
    - b. If a dog is declared to have caused the death of a person or the serious bodily injury to a person (Art. XII, Division 1); or
    - c. If a dog is declared to be a dangerous dog (Art. XII, Division 2); or
    - d. If any of the animals are declared to be a dangerous animal (Art. XII, Division 2); or
    - e. If any of the animals are declared to be an aggressive animal (Art. XIII).

(b) *Exceptions.*

- (1) A multiple pet permit may not be revoked pursuant to subsection (a) if it is determined that:
  - a. The injury or damage was sustained by a person who at the time was committing or attempting to commit a willful trespass or other crime upon the premises occupied by the Owner or Keeper of the animal; or
  - b. The person attacked was committing or attempting to commit a crime; or
  - c. The animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault.
- (2) For the purposes of these exceptions, criminal charges brought against an injured person shall operate as a rebuttable presumption that the attack was justified.

**Sec. 4-398. - Appeal.**

The applicant, permittee, or any interested party may appeal the Animal Services Manager's administrative decision to issue a permit, deny a permit, or revoke a permit in accordance with Division 4 (Appeals of Administrative Decisions).

**Sec. 4-399. - Subsequent application for a multiple pet permit.**

If an application for a multiple pet permit is denied or if a multiple pet permit is revoked a subsequent application shall be limited pursuant to Section 4-400 (Consideration of subsequent applications for a permit).

**Sec. 4-400. - Consideration of subsequent applications for a permit.**

- (a) *Prohibited for one year.* Within one (1) year of the date of denial, or revocation, of any permit by the Animal Services Manager, a subsequent application for substantially the same request will not be reviewed or heard unless an exception exists pursuant to this section.
- (b) *Exceptions to the one (1) year wait requirement.* A subsequent application after a denial of a permit, or revocation of any permit, may be reviewed or heard prior to the expiration of the one (1) year wait requirement, if extenuating circumstances exist such that changed conditions or facts will substantially alter the criteria for review of the application.
- (c) *New application is permissible after the one (1) year wait requirement.* An application submitted after the required one (1) year wait requirement shall be processed as a new application; however, the new application shall denote the history of any prior requests, prior denials, or prior revocations associated with the Owner or Keeper of the animals or the premises.

**Secs. 4-401 – 4-410. – Reserved.**

**DIVISION 3. - BREEDER PERMIT.**

**Sec. 4-411. - In general.**

A breeder permit is required for private owners to breed domestic animals, excluding livestock, on any residential premises. If the holder of a breeder permit also wishes to have additional adult pets on any premises in addition to the allowable limit(s) identified in Division 1, the person must obtain a multiple pet permit (Division 2) in addition to the breeder permit.

**Cross reference –**

Pet limits – Restriction on number of cats and dogs kept on premises; Section 4-371.

Pet limits – Restriction on number of other domestic animals kept on premises; Section 4-372.

**Sec. 4-412. - Application.**

To obtain a breeder permit, a person must make application with the Animal Services Manager and the following requirements must be met for issuance of a breeder permit:

- (1) name, date of birth, and address of applicant (address should match location where the animals will be kept);
- (2) all information and materials specified in the application have been submitted;
- (3) the plans or designs showing both the enclosed indoor and or outdoor cages or pens;
- (4) an inspection report by an Enforcement Agent, or other City personnel, approving the enclosed indoor and or outdoor facilities where the dogs or cats will be kept and affirming that the facilities match the submitted plans, or if the facilities have not been built yet, a statement of review by an Enforcement Agent, or other City personnel, that the proposed facilities are acceptable under this chapter;
- (5) requested number of adult domestic animals, excluding livestock, that will be kept at the location; and
- (6) microchip required for adult animals and microchip identification information shall be provided;
- (7) application processing fee.

**Cross reference –** Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-413. - Action by the Animal Services Manager.**

- (a) The Animal Services Manager, or his or her designee, shall review the application and determine if the application is complete. If the application is not complete, the Animal Services Manager shall notify the applicant in writing and shall allow a reasonable time for the application to be revised.
- (b) The Animal Services Manager, or his or her designee, shall review the inspection report of the premises to determine if the proposed enclosures meet the standards in this section.

**Sec. 4-414. - Decision.**

- (a) The Animal Services Manager, or his or her designee, may issue a breeder permit if after review of the application:
  - (1) the application is determined to be complete;
  - (2) the description of the premises and the accommodations for the keeping of the animals is in conformance with this section; and
  - (3) the application processing fee has been submitted.



- (b) The Animal Services Manager, in making his or her decision, may take any of the following actions regarding the application for a breeder permit:
  - (1) Approval;
  - (2) Approval with modifications; or
  - (3) Denial.
- (c) The Animal Services Manager may require that a breeder permit be:
  - (1) Effective for a specified time period; or
  - (2) Subject to one or more conditions.
- (d) Modifications and Conditions.
  - (1) *Granting a breeder permit approval with a modification.* The Animal Services Manager may grant a breeder permit that is modified from the request made in the application.
  - (2) *Granting a breeder permit with conditions and restrictions.* The Animal Services Manager may impose such conditions and restrictions upon the breeder permit as may be deemed necessary for the protection of the public health, safety, and welfare. The Animal Services Manager may limit the number of litters per year and may limit the number of whelping mothers per premises.

**Sec. 4-415. - Initial permit and fee.**

- (a) *Time period.* The initial permit shall be valid for the duration of the calendar year in which it was issued and will expire on December 31st, unless revoked or unless another time period is specified in the breeder permit.
- (b) *Fee.* The application processing fee shall serve as the permit fee for the initial permit issued.

**Cross reference** – Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-416. - Permit renewal and fee.**

- (a) *Time period.* Permits expire on December 31st each year unless revoked or unless another time period is specified in the breeder permit.
- (b) *Renewal.* A person wishing to continue to breed animals in accordance with the authorized permit shall renew their breeder permit each calendar year no later than January 1st. It is a defense to prosecution that the permit expiring on December 31st, was renewed within the following month on or prior to January 31st.
- (c) *Fee.* There is an annual fee associated with holding a breeder permit.

**Cross reference** – Animal permit fees; Section 3-102, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-417. - Revocation of breeder permit.**

- (a) *Revocation.* A breeder permit may be revoked by the Animal Services Manager at any time if any of the following occurs:
  - (1) After the third (3rd) animal noise violation in the City resulting in a guilty plea, guilty verdict, or a plea of no contest including a deferred disposition or adjudication; or
  - (2) If the Municipal Court makes a determination that an animal, or animals, authorized under the permit, is a continuing animal nuisance as defined by this chapter; or
  - (3) If the indoor or outdoor areas for the animals are not maintained in a sanitary condition; or
  - (4) If any provisions of this chapter are violated by the person holding the breeder permit; or
  - (5) Subject to the exceptions identified in subsection (b), a breeder permit may be revoked if any of the following occur:
    - a. If any person is bitten by any of the animals on the premises; or

- b. If a dog is declared to have caused the death of a person or the serious bodily injury to a person (Art. XII, Division 1); or
- c. If a dog is declared to be a dangerous dog (Art. XII, Division 2); or
- d. If any of the animals are declared to be a dangerous animal (Art. XII, Division 2); or
- e. If any of the animals are declared to be an aggressive animal (Article XIII).

(b) *Exceptions.*

- (1) A breeder permit may not be revoked pursuant to subsection (a) if it is determined that:
  - a. The injury or damage was sustained by a person who at the time was committing or attempting to commit a willful trespass or other crime upon the premises occupied by the Owner or Keeper of the animal; or
  - b. The person attacked was committing or attempting to commit a crime; or
  - c. The animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault.
- (2) For the purposes of these exceptions, criminal charges brought against an injured person shall operate as a rebuttable presumption that the attack was justified.

**Sec. 4-418. - Appeal.**

The applicant, permittee, or any interested party may appeal the Animal Services Manager's administrative decision to issue a permit, deny a permit, or revoke a permit in accordance with Division 4 (Appeals of Administrative Decisions).

**Sec. 4-419. - Subsequent application for a breeder permit.**

If an application for a breeder permit is denied or if a breeder permit is revoked a subsequent application shall be limited pursuant to Section 4-420 (Consideration of subsequent applications for a permit).

**Sec. 4-420. - Consideration of subsequent applications for a permit.**

- (a) *Prohibited for one year.* Within one (1) year of the date of denial, or revocation, of any permit by the Animal Services Manager, a subsequent application for substantially the same request will not be reviewed or heard unless an exception exists pursuant to this section.
- (b) *Exceptions to the one (1) year wait requirement.* A subsequent application after a denial of a permit, or revocation of any permit, may be reviewed or heard prior to the expiration of the one (1) year wait requirement, if extenuating circumstances exist such that changed conditions or facts will substantially alter the criteria for review of the application.
- (c) *New application is permissible after the one (1) year wait requirement.* An application submitted after the required one (1) year wait requirement shall be processed as a new application; however, the new application shall denote the history of any prior requests, prior denials, or prior revocations associated with the Owner or Keeper of the animals or the premises.

**Secs. 4-421 – 4-450. – Reserved.**

**DIVISION 4. - APPEALS OF ADMINISTRATIVE DECISIONS.**

**Sec. 4-451. - In general.**

- (a) The administrative decision(s) of the Animal Services Manager, or any other City staff member if applicable, may be appealed in accordance with this division.
- (b) This division outlines the process and procedures for appealing the Animal Services Manager's administrative decision regarding the following:
  - (1) Issuance, denial, or revocation of a Multiple Pet Permit (Art. IX, Division 2);
  - (2) Issuance, denial, or revocation of a Breeder Permit (Art. IX, Division 3); or
  - (3) Any other matter in which the Animal Services Manager, or other City staff member if applicable, makes a final decision (excluding matters taken up in Municipal Court).

**Sec. 4-452. - Persons authorized to make an appeal.**

Any of the following persons may appeal an administrative decision made by the Animal Services Manager in accordance with this division:

- (1) Owner or Keeper of the Animal(s);
- (2) Applicant;
- (3) Permittee; or
- (4) Any interested party.

**Sec. 4-453. - Initiating an appeal.**

The decision of the Animal Services Manager is final unless the Owner or Keeper, applicant, permittee, or any interested party, files a written Notice of Appeal with the City Secretary in accordance with this division.

**Sec. 4-454. - Form of notice of appeal.**

- (a) Any Notice of Appeal filed pursuant to this division shall be in writing and may be on a form prescribed by the City.
- (b) The Notice of Appeal, except confidential information, may be forwarded to any other party such as the applicant, permittee, or any interested party. The Notice of Appeal form prescribed by the City shall clearly note the Notice of Appeal, except confidential information, is subject to being disclosed to other persons.
- (c) To be considered complete, a written Notice of Appeal shall contain at least the following information:
  - (1) Name, address, e-mail, and telephone number of person(s) making the appeal;
  - (2) Identification of the person making the appeal: Owner, Keeper, applicant, permittee, or interested party.
  - (3) A description of the administrative decision being appealed;
  - (4) The address where the animal(s) reside or where they would reside if permitted, and, if known, the name and telephone number of the persons residing at the premises and if applicable the owners of the premises if different from the persons residing at the premises;
  - (5) A statement describing the facts and any other information upon which the appeal is based.

**Sec. 4-455. - Deadline.**

The appeal must be filed not later than the twentieth (20th) calendar day after the date the administrative decision is made. The date the administrative decision is made shall be considered Day Zero (0).

**Sec. 4-456. - Acceptance and official filing of notice of appeal.**

- (a) A notice of appeal is considered accepted and officially filed upon the Office of the City Secretary's receipt before 5:00 p.m. on a business day during normal office hours.
- (b) Any notice of appeal received on or after 5:00 p.m. on a business day or on Saturday, Sunday, or holidays shall not be considered officially accepted and filed until the next business day following the date the information was received or entered.

**Sec. 4-457. - Action upon receipt of notice of appeal.**

- (a) *City Secretary's Office.* The City Secretary, or his or her designee, shall take the following immediate actions upon the City's acceptance and the official filing of the Notice of Appeal:
  - (1) Notify the Animal Services Manager by transmitting a copy of the Notice of Appeal; and
  - (2) Notify the Director of Neighborhood Services:
    - a. The City Secretary's Office shall transmit a copy of the Notice of Appeal to the Director of Neighborhood Services; and
    - b. The City Secretary's Office shall provide the Director of Neighborhood Services a redacted copy of the Notice of Appeal, if applicable, whereby confidential information is removed.
- (b) *Animal Services Manager.* The Animal Services Manager, or his or her designee, shall take the following actions upon the City's acceptance and the official filing of a Notice of Appeal:
  - (1) Review and produce the records of the action(s) and decision(s), including a summary of the record, for transmission and presentation to the Director of Neighborhood Services; and
  - (2) Within three (3) business days transmit to the Director of Neighborhood Services the summary, papers, and other information constituting the record of the decision that is appealed.
- (c) *Director of Neighborhood Services.* The Director of Neighborhood Services, or his or her designee, shall take the following actions upon the City's acceptance and the official filing of a Notice of Appeal.
  - (1) *Notification to certain persons regarding a Notice of Appeal being filed.*
    - a. *Filing by an Interested Party.* Upon receipt of the Notice of Appeal, the Director of Neighborhood Services shall determine who has filed the Notice of Appeal: the owner of the animal(s), Keeper, applicant, permittee, or an interested party. If an interested party filed the Notice of Appeal, the following shall apply:
      - 1. The Owner of the animal(s), Keeper, applicant, or permittee shall be notified.
      - 2. The Owner of the animal(s), Keeper, applicant, or permittee shall be sent a letter both regular U.S. mail or hand-delivery and certified mail, return receipt requested, by depositing the same in the U.S. Mail, postage prepaid.

3. The letter shall notify the Owner of the animal(s), Keeper, applicant, or permittee that:
  - (i) A Notice of Appeal has been received and a copy of the Notice of Appeal, with any confidential information redacted, shall be attached.
  - (ii) The Owner of the animal(s), Keeper, applicant, or permittee shall have ten (10) calendar days, from the date on the Director's notification, to respond to the Director of Neighborhood Services in writing with any information deemed relevant to the filed Notice of Appeal. The date of the Director's letter of notification shall be considered Day Zero (0).
  
- b. *Persons making prior complaints.* Upon receipt of the summary, papers, and other information constituting the record of the Animal Services Manager's decision, the Director of Neighborhood Services shall determine if any complaints have been previously filed regarding the Owner(s) or Keeper(s) of the animal(s), the animal(s), or the premises where the animal(s) are kept. If a complaint has been filed by any person within the last two (2) years of the date on the Notice of Appeal, the following shall apply:
  1. All persons making any prior complaints within the last two (2) years of the date on the Notice of Appeal shall be notified.
  2. The person(s) making any prior complaints shall be sent a letter both regular U.S. mail or hand-delivery and certified mail, return receipt requested, by depositing the same in the U.S. Mail, postage prepaid.
  3. The letter shall notify the person(s) making any prior complaints that:
    - (i) A Notice of Appeal has been received and a copy of the Notice of Appeal shall be attached with any confidential information redacted.
    - (ii) The person(s) shall have ten (10) calendar days, from the date on the Director's notification letter, to respond to the Director of Neighborhood Services in writing with any information deemed relevant to the filed Notice of Appeal. The date of the Director's letter of notification shall be considered Day Zero (0).

- (2) *Review of the record and other relevant information.* The Director of Neighborhood Services:
  - a. shall review the summary, papers, and other information constituting the record of the Animal Services Manager's decision;
  - b. shall, if applicable, review any written responses received within ten (10) calendar days, from the date of the Director's notification letter; and
  - c. may conduct interviews and gather any other information deemed relevant to the filed Notice of Appeal.

**Sec. 4-458. - Timeline for Director of Neighborhood Services decision.**

The Director of Neighborhood Services shall render a decision regarding the Notice of Appeal within thirty (30) calendar days of the Office of the City Secretary's receipt and acceptance of the Notice of Appeal in accordance with this division.

**Sec. 4-459. - Decision.**

- (a) The Director of Neighborhood Services shall evaluate the Notice of Appeal, and all other relevant information timely submitted, and may:
- (1) *Affirm* the Animal Services Manager's administrative decision;
  - (2) *Modify* the Animal Services Manger's administrative decision from which an appeal is taken and make the correct decision or determination, and for that purpose the Director has the same authority as the Animal Services Manager; or
  - (3) *Reverse* the Animal Services Manager's administrative decision.
- (b) *Decision.*
- (1) The Director of Neighborhood Services shall provide a brief written statement of findings in support of his or her decision.
  - (2) The Director of Neighborhood Services shall provide his or her written decision regarding the appeal, and findings in support of his or her decision, to all parties, including but not limited to, the Owner of the animal(s), Keeper, applicant, permittee, and any interested party including any complainant.
  - (3) The Director of Neighborhood Services decision is final.

**Secs. 4-460 – 4-490. – Reserved.**

## ARTICLE X. - RABIES AND ZONOSIS CONTROL

### DIVISION 1. - MINIMUM STANDARDS AND RABIES VACCINATIONS.

#### Sec. 4-491. - State regulations adopted as minimum standards.

The City hereby adopts by reference Chapter 826 of the Texas Health and Safety Code, which may be cited as the "Texas Rabies Control Act of 1981," as amended, and the standards established by the appropriate state agency or rule-making person or board as minimum standards for rabies control and quarantine provisions within the City.

**State law reference** – Rabies Control Act of 1981, V.T.C.A. Health & Safety Code, Title 10, Chapter 826 Rabies, [§ 826.001](#) et seq.

**State law reference** – Municipalities may adopt chapter; V.T.C.A. Health & Safety Code, Title 10, Chapter 826 Rabies, [§ 826.013](#).

**State law reference** – Minimum standards for rabies control; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, [§ 826.012](#).

**State rules and regulations reference** – Texas Administrative Code, Title 25, Part 1, Chapter 169, [Subchapter A, § 169.21 et seq.](#)

#### Sec. 4-492. - Designation of Local Rabies Control Authority (LRCA).

The Animal Services Manager, or his or her designees, shall act as the local rabies control authority (LRCA) for the purpose of enforcing animal health, control, and rabies sections of Chapter 826 of the Texas Health and Safety Code, as amended.

**Cross reference** – Animal Services Manager; Section 4-52.

**State law reference** – Designation of local rabies control authority; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, [§ 826.017](#).

#### Sec. 4-493. - Rabies vaccination required.

- (a) *Vaccination and certificate of vaccination required.* All dogs, cats, and other animals that are required by the Texas States Rabies Control Act to have a rabies vaccination shall be vaccinated and the Owner or Keeper shall retain the rabies vaccination certificate.
- (b) *Time-period for validity of certificate of vaccination.* Rabies vaccination certificates shall be valid for a period of time as determined by the issuing veterinarian in accordance with the Texas State Rabies Control Act.
- (c) *Duty to produce vaccination certificate to Enforcement Agent.* The Owner or Keeper of the animal shall retain the rabies vaccination certificate and make it available for inspection upon request by an Enforcement Agent.

#### Sec. 4-494. - Offenses – regarding rabies vaccination and proof of vaccination.

- (a) *Offenses.* An Owner or Keeper of a dog, cat, or other animal required by the Texas States Rabies Control Act to have a rabies vaccination commits an offense if:
  - (1) the dog, cat or other animal is not currently vaccinated as defined in this chapter; or
  - (2) the Owner or Keeper of the animal fails to show a current certificate of vaccination for the dog or cat upon request by an Enforcement Agent.
- (b) *Defenses.* It is a defense to prosecution that:
  - (1) the dog, cat, or other animal is under four (4) months of age; or
  - (2) the dog or cat is unable to be vaccinated due to health reasons as verified by a licensed veterinarian.

(c) *Compliance dismissal.*

- (1) A compliance dismissal at the Municipal Court window shall be issued if the person charged produces to the court proof of vaccination from a licensed veterinarian showing the dog, cat, or other animal was vaccinated at the time the citation was issued, or not later than twenty (20) calendar days after the citation was issued. The date the citation was issued shall be considered Day Zero (0).
- (2) There shall be an administrative dismissal fee set by the Municipal Court.

**Secs. 4-495 – 4-510. – Reserved.**



**DIVISION 2. - REPORTS AND INCIDENTS.**

**Sec. 4-511. - Notification of local rabies control incidents.**

- (a) *Duty of medical personnel and veterinarians to report.* Any physician or other medical or veterinary practitioner having knowledge of a local rabies control incident shall immediately notify the Local Rabies Control Authority (Animal Services Manager) or their designee of the following:
- (1) full legal name, date of birth, and sex of the injured person (parent/guardian if a minor);
  - (2) address and phone number of the victim;
  - (3) location, date, and time the incident occurred;
  - (4) any and all treatment received, if known; and
  - (5) any details received involving the incident.
- (b) *Duty of Owner or Keeper of animal to report.* An Owner or Keeper of an animal which has been involved in a local rabies control incident, or any other person having knowledge of the local rabies control incident, shall immediately notify the Local Rabies Control Authority (Animal Services Manager).
- (c) *Offense.* A person commits an offense if he or she has knowledge of a local rabies control incident and fails to notify the Local Rabies Control Authority (Animal Services Manager) within twenty-four (24) hours.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.  
**Administrative Code reference**— 25 Tex. Admin. Code, Title 25, Part 1, Chapter 169, Subchapter A, § 169.21 et seq.

**Sec. 4-512. - Notification of zoonotic disease.**

- (a) *Duty of medical personnel and veterinarians to report.* Any licensed veterinarian or veterinarian representative who diagnoses, examines, or treats any animal diagnosed to have, or suspected to have any of the following shall immediately report their findings to the Local Rabies Control Authority (Animal Services Manager):
- (1) a non-natural infection of anthrax;
  - (2) avian influenza;
  - (3) brucellosis;
  - (4) campylobacteriosis;
  - (5) Escherichia coli 0157:H7;
  - (6) Hantavirus;
  - (7) Lyme Disease;
  - (8) monkey pox;
  - (9) plague;
  - (10) rabies;
  - (11) Rocky Mountain Spotted Fever;
  - (12) Salmonellosis;
  - (13) West Nile virus;
  - (14) any other zoonotic encephalitis; or
  - (15) other zoonotic diseases transmissible to humans.
- (b) *Offense:* A person commits an offense if he or she has knowledge of any potential disease as listed in this section and fails to notify the Animal Services Division within twenty-four (24) hours.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.  
**Administrative Code reference**— 25 Tex. Admin. Code, Title 25, Part 1, Chapter 169, Subchapter A, § 169.21 et seq.

**Sec. 4-513. - Duty to report animals that have died of rabies.**

The Owner or Keeper of an animal that has died of rabies or is suspected to have died of rabies shall surrender the animal's body to the Local Rabies Control Authority (Animal Services Manager) or a licensed veterinarian for dispatch to an authorized laboratory for diagnosis within seventy-two (72) hours.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.  
**Administrative Code reference**— 25 Tex. Admin. Code, Title 25, Part 1, Chapter 169, Subchapter A, § 169.21 et seq.

**Sec. 4-514. - Duty of person knowing of animals exhibiting symptoms of rabies to report.**

If an animal is infected with rabies or suspected of being infected with rabies or has been bitten by an animal known or suspected of being infected with rabies, the Owner or Keeper of the animal or any person having knowledge of it shall immediately notify the Local Rabies Control Authority (Animal Services Manager) within twenty-four (24) hours.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.  
**Administrative Code reference**— 25 Tex. Admin. Code, Title 25, Part 1, Chapter 169, Subchapter A, § 169.21 et seq.

**Sec. 4-515. - Duty of owner or keeper of an animal bitten by a rabid or suspected rabid animal.**

The Local Rabies Control Authority (Animal Services Manager) shall notify in writing the Owner or Keeper of any animal known or suspected of being infected with rabies to have the animal examined by a licensed veterinarian within twenty-four (24) hours and confine the animal until the ninety (90) calendar day observation period of the suspected rabid animal is over and there is a definite diagnosis shown.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.  
**Administrative Code reference**— 25 Tex. Admin. Code § 169.30

**Sec. 4-516. - Duty of an owner or keeper of a domestic animal exposed to rabies.**

(a) An animal owner must notify the Local Rabies Control Authority (Animal Services Manager) within twenty-four (24) hours of an animal being bitten by or directly exposed by physical contact with a rabid or suspected rabid animal.

(1) Animals not currently vaccinated shall be:

a. humanely euthanized; or

b. immediately vaccinated against rabies, placed in an approved quarantine confinement facility for ninety (90) calendar days and given booster vaccines during the third (3rd) and eighth (8th) weeks of confinement.

(2) Animals currently vaccinated shall be:

a. humanely euthanized; or

b. immediately given a booster rabies vaccination and placed in an approved quarantine confinement facility for forty-five (45) calendar days.

(b) See Section 4-8 for definition of “currently vaccinated”.

**Cross reference** – “Currently vaccinated” defined; Section 4-8.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.

**Administrative Code reference**— 25 Tex. Admin. Code § 169.30

**Sec. 4-517. - Duty of person having knowledge of a potential rabies exposure to a human.**

(a) Any person having knowledge of a potential rabies exposure to a human shall report the incident to the Local Rabies Control Authority (Animal Services Manager) as soon as possible after the incident.

(b) The custodian of an animal that has potentially exposed a person to rabies will place that animal in quarantine (Division 3) or submit it for testing as prescribed in the Texas Administrative Code.

**Administrative Code reference**— Quarantine Method and Testing; 25 Tex. Admin. Code § 169.27.

**Similar State Law provisions** — Rabies Control Act of 1981, V.T.C.A., Health and Safety Code ch. 826.

**Secs. 4-518 – 4-530. – Reserved.**

**DIVISION 3. - QUARANTINE.**

**Sec. 4-531. - Authority to quarantine.**

- (a) The Local Rabies Control Authority or a veterinarian shall quarantine or test in accordance with department rules any animal that the local rabies control authority or veterinarian has probable cause to believe is rabid, may have been exposed to rabies, or may have exposed a person to rabies.
- (b) The Local Rabies Control Authority 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.

**State law reference** – Quarantine of Animals; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, § 826.042.

**Sec. 4-532. - Quarantine facilities.**

All quarantine and impound facilities shall be maintained in accordance with standards established by Chapter 826 of the Texas Health and Safety Code.

**State law reference** – Minimum Standards for Quarantine and Impoundment Facilities; V.T.C.A. Health & Safety Code, Ch. 826, § 826.051.

**Sec. 4-533. - Quarantine required.**

- (a) *All animals.* An animal may, and in some cases shall, be quarantined for any lawful reason in accordance with Chapter 826 of the Texas Health and Safety Code, including any animal:
  - (1) that the local rabies control authority or veterinarian has probable cause to believe is rabid,
  - (2) that may have been exposed to rabies,
  - (3) that may have exposed a person to rabies,
  - (4) responsible for bite incidents, or
  - (5) suspected of having any zoonotic disease considered to be a hazard to the human population or other animals.
- (b) *Domestic animals.* When a domestic animal has bitten a human, the Owner or Keeper of the animal shall place the animal in quarantine for an observation period.

**Cross reference** – Domestic animal bites – persons and other animals; Section 4-264.

**Cross reference** – Dog bites – persons and other animals; Section 4-265.

**Sec. 4-534. - Exceptions to quarantine.**

- (a) *Wild animals.*
  - (1) *With identification.* Wild animals with traceable identification, involved in biting incidents, shall be placed in quarantine.
  - (2) *No identification.* Wild animals with no means of traceable identification, 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 state department of health certified laboratory for rabies diagnosis.
- (b) *Police Service Animals.* In accordance with Chapter 826 of the Texas Health and Safety Code, a police service animal is exempt from the quarantine requirement if the animal bites a person while the animal is under routine veterinary care or while the animal is being used for law enforcement, corrections, prison or jail security, or investigative purposes.

**State law reference** –

Exemption from Quarantine Requirement for Police Service Animals; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, § 826.048.

**Sec. 4-535. - Observation period.**

- (a) The observation period is ten (10) calendar days unless the incident meets the requirements of another section in this chapter.
- (b) The observation period begins on the day of the bite incident. The date of the bite incident shall be considered Day Zero (0).

**Cross reference** – Duty of owner or keeper of an animal bitten by a rabid or suspected rabid animal; Section 4-515.

**State law references** –

Quarantine of Animals; V.T.C.A. Health & Safety Code, Title 10, Chapter 826, § 826.042.

Exemption from quarantine requirement for police service animals; V.T.C.A. Health & Safety Code, Ch. 826, § 826.048.

**Sec. 4-536. - Method of quarantine.**

- (a) *In general.* An animal subject to quarantine under this division must be placed in the animal services facilities specified for this purpose, if available, or a licensed veterinarian. However, the Owner or Keeper of the animal may request permission from the Local Rabies Control Authority (Animal Services Manager) for a home quarantine in accordance with this section.
- (b) *Veterinarian or Animal Services Facilities.* An animal shall be quarantined with a licensed veterinarian or at the Animal Services Facilities, at the owner's expense, unless authorized to be kept at home in quarantine. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-104 (Animal shelter fees) for applicable fees.
- (c) *Home quarantine.* Upon request by the Owner or Keeper, a home quarantine may be allowed if the Local Rabies Control Authority (Animal Services Manager), or his or her designee, determines all state requirements for a home quarantine are met and the Owner or Keeper complies with all of the following requirements:
  - (1) Isolates the animal from all people and pets other than those that lived with the biting animal at the quarantining residence prior to the local rabies control incident; and
  - (2) Agrees to allow an Enforcement Agent to inspect the animal and residence at any reasonable time during the quarantine period; and
  - (3) Agrees to contact the department immediately if the animal escapes from the residence, dies, attacks any other person or animal, exhibits any change in behavior, or exhibits any sign of illness; and
  - (4) Confines the animal inside a residence or dwelling at all times other than times for evacuation of waste material. During evacuation, the animal shall be kept on a tether not more than six (6) feet in length and must remain under the direct physical control of an adult at all times; and
  - (5) Agrees to keep the animal at the approved residence or dwelling throughout the quarantine period unless prior written approval to move the animal is obtained from the Animal Services Manager; and
  - (6) Agrees to keep the animal under quarantine until the animal is cleared by the Animal Services Manager; and
  - (7) Registers and implants a microchip in the animal in compliance with this chapter; and
  - (8) Agrees to immediately turn the animal over to a state-approved rabies quarantine facility for the duration of the quarantine period as ordered by the Animal Services Manager if any section of this chapter is violated.

**Cross reference** – Animal shelter fees; Section 3-104, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Administrative Code reference**— Quarantine Method and Testing; 25 Tex. Admin. Code § 169.27.

**Sec. 4-537. - Disposition of quarantined animal.**

- (a) If an animal was quarantined at the Animal Services Facility or at a licensed veterinarian clinic, the animal must be released from quarantine by a licensed veterinarian, the Local Rabies Control Authority (Animal Services Manager), or his or her designee and obtain a rabies vaccination within twenty-four (24) hours of release.
- (b) If the animal was quarantined at home, the animal may be released from quarantine by a licensed veterinarian, the Local Rabies Control Authority (Animal Services Manager), or his or her designee.

**Sec. 4-538. - Offenses.**

- (a) A person commits an offense if the person fails or refuses to immediately comply with the Animal Services Manager's order to quarantine at the Owner's or Keeper's residence or present for quarantine or testing at a State approved rabies quarantine facility, any animal that the Animal Services Manager has probable cause to believe has been involved in a local rabies control incident.
- (b) A person commits an offense if the person fails or refuses to immediately comply with an order to quarantine an animal in response to a potential outbreak of rabies.

**Secs. 4-539 – 4-570. – Reserved.**

**ARTICLE XI. - IMPOUNDMENT, RECLAIMING, AND OTHER DISPOSITION OF ANIMALS**

**DIVISION 1. - IMPOUNDMENT FACILITIES.**

**Sec. 4-571. - Facilities authorized.**

- (a) The City Council shall establish a suitable animal services facility for impounding all animals and wildlife by the Animal Services Manager and his or her designees and for any surrendered animal by a City resident.
- (b) Animals impounded pursuant to this chapter shall be placed in an authorized City Animal Services Facility or any other designated place as approved by the Animal Services Manager.

**State law reference** – Minimum standards for quarantine and impoundment facilities; V.T.C.A. Health & Safety Code, Sec. 826.051.

**Sec. 4-572. - Animal impoundment and disposition records.**

For records regarding impoundment and disposition of animals see Section 4-73 (Records – impoundment and disposition of animals).

**Secs. 4-573 – 4-580. – Reserved.**

**DIVISION 2. - IMPOUNDMENT OF ANIMALS.**

**Sec. 4-581. - Impoundment in general.**

Enforcement Agents are hereby authorized to capture and impound any animal upon having probable cause to believe the animal to be in violation of any provision of this chapter or state law which authorizes or requires the animal's capture and impoundment, and in so doing, to enter upon any fenced or unfenced lot, tract, or parcel of land as authorized by this chapter or other law.

**Sec. 4-582. - Right of entry – for capturing and impounding an animal.**

- (a) *In general.* Enforcement Agents are authorized to enter upon public or private property for the purpose of capturing and impounding an animal, and for purposes of enforcing the provisions of this chapter, when deemed necessary for the protection of the public health, safety, and welfare in accordance with this section, or as otherwise provided by law.
- (b) Enforcement Agents are authorized to enter upon public or private property as authorized by law, and including, but not limited to:
  - (1) *Public property.* On public property, in all cases.
  - (2) *Private property.*
    - a. *With consent.* On private property with consent of the resident or property owner; or
    - b. *Without consent.*
      - 1. On private property without consent, except dwellings and fenced rear yards of residences, if the Enforcement Agent reasonably believes that the animal will run at large if not impounded; or
      - 2. On private property without consent, all places except dwellings, if the Enforcement Agent reasonably believes there is immediate and imminent danger or peril to the public, or the animal, if the animal in question is not immediately captured and impounded.
  - (3) *As authorized by Court Order and/or a seizure warrant.* On public or private property, with or without consent, if executing a lawful search warrant, seizure warrant, or other Court Order.
- (c) Nothing in this section shall be construed to limit the Enforcement Agent's authority or powers and the City retains all such authority and powers as permitted under the law.

**Sec. 4-583. - Conditions for impoundment.**

An animal may, or in some cases shall, be impounded for the following reasons:

(a) **Abandonment.**

Enforcement Agents may impound an abandoned animal as defined in this chapter.

**Cross reference** – "Abandon, Abandoned, or Abandonment" defined; Section 4-8.

(b) **Animal nuisance, animal at large, or unrestrained animal.**

- (1) Enforcement Agents may impound animals which create an animal nuisance for the purpose of abating the nuisance.
- (2) Enforcement Agents may impound an animal found to be at large or an unrestrained animal.

**Cross reference** – Animal nuisances; Article VII.

(c) **Inhumane treatment or cruel treatment of an animal.**

Enforcement Agents may impound an animal if the agent has probable cause to believe the animal has been inhumanely treated or cruelly treated, as defined by this chapter.

**Cross references** –

“Inhumane treatment of an animal or inhumanely treated” defined; Section 4-8.  
“Cruel treatment of an animal or cruelly treated” defined; Section 4-8.  
Care and Treatment of Animals, Article VIII.

(d) **Local Rabies Control Incident (LRCI).**

Enforcement Agents may impound and quarantine an animal if the agent has probable cause to believe it has been involved in a LRCI.

**Cross reference** – “Local Rabies Control Incident (LRCI)” defined; Section 4-8.  
**Cross reference** – Rabies and Zoonosis Control, Article X.

(e) **Pending Court Hearing.**

Enforcement Agents shall follow the procedures for impoundment of the following as set forth in this chapter. The Municipal Court may issue, and in some cases shall issue, a seizure warrant pending the outcome of a hearing to determine whether:

- (1) an animal is a continuing animal nuisance (Art. VII, Division 4); or
- (2) an animal has been treated inhumanely or cruelly (Art. VIII, Division 3); or
- (3) a dog has caused the death or serious bodily injury to a person (Art. XII, Division 1); or
- (4) a dog or domestic animal is a dangerous dog or dangerous animal, or whether an owner of a previously declared dangerous dog or dangerous animal is in compliance with this chapter (Art. XII, Division 2); or
- (5) domestic animal is an aggressive animal, or whether an owner of a previously declared aggressive animal is in compliance with this chapter (Article XIII).

(f) **Rabies.**

Enforcement Agents shall impound and quarantine any animal that the agent has probable cause to believe was exposed to or is infected with rabies. Any animal that exhibits symptoms of the rabies disease during quarantine shall be humanely euthanized.

**Cross reference** – Rabies and Zoonosis Control, Article X.

(g) **Owner's absence.**

Enforcement Agents shall impound an animal at the request of a Peace Officer, owner of the animal, or owner of the property where the animal is located when the owner of the animal:

- (1) has been arrested,
- (2) hospitalized,



- (3) is missing,
- (4) has died, or
- (5) on the date when the owner is lawfully evicted from his or her premises and there is no person present seventeen (17) years of age or older who will assume responsibility for the animal.

(h) **Unauthorized possession.**

Enforcement Agents may impound an animal if the agent has probable cause to believe the animal is being retained in violation of local, state, or federal law.

(i) **Voluntary surrender or Court Ordered release of an animal to the City.**

Enforcement Agents shall impound an animal when the Owner(s) or Keeper(s) of the animal surrenders the animal, voluntarily or by Court Order, or whereby the Owner(s) or Keeper(s) voluntarily relinquishes ownership or possession, and releases the animal to an Enforcement Agent, and the Owner(s) or Keeper(s) signs a *Release Form*, presents a valid driver's license or identification card, and provides proof of City residency when voluntarily releasing animal.

**Sec. 4-584. - Caretaker of impounded animals.**

- (a) The Animal Services Manager, and his or her designees, shall be considered the designated caretaker of a stray, surrendered, or impounded animal, including any injured animal found at large or abandoned, immediately upon intake at a City animal services facility.
- (b) The City shall have the provisional assumption of ownership of animals impounded at a City animal services facility.
- (c) Animal Services Manager, and his or her designees, shall have the authority to administer preventative immunizations, parasite treatment, and any required medical treatment.
- (d) The Animal Services Manager, and his or her designees, shall have the authority to utilize emergency humane euthanasia in the event of a suffering animal.

**Sec. 4-585. - Holding periods and time of disposition.**

The following holding periods and time of disposition apply to any impounded animal or wildlife.

(a) **Injured or diseased animals.**

- (1) ***Holding time period.*** An impoundment holding time period is not required for any impounded animal, which appears to be suffering from serious bodily injury or disease and which is in great pain or suffering, or any impounded animal which appears to have an infectious disease which is a danger to humans or to other animals.
- (2) ***Time of disposition.*** Enforcement Agents may make a disposition of an injured or diseased animal immediately upon intake, at an Animal Services Facility, or in the field in exigent circumstances, in accordance with this chapter (Article XI, Division 4, Other Disposition of Impounded Animals).

- (b) **Unauthorized possession of an animal ordered to be removed from the City limits.**
  - (1) ***Holding time period.*** See the procedures for impoundment holding time periods for pending court hearings as set forth in this chapter:
    - a. Court Hearing – Continuing Animal Nuisance (Art. VII; Division 4).
    - b. Court Hearing – Prohibited Animal (Art. XIV; Division 3).
    - c. Dangerous Animals (Art. XII).
    - d. Aggressive Animals (Art. XIII).
  - (2) ***Time of disposition.*** Time of disposition shall be made in accordance with a Court Order or as otherwise provided for in this Chapter (Article XI; Division 4, Other Disposition of Impounded Animals).
- (c) **Prohibited animals.**
  - (1) ***Holding time period.*** See the procedures for impoundment holding time periods of prohibited animals as set forth in this chapter (Article XIV; Division 3, Court Hearing – Prohibited Animal).
  - (2) ***Time of disposition.*** Time of disposition shall be made in accordance with a Court Order or as otherwise provided for in this Chapter (Article XI; Division 4, Other Disposition of Impounded Animals).
- (d) **Animals impounded pending a Court hearing.**
  - (1) ***Holding time period.*** See the procedures for impoundment holding time periods for pending court hearings as set forth in this chapter:
    - a. Court Hearing – Continuing Animal Nuisance (Art. VII; Division 4).
    - b. Court Hearing – Inhumane or Cruelly Treated Animals (Art. VIII; Division 3).
    - c. Court Hearing – Prohibited Animal (Art. XIV; Division 3).
    - d. Dangerous Animals (Art. XII).
    - e. Aggressive Animals (Art. XIII).
  - (2) ***Time of disposition.*** Time of disposition shall be made in accordance with a Court Order or as otherwise provided for in this Chapter (Article XI; Division 4, Other Disposition of Impounded Animals).
- (e) **Voluntarily surrendered or released animals to the City.**
  - (1) ***Holding time period.*** An impoundment holding time period is not required prior to making a disposition of an animal, in accordance with this chapter, whereby the Owner(s) or Keeper(s) of the animal surrenders the animal, voluntarily or by court order, by signing a Release Form, or where the Owner(s) voluntarily relinquishes ownership and releases the animal to an Enforcement Agent.
  - (2) ***Time of disposition.*** Enforcement Agents may make a disposition of a surrendered or released animal immediately upon intake, at an Animal Services Facility, in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals).

(f) **Wild animal.**

(1) **Wild animal with no identification.**

- a. ***Holding time period.*** An impoundment holding time period is not required for any wild animal with no means of traceable identification.
- b. ***Time of disposition.***
  1. ***Release immediately in the field.*** Any wild animal with no means of traceable identification and which due to its violent or feral nature poses a threat to the safety, or poses a substantial risk of bodily injury, to any person, including the Enforcement Agents, may be released immediately in the field.
  2. ***Euthanize immediately in the field.*** Any wild animal with no means of traceable identification and which due to its violent or feral nature poses a threat to the safety, or poses a substantial risk of bodily injury, to any person, including the Enforcement Agents, may be euthanized in the field.
  3. ***Immediately upon intake at an animal services facility.*** Enforcement Agents may make a disposition of any wild animal, with no means of traceable identification, immediately upon intake at an animal services facility for disposition in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals).

(2) **Wild animal with identification.**

- a. ***Holding time period.*** Wild animals with any type of traceable identification shall be held for a period of time not less than five (5) business days, or not less than five (5) business days from the time the Owner or Keeper is notified, whichever is the shorter time period, unless earlier reclaimed by the Owner/Keeper, or the Owner's/Keeper's Agent, or euthanized as authorized by this chapter. The first day of impoundment is considered Day Zero (0).
- b. ***Time of disposition.*** Upon the expiration of the holding period Enforcement Agents shall make a disposition of the animal in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), unless the Animal Services Manager authorizes a longer holding time period.

(g) **Animals with no identification.**

(1) **Animals – excluding cats.**

- a. ***Holding time period.*** Impounded animals, excluding cats, with no means of traceable identification shall be held for a period of time not less than three (3) business days, unless the animal is approximately three (3) months of age or younger, reclaimed earlier by the Owner/Keeper, or the Owner's/Keeper's agent, or euthanized as authorized by this chapter. The first day of impoundment is considered Day Zero (0).
- b. ***Time of disposition.*** Once the holding period has expired the Enforcement Agents shall make a disposition of the animal in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals) unless the Animal Services Manager authorizes a longer holding time period.

(2) **Animals 3 months of age or younger.**

- a. ***Holding time period.*** Impounded animals three (3) months of age or younger with no means of traceable identification, unless reclaimed earlier by the Owner or Keeper, shall have no required holding period.
- b. ***Time of disposition.*** Impounded animals three (3) months of age or younger with no means of traceable identification, may be made available immediately upon intake, at an Animal Services Facility, for disposition in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), unless the Animal Services Manager authorizes a longer holding time period.

(3) **Cats.**

- a. ***Holding time period.*** Impounded cats with no means of traceable identification, regardless whether they are friendly or feral, unless reclaimed earlier by the Owner or Keeper, shall have no required holding period.
- b. ***Time of disposition.*** Impounded cats with no means of traceable identification, regardless whether they are friendly or feral, may be sterilized and returned to the area they were found within three (3) business days of impoundment or the Animal Services Manager may make any other disposition in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals). The Animal Services Manager is authorized to make the final decision regarding sterilization and disposition.

(h) **Animals with identification.**

- (1) ***Holding time period.*** Animals with any type of traceable identification shall be held for a period of time not less than five (5) business days, or not less than five (5) business days from the time the Owner or Keeper is notified, whichever is the shorter time period, unless earlier reclaimed by the Owner/Keeper, or the Owner's/Keeper's agent, or euthanized as authorized by this chapter. The first day of impoundment is considered Day Zero (0).
- (2) ***Time of disposition.*** Once the holding period has expired the Enforcement Agents shall make a disposition of the animal in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), unless the Animal Services Manager authorizes a longer holding time period.

(i) **Animals impounded due to an owner's or keeper's absence.**

- (1) ***Holding time period.*** An animal impounded due to an absence of the Owner or Keeper, as described in this division, shall be held for a period of time not less than ten (10) calendar days unless earlier reclaimed by the Owner or Keeper, or the Owner's/Keeper's agent, or euthanized as allowed by this chapter. The first day of impoundment is considered Day Zero (0).
- (2) ***Time of disposition.*** Once the holding period has expired the Enforcement Agents shall make a disposition of the animal in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), unless the Animal Services Manager authorizes a longer holding time period.

**Cross reference** – Owner's absence; Section 4-583(g).

**Sec. 4-586. - Animal becomes property of City.**

After the expiration of any required impoundment or holding period, any impounded animal not reclaimed by its Owner or Keeper will be deemed abandoned and the City shall be deemed the owner of the animal. The City may make any humane disposition of the animal in accordance with this chapter.

**Cross reference** – Other Disposition of Impounded Animals, Article XI; Division 4.

**Secs. 4-587 – 4-600. – Reserved.**

### DIVISION 3. - RECLAIMING IMPOUNDED ANIMALS.

#### Sec. 4-601. - Reclaiming in general.

The Owner or Keeper, or Owner's agent / Keeper's agent, of any domestic animal or other animals under certain circumstances, may regain possession of the impounded animal by reclaiming the animal upon compliance with the conditions set forth in this division.

#### Sec. 4-602. - Conditions for reclaiming an animal.

- (a) *Conditions for reclaiming an animal.* In order for the Owner or Keeper of any animal, or Owner's agent / Keeper's agent, to reclaim an impounded animal he or she must meet the following requirements subject to any exceptions in subsection (b):
- (1) *Payment of fees.* The following fees, when applicable, shall be paid to the City to reclaim an animal.
    - a. **Impoundment fee.** The impoundment fee is a flat fee charged for each animal impounded on a per occurrence basis.
    - b. **Boarding fee.** The boarding fee is a per day fee (including partial days) for each animal impounded, regardless of the time of day of actual impoundment. In calculating the length of time for the boarding fee, the day of impoundment (Day Zero (0)) is considered and shall be counted in the calculation along with any other partial day.
    - c. **Veterinarian services fees.** If applicable, any veterinary services fees incurred by the Animal Services Division for the care and welfare of the animal. (Veterinarian service fees may vary depending on the services and are therefore not identified in Appendix D – Comprehensive Fee Schedule).
    - d. **Vaccination fee.** If applicable, any vaccination fees incurred by the Animal Services Division for the vaccination of each animal impounded.
    - e. **Microchip implant fee.** If applicable, microchip implant in the animal is required prior to release of any impounded animal.
    - f. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-104 (Animal shelter fees) for applicable fees.
  - (2) *Rabies vaccination.*
    - a. Proof of a current rabies vaccination is required. If the Owner or Keeper cannot provide proof of a current rabies vaccination, the Owner or Keeper shall have seven (7) calendar days from the date of reclaiming their animal to provide written proof of obtaining a current rabies vaccination to the Enforcement Agent.
    - b. The date the animal is reclaimed shall be counted as Day Zero (0).
    - c. For the purposes of this subsection, sufficient proof of an animal's current rabies vaccination shall be either a rabies vaccination certificate issued by a licensed veterinarian or verbal or written confirmation of a current rabies vaccination by the licensed veterinarian who administered the vaccination.
    - d. Animals less than twelve (12) weeks of age shall not require a rabies vaccination in order to be released.

- e. If, in the opinion of a licensed veterinarian, the rabies vaccination should not be given within the seven (7) business day period, the Owner or Keeper must provide a signed statement from the veterinarian stating why the vaccine should be temporarily delayed and when the vaccine may be given. The Owner or Keeper shall provide written proof of the administering of the vaccination to an Enforcement Agent within forty-eight (48) hours.
- (3) *Sterilization of the animal is required as follows.* The City encourages, and in some cases requires, spaying and neutering of animals as follows:
- a. ***Impounded for the first-time.*** When an animal has been impounded for the first-time, the Owner or Keeper is eligible for a refund of the Impoundment Fee, if the Owner or Keeper shows proof of written documentation that the animal is currently spayed or neutered or has been spayed or neutered within thirty (30) calendar days of the animal being reclaimed.
  - b. ***Impounded for the second-time.*** Any animal that is impounded a second-time in any consecutive twelve (12) month period *may* be sterilized at the discretion of the Animal Services Manager, at the Owner's or Keeper's expense, prior to the Owner or Keeper reclaiming the animal. This subsection shall not apply if the animal was at large due to forces of nature, fire, or the criminal act of a third party who was not residing at the animal Owner's or Keeper's residence.
  - c. ***Impounded for the third-time.*** Any animal that is impounded a third-time in any consecutive (12) month period *shall* be sterilized, at the Owner's or Keeper's expense, prior to the Owner or Keeper reclaiming the animal. This subsection shall not apply if the animal was at large due to forces of nature, fire, or the criminal act of a third party who was not residing at the animal Owner's or Keeper's residence.
- (4) ***Microchip implant.*** If the animal is not already identifiable by microchip, a microchip is required to be implanted in the animal, at the Owner's or Keeper's expense, prior to release of any impounded animal.
- (b) ***Exceptions.*** This section shall not apply if the animal was impounded:
- (1) for investigation of rabies and the quarantine period has not expired; or
  - (2) for the purpose of a pending court hearing to determine if the animal is a "continuing animal nuisance"; or
  - (3) for allegedly being inhumanely treated or cruelly treated, as defined in this chapter, and a hearing is pending or shall be pending to determine the Court ordered disposition of the animal; or
  - (4) due to an alleged incident, or noncompliance with this chapter, regarding a dangerous dog, dangerous animal, aggressive animal, or other similar hearing in accordance with this chapter, and the hearing is pending or shall be pending to determine the Court ordered disposition of the animal; or
  - (5) as an alleged prohibited animal, as defined in this chapter, and a hearing is pending or shall be pending to determine the Court ordered disposition of the prohibited animal.

**Cross references –**

Article III. Animal Services Division, Appendix D – *Comprehensive Fee Schedule.*  
Court Hearing – Continuing Animal Nuisance; Article VII; Division 4.  
Court Hearing – Inhumane or Cruelly Treated Animals; Article VIII; Division 3.  
Dangerous Animals and Aggressive Animals; Article XII and Article XIII.  
Court Hearing – Prohibited Animal; Article XIV; Division 3.

**Sec. 4-603. - Conditions for reclaiming wild animals.**

Generally, wild animals may not be reclaimed. However, in order for the Owner or Keeper of any wild animal, or Owner's agent / Keeper's agent, to reclaim an impounded wild animal he or she must meet the following requirements subject to any exceptions.

- (1) *Identification and/or a person or organization attempts to reclaim the animal.* Impounded wild animals with traceable identification, or where an Owner or Keeper, or Owner's agent / Keeper's agent, produces proper credentials for possessing the animal to the satisfaction of the Animal Service's Manager, may be reclaimed so long as the person or organization is not alleged to be in violation of international, federal, state, or local law.
  
- (2) *No identification and no attempt made to reclaim the wild animal.* Impounded wild animals with no means of traceable identification, and where no person or organization has come forward to reclaim the animal, said wild animal may be placed with a wildlife rehabilitator or wildlife educational center, or the like, or may be euthanized at the Animal Services Manager's discretion.

**Secs. 4-604 – 4-620. – Reserved.**

**DIVISION 4. - OTHER DISPOSITION OF IMPOUNDED ANIMALS.**

**Sec. 4-621. - Disposition in general.**

- (a) Excluding impoundments pending court hearings, an animal, after the expiration of any required impoundment or holding period, or immediately after being voluntarily surrendered or released by its Owner or Keeper, shall become the property of the City, all ownership rights for the animal shall transfer to the City, and if not reclaimed by the Owner or Keeper, the Animal Services Manager shall make a disposition of the animal in accordance with this chapter.
- (b) Pursuant to a Court Order, the Animal Services Manager shall make a disposition of the animal in accordance with this chapter or as may be ordered by the Court.
- (c) The Animal Services Manager, and his or her designees, shall take into consideration factors that may include, but not be limited to, the animal's behavior, aggressive tendencies, feral characteristics, health, and housing space availability.
- (d) All decisions related to the disposition of an animal pursuant to this section shall be made at the sole discretion of the Animal Services Manager, or his or her designee, unless otherwise mandated by law or a Court Order.

**Cross reference** – Animal becomes property of City; Section 4-586.

**Sec. 4-622. - Adoption.**

- (a) *Adoption of Dogs and Cats.* The Animal Services Manager shall be authorized to place for adoption dogs and cats impounded by the City under the following conditions:
  - (1) *Health and age assessment.* The department shall evaluate all dogs and cats to determine if it is an adoption candidate, based on its health, temperament, and appropriateness for vaccination. However, authorization to place an animal for adoption shall not constitute a warranty of the health, temperament, or age of the animal.
  - (2) *Adoption fee.* There shall be an adoption fee for dogs and cats adopted. The adoption fee shall include the cost of administrative services, rabies vaccination, sterilization, and microchip. The adoption fee may be reduced in the event the animal is already vaccinated for rabies, sterilized, or implanted with a microchip. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-101 (Animal adoption fees) for applicable fees.
  - (3) *Vaccination.* In the event said adoptable dog or cat is not vaccinated for rabies, the animal shall be vaccinated. The vaccination shall be administered at the time of adoption unless the animal is already vaccinated, a veterinarian determines it is not medically safe to vaccinate the animal at the time of adoption, or the animal is under three (3) months of age.
  - (4) *Sterilization.* In the event said adoptable dog or cat is not sterilized, the animal shall be sterilized. The sterilization shall be administered at the time of adoption unless the animal is already sterilized, a veterinarian determines it is not medically safe to sterilize the animal at the time of adoption, or the animal is under three (3) months of age.
  - (5) *Microchip.* In the event said adoptable dog or cat is not microchipped, the animal shall be implanted with a microchip. The microchip shall be administered at the time of adoption unless a veterinarian determines it is not medically safe to implant the animal with a microchip at the time of adoption.
  - (6) *Written agreement to complete requirements if not completed at the time of adoption.* The written agreement shall be produced in accordance with V.T.C.A. Health and Safety Code, Chapter 828, and shall include:



- a. Date of the agreement.
  - b. Names, addresses, and signatures of the Animal Services Manager, or his or her designee, and the new Owner.
  - c. A description of the animal to be adopted.
  - d. The sterilization completion date.
  - e. A statement, printed in conspicuous, **BOLD PRINT**, that, “**Sterilization of the animal is required under Chapter 828, Texas Health and Safety Code, and any violation of Chapter 828 is a criminal offense punishable as a Class C misdemeanor.**”
  - f. If it is determined that it is not medically safe, that the animal is too small, or too young to vaccinate, sterilize, or microchip the animal, whichever may be applicable, the adopting person shall sign a written agreement that the person will have the animal vaccinated for rabies, sterilized, and/or microchipped in accordance with the written agreement. The written agreement shall provide notice of the completion date for the person to return with the adopted animal for vaccination, sterilization and/or to be implanted with a microchip, or to show proof of completion thereof in accordance with V.T.C.A. Health and Safety Code, Chapter 828, § 828.003 or successor, and as amended.
  - g. If an adopter of a dog or cat violates subsection (a)(4) (Sterilization) the Animal Services Manager may seize and impound the animal, and ownership of the animal will automatically revert to the City.
  - h. If an adopted animal dies on or before the completion date stated in the written agreement, the adopting person must provide written documentation to the Animal Services Division that the animal has died.
  - i. If an adopted animal is lost or stolen before the completion date stated in the written agreement, the adopting person must provide written documentation to the Animal Services Division stating that the animal is lost or stolen and provide a copy of the police report, if any, of the theft. In order to be sufficient proof, the letter shall be delivered to the Animal Services Division not later than seven (7) calendar days after the date of the animal's disappearance and shall describe the circumstances surrounding the disappearance and the date of disappearance.
- (b) *Adoption of other domestic animals.*
- (1) *Applicability.* This subsection shall apply to adoption of all other animals or other species other than dogs and cats.
  - (2) *Health and age assessment.* The department shall evaluate all animals, and other species, to determine if it is an adoption candidate, based on its health, temperament, and appropriateness for vaccination. However, authorization to place an animal for adoption shall not constitute a warranty of the health, temperament, or age of the animal.
  - (3) *Adoption fee – other domestic animals.* There shall be an adoption fee for other domestic animals, other than cats or dogs. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-101 (Animal adoption fees) for applicable fees.
- (c) *Records requests.* For records requests, made pursuant to the Texas Public Information Act, for adoption records regarding cats, dogs, and other domestic animals see Section 4-74 (Records requests made pursuant to the Texas Public Information Act).

**Cross references –**

Animal adoption fees; Section 3-101, Art. III, Appendix D – *Comprehensive Fee Schedule*.

Records requests made pursuant to the Texas Public Information Act (PIA); Section 4-74.

**State law reference** – Sterilization Agreement; V.T.C.A., Health and Safety Code, Title 10, Chapter 828, § 828.003.

**Sec. 4-623. - Transfer.**

(a) *Transfer authorized with a Foster Agreement.*

- (1) The City may temporarily place an animal in a foster home in which an authorized Animal Rescue Organization, or authorized person, has a signed *Foster Agreement* on-file with the Animal Services Division.
- (2) The Foster Agreement shall state the organization is the *Keeper* of the animal and not a person that has obtained “ownership” for purposes of adoption. The Foster Agreement shall clearly state that in the event the City receives a records request, made pursuant to the Texas Public Information Act, regarding the disposition of the animal, the City will release the information to the requestor because the organization is not a “person” and the organization or authorized person is not considered an “adopter.”

(b) *Transfer authorized with a Transfer Agreement.*

- (1) The City may transfer any animal to an authorized Animal Rescue Organization that has a signed Transfer Agreement on-file with the Animal Services Division.
- (2) The Transfer Agreement shall require the organization to vaccinate the animal for rabies, sterilize the animal, and microchip, prior to placing it into an adoptive home.
- (3) The Transfer Agreement shall state the organization is the *Owner* of the animal and not a “person” that has obtained “ownership” for purposes of adoption. The Transfer Agreement shall clearly state that in the event the City receives a records request, made pursuant to the Texas Public Information Act, regarding the disposition of the animal, the City will release the information to the requestor because the organization is not a “person” and not considered an “adopter.”

(c) *Fee waived.* The adoption fee may be waived for dogs, cats, or other domestic animals, transferred to Animal Rescue Organizations in good standing with the Animal Services Division.

- (1) When the fee is waived for Animal Rescue Organizations for transfer of dogs, cats, or other domestic animals, the rabies vaccination, sterilization, and microchipping services will not be provided by the City at the time of transfer.
- (2) Animal Rescue Organizations receiving a fee waiver for a dog, cat, or other domestic animal must present proof of rabies vaccination, sterilization, and microchipping within thirty (30) calendar days from the date the dog, cat, or other domestic animal is received from the City.
- (3) Additional time shall be allowed to present proof for dogs, cats, or other animals less than six (6) months of age. In this case, proof shall be due by the thirtieth (30th) calendar day after a specified date estimated by the Animal Services Manager to be the date a transferred dog, cat, or other domestic animal becomes six (6) months old.

(d) *Records requests.* For records requests, made pursuant to the Public Information Act, for transfer records regarding cats, dogs, and other domestic animals see Section 4-74 (Records requests made pursuant to the Texas Public Information Act).

**Cross reference** – Records requests made pursuant to the Texas Public Information Act (PIA); Section 4-74.

**State law reference** – Sterilization Agreement; V.T.C.A., Health and Safety Code, Title 10, Chapter 828, § 828.003.

**Sec. 4-624. - Euthanasia.**

- (a) *Authority.* The City may euthanize an animal due to the animal's health or temperament, space limitations at any Animal Services Facility, as may be directed by a Court Order, or as otherwise deemed necessary by the Animal Services Manager.
  
- (b) *Humane euthanasia.* Euthanasia shall be performed humanely by injection of a lethal drug or other means as approved by State law, and may be performed under the following circumstances:
  - (1) Animal is suffering from injury, disease, or illness.
  - (2) A wild animal with no means of traceable identification and which due to its violent or feral nature poses a threat to the safety, or poses a substantial risk of bodily injury, to any person, including Enforcement Agents.
  - (3) A nursing baby animal, excluding livestock, impounded without the mother or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering.
  - (4) An animal the Owner or Keeper no longer wishes responsibility for or believes the animal to be in an ill or injured condition upon the Owner or Keeper signing a waiver, supplied by the Animal Services Division, allowing the animal to be immediately euthanized in a humane manner. The Animal Services Division shall charge a fee per animal for a requested euthanasia of an animal by an Owner or Keeper. The Owner or Keeper shall reside or be located within the City limits at the time of the request for euthanasia, and the animal shall not have bitten a person within the previous ten (10) calendar days of the request. (Note: An Owner or Keeper may also authorize the adoption or transfer of an unwanted animal by signing a waiver.)
  - (5) Humanely euthanize any impounded animal that is scheduled to be euthanized as a result of the animal being impounded for more than the required holding period. The Animal Services Manager may also transfer the animal to an Animal Rescue Organization if available.

**Cross reference** – Animal shelter fees; Section 3-104, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Secs. 4-625 – 4-640. – Reserved.**

## ARTICLE XII. - DANGEROUS ANIMALS (TO HUMANS)

### DIVISION 1. - DOGS CAUSING DEATH OR SERIOUS BODILY INJURY TO A PERSON.

#### Sec. 4-641. - In general.

This division outlines the process and procedures for a hearing at Municipal Court to determine whether a dog has caused the death of a person or serious bodily injury to a person by attacking, biting, or mauling the person for the purpose of enforcing health and safety and determining the disposition of the dog.

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter A. “General provisions; dogs that attack persons or are a danger to persons,” § 822.001 et seq.

#### Sec. 4-642. - Definitions.

The following definitions, along with the definitions located in Section 4-8 of this chapter, are applicable to this division. In the case of a conflict with this section and Section 4-8, this section controls.

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

**Owner** means a person who owns or has custody or control of the dog.

**Secure** means to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog.

**Serious bodily injury** means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

**State law reference** – See V.T.C.A., Health and Safety Code §822.001; § 822.041.

#### Sec. 4-643. - Authority of Municipal Court.

- (a) The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that a dog has caused the death of a person or serious bodily injury to a person by attacking, biting, or mauling the person, as provided for under this division and in accordance with V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter A. “General provisions; dogs that attack persons or are a danger to persons,” § 822.001 et seq., or successor, and as amended.
- (b) The Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross reference** – Mesquite Municipal Court jurisdiction; Section 4-5.

#### **State law references** –

Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person; V.T.C.A. Health & Safety Code, Title 10, Ch. 822, Subch. A, § 822.002. Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, Subchapter A, § 822.003. Hearing.

#### Sec. 4-644. - Reporting.

A person may contact the Animal Services Division, the Mesquite Police Department, or any Enforcement Agent to report an alleged incident causing the death of a person or serious bodily injury to a person from an attack by a dog or dogs.

#### Sec. 4-645. - Actions upon receipt of a reported alleged incident.

- (a) *Issuance of citation(s) at the time of the alleged violation.*
  - (1) Upon complaint by a witness, an Enforcement Agent may issue criminal citation(s), if applicable, at the location where the alleged violation(s) occurred.

(2) The Enforcement Agent shall file a copy of the citation with Municipal Court for processing.

(b) *Filing an affidavit with the Animal Services Division or the City Municipal Court.*

(1) *Affidavit.*

- a. The Animal Services Manager, any Enforcement Agent, or the Municipal Court may receive a sworn affidavit from any person concerning a dog that has allegedly caused the death of a person or serious bodily injury to a person by attacking, biting, or mauling the person, as provided for under this division and in accordance with Section 822.002 of the Texas Health and Safety Code, or successor, and as amended.
- b. A sworn affidavit may be made by any person, including but not limited to the City Attorney or his or her designee, an Enforcement Agent, or a peace officer.
- c. An affidavit, and any supporting witness statements, filed pursuant to this section shall be in writing and sworn to and may be on a form prescribed by the Animal Services Manager. The affidavit shall contain at least the following information:
  1. name, address, and telephone number of person(s) making the report and of any other witnesses;
  2. a description of the dog and the address where it resides, and, if known, the name and telephone number of the owner, as defined by this article, of the dog;
  3. a statement describing the facts upon which the report is based including a description of the alleged incident;
  4. the date, time and location of the alleged incident(s);
  5. a description of the injuries sustained and whether medical assistance was sought and the outcome of that treatment; and
  6. any other facts that the person making the report believes to be important.
- d. The complaining witness may also provide any recordings, videos, photos, or other evidence if applicable.

(2) *Animal Services Division.* The Animal Control Authority, or any Enforcement Agent, who receives an affidavit in accordance with this section may, after investigation, forward said affidavit, along with any recordings, videos, photos, and any other evidence provided, to the Municipal Court to initiate a hearing.

**Sec. 4-646. - Seizure of the dog(s).**

The Municipal Court shall order the Animal Control Authority to seize any dog, that has allegedly caused the death of a person or serious bodily injury to a person, and shall issue a warrant authorizing the seizure:

- (1) on the sworn affidavit of any person, including but not limited to the City Attorney or his or her designee, an Enforcement Agent, or a peace officer, that the dog has caused the death of a person or serious bodily injury to a person by attacking, biting, or mauling the person; and
- (2) on a showing of probable cause to believe that the dog caused the death of a person or serious bodily injury to the person as stated in the complaint/report.

**State law reference** – Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person, V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter A, § 822.002 (a).

**Sec. 4-647. - Impoundment of dog(s) pending hearing.**

- (a) *Impoundment required pending hearing.* The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog(s) in secure and humane conditions until the Court Orders the disposition of the dogs.
- (b) *Impoundment location and at owner's expense.* The dog shall be impounded and boarded at the Owner's, as defined by this article, expense at the Animal Services Facility, or any other state approved quarantine facility pending the outcome of the hearing before the Municipal Court.
- (c) *Dogs impounded prior to receipt of notice of hearing.* If the dog that is the subject of the hearing was already impounded for being an animal at large, was seized pursuant to this chapter, or was abandoned at the Animal Services Facility, the dog shall remain impounded until the conclusion of the hearing.
- (d) *Offenses:*
  - (1) A person commits an offense if he or she interferes with the lawful seizure or impoundment of a dog by an Enforcement Agent.
  - (2) A person commits an offense if he or she harbors, hides, transports, or secures the transport for any dog for the purpose of preventing its impoundment.
  - (3) A person commits an offense if the person operates or manages a quarantine facility other than the Animal Services Facility, and he or she fails to properly confine the animal to prevent its escape, releases it to any person, or fails to account for the animal's whereabouts. This subsection shall not apply if the person operating or managing the quarantine facility first obtains written permission from the Animal Control Authority to release the animal.

**Cross reference** – Animal shelter fees; Section 3-104, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**State law reference** – Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person, V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter A, § 822.002 (b).

**Sec. 4-648. - Notice.**

- (a) *Set date of hearing.* The hearing must be held not later than the tenth (10<sup>th</sup>) calendar day after the date on which the warrant is issued.
- (b) *Notice.*
  - (1) The Municipal Court shall give written notice of the date, time, and place of the hearing to:
    - a. the owner of the dog or the person from whom the dog was seized;
    - b. the person who made the complaint/report; and
    - c. the Animal Control Authority.
  - (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**State law reference** – Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, Subchapter A, § 822.003.

**Sec. 4-649. - Hearing.**

Any interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Reporting party of the alleged incident(s);
- (4) Any witnesses; and
- (5) Owner(s) of the dog, and/or Keeper.

**State law reference** – Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, Subchapter A, § 822.003.

**Sec. 4-650. - Determination by the Municipal Court.**

- (a) *In general.* After notice and hearing, the Court shall determine, by a preponderance of the evidence, whether the dog caused the death of a person or the serious bodily injury of a person by attacking, biting, or mauling the person.
- (b) *Decision.*
  - (1) Decision – Regarding death of a person.
    - a. *Determination the dog caused the death of a person.* Upon determination the dog caused the death of a person by attacking, biting, or mauling the person, the Mesquite Municipal shall order its disposition, in accordance with this division (Section 4-651), as is necessary to preserve the public health, safety, or welfare.
    - b. *Determination the dog did not cause the death of a person.*
      1. If the Court did not make a finding that the dog caused the death of a person, the Court shall order the dog released to:
        - (i) its owner;
        - (ii) the person from whom the dog was seized; or
        - (iii) any other person authorized to take possession of the dog.
      2. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner.
  - (2) Decision – Regarding serious bodily injury to a person.
    - a. *Determination the dog caused serious bodily injury to a person.* Upon determination that the animal caused the serious bodily injury of the person, the Court may order its disposition, in accordance with this division (Section 4-652), as is necessary to preserve the public health, safety, or welfare.
    - b. *Determination the dog did not cause the serious bodily injury of a person.*
      1. If the Court did not make a finding that the dog caused the serious bodily injury of a person, the Court shall order the dog released to:
        - (i) its Owner;
        - (ii) the person from whom the dog was seized; or
        - (iii) any other person authorized to take possession of the dog.

2. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner.

**Cross references –**

Disposition of the dog causing the death of a person; Section 4-651.  
Disposition of the dog causing serious bodily injury to a person; Section 4-652.  
Additional judicial authority; Section 4-175.

**Sec. 4-651. - Disposition of the dog causing the death of a person.**

- (a) If the Court finds the dog caused the death of a person by attacking, biting, or mauling the person, the Court *shall* order the dog be destroyed by euthanasia, subject to the affirmative defenses in subsection (b), as is necessary to preserve the public health, safety, or welfare.
- (b) *Affirmative defenses.*
  - (1) It is an affirmative defense, and the court may not order the dog destroyed, if the court finds that the dog caused death to a person by attacking, biting, or mauling the person, and:
    - a. the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes; or
    - b. the threat, injury, or damage was sustained by a person who at the time was committing or attempting to commit a willful trespass or other crime upon the premises occupied by the owner of the dog; or
    - c. the person attacked was committing or attempting to commit a crime; or
    - d. the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.
  - (2) For the purposes of these affirmative defenses, criminal charges brought against an injured person shall operate as a rebuttable presumption that the attack was justified.
- (c) The dog may be euthanized upon the Court's decision becoming final, in accordance with this division (Section 4-654), or the dog may be immediately euthanized upon the Owner's request and written consent.

**Cross references –**

Appeal; Section 4-653.  
Date decision is final; Section 4-654.  
Euthanasia; Section 4-624.

**Sec. 4-652. - Disposition of the dog causing serious bodily injury to a person.**

- (a) *Disposition.* If the Court finds the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person, the Court *may* order the dog destroyed by euthanasia, subject to the exclusions in subsection (b), as is necessary to preserve the public health, safety, or welfare. The dog may be euthanized upon the Court's decision becoming final, in accordance with this division (Section 4-654), or the dog may be immediately euthanized upon the Owner's request and written consent.
- (b) *Exclusions.*
  - (1) The court may not order the dog destroyed if the court finds the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:
    - a. the dog was being used for the protection of a person or person's property, the attack,



bite, or mauling occurred in an enclosure in which the dog was being kept, and:

1. the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
  2. the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred; or
- b. the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred; or
  - c. the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes; or
  - d. the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
  - e. the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.
- (2) For the purposes of these exclusions, criminal charges brought against an injured person shall operate as a rebuttable presumption that the attack was justified.

**Cross references –**

Appeal; Section 4-653.  
Date decision is final; Section 4-654.  
Euthanasia; Section 4-624.

**State law reference –** Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, Subchapter A, § 822.003.

**Sec. 4-653. - Appeal.**

The Owner of the dog may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**Sec. 4-654. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the Order. The date of the Municipal Court's Order shall be considered Day Zero (0).
- (b) *Date of euthanasia or other disposition.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction, if ordered by the court, the dog or other animal may be euthanized, or other disposition made as authorized, on the sixteenth (16th) calendar day following the Order of the Municipal Court. The date of the Municipal Court's Order shall be considered Day Zero (0). Otherwise, if appealed, the date of euthanasia or other disposition shall be the date the Court's decision or Order becomes final as may be determined by a court of appropriate jurisdiction.

**Cross references –**

Disposition of the dog causing the death of a person; Section 4-651.  
Disposition of the dog causing serious bodily injury to a person; Section 4-652.  
Appeal; Section 4-653.  
Euthanasia; Section 4-624.

**Secs. 4-655 – 4-680. – Reserved.**

## DIVISION 2. - DANGEROUS DOGS AND DANGEROUS ANIMALS.

### Sec. 4-681. - In general.

This division outlines the process and procedures for a hearing at Municipal Court to determine the following:

- (a) Dangerous dogs.
  - (1) Determining whether a dog is a dangerous dog following an alleged dangerous dog incident for the purpose of enforcing health and safety and determining the disposition of the dog; and
  - (2) Whether the owner of a dog, declared to be a dangerous dog, has complied with the requirements for owners of dangerous dogs.
- (b) Dangerous domestic animals (excluding dogs).
  - (1) Determining whether a domestic animal (excluding dogs) is a dangerous animal following an alleged dangerous animal incident for the purpose of enforcing health and safety and determining the disposition of the animal; and
  - (2) Whether the owner of a domestic animal (excluding dogs) previously declared to be a dangerous animal has complied with the requirements for owners of dangerous animals.

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs," § 822.041 et seq.

### Sec. 4-682. - Definitions.

The following definitions, along with the definitions located in Section 4-8 of this chapter, are applicable to this division. In the case of a conflict with this section and Section 4-8, this section controls.

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

**Dangerous dog** means a dog that:

- (1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

**Dangerous animal** means a *domestic animal* (excluding dogs) that:

- (1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
- (2) commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.

**Owner** means a person who owns or has custody or control of the dog or domestic animal.

**Secure** means to take steps that a reasonable person would take to ensure a dog, or other domestic animal, remains on the Owner's property, including confining the dog, or other animal, in an enclosure that is capable of preventing the escape or release of the dog, or other animal.

**Secure enclosure** means an outdoor enclosure housing a dog that meets all of the following criteria:

- (1) Is located inside a separate fenced area;
- (2) Is locked;
- (3) Is capable of preventing the entry of the general public, including children;
- (4) Is capable of preventing the escape or release of a dog in the enclosure;
- (5) prevents the parts of an animal confined within from extending over, under, or through the enclosure;
- (6) Is clearly marked as containing a dangerous dog;
- (7) Has an attached and secure roof;
- (8) Has a concrete floor or sides buried not less than two (2) feet into the ground and constructed to prevent the dog from digging under the secure enclosure and escaping;
- (9) Is located a minimum of five (5) feet from any fence line or wall that abuts private property or a public area; and
- (10) Complies with all additional requirements as established and provided in writing to the owner by the Court Order or this chapter.

**Similar State law provisions** – See V.T.C.A., Health and Safety Code §822.001; § 822.041.

**Sec. 4-683. - Authority of Municipal Court.**

(a) Dangerous dogs.

- (1) *Declaration of a dangerous dog.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that a dog is a dangerous dog, as provided for in this division and in accordance with V.T.C.A., Health and Safety Code, Chapter 822, Subchapter D, § 822.0422 (a), or successor, and as amended.
- (2) *Dog previously declared a dangerous dog and in noncompliance with this division.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, whether the Owner of a dog, as defined by this article, that has been declared a dangerous dog, has complied with the requirements as provided for in this division and in accordance with V.T.C.A., Health and Safety Code, Chapter 822, Subchapter D, § 822.042 (c), or successor, and as amended.

(b) Dangerous domestic animals (excluding dogs).

- (1) *Declaration of a dangerous animal.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that a domestic animal is a dangerous animal.
- (2) *Animal previously declared a dangerous animal and in noncompliance with this division.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, whether the Owner, as defined by this article, of a domestic animal, that has been declared a dangerous animal, has complied with the requirements as provided for in this division.

(c) The Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross references –**

Mesquite Municipal Court jurisdiction; Section 4-5.  
Additional judicial authority; Section 4-175.

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs," § 822.041 et seq.

**Sec. 4-684. - Reporting.**

A person may contact the Animal Services Division, the Mesquite Police Department, or any Enforcement Agent to report an alleged dangerous dog or dangerous animal.

**Sec. 4-685. - Actions upon receipt of a reported alleged incident or noncompliance.**

- (a) *Issuance of citation(s) at the time of the alleged violation.*
- (1) Upon complaint by a witness, an Enforcement Agent may issue criminal citation(s), if applicable, at the location where the alleged violation(s) occurred.
  - (2) The Enforcement Agent shall file a copy of the citation with Municipal Court for processing.
- (b) *Filing an affidavit with the Animal Services Division or the City Municipal Court.*
- (1) *Affidavit and evidence.*
    - a. *Incident Affidavit – Regarding an alleged dangerous dog or dangerous animal.* The Animal Services Manager, any Enforcement Agent, or the Municipal Court may receive a sworn affidavit from any person concerning an alleged dangerous dog or dangerous animal as provided for under this division and in accordance with Section 822.0422 of the Texas Health and Safety Code, or successor, and as amended.
    - b. *Noncompliance Affidavit – Regarding alleged noncompliance with this division.* The Animal Services Manager, any Enforcement Agent, or the Municipal Court may receive a sworn affidavit from any person concerning a dog, or other animal, that has previously been declared a dangerous dog or dangerous animal and where the owner, as defined by this article, is allegedly in noncompliance with this division.
    - c. A sworn affidavit may be made by any person, including but not limited to the City Attorney or his or her designee, an Enforcement Agent, or a peace officer.
    - d. An affidavit, and any supporting witness statements, filed pursuant to this section shall be in writing and sworn to and may be on a form prescribed by the Animal Services Manager. The affidavit shall contain at least the following information:
      1. name, address, and telephone number of person(s) making the report and of any other witnesses;
      2. a description of the dog or animal and the address where it resides, and, if known, the name and telephone number of the owner, as defined by this article, of the dog or animal;
      3. a statement describing the facts upon which the report is based including a description of the alleged incident or alleged noncompliance;
      4. the date, time and location of the alleged incident(s);
      5. a description of the injuries sustained and whether medical assistance was sought and the outcome of that treatment; and
      6. any other facts that the person making the report believes to be important.
    - e. The complaining witness may also provide any recordings, videos, photos, or other evidence if applicable.
  - (2) *Animal Services Division.* The Animal Control Authority, or any Enforcement Agent, who receives an affidavit in accordance with this section may, after investigation, forward said affidavit, along with any recordings, videos, photos, and any other evidence provided, to the Municipal Court to initiate a hearing.

- (3) *Municipal Court.* The Court summons shall notify the owner of the dog(s), or other animal(s), that he or she must deliver the animal(s), for impoundment pending the hearing, to the Animal Control Authority not later than the fifth (5<sup>th</sup>) calendar day after the date on which the owner receives notice that the formal complaint/report has been filed.

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs," § 822.0422.

**Sec. 4-686. - Impoundment of dog or other animal pending hearing.**

(a) *Impoundment required pending hearing.*

- (1) *Owner delivers dog/animal for impoundment.* The owner of the dog, or other animal, shall deliver the dog/animal to the Animal Control Authority not later than the fifth (5<sup>th</sup>) calendar day after the date on which the owner receives notice that the formal complaint/report has been filed in accordance with this division and Section 822.0422 (b) of the Texas Health and Safety Code, or successor, and as amended. The dog, or other animal, shall remain impounded in accordance with this section pending the outcome of the hearing.

- (2) *Warrant for seizure of the dog or other animal pending outcome of hearing.* If the owner fails to deliver the dog, or other animal, as required by this division and as may be required by Section 822.0422 (b) of the Texas Health and Safety Code, the following is authorized for dogs and other animals, as required by this division and as may be required by Section 822.0422 (c) of the Texas Health and Safety Code, or successor, and as amended:

- a. The court shall order the Animal Control Authority to seize the dog, or other animal, and shall issue a warrant authorizing the seizure.
- b. The Animal Control Authority shall seize the dog, or other animal, or order its seizure and shall provide for the impoundment of the dog/animal in secure and humane conditions until the Court orders the disposition of the dog or other animal.
- c. The owner shall pay any cost incurred in seizing the dog or other animal.
- d. The dog or other animal shall remain impounded in accordance with this section pending the outcome of the hearing.

- (b) *Impoundment location and at owner's expense.* The dog or other animal shall be impounded and boarded at the owner's expense at the Animal Services Facility, or any other state approved quarantine facility, pending the outcome of the hearing before the Municipal Court.

- (c) *Dogs or animals impounded prior to receipt of notice of hearing.* If the dog or other animal that is the subject of the hearing was already impounded for being an animal at large, was seized pursuant to this chapter, or was abandoned at the Animal Services Facility, the dog or other animal shall remain impounded until the conclusion of the hearing.

(d) *Offenses:*

- (1) A person commits an offense if he or she interferes with the lawful seizure or impoundment of a dog or other animal by an Enforcement Agent.
- (2) A person commits an offense if he or she harbors, hides, transports, or secures the transport of any dog or other animal for the purpose of preventing its impoundment.
- (3) A person commits an offense if the person operates or manages a quarantine facility other than the Animal Services Facility, and he or she fails to properly confine the dog or other animal to prevent its escape, releases it to any person, or fails to account for the animal's whereabouts. This subsection shall not apply if the person operating or managing the quarantine facility first obtains written permission from the Animal Control Authority to release the dog or other animal.

**Cross reference** – Animal shelter fees; Section 3-104, Art. III, Appendix D – *Comprehensive Fee Schedule.*

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs," § 822.0422.

**Sec. 4-687. - Notice.**

- (a) *Set date of hearing.* The hearing must be held not later than the tenth (10<sup>th</sup>) calendar day after the date on which the dog or other animal is seized or delivered.
- (b) *Notice.*
  - (1) The Municipal Court shall give written notice of the date, time, and place of the hearing to:
    - a. the owner of the dog or other animal or the person from whom the dog/animal was seized;
    - b. the person who made the complaint/report; and
    - c. the Animal Control Authority.
  - (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**State law reference** – Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, § 822.0423.

**Sec. 4-688. - Hearing.**

Any interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Reporting party of the alleged dangerous dog or dangerous animal incident;
- (4) Any witnesses; and
- (5) Owner(s) and/or Keepers of the dog/animals.

**State law reference** – Hearing; V.T.C.A. Health & Safety Code, Title 10, Chapter 822, § 822.0423.

**Sec. 4-689. - Determination by the Municipal Court.**

- (a) *In general.* After notice and hearing, the Court shall determine by a preponderance of the evidence, whether the dog is a dangerous dog as defined by this Division.
- (b) *Decision.*
  - (1) *Determination a dog or other animal is a dangerous dog or dangerous animal.* Upon determination the dog/animal is a dangerous dog or dangerous animal, the Municipal Court may order its disposition, in accordance with this division (Section 4-690), as is necessary to preserve the public health, safety, or welfare.
    - a. *Exclusions.*
      - 1. No dog or other animal may be found to be a dangerous dog or dangerous animal if the Municipal Court finds sufficient evidence that:
        - (i) the threat, injury, or damage was sustained by a person who at the time was committing or attempting to commit a willful trespass or other tort upon the premises occupied by the owner of the dog; or
        - (ii) the person was teasing, tormenting, abusing, or assaulting the dog/animal or has in the past been observed to have teased, tormented,

abused, or assaulted the dog/animal; or

- (iii) the person attacked was committing or attempting to commit a crime; or
- (iv) the dog or other animal was protecting or defending a person within the immediate vicinity of the dog/animal from an unjustified attack or assault; or
- (v) the dog/animal was injured and responding to pain; or
- (vi) the complaint/report filed against it is based solely on the animal's species or dog's breed, and the dog/animal size, or physical appearance; or
- (vii) the attack, bite, or mauling occurred while the dog was being used by a peace officer for law enforcement purposes.

2. For the purposes of these exclusions, criminal charges brought against an injured person shall operate as a rebuttable presumption that the attack was justified.

b. *Continued impoundment until the Court orders the disposition of the dog/animal.* Upon determination the dog/animal is a dangerous dog or dangerous animal, the Municipal Court may order the Animal Control Authority to continue to impound the dangerous dog/animal in secure and humane conditions until the court orders disposition of the dog/animal in accordance with this division (Section 4-690).

(2) *Court determines the dog/animal is not a dangerous dog/animal.*

- a. Upon determination the dog/animal is not dangerous, the Municipal Court shall order that the dog/animal shall be promptly returned to its Owner's custody.
- b. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner.

**State law reference** – V.T.C.A. Health & Safety Code, Title 10, Chapter 822, § 822.0422 (d).

**Cross reference** – Disposition of a dog/animal declared to be a dangerous dog or dangerous animal; Section 4-690.

**Sec. 4-690. - Disposition of a dog/animal declared to be a dangerous dog or dangerous animal.**

If the Municipal Court makes a finding that the dog/animal is a dangerous dog or dangerous animal, then the Municipal Court shall order one (1) of the following:

(a) **Euthanasia.**

(1) A dog/animal declared to be dangerous:

- a. may be ordered to be euthanized if the Municipal Court makes a finding that the dog/animal caused bodily injury to a person; or
- b. may be ordered to be euthanized if the Owner of the dog/animal requests euthanasia of the animal.

(2) Euthanasia shall be in accordance with this chapter.

(3) The dog/animal may be euthanized upon the Court's decision becoming final, in accordance with this division (Section 4-693), or the dog/animal may be immediately euthanized upon the Owner's request and written consent.

(b) **Removal of the dangerous dog/animal from within the City limits.**

- (1) Prior to the release of the dog/animal from impoundment and/or quarantine the owner shall make the dog/animal available to the Animal Services Facility for scanning of the microchip implanted in the dog and provide to the Animal Services Manager, in writing, all of the following:
  - a. The destination address of where the dog/animal is to reside and the name of the person who will have care, custody, or control of the dog/animal at the destination address;
  - b. Proof that the owner has alerted the agency responsible for animal services in that area; and
  - c. Proof that a microchip has been implanted into the dog/animal.
- (2) *Offenses.*
  - a. A person commits an offense if he or she removes the dog/animal from the City under this section and fails to:
    1. Implant a microchip in the dog/animal; or
    2. Provide proof of the implanting of the microchip; or
    3. Make the dog/animal available for scanning.
  - b. A person commits an offense if he or she removes the dog/animal from a state approved quarantine facility prior to complying with the notice requirements in subsection (b)(1).
  - c. A person commits an offense if he or she allowed a dog/animal that has been determined to be a dangerous dog or dangerous animal and ordered to be removed from the city limits to return to the city limits.

(c) **Registration of dog/animal as a dangerous dog or dangerous animal.**

- (1) *Registration.* Return to the Owner the dog/animal, as a registered dangerous dog or dangerous animal, after the Owner demonstrates compliance with this chapter and the following requirements and conditions.
- (2) *Dogs - Requirements and conditions for keeping a registered dangerous dog in the City.* The Owner shall maintain compliance with all of the following requirements and conditions for the remainder of the dangerous dog's life while located or residing in the City:
  - a. Obtain and maintain liability insurance coverage or showing financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury, serious bodily injury or death to a person or another animal. A certificate of insurance or other evidence of meeting the above requirements shall be kept on file at the Animal Services Facility; and
  - b. Registering the dangerous dog with the City by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the dog; the address where the dog is to be kept; and at least two (2) color photographs that clearly identify the dangerous dog; and
  - c. Provide proof of animal sterilization; and
  - d. Construct and maintain a secure enclosure, as defined in this article, for the dog; and



- e. Post and maintain signs giving notice of a dangerous dog in the area or on the premises in which the dog is confined. The sign shall be approved by the Animal Services Manager or his or her designee. The signs shall be conspicuously posted at both the front and rear property entrances and shall bear letters not less than two (2) inches high, stating "DANGEROUS DOG ON PREMISES"; and
  - f. Implant and maintain a microchip into the dog and register it for life with the Animal Services Division and a recognized national registry; and
  - g. Provide written notice of the dog's designation as dangerous to the owner or landlord of the property where the animal will be kept; and
  - h. Pay the appropriate dangerous dog annual permit fee. Permits expire on December 31st each year. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-103 (Animal registration fees) for applicable fees.
- (3) *Animals - Requirements and conditions for keeping a registered dangerous animal in the City.*
- a. Registering the dangerous animal with the City by providing the name and address of the owner; the species, age, sex, color and any other identifying marks of the animal; the address where the animal is to be kept; and at least two (2) color photographs that clearly identify the dangerous animal; and
  - b. Provide written notice of the animal's designation as dangerous to the owner or landlord of the property where the animal will be kept; and
  - c. The Owner shall maintain compliance with any of the following additional requirements and conditions as may be determined and ordered by the Court for the remainder of the dangerous animal's life while located or residing in the City. The Municipal Court Judge may order one (1) or more of the following:
    - 1. Obtain and maintain liability insurance coverage or showing financial responsibility in an amount set by the Court, but not to exceed one hundred thousand dollars (\$100,000), to cover damages resulting from an attack by the dangerous animal causing bodily injury, serious bodily injury or death to a person or another animal. A certificate of insurance or other evidence of meeting the above requirements shall be kept on file at the Animal Services Facility;
    - 2. Provide proof of animal sterilization;
    - 3. Construct and maintain an enclosure that will remain secure and that is suited for the specific animal or species, as ordered by the Court; or
    - 4. Implant and maintain a microchip into the animal and register it for life with the Animal Services Division and a recognized national registry (if applicable).
  - d. Pay the appropriate dangerous animal annual permit fee. Permits expire on December 31st each year. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-103 (Animal registration fees) for applicable fees.

**Cross references –**

Additional judicial authority; Section 4-175.  
Appeal; Section 4-692.  
Date decision is final; Section 4-693.  
Euthanasia; Section 4-624.  
Animal registration fees; Section 3-103, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-691. - Time period for compliance with Court Order.**

- (a) The owner shall have thirty (30) calendar days from the determination, by the Municipal Court, that the dog/animal is dangerous to comply with all of the required conditions as set forth by this chapter and the Order of the Municipal Court, unless the determination is appealed to a court of appropriate jurisdiction as may be authorized by law. The date of the Court Order shall be considered Day Zero (0).
- (b) If the owner fails to provide proof of compliance with all of the requirements in the Court Order, and the Order is not appealed, to a court of appropriate jurisdiction as may be authorized by law; the dog or other animal may be euthanized on the thirty-first (31st) calendar day following the Order of the Municipal Court. The date of the Court Order shall be considered Day Zero (0).

**Cross reference** – Appeal; Section 4-692.

**State law references –**

V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs", § 822.042 Requirements for owner of Dangerous Dog.

V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs", § 822.0424 Appeal.

**Sec. 4-692. - Appeal.**

The Owner of the dog or other animal may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**State law reference** – V.T.C.A., Health and Safety Code, Title 10, Chapter 822, Subchapter D. "Dangerous dogs", § 822.0424 Appeal.

**Sec. 4-693. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the Order. The date of the Municipal Court's Order shall be considered Day Zero (0).
- (b) *Date of euthanasia.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction, if ordered by the court, the dog or other animal may be euthanized, or other disposition made as authorized, on the sixteenth (16th) calendar day following the Order of the Municipal Court. The date of the Municipal Court's order shall be considered Day Zero (0). Otherwise, if appealed, the date of euthanasia shall be the date the Court's decision or Order becomes final as may be determined by a court of appropriate jurisdiction.

**Cross references –**

Disposition of a dog/animal declared to be a dangerous dog or dangerous animal; Section 4-690.

Appeal; Section 4-692.

Euthanasia; Section 4-624.

**Sec. 4-694. - Escape or subsequent attack – registered dangerous dog/animal.**

- (a) In the event that a registered dangerous dog or dangerous animal escapes its enclosure or attacks a person or another animal, the owner of the dangerous dog/animal shall:
  - (1) notify the Animal Services Manager, or his or her designee; and
  - (2) the owner shall provide written documentation of the incident to the Animal Services Manager within one (1) business day of becoming aware of the escape or attack. The written documentation may be delivered by hand, U.S. Mail, or email.
- (b) Upon affidavit of any Enforcement Agent, the City Attorney or his or her designee, may petition the Municipal Court for a non-compliance hearing.

**Cross references –**

Authority of Municipal Court; Section 4-683.

Actions upon receipt of a reported alleged incident or noncompliance; Section 4-685.

Offenses related to dangerous dogs and dangerous animals; Section 4-696.

**Sec. 4-695. - Death of a registered dangerous dog/animal.**

- (a) In the event that a registered dangerous dog or dangerous animal dies, the owner must present the body of the dog/animal to the Animal Services Division or a licensed veterinarian for verification by microchip identification before disposal of its body.
- (b) If the owner presents the dog/animal to a licensed veterinarian, the owner shall provide written verification of the microchip reading to the Animal Services Division within three (3) business days of the scanning.

**Sec. 4-696. - Offenses related to dangerous dogs and dangerous animals.**

- (a) A person commits an offense if he or she allowed a dog or other animal that has been determined to be a dangerous dog or dangerous animal to:
  - (1) be kept or remain on a porch, patio, or in any part of a house or structure that would allow the dog/animal to exit of its own volition; or
  - (2) be kept in a house or structure when any window is open or when any screen window or screen door is the only obstacle preventing the dog/animal from exiting the structure; or
  - (3) be outside of the owner's residence or its secure enclosure unless the dog/animal is under continuous direct physical control by a person of competent mental and physical ability to restrain the dog/animal under all circumstances; or
  - (4) be tethered to an inanimate object, including, but not limited to a tree, post, or building, for any length of time; or
  - (5) be outside its secure enclosure without being securely fitted with a muzzle that will prevent the dog/animal from biting other animals or persons without causing injury to the dangerous dog or dangerous animal or interfering with its vision or respiration.
- (b) An owner of a registered dangerous dog or dangerous animal commits an offense by refusing, upon request by an Enforcement Agent, to make his or her dog/animal, premises, facilities, equipment, and any necessary permits available for inspection at any reasonable time.
- (c) An owner of a registered dangerous dog/animal commits an offense by failure to maintain the requirements/conditions in Section 4-690 (c)(2) (dogs) or (c)(3) (animals) for the remainder of the dog's or animal's life.
- (d) A person commits an offense by failure to provide notice, or the written documentation, that a registered dangerous dog or dangerous animal escaped its enclosure or attacked a person or another animal as required in Section 4-694 (Escape or subsequent attack – Registered dangerous dog/animal).

**Cross references –**

Disposition of a dog/animal declared to be a dangerous dog or dangerous animal; Section 4-690.  
Escape or subsequent attack – Registered dangerous dog/animal; Section 4-694.

**Secs. 4-697 – 4-720. – Reserved.**

### ARTICLE XIII. - AGGRESSIVE ANIMALS (TO ANIMALS)

#### Sec. 4-721. - In general.

This division outlines the process and procedures for:

- (a) determining whether a *domestic animal* is an aggressive animal following an alleged aggressive animal incident; and
- (b) whether the owner of a *domestic animal* previously declared to be an aggressive animal has complied with the requirements for owners of aggressive animals.

#### Sec. 4-722. - Definitions.

The following definitions, along with the definitions located in Section 4-8 of this chapter, are applicable to this division. In the case of a conflict with this section and Section 4-8, this section controls.

**Aggressive animal** means:

- (a) A *domestic animal* that:
  - (1) has on one (1) occasion attacked another domestic animal and caused serious bodily injury or death to the other animal; or
  - (2) has on at least two (2) separate occasions, without provocation, attacked or bitten any domestic animal and caused bodily injury to the animal; or
  - (3) Any animal in which an Enforcement Agent has reason to believe, upon probable cause, has an aggressive disposition likely to be harmful to domestic animals.
- (b) *When the attacking animal is at large.* An animal, including a dog, that makes an unprovoked attack on a domestic animal which occurs when the attacking animal is at large, the Court may take into consideration, any or all of the following circumstances, to determine whether or not the attacking animal is aggressive:
  - (1) The seriousness and/or extent of the injury to the attacked domestic animal;
  - (2) Territorial issues associated with the location of the attack; and
  - (3) The manner in which the attacking animal was restrained immediately prior to and at the time of the attack.

**Owner** means a person who *owns* or is a *Keeper* of the animal as defined in Section 4-8.

**Secure** means to take steps that a reasonable person would take to ensure an animal remains on the owner's property, including confining the animal in an enclosure that is capable of preventing the escape or release of the animal.

**Enclosure** means an animal housing enclosure that meets all of the following criteria:

- (1) is locked;
- (2) is capable of preventing the entry of the general public, including children;
- (3) is capable of preventing the escape or release of an animal in the enclosure;
- (4) prevents the parts of an animal confined within from extending over, under, or through the enclosure;
- (5) is clearly marked as containing an aggressive animal; and
- (6) complies with all additional requirements as established and provided in writing to the owner by the Court Order or this chapter.

**Secure enclosure** means an outdoor animal housing enclosure that meets all of the following criteria:

- (1) is located inside a separate fenced area;
- (2) is locked;
- (3) is capable of preventing the entry of the general public, including children;
- (4) is capable of preventing the escape or release of an animal in the enclosure;
- (5) prevents the parts of an animal confined within from extending over, under, or through the enclosure;
- (6) is clearly marked as containing an aggressive animal;
- (7) has an attached, secure roof;
- (8) has a concrete floor or sides buried not less than two (2) feet into the ground and constructed to prevent the animal from digging under the secure enclosure and escaping;
- (9) is located a minimum of five (5) feet from any fence line or wall that abuts private property or a public area; and
- (10) complies with all additional requirements as established and provided in writing to the owner by the Court Order or this chapter.

**Sec. 4-723. - Authority of Municipal Court.**

- (a) *Declaration of an aggressive animal.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that an animal is an aggressive animal.
- (b) *Animal previously declared an aggressive animal and in noncompliance with this division.* The Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, whether the owner of an animal, that has been declared an aggressive animal, has complied with the requirements as provided for in this division.
- (c) The Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross reference** – Mesquite Municipal Court jurisdiction; Section 4-5.

**Sec. 4-724. - Reporting.**

A person may contact the Animal Services Division, the Mesquite Police Department, or any Enforcement Agent to report an alleged aggressive animal incident.

**Sec. 4-725. - Actions upon receipt of a reported alleged incident or noncompliance.**

- (a) *Issuance of citation(s) at the time of the alleged violation.*
  - (1) Upon complaint by a witness, an Enforcement Agent may issue criminal citation(s), if applicable, at the location where the alleged violation(s) occurred.
  - (2) The Enforcement Agent shall file a copy of the citation with Municipal Court for processing.
- (b) *Filing an affidavit with the Animal Services Division or the City Municipal Court.*
  - (1) *Affidavit and evidence.*
    - a. *Incident Affidavit – Regarding an alleged aggressive animal.* The Animal Services Manager, any Enforcement Agent, or the Municipal Court may receive a sworn affidavit from any person concerning an alleged aggressive animal as provided for under this division.
    - b. *Noncompliance Affidavit – Regarding alleged noncompliance with this division.* The Animal Services Manager, any Enforcement Agent, or the Municipal Court may receive a sworn affidavit from any person concerning an animal, that has previously been declared an aggressive animal and where the Owner or Keeper is allegedly in noncompliance with this division.

- c. A sworn affidavit may be made by any person, including but not limited to the City Attorney or his or her designee, an Enforcement Agent, or a peace officer.
  - d. An affidavit, and any supporting witness statements, filed pursuant to this section shall be in writing and sworn to and may be on a form prescribed by the Animal Services Manager. The affidavit shall contain at least the following information:
    - 1. name, address, and telephone number of person(s) making the report and of any other witnesses;
    - 2. a description of the animal and the address where it resides, and, if known, the name and telephone number of the owner, as defined by this article, of the animal;
    - 3. a statement describing the facts upon which the report is based including a description of the alleged incident or alleged noncompliance;
    - 4. the date, time, and location of the alleged incident(s);
    - 5. a description of the injuries sustained and whether medical or veterinarian assistance was sought and the outcome of that treatment; and
    - 6. any other facts that the person making the report believes to be important.
  - e. The complaining witness may also provide any recordings, videos, photos, or other evidence if applicable.
- (2) *Animal Services Division.* The Animal Control Authority, or any Enforcement Agent, who receives an affidavit in accordance with this section, after an investigation, may forward said affidavit, along with any recordings, videos, photos, and any other evidence provided, to the Municipal Court to initiate a hearing.
- (3) *Municipal Court.* In the case where impoundment is required pursuant to this article, the Court summons shall notify the owner of the animal(s), that he or she must deliver the animal(s), for impoundment pending the hearing, to the Animal Control Authority not later than the fifth (5<sup>th</sup>) calendar day after the date on which the owner receives notice that the formal complaint has been filed.

**Cross reference** – Impoundment of animal pending hearing; Section 4-726.

#### **Sec. 4-726. - Impoundment of animal pending hearing.**

Impoundment pending a hearing may be required of the animal alleged to be an aggressive animal in accordance with this section.

- (a) *Impoundment required pending hearing.*
  - (1) If the alleged aggressive animal caused the serious bodily injury or death of another animal, then impoundment is required pending the outcome of a hearing.
    - a. *Owner delivers animal for impoundment.* The owner of the animal shall deliver the animal to the Animal Control Authority not later than the fifth (5<sup>th</sup>) calendar day after the date on which the owner receives notice that the report/complaint has been filed with the Municipal Court. The animal shall remain impounded in accordance with this section pending the outcome of the hearing.
    - b. *Warrant for seizure of the animal.* If the owner fails to deliver the animal pending the outcome of the hearing, the following is authorized:

1. The Court may order the Animal Control Authority to seize the animal and may issue a warrant authorizing the seizure.
2. The Animal Control Authority shall comply with any warrant issued by the Court for seizure of the animal or order its seizure and shall provide for the impoundment of the animal in secure and humane conditions until the Court orders the disposition of the animal.
3. The owner shall pay any cost incurred in seizing the animal.
4. The animal shall remain impounded in accordance with this section pending the outcome of the hearing.

c. *Impoundment location and at owner's expense.* The animal shall be impounded and boarded at the owner's expense at the Animal Services Facility, or any other state approved quarantine facility, pending the outcome of the hearing before the Municipal Court.

(b) *Animals impounded prior to receipt of notice of hearing.* If the animal that is the subject of the hearing was already impounded for being an animal at large, was seized pursuant to this chapter, or was abandoned at the Animal Services Facility, the animal shall remain impounded until the conclusion of the hearing.

(c) *Offenses:*

- (1) A person commits an offense if he or she interferes with the lawful seizure or impoundment of an animal by an Enforcement Agent.
- (2) A person commits an offense if he or she harbors, hides, transports, or secures the transport of any animal for the purpose of preventing its impoundment.
- (3) A person commits an offense if the person operates or manages a quarantine facility other than the Animal Services Facility, and he or she fails to properly confine the animal to prevent its escape, releases it to any person, or fails to account for the animal's whereabouts. This subsection shall not apply if the person operating or managing the quarantine facility first obtains written permission from the Animal Control Authority to release the animal.

**Cross reference** – Animal shelter fees; Section 3-104, Art. III, Appendix D – *Comprehensive Fee Schedule*.

**Sec. 4-727. - Notice.**

(a) *Set date of hearing.* The hearing must be held within (10) calendar days on which the animal is seized and impounded. If the animal has not been impounded, the Court shall set a hearing in accordance with its rules or law.

(b) *Notice.*

- (1) The Municipal Court shall give written notice of the date, time, and place of the hearing to:
  - a. the owner of the animal or the person from whom the animal was seized;
  - b. the person who made the complaint/report; and
  - c. the Animal Control Authority.
- (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**Sec. 4-728. - Hearing.**

Any interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Reporting party of the alleged aggressive animal incident;
- (4) Any witnesses; and
- (5) Owner(s) of the animal and/or the person(s) having been in care, custody, or control.

**Sec. 4-729. - Determination by the Municipal Court.**

- (a) *In general.* After notice and hearing, the Court shall determine, by a preponderance of the evidence, whether the domestic animal is an aggressive animal as defined by this division.
- (b) *Decision.*
  - (1) *Determination an animal is an aggressive animal.* Upon determination that the animal is an aggressive animal, as defined by this division, the Municipal Court shall order its disposition, in accordance with Section 4-730, as is necessary to preserve the public health, safety, or welfare.
    - a. *Exclusions.* No animal may be found to be an aggressive animal if the Municipal Court finds by a preponderance of the evidence that:
      1. the animal was injured and responding to pain; or
      2. the complaint/report filed against it is based solely on the animal's species, size, or physical appearance; or
      3. the attack, bite, or mauling occurred while the animal was being used by a peace officer for law enforcement purposes.
    - b. *Continued impoundment until the Court orders the disposition of the animal.* Upon determination the animal is an aggressive animal, the Municipal Court may order the Animal Control Authority to continue to impound the aggressive animal in secure and humane conditions until the court orders disposition of the animal in accordance with this division (Section 4-730).
  - (2) *Court determines the animal is not an aggressive animal.*
    - a. Upon the determination that the animal is not an aggressive animal the Municipal Court may order that it be promptly returned to its Owner's custody.
    - b. The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner.

**Cross reference** – Disposition of an animal declared to be an aggressive animal; Section 4-730.



**Sec. 4-730. - Disposition of an animal declared to be an aggressive animal.**

If the Municipal Court makes a finding and decision that the animal is an aggressive animal, then the Court may order one (1) of the following:

- (a) **Return animal to owner.** Return of the animal to the Owner Keeper with or without conditions as may be set by the Court.
  
- (b) **Registration of animal as an aggressive animal.**
  - (1) Return to the owner the animal, as a registered aggressive animal, after the owner demonstrates compliance with this chapter and the following requirements and conditions. The court may include in its order provisions for declassification as an “aggressive animal” pursuant to Section 4-735.
  
  - (2) *Requirements and conditions for keeping an aggressive animal in the City.* The owner shall maintain compliance with the Court’s requirements and conditions.
    - a. Registering the aggressive animal with the City by providing the name and address of the owner; the species, breed, age, sex, color and any other identifying marks of the animal; the address where the animal is to be kept; and at least two (2) color photographs that clearly identify the aggressive animal.
  
    - b. Implant and maintain a microchip into the animal at owner’s expense and register it as an aggressive animal with the Animal Services Division.
  
    - c. Provide written notice of the animal’s designation as aggressive to the owner or landlord of the property where the animal will be kept.
  
    - d. Pay the appropriate aggressive animal annual permit fee. Permits expire on December 31st each year. See [Appendix D – Comprehensive Fee Schedule](#); Art. III, Section 3-103 (Animal registration fees) for applicable fees.
  
- (3) The Municipal Court may also order one (1) or more of the following additional requirements or conditions:
  - a. The Court may require enclosures (for animals kept primarily outdoors):
    - 1. *Enclosure.* The animal shall be confined within an *enclosure*, as defined by this article, whenever the dog/animal is outdoors and not on a leash; or
  
    - 2. *Secure enclosure.* Animals required to become registered aggressive animals in accordance with this sub-section and having caused the death of another animal, shall be confined within a *secure enclosure*, as defined by this article, whenever the dog/animal is outdoors and not on a leash.
  
  - b. The Court may require the owner to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).
  
  - c. The Court may require the owner shall not permit the dog, or other animal, to be off the owner’s premises unless the dog/animal is muzzled and restrained by an adequate leash and under the control of a capable person.
  
  - d. The Court may require proof of animal sterilization.
  
  - e. The Court may establish any other such requirements as authorized by law within the Court’s discretion and judgment.

(c) ***Removal of the aggressive animal from within the City limits.***

- (1) Prior to the release of the animal from impoundment and/or quarantine the owner shall make the animal available to the Animal Services Facility for scanning of the microchip implanted in the animal, if applicable, and provide to the Animal Services Manager, in writing, all of the following:
  - a. The destination address of where the animal is to reside and the name of the person who will have care, custody, or control of the animal at the destination address;
  - b. Proof that the owner has alerted the agency responsible for animal services in that area; and
  - c. Proof that a microchip has been implanted into the animal, if applicable.
- (2) ***Offenses.***
  - a. A person commits an offense by removing the animal from the City under this section and failing to:
    1. Implant a microchip in the animal, if applicable; or
    2. Provide proof of the implanting of the microchip, if applicable; or
    3. Make the animal available for scanning.
  - b. A person commits an offense by removing the animal from a state approved quarantine facility prior to complying with the notice requirements in subsection (c)(1).
  - c. A person commits an offense by allowing an animal that has been determined to be an aggressive animal and ordered to be removed from the city limits to return to the City.

(d) **Euthanasia.**

- (1) An animal declared to be an aggressive animal:
  - a. may be ordered to be euthanized if the Municipal Court makes a finding that the animal caused serious bodily injury or death to another animal; or
  - b. may be ordered to be euthanized if the owner of the animal requests euthanasia of the animal.
- (2) Euthanasia shall be in accordance with this chapter.
- (3) An animal may be euthanized upon the Court's decision becoming final, in accordance with this division (Section 4-732), or the animal may be immediately euthanized upon the Owner's request and written consent.

**Cross references –**

Additional judicial authority; Section 4-175.  
Appeal; Section 4-731.  
Date decision is final; Section 4-732.  
Euthanasia; Section 4-624.

**Sec. 4-731. - Appeal.**

The Owner of the dog or other animal may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**Sec. 4-732. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the Order. The date of the Municipal Court's Order shall be considered Day Zero (0).
- (b) *Date of euthanasia or other disposition.* Unless the Municipal Court's decision or Order is appealed to a court of appropriate jurisdiction, if ordered by the Court, the dog or other animal may be euthanized, or other disposition made as authorized, on the sixteenth (16th) calendar day following the order of the Municipal Court. The date of the Municipal Court's Order shall be considered Day Zero (0).

**Cross references –**

Disposition of an animal declared to be an aggressive animal; Section 4-730.  
Appeal; Section 4-731.  
Euthanasia; Section 4-624.

**Sec. 4-733. - Escape or subsequent attack – registered aggressive animal.**

- (a) In the event that a registered aggressive animal escapes its enclosure or attacks a person or another animal, the owner of the aggressive animal shall:
  - (1) notify the Animal Services Manager, or his or her designee; and
  - (2) the owner shall provide written documentation of the incident to the Animal Services Manager within one (1) business day of becoming aware of the escape or attack. The written documentation may be delivered by hand, U.S. Mail, or email.
- (b) Upon affidavit of any Enforcement Agent, the City Attorney or his or her designee, may petition the Municipal Court for a non-compliance hearing.

**Cross references –**

Authority of Municipal Court; Section 4-723.  
Actions upon receipt of a reported alleged incident or noncompliance; Section 4-725.  
Offenses related to aggressive animals; Section 4-736.

**Sec. 4-734. - Death of a registered aggressive animal.**

- (a) In the event that a registered aggressive animal dies, the owner must present the body of the animal to the Animal Services Division, or a licensed veterinarian, for verification before disposal of its body.
- (b) If animal is implanted with a microchip and the owner presents the animal to a licensed veterinarian, the owner shall provide written verification of the microchip reading to the Animal Services Division within three (3) business days of the scanning.

**Sec. 4-735. - Declassification of an aggressive animal.**

- (a) *Declassification of an aggressive animal by court order.*
  - (1) The Court Order declaring an animal as an aggressive animal may include a provision for declassification as an "aggressive animal" when the owner or keeper of an aggressive animal meets all of the conditions in this chapter for a period of two (2) years and the animal has had no further incident. Declassification of an aggressive animal shall not be authorized when the animal has caused the death of another animal.
  - (2) After the two (2) year period, the restrictions and classification of an aggressive animal may then be removed with the exception of the outdoor enclosure requirements.
  - (3) Upon written request by the owner/keeper of an aggressive animal, the Animal Services Manager shall verify the conditions exist for "declassification" and shall provide notification in writing to the owner and/or keeper of the declassification of the animal as an aggressive animal.

- (b) *Petition the court for a hearing for declassification of an aggressive animal.*
  - (1) If the original Court Order declaring an animal as an aggressive animal does not provide for automatic declassification, an owner and/or keeper of an aggressive animal may petition the City Municipal Court for a declassification hearing in accordance with this section. Declassification of an aggressive animal shall not be authorized when the animal has caused the death of another animal.
  - (2) When the owner or keeper of an aggressive animal meets all of the conditions in this chapter for a period of two (2) years and the animal has had no further incident, the restrictions and classification of an aggressive animal may be removed by Court Order with the exception of the outdoor enclosure requirements.
  - (3) After the two (2) year compliant period, the owner and/or keeper may petition the City Municipal Court for a hearing for declassification of the animal as an aggressive animal.
  - (4) After a hearing, the Court may order certain restrictions and the classification of an aggressive animal may be removed; except, the requirement to keep the animal, while outdoors, in an enclosure shall remain a requirement and any Order rendering declassification shall reflect the same.

**Sec. 4-736. - Offenses related to aggressive animals.**

- (a) A person commits an offense by allowing an animal that has been determined to be an aggressive animal to:
  - (1) be kept or remain on a porch, patio, or in any part of a house or structure that would allow the animal to exit of its own volition; or
  - (2) be kept in a house or structure when any window is open or when any screen window or screen door is the only obstacle preventing the animal from exiting the structure; or
  - (3) be outside of the owner's residence or its secure enclosure unless the animal is under continuous direct physical control by a person of competent mental and physical ability to restrain the animal under all circumstances.
- (b) A person commits an offense by allowing an animal that has been determined to be an aggressive animal to be tethered to an inanimate object, including, but not limited to a tree, post, or building, for any length of time.
- (c) A person commits an offense by allowing an animal that has been determined to be an aggressive animal to be outside its enclosure or secure enclosure without being securely fitted with a muzzle that will prevent the animal from biting other animals or persons without causing injury to the an aggressive animal or interfering with its vision or respiration.
- (d) An owner of a registered aggressive animal commits an offense by refusing, upon request by an Enforcement Agent, to make his or her animal, premises, facilities, equipment, and any necessary permits available for inspection at any reasonable time.
- (e) An owner of a registered aggressive animal commits an offense by failure to maintain the requirements/conditions in Section 4-730 (b)(2) and (b)(3) for required time period.
- (f) A person commits an offense by failure to provide notice, or the written documentation, that a registered an aggressive animal escaped its enclosure or attacked a person or another animal as required in Section 4-733 (Escape or subsequent attack – registered aggressive animal).

**Cross references -**

Disposition of an animal declared to be an aggressive animal; Section 4-730.

Escape or subsequent attack – registered aggressive animal; Section 7-733.

**Secs. 4-737 – 4-780. – Reserved.**

## ARTICLE XIV. -REGULATED AND PROHIBITED ANIMALS AND OTHER SPECIES

### DIVISION 1. - LIVESTOCK.

#### Sec. 4-781. - Livestock defined.

**Livestock** means domesticated animals typically kept to provide food or fiber or perform work, whether or not they actually provide these functions, including but not limited to, and regardless of age, sex, or breed:

- (1) horses, consisting of all equine species including ponies, mules, donkeys, jackasses, and burros;
- (2) cattle, consisting of all bovine species including cows and bulls;
- (3) sheep, consisting of all ovine species;
- (4) alpacas and llamas;
- (5) goats, consisting of all caprine species;
- (6) rabbits kept primarily outdoors or raised as a food or fiber source;
- (7) fowl such as chickens, ducks, geese, guinea fowl, peafowl, peacocks, roosters, swans, and turkeys; and
- (8) pigs, sows, and domesticated hogs, consisting of all swine species except feral hogs.

#### Sec. 4-782. - Locations and quantities for keeping livestock.

- (a) *In General.* A person may keep livestock in locations and quantities within the City limits in accordance with the Mesquite Zoning Ordinance ([Appendix C](#)) and/or an approved Special Exception granted by the Board of Adjustment.
- (b) *Offense.* A person commits an offense if he or she keeps livestock in a location, or in quantities, other than as authorized by the Mesquite Zoning Ordinance ([Appendix C](#)) and/or an approved Special Exception granted by the Board of Adjustment.
- (c) *Exclusions.*
  - (1) Veterinary hospitals, wildlife educational centers, school agricultural barns, and fair grounds, when livestock is kept therein for exhibition or veterinary treatment purposes, are exempt from this section.
  - (2) City property, including parks, are exempt from this section.

**Cross reference** – Burden of proving exception; excuse, etc., in prosecution for violation of Code; [Section 1-10](#).

#### Sec. 4-783. - Keeping of livestock.

- (a) *In General.*
  - (1) A person authorized to keep livestock in accordance with the Mesquite Zoning Ordinance ([Appendix C](#)), this chapter, and/or an approved Special Exception granted by the Board of Adjustment shall do so in a manner that does not create a nuisance.
  - (2) Pens, barns, stables, or other housing facilities shall meet the requirements of the City Building Code and any other applicable codes in [Chapter 5 – Buildings and Construction](#), and the Mesquite Zoning Ordinance ([Appendix C](#)), and are maintained in such a way as to prevent them from creating a nuisance for any surrounding businesses or residences.
- (b) *Offenses.*
  - (1) *Odors.* A person commits an offense if he or she keeps livestock in pens or enclosed areas in such a manner as to create odors which are offensive to other persons living nearby.
  - (2) *Manure and other excrement.* A person commits an offense if he fails to dispose of manure and other excrement in such a manner as to prevent the odor from becoming offensive, to the ordinary sensibilities of a person in the vicinity, or causing unhealthy conditions to any person.

- (3) *Estray.* A person commits an offense if he is the owner of livestock and allowed an estray to be unattended upon any public street, alley, thoroughfare, or upon the property of another in the corporate city limits.

**Sec. 4-784. - Care and treatment of livestock.**

- (a) Cruelty to livestock is prohibited in accordance with Texas Penal Code, Title 9, Chapter 42, § 42.09, or successor and as amended.
- (b) All animals shall be kept in a sanitary manner.
- (c) Livestock standings.
  - (1) Livestock standings shall be constructed of concrete, compacted caliche, or other equally impervious material that can be easily cleaned where bovines, equines, swine, goats, or sheep are kept; or any other livestock when kept for commercial purposes.
  - (2) Such standings shall be located under the roofed areas and shall be the size of the roofed areas.
  - (3) All manure and other animal wastes from livestock shall be removed from pens, corrals, or standings at least once each day. This material shall be deposited in a manure storage bin of concrete or metal construction and shall be provided with a fly-tight lid. Such manure and other animal wastes shall be removed from this bin at least once each week to an approved disposal site.

Cruelty to Livestock Animals; V.T.C.A. Penal Code, Title 9, Chapter 42; § 42.09.

**Secs. 4-785 – 4-810. – Reserved.**

**DIVISION 2. - PROHIBITED ANIMALS.**

**Sec. 4-811. - Prohibited animals defined.**

- (a) A **prohibited animal** shall mean:
- (1) Any *wild animal*, as defined by Section 4-8, which includes *exotic animals* and *wildlife*;
  - (2) Any animal, or other species, that presents a serious threat to public health or safety, including animals not normally born and raised in captivity including, but not limited to, the following:
    - a. Reptiles (venomous): venomous lizards, venomous snakes, crocodiles, alligators, caimans, komodo dragons, gavials and gharials; but does not include nonvenomous reptiles.
    - b. Amphibians (poisonous): poisonous frogs; but does not include nonpoisonous amphibians.
    - c. Mammals:
      1. Felines (such as bobcats, caracal, cheetahs, cougars, jaguars, leopards, lions, lynx, ocelot, panthers, serval, and tigers); except commonly domesticated cats;
      2. Canines (such as coyotes, dingos, foxes, hyena, jackals and wolves, and any hybrid of a canine); except commonly domesticated dogs;
      3. Feral hogs;
      4. Mustelids (such as badgers, martins, minks, otters, skunks, and weasels); except the domestic ferret (*Mustela putorius furo*);
      5. Procyonids (such as coati and raccoons);
      6. Bears;
      7. Marsupials (such as bandicoots, kangaroos, koala bears, opossums, wallabies, and wombats);
      8. Bats;
      9. Anteaters, armadillos, sloths, and related species;
      10. Elephants;
      11. Rhinoceros;
      12. Hippopotamuses;
      13. Primates (such as baboons, chimpanzees, drills, gibbons, gorillas, mandrill, monkeys, orangutans, and siamangs); and
      14. Rodents (such as beavers and porcupines); except commonly domesticated rodents kept as pets including hamsters, gerbils, guinea pigs, rats, mice, and chinchillas.
- (b) A prohibited animal shall also mean any animal, or other species, kept in such quantities or locations not otherwise authorized in this chapter or in the Mesquite Zoning Ordinance ([Appendix C](#)).
- (c) A prohibited animal does not include any *domestic animal* as defined in Section 4-8.

**Similar State law provisions** – “Dangerous wild animal” § 822.101, Texas Health and Safety Code.

**Sec. 4-812. - Offenses.**

(a) **Offenses.**

- (1) A person commits an offense if he or she possesses any prohibited animal within the City.
- (2) A person commits an offense if he or she is aware of a prohibited animal, capable of causing serious bodily injury or death to a person, being possessed in the City and fails to notify the Animal Services Division.

(b) **Affirmative defenses.**

It is an affirmative defense to prosecution if the Owner or Keeper proves by a preponderance of the evidence that the prohibited animal:

- (1) is owned by and in the custody and control of a transient circus company that is not based in this state if:
  - a. the animal is used as an integral part of the circus performances; and
  - b. the animal is kept within this City only during the time the circus is performing in this City;or
- (2) is being used for lawful exhibition purposes; or
- (3) was in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this City; or
- (4) was being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act; or
- (5) is owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university; or
- (6) is owned by or in the possession, custody, or control of a governmental agency or entity performing a governmental function; or
- (7) is owned by or in the possession, custody, or control of is an organization that is an accredited member of the Association of Zoos and Aquariums; or
- (8) is owned by or in the possession, custody, or control of a permitted wildlife educational center that is also in possession of all necessary state and federal permits to possess the animal and is in compliance with all restrictions of the state and/or federal permits; or
- (9) is owned by or in the possession, custody, or control of a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act; or
- (10) is owned by or in the possession, custody, or control of a registered wildlife rehabilitator in possession of an allowed indigenous wild animal who holds all necessary state and federal permits to possess the animal and is in compliance with all restrictions of this section and their state and/or federal permits; or
- (11) is an injured, infirm, orphaned, or abandoned prohibited animal while being transported for care or treatment; or
- (12) is owned by or in the possession, custody, or control of a permitted zoological educational outreach display that is also in possession of all necessary state and federal permits to possess the animal and is in compliance with all restrictions of this section and their state and/or federal permits.

**Cross reference** – Burden of proving exception; excuse, etc., in prosecution for violation of Code; [Section 1-10](#).

**Similar State law provisions** – § 822.102, Texas Health and Safety Code.

**Secs. 4-813 – 4-840. – Reserved.**



**DIVISION 3. - COURT HEARING FOR DISPOSITION OF A PROHIBITED ANIMAL.**

**Sec. 4-841. - In general.**

This division outlines the process and procedures for animals seized pursuant to this article that have been impounded as alleged prohibited animals. On affidavit of any Enforcement Agent, the City Attorney or his or her designees may petition the Mesquite Municipal Court for a hearing to determine whether the animal is a prohibited animal for the purpose of enforcing health and safety and determining the disposition of the animal. Any such hearing under this division, is in addition to, and separate from, proceedings resulting from the issuance of a criminal citation for violation of this chapter.

**Cross reference** – “Prohibited animal” defined; Section 4-811.

**Sec. 4-842. - Authority of the Mesquite Municipal Court.**

- (a) The Mesquite Municipal Court may make the determination, after notice and hearing, upon a preponderance of the evidence, that an animal or animals are prohibited animals and may order the disposition of the animal in accordance with this division.
- (b) The Mesquite Municipal Court has full authority and jurisdiction over any other matter as provided by law.

**Cross reference** – Mesquite Municipal Court jurisdiction; Section 4-5.

**Cross reference** – “Prohibited animal” defined; Section 4-811.

**Sec. 4-843. - Initiating a hearing.**

- (a) Animals seized pursuant to this article may be impounded and on affidavit of any Enforcement Agent, the City Attorney or his or her designee, shall petition the Municipal Court for a hearing to determine whether the animal is a prohibited animal and to determine the disposition of the animal.
- (b) The petition shall be filed within forty-eight (48) hours of the seizure and impoundment. If the court is not open during this 48-hour period, the petition shall be filed the next day the court is open for business.
- (c) If an Owner or Keeper of an alleged prohibited animal that has been seized and impounded, in accordance with this chapter, relinquishes and releases all rights and ownership to the City, an Enforcement Agent is not required to request a hearing. The City may make any disposition of the animal in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), except that the prohibited animal shall not be returned to the Owner or Keeper.

**Sec. 4-844. - Notice.**

- (a) *Set date of hearing.* The hearing must be held not later than the tenth (10th) calendar day after the date on which the animal is seized and impounded. If the animal has not been impounded, the Court shall set a hearing in accordance with its rules or law.
- (b) *Notice.*
  - (1) The Municipal Court shall give written notice of the date, time, and place of the hearing to:
    - a. the Owner or Keeper of the animal(s); and
    - b. the Animal Control Authority.
  - (2) Notice shall be posted, on the front door of the Owner and/or the premises where the animal was seized or as close to the front door as practicable, and notice shall also be made either by personal delivery or U.S. mail.

**Sec. 4-845. - Hearing**

Any interested party is entitled to present evidence at the hearing, including, but not limited to:

- (1) City Attorney, or his or her designee;
- (2) Animal Control Authority;
- (3) Reporting parties of complaints/reports;
- (4) Any witnesses; and
- (5) Owner(s) or Keeper(s) of the animal.

**Sec. 4-846. - Order of disposition or return of the animal.**

(a) *Court determines the animal is not a prohibited animal.*

- (1) Upon determination that the animal was not a prohibited animal, as defined by this chapter or other law, the Court shall issue a Court Order that the animal be promptly returned to its Owner's or Keeper's custody.
- (2) The Municipal Court shall have the authority and discretion to order the refund, reduction, or waiver any fees incurred to the Owner or Keeper.

(b) *Court declares the animal is a prohibited animal.* Upon determination that the animal is a prohibited animal, then the Municipal Court Judge may order the forfeiture of the person's ownership or possession of the animal(s), and award sole possession of the animal(s) to the City. The City's disposition of the animal may be in accordance with this chapter (Article XI; Division 4, Other Disposition of Impounded Animals), or as otherwise provided by Court order; except that the animal may not be returned to the Owner unless otherwise ordered by the Court.

**Cross reference** – "Prohibited animal" defined; Section 4-811.

**Sec. 4-847. - Appeal.**

The Owner of the animal may appeal the Municipal Court's Order or decision to a court of appropriate jurisdiction as may be authorized by law.

**Sec. 4-848. - Date decision is final.**

- (a) *Date of final decision.* Unless the Municipal Court's Order or decision is appealed to a court of appropriate jurisdiction as may be permitted by law, the Municipal Court Judge's decision is considered final on the sixteenth (16th) calendar day following the date of the order. The date of the Municipal Court's Order shall be considered Day Zero (0).
- (b) *Date of euthanasia or other disposition.* Unless the Municipal Court's Order or decision is appealed to a court of appropriate jurisdiction, if ordered by the court, the animal may be euthanized, or other disposition made as authorized, on the sixteenth (16th) calendar day following the Order of the Municipal Court. The date of the Municipal Court's Order shall be considered Day Zero (0).

**Secs. 4-849 – 4-860. – Reserved.**

**DIVISION 4. - MISCELLANEOUS.**

**Sec. 4-861. - Bees.**

- (a) *Location and limits.*
- (1) A person may not locate, or allow, a hive within ten (10) feet of the property line of a tract, as measured from the nearest point of the hive to the property line.
  - (2) Where bees in excess of two (2) hives are kept on agricultural land, such hives in excess of two (2) shall not be within one hundred (100) feet of an occupied dwelling, other than that of the owner or occupant of such premises, or of a public road or sidewalk.
- (b) *Conditions.* A person who keeps bees shall:
- (1) Maintain each colony in a healthy state; and
  - (2) Maintain the grounds near each hive in a sanitary manner; and
  - (3) Ensure that a convenient source of water is available to each colony at all times; and
  - (4) Mark each hive with the name and telephone number of the beekeeper.

**Cross reference** – Keeping of bees; Section 4-273.

**Cross reference**— Mesquite Zoning Ordinance, [Appendix C](#).

**State Law reference**— Bees, V.T.C.A. Agriculture Code, § 131.001 et seq.

**Sec. 4-862. - Falconry.**

A person commits an offense if he or she engages in or practices any falconry activities on any public land without obtaining prior written permission from the Animal Services Manager. Permission may only be granted for the purposes of exhibition or controlling and removing avian species deemed a nuisance.

**Sec. 4-863. - Pigeons.**

- (a) Persons may maintain a loft for domestic pigeons if kept for purposes such as racing, performing, or as exhibition show pigeons.
- (b) Every keeper of any pigeons shall confine the same in an enclosure or loft sufficient to prevent their running or flying at large, and such enclosure shall be maintained in a clean and sanitary condition at all times.
- (c) All pigeons allowed liberation for the purpose of exercise, training, or performing shall be under the direct supervision of the person at all times.

**Cross reference** — Pet Limits – Restriction on number of domestic animals kept on premises; Section 4-372.

**Cross reference** — Multiple Pet Permit; Art. IX, Division 2.

**Secs. 4-864 – 4-900. – Reserved.**

**EXHIBIT B**

**To Ordinance No. 4826**

**Appendix D – Comprehensive Fee Schedule  
Article III – Mark-up**

**APPENDIX D**  
**COMPREHENSIVE FEE SCHEDULE**

\* \* \*

**ARTICLE III. ~~COMMUNITY SERVICES~~ ANIMAL SERVICES DIVISION**

**Sec. 3-101. - Animal adoption fees.**

Fee per dog or puppy .....\$100.00

Fee per cat or kitten .....\$80.00

Fee for other domestic animals .....\$20.00

Fee for ~~altered~~ animal spayed or neutered prior to impoundment .....~~\$35.00~~40.00

**Sec. 3-102. – Animal permit fees.**

Breeder permit (Application processing fee) .....\$50.00

Breeder permit (Annual permit fee) .....\$50.00

Multiple pet permit (Application processing fee) .....\$50.00

Multiple pet permit (Annual permit fee) .....\$50.00

Trap rental (Refundable deposit) .....\$50.00

**Sec. 3-~~102~~103. - Animal ~~license~~registration fees.**

Dangerous dog (Annual registration fee – per Texas Health and Safety Code; § 822.043) .....\$50.00

Dangerous animal other than dogs (Annual registration fee) .....\$50.00

Aggressive animal (Annual registration fee) .....\$50.00

~~Registration fee per dog or cat six months of age or older .....\$15.00~~

~~Registration fee per neutered or spayed dog or cat .....\$5.00~~

~~Registration fee per dog or cat less than six months of age .....\$5.00~~

~~Duplicate registration certificate fee .....\$1.00~~

~~Dog kennel licensing and inspection fee per year .....\$100.00~~

**Sec. 3-~~103~~104. - Pound Animal shelter fees.**

Animal Disposal Fee for Veterinary Clinics (per animal) .....\$10.00

Impoundment fee for first time offenders .....\$20.00

Boarding fees per day .....\$5.00

Impoundment fee for repeat offenders .....\$40.00

Euthanasia fee .....\$25.00

Rabies vaccination fee .....\$10.00

~~Ten-day~~ Quarantine fee .....\$100.00

Microchipping fee .....\$10.00

Heartworm test fee .....\$10.00

[Editor's Note: Repeal Sec. 3-104 from Article III and move it to Article I. Administration; Sec. 1-102.]

~~Sec. 3-104. — Public health fees for copies.~~

~~Basic retrieval fee for paper copies:~~

~~Including cost for first 10 pages .....\$30.00~~

~~Plus additional charges:~~

~~For each page 11 — 60 .....\$1.00~~

~~For each page 61 — 400 .....\$0.50~~

~~For each remaining page .....\$0.25~~

~~Basic retrieval fee for records electronically stored:~~

~~Including the cost for the first 10 pages .....\$45.00~~

~~Plus charge for each additional page .....\$1.00~~

~~Fees for written responses to a written set of questions .....\$10.00~~

\* \* \*

## **EXHIBIT C**

**To Ordinance No. 4826**

**Appendix D – Comprehensive Fee Schedule  
Article I and III – Clean Version**

**APPENDIX D**  
**COMPREHENSIVE FEE SCHEDULE**

\* \* \*

**ARTICLE I. ADMINISTRATION**

\* \* \*

**Sec. 1-102. – Public health fees for copies.**

Basic retrieval fee for paper copies:

Including cost for first 10 pages .....\$30.00

Plus additional charges:

For each page 11—60 .....\$1.00

For each page 61—400 .....\$0.50

For each remaining page .....\$0.25

Basic retrieval fee for records electronically stored:

Including the cost for the first 10 pages .....\$45.00

Plus charge for each additional page .....\$1.00

Fees for written responses to a written set of questions .....\$10.00

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**ARTICLE III. ANIMAL SERVICES DIVISION**

**Sec. 3-101. - Animal adoption fees.**

Fee per dog or puppy .....\$100.00

Fee per cat or kitten .....\$80.00

Fee for other domestic animals .....\$20.00

Fee for animal spayed or neutered prior to impoundment .....\$40.00



**Sec. 3-102. – Animal permit fees.**

Breeder permit (Application processing fee) .....\$50.00  
Breeder permit (Annual permit fee) .....\$50.00  
Multiple pet permit (Application processing fee) .....\$50.00  
Multiple pet permit (Annual permit fee) .....\$50.00  
Trap rental (Refundable deposit) .....\$50.00

**Sec. 3-103. - Animal registration fees.**

Dangerous dog (Annual registration fee – per Texas Health and Safety Code; § 822.043) .....\$50.00  
Dangerous animal other than dogs (Annual registration fee) .....\$50.00  
Aggressive animal (Annual registration fee) .....\$50.00

**Sec. 3-104. - Animal shelter fees.**

Animal Disposal Fee for Veterinary Clinics (per animal) .....\$10.00  
Impoundment fee for first time offenders .....\$20.00  
Boarding fees per day .....\$5.00  
Impoundment fee for repeat offenders .....\$40.00  
Euthanasia fee .....\$25.00  
Rabies vaccination fee .....\$10.00  
Quarantine fee .....\$100.00  
Microchipping fee .....\$10.00  
Heartworm test fee .....\$10.00

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