

**Animal Control Ordinance  
Draft Version**

**ARTICLE I**

**GENERAL**

**Sec. 14-1. 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* means to abandon an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

*Abuse* means to torture, inflict unnecessary pain or suffering, or overwork an animal, or to abandon, neglect, or cause or allow an animal in the person's custody to fight with another animal.

*Adequate shelter* means a structure specifically designed to shelter animals, according to the size and type of such animal, that protects the interior from the elements, permits the animal to stand or lie on a dry surface, and allows egress from the shelter onto dry ground that is free of mud.

*Agricultural Area* means a tract of no less than three acres, designated as agricultural exempt property for the purpose of ad valorem taxes and zoned by the City as residential or industrial, that is used for agricultural purposes such as raising vegetables, fruits, trees, or grain, or raising farm poultry, horses, sheep, or cattle.

*Animal* means any living vertebrate, domestic or wild, excluding the human species.

*Animal control officer* means an employee of the city of Palestine designated by the local health officer to enforce the provisions of this chapter.

*Animal Shelter* means a location designated by the City Council to confine and care for animals impounded under this Chapter.

*At large* means every instance in which a dog is found to be beyond the custody and control of its owner or other person responsible for the dog. A dog is deemed to be "at large" when it is found off the premises of its owner or other person responsible for the dog and not under control by physical restraint such as a leash, cord or chain.

*Domestic animal* includes dogs, cats, horses, cows, swine, sheep, goats, ferrets, llamas, fish, and birds.

*Exotic animal* means a wild or exotic animal not commonly found as a domestic animal that creates a potential risk to public safety, including, but not limited to, bears, wolves,

lions, tigers, jaguars, leopards, cougars, alligators, crocodiles, caimans, snakes and reptiles that are venomous, apes or any other non-human primate, macaques, skunks, bats, bobcats, mountain lions, coyotes, wild hogs, cheetahs, panthers, foxes, and hybrids of such animals.

*Fowl* means chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other common domestic fowl, but not including caged pet birds such as parakeets, cockatiels, parrots, and canaries maintained inside a building.

*Guard dog* means a dog which has been specifically trained to attack that is used or is intended to be used for the purpose of protection of person or property.

*Harbor* means to, shelter, feed, or allow an animal to remain for more than 72 hours on property owned, occupied, or controlled by the harborer.

*Household pet* means any domestic animal typically maintained at the owners residence, including dogs, domestic cats, domestic caged birds, rabbits, hamsters, guinea pigs and similar rodents maintained in a cage, fish, reptiles and other species customarily and legally sold a local pet shop, but not including livestock or pot-bellied pigs.

*Impound* means to take into custody and place in an Animal Shelter.

*Livestock* means an animal raised for agricultural purposes, other than fowl, or an equine animal, including, but not limited to, a horse, mule, donkey, hog, sheep, goat, a head of species of cattle, emu, ostrich, or rhea.

*Neglect* means to fail to provide adequate food, shelter, and medical care.

*Owner* means any person owning, keeping, or harboring any animal or animals.

*Pack* means a group of more than two dogs that are at large and not under the control of any individual.

*Police dog* means a dog owned or used by a governmental law enforcement agency for law enforcement purposes.

*Restrain* means to physically control by holding, a leash, or enclosure within a fence, cage, or building.

*Service dog* means a domestic dog trained to provide assistance to a disabled person.

*Tag* means an identification tag issued by the City of Palestine to an owner of an animal when the animal has been registered by the City of Palestine.

#### **Sec. 14-2. Designation and Duties of the Animal Control Officer.**

The City Manager shall designate an Animal Control Officer charged with enforcing the provisions of this chapter, and Texas law relating to animals. The Animal Control Officer shall have the following duties:

- (a) Receiving and investigating all reports of animal bites and scratches to humans;
- (b) Receiving and investigating all reports of suspected rabid animals and acting as the local rabies authority;
- (c) Ordering quarantine, if appropriate, of any animal that has exposed an individual to rabies or is suspected of doing so; and
- (d) Other duties as set forth in this Chapter.

**Sec. 14-3. Disposal of Dead Animals.**

(a) The Animal Control Officer shall remove a deceased animal from premises which are used for nonresidential purposes. The owner of the animal or person in control of the premises on which the animal is located shall place the animal in a secure bag, place the bag on the curbside, and contact the Animal Control Officer for removal.

(b) If a deceased animal is located on a street, or public right-of-way, the Animal Control Officer shall remove the animal.

(c) If a deceased animal is a household pet, and is located at the premises which the animal resides, the owner or person with custody of the animal shall be responsible for the sanitary disposal of the deceased animal. If the deceased animal is not a household pet, the owner or person in control of the residential premises on which the animal is located shall place the animal in a secure bag, place the bag on the curbside, and call the Animal Control Officer for removal.

**Sec. 14-4. Authority to Kill, Impound, or Destroy Animals.**

(a) The Animal Control Officer, an authorized representative of the Animal Control Officer, and the licensed peace officers of the City of Palestine are authorized to:

(1) Kill an animal which poses an imminent danger to a person or property, including an animal at large suspected of having rabies, and the danger cannot be avoided by the capture and impoundment of the animal without unreasonable risk to the officer or the public;

(2) Impound an animal that is at large, injured, diseased, or a danger to the health of a person or another animal.

(3) Impound a dog or cat in heat that is not properly confined in a place where the dog or cat is not accessible to other at large dogs or cats.

(4) Except as provided by subsection (b) of this section, euthanize an impounded animal if the Animal Control Officer determines that the recovery of the animal from injury, disease or illness is unlikely.

(5) Enter onto privately-owned property for the purpose of capturing or killing an animal under this subsection.

(6) Remove an animal from a motor vehicle if the animal is confined in violation of Section 14-11(d)(6) and impound the animal after the officer removing it leaves written notice of the removal and impoundment, including the officer's name and contact information, in a conspicuous, secure location on or within the vehicle.

(b) An impounded animal shall not be euthanized pursuant to paragraph (a)(4) of this section if:

(1) the owner of the impounded animal reclaims the animal;

(2) the owner of the animal pays all outstanding fees;

(2) the Animal Control Officer is satisfied that the owner will care for the impounded animal humanely.

(c) An impounded animal that was injured on public property may be given adequate temporary medical treatment pending notification of the owner, at the owner's expense; however the animal may be euthanized under paragraph (a) (4) if appropriate.

#### **Sec. 14-5. Offenses.**

(a) Interference.

(1) It shall be an offense to interfere with, hinder, or prevent the Animal Control Officer, or the authorized representatives of the Animal Control Officer, in the discharge of duties prescribed in this chapter.

(2) It is an offense to use a stolen, counterfeit, or forged animal license receipt, license tag, license certificate, rabies vaccination certificate, or rabies vaccination tag.

(b) It shall be an offense to fail to take action required, or to take action prohibited, by Sections 14-31 – 14-33.

#### **Secs. 14-6 – 14-10. Reserved.**

## ARTICLE II

### TREATMENT OF ANIMALS

#### Sec. 14-11. Offenses.

(a) Failure to Control.

(1) It shall be an offense for the owner of an animal to permit the animal to:

(A) be at large;

(B) emit foul and offensive odors which are obnoxious to any person;

(C) enter the property of another and commit any act that would tend to disturb another person's ordinary sensitivities.

(D) unreasonably annoy or disturb another person at that person's residence by frequent or continuous howling, barking, or similar noisemaking;

(E) damage, destroy or deposit excrement upon public property or property not owned by the owner of the animal;

(F) keep a female dog or cat that is in heat in a place where the dog or cat is accessible to other at large dogs or cats; or

(G) chase or habitually or frequently snap at, jump at, or jump upon any pedestrian, any person on a bicycle, or a vehicle traveling lawfully on a public sidewalk or roadway.

(2) For purposes of this subsection (b), barking continuously for more than 20 minutes shall be deemed unreasonably annoying.

(3) It shall be an offense to bring an animal, other than a service animal or an animal involved in the Public Event, to a Public Event where notice of such prohibition is posted in conspicuous places throughout the event area by the organizer of the event.

(4) It shall be an offense to keep, in a single household, more than six household pets.

(5) It is an offense for the owner of a cat or dog required to be licensed by Section 14-31 to own, keep, or harbor the animal in the City without a license.

(b) Dangerous Animals.

(1) It shall be an offense to import, offer for sale, keep, maintain, or harbor in this city any:

(A) Dangerous animal as designated under Section 14-12 of this chapter, except as permitted by that Section.

(B) Endangered species as defined by the US Department of the Interior or the Texas Department of Parks and Wildlife.

(2) It is an exception to the offense defined in subsection (d) of this section if the animal is imported, offered for sale, kept, maintained, or harbored by:

(A) a bona fide publicly or privately owned zoological park;

(B) a bona fide research institution using animals for scientific research;

(C) a circus duly authorized to do business in the city; or

(D) an Animal Shelter properly authorized and duly licensed by the City.

(c) Cruelty.

(1) It is an offense to commit or causing to be committed any act of abuse, cruelty, neglect, harassment, or torture to any animal.

(2) It is an offense to intentionally cause an animal to be mutilated or inhumanely killed.

(3) It is not a defense to a charge under this subsection (d) that the defendant is the owner of the animal, or that the acts took place on private property.

(4) It is an offense to poison a domestic animal or to distribute poison or toxicants on public or private property in any manner whatsoever with the intent of poisoning any domestic animal.

(5) It is an offense to abandon an animal.

(6) It is an offense to confine an animal within or on an unattended motor vehicle under conditions that endanger the health and well-being of the animal. Such conditions include, but are not limited to:

(A) exposure to dangerous temperatures;

(B) without adequate food or water; or

(C) with a vicious animal.

(7) It is an offense to induce or encourage an animal to perform by using a chemical, mechanical, electrical or manual device in a manner which will cause, or is likely to cause, physical injury or suffering.

(8) It is an offense for an owner of an animal to fail to provide medical treatment by a licensed veterinarian to an animal having

(A) a potential life-threatening infestation of fleas, ticks, or other parasites;

(B) any obviously life-threatening illness or injury; or

(C) any other communicable illness which is transmissible to animal or human

(9) It is an offense to use, place, set, or cause to be set in the city any trap except a humane live animal traps. Steel-jawed traps and spring traps with teeth or perforated edges on the holding mechanism are expressly prohibited. Provided, however, that this prohibition shall not apply to:

(A) a commercially sold rat or mouse trap placed in a manner or in a location that will not endanger other animals or humans; or

(B) a trap that is specifically designed to kill the animal, and is used under the direction of the Animal Control Officer or an agent of another governmental entity authorized to trap in the city.

(d) Novelty Animals.

(1) It is an offense to possess, display, sell, barter, or give away dyed, colored, or anyway artificially treated chicks, ducklings, baby fowl, baby rabbits, or other baby animals as pets, playthings, novelties, or gifts.

(2) Provided, however, that this subsection shall not be construed to prohibit the display of such animals by hatcheries, stores, owners, dealers, or persons engaged in the business of selling such immature animals to be raised for food.

(e) Fighting.

(1) It is an offense to cause, instigate, or encourage an animal to fight with another animal.

(2) It is an offense to train or keep an animal for the purpose of fighting.

(3) It is an offense to maintain a place for any animal is permitted to fight for exhibition or for wager or for sport or profit.

(4) It is a defense to prosecution under paragraph (f)(1) that the actor caused an animal to fight with the other animal to protect livestock, other property, or a person from the other animal, and for no other purpose.

(f) Sale of Animals.

(1) It is an offense to display a domestic animal in a public place for the purpose of selling or giving the animal away.

(2) It is an offense to sell, trade, barter, lease, rent, or give away any live animal in a public place.

(3) For the purposes of this subsection, “public place: means any roadside, public right-of-way, commercial parking lot, or flea market.

(4) The provisions of this subsection (g) do not apply to the retail sale of animals from within a permanent structure by a permanent place of business holding a certificate of occupancy from the City of Palestine.

(g) Proper transport of Animals. It is an offense to carry or transport an animal:

(1) upon the hood, fender, running board or other external part of any moving automobile or truck; or

(2) within the open bed of any moving pickup, flat-bed or similar vehicle, unless the animal is cross-harnessed or protected by framework, carrier, or other device sufficient to keep it from falling from the vehicle.

(h) Upon causing injury or death to an animal while operating a motor vehicle, it is an offense to fail to immediately stop, assess the extent of injury, and notify the Animal Control Officer of the location of the animal.

(i) Any person who violates the requirements of this section shall be guilty of an offense and may be punished as provided in Section 1-13 of this Code.

**Sec. 14-12. Dangerous Animals.**

(a) No person shall own, keep, or harbor a animal that has been declared dangerous within the city.

(b) A law enforcement or military agency is not subject to this section.

(c) For the purposes of this chapter, an animal may be declared dangerous by the Animal Control Officer if the animal:

- (1) Is an exotic animal;
- (2) Exhibits or has exhibited vicious behavior, including but not limited to:
  - (A) without provocation, biting or attacking a person or another animal; or
  - (B) biting or attacking a person or animal, causing injuries creating a potential danger to the health or life of the victim; or
- (3) Has been purchased, bred, sold, trained, or harbored for the purpose of the animal fighting; or
- (4) a microchip has been implanted in the animal because of a prior bite or attack.

(d) Once an animal is declared dangerous, the Animal Control Officer shall immediately notify the animal's owner or custodian of the declaration by personal service, or by certified mail, return receipt requested. The animal, if not already held for observation or quarantine, shall be immediately surrendered to the Animal Control Officer.

(e) The notification shall state that, unless the declaration or the euthanization requirement is removed, the animal will be euthanized. The animal shall not be euthanized until proper notification of the owner has been confirmed, and the appeals process has been completed.

(f) If the owner of the animal wishes to challenge the declaration or the euthanization requirement, the owner must file a written appeal no later than 10 calendar days after receipt of the notification with the City of Palestine Municipal Court.

(1) The Court shall give notice of the appeal hearing to the owner of the animal, the Animal Control Officer, and any person who made a complaint upon which the Animal Control Officer's declaration was based, in whole or in part.

(2) The Court shall hear evidence from any person wishing to present evidence relevant and material to the matter under consideration.

(3) If the Municipal Court finds, by a preponderance of the evidence, that the animal is dangerous, as defined by subsection (c) of this section, the Court shall uphold the determination of the Animal Control Officer and find that the animal is dangerous.

(A) If the animal is found dangerous, the Municipal Court shall:

(i) order that the animal be euthanized;

(ii) order that the animal be implanted with a microchip and returned to the owner (after payment of all expenses of holding the animal, including microchip implantation, during the pendency of the proceedings) for permanent relocation outside the city limits; or

(iii) order that the owner of the animal, before the animal may be returned to the owner,

(A) demonstrate financial responsibility as set forth in Section 822.042(a)(3) of the Texas Health and Safety Code;

(B) demonstrate that the animal has been implanted with a microchip;

(C) demonstrate to the satisfaction of the Court that the owner has a "secure enclosure," as defined by Section 822.041(4) of the Texas Health and Safety Code, available for keeping the animal; and

(D) pay any expenses of holding the animal, including the cost of microchip implantation, during the pendency of the proceedings.

(g) The disposition of the animal shall be stayed, but the animal shall remain at the city's designated Animal Shelter, during the pendency of the appeal

#### **Sec. 14-13. Keeping of Livestock and Fowl.**

(a) It is an offense to keep or harbor any livestock, except that livestock other than hogs or swine may be kept and harbored in an agricultural area, provided that:

(1) the acreage on which such livestock are maintained must be enclosed by a fence, set back at least 50 feet from any property line, of sufficient height and construction to keep such livestock from escaping from the premises; and

(2) the livestock are provided a stable, shed, or other structure, at least 50 feet from any property line, of a size adequate for the storage, shelter, and safekeeping of the livestock, are confined in an area large enough to allow the livestock to stand or lay down fully without obstruction of movement.

(b) It is an offense to keep or harbor any fowl, except as follows:

(1) In residentially-zoned areas, six fowl per acre may be kept or harbored in a pen, coop, or other structure, set back at least 50 feet from any property line, sufficient to prevent the escape of the fowl; or

(2) In all other areas, six fowl per tract may be kept or harbored in a pen, coop, or other structure, set back at least 50 feet from any property line, sufficient to prevent the escape of the fowl.

(c) It is an offense to keep or harbor any hog or pot bellied pig.

(d) The prohibitions and restrictions set out in this section shall not apply to:

(1) a zoo, zoological Park or animal Park;

(2) an accredited research institution;

(3) an animal exhibition operating under a contract, lease, or special event permit issued by the city, or otherwise duly approved by the city;

(4) a person lawfully engaged in the transport of livestock or fowl in an enclosed vehicle in accordance with state law;

(5) a person engaged in the transport or receipt of livestock or fowl for processing in connection with the operation of the cattle auction, slaughterhouse or like facility;

(6) an Animal Shelter, veterinary clinic or grooming facility for treatment and temporary shelter in the animals in connection therewith.

**Secs. 14-14 – 14-30. Reserved.**

**ARTICLE III**  
**DOGS AND CATS**

**Sec. 14-31. License Required.**

(a) An owner of a dog or cat over four months of age must obtain a license for such dog or cat from the City of Palestine.

(b) The application for a dog or cat license and payment of the applicable license fee shall be made to the Animal Control Officer or Animal Shelter. The application shall include:

(1) The name, telephone number and address of the applicant.

(2) A description of the animal; including name, breed, color, gender, and age;

(3) A notation of whether the animal is a Guard Dog; and

(4) A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding 12 months.

(c) The license fee shall be at an amount set by action of the City Council.

(d) Service dogs which are professionally and specifically trained to assist disabled owners shall be exempt from the license fee.

(e) If not revoked, the license will be effective for a period of one year from the date of vaccination for rabies.

(f) Upon acceptance of the license application, the Animal Control Officer shall issue the owner a metal license tag stamped with an identifying number for the dog or cat and a license certificate which identifies the animal by age, gender, breed, color, name, and which shows the name of the owner and the dates of issuance and expiration of the license. Each licensed animal must wear a current license tag at all times attached to a properly fitted collar or harness.

(g) In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee.

(h) An owner of a dog or cat that moves into the City of Palestine shall comply with this requirement within 30 days of arrival in the City.

(i) Animal licenses are not transferable, and may not be used for any animal other than the animal for which such license or tag was originally issued.

### **Sec. 14-32. Tethered Dogs**

No owner or person who has custody or control of a dog shall allow a dog to be tethered in any manner or by any method, without the owner or person who has custody, present and within eyesight of the tethered dog.

No owner or person who has custody or control of a dog shall allow the dog to be tethered in any manner or by any method that allows the dog to leave the premises owned, leased or occupied by that person.

No owner or person who has custody or control of a dog shall allow the dog to be tethered in any manner or by any method that allows the dog to become entangled.

No owner or person who has custody or control of a dog shall allow the dog to be tethered in a manner that does not allow the dog access to food, water and, if tethered outside, shelter as required for animals kept outside.

An owner or person who has custody or control of a dog shall comply with each of the following requirements in tethering the dog:

the dog shall be properly fitted with and wearing a harness (not a collar) made of leather or nylon;

the rope, chain, cord, or other device restraining the dog shall be attached to the dog's harness and not directly to the dog's neck; and

*{I presume that this section is intended to set out various options regarding tethering. It should be recognized that the state legislature has defined various types of tethering that are and are not allowed; while language in that statute can be interpreted to permit the City to make unlawful practices that are lawful under that statute, I caution that it may be confusing to a citizen that reads a state law that says "you may tie up your dog in this way" who then gets a ticket because the City's ordinance says otherwise. Prosecution of this offense may be problematic, too. I recommend that the city defer to state law on this issue, either by copying the entire state law in the ordinance or just leaving the matter to be covered by state law See Appendix.}*

### **Sec. 14-33. Guard Dogs.**

A Guard Dog must be physically confined to a specific area or under complete and absolute physical control of the owner or an agent of the owner. The fire department and police department must be notified of the presence of a Guard Dog maintained within a building or the adjoining fenced area of a business after work hours. Warning signs, stating "Danger: Guard Dog on Premises" in letters not less than two inches high, must be conspicuously posted outside the area within which a guard dog is confined.

### **Secs. 14-34 – 14-45. Reserved.**

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## ARTICLE IV

### RABIES CONTROL

#### Sec. 14-46. Vaccinations Required.

(a) Every owner of a dog, cat, or ferret three months of age or older shall have such dog, cat, or ferret vaccinated against rabies. Annual revaccination shall be required thereafter. Any dog, cat, or ferret owner moving into the city from a location outside the city shall comply with this section within 30 days after having moved into the city.

(B) Dogs, cats, and ferrets under three months of age may be kept in the city without rabies vaccination, provided they are held in isolation until reaching three months of age, at which time they must be vaccinated against rabies and held in isolation for an additional 30 days. Isolation, vaccination and reporting the completion of isolation to the city is the responsibility of the person bringing such dog, cat, or ferret, into the city.

## APPENDIX

This is the state statute regarding tethering, which could be adopted by reference, or tracked in the ordinance language:

#### § 821.077. UNLAWFUL RESTRAINT OF DOG.

(a) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

- (1) between the hours of 10 p.m. and 6 a.m.;
- (2) within 500 feet of the premises of a school; or
- (3) in the case of extreme weather conditions, including conditions in

which:

- (A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;
- (B) a heat advisory has been issued by a local or state authority or jurisdiction; or
- (C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(b) In this section, a restraint unreasonably limits a dog's movement if the restraint:

- (1) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
- (2) is a length shorter than the greater of:
  - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
  - (B) 10 feet;
- (3) is in an unsafe condition; or
- (4) causes injury to the dog.

§ 821.078. EXCEPTIONS.

Section 821.077 does not apply to:

(1) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;

(2) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(3) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

(4) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(5) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(6) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

