

ORDINANCE NO. 9-13-21-2

AN ORDINANCE OF THE CITY OF ROPESVILLE, TEXAS, DEFINING TERMS, DEFINING NUISANCES RELATING TO KEEPING OF ANIMALS, ESTABLISHING STANDARDS OF CARE, REQUIRING VACCINATIONS, PROHIBITING CERTAIN NUISANCE ANIMALS, PROHIBITING DOGS RUNNING AT LARGE, PROHIBITING THE RESTRAINT OF A DOG TO AN INANIMATE OBJECT, PROVIDING FOR CAPTURE AND POSSESSION OF ANIMALS AT LARGE, PROVIDING FOR DISPOSITION OF UNCLAIMED ANIMALS, PROVIDING FOR THE REGULATION OF DANGEROUS DOGS, ALL AS MORE FULLY SET OUT HEREIN; AUTHORIZING ANY LICENSED ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER WITH GENERAL JURISDICTION WITHIN THE CITY OF ROPESVILLE TO SERVE AS AN ANIMAL CONTROL OFFICER FOR PURPOSES OF ENFORCING THIS ORDINANCE; PROVIDING FOR A PENALTY NOT TO EXCEED \$500.00 FOR EACH OFFENSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER AND PROVIDING FOR PUBLICATION.

WHEREAS, the City of Ropesville, Texas (“City”), a Type A general law municipality, is authorized by state law to adopt and implement necessary and reasonable ordinances as necessary for the government, interest, welfare, or good order of the municipality and that is in the best interests of its citizenry; and

WHEREAS, the City of Ropesville is authorized to adopt animal control regulations and currently prohibits dogs from running at large and must be confined in a fenced area capable of preventing their escape when at an owner’s home or restrained by a leash under the control of the owner; and

WHEREAS, the City of Ropesville City Council previously passed Ordinance No. 2017-09-File 7 as a comprehensive *Animal Ordinance* for the City of Ropesville; and

WHEREAS, the City Council finds it necessary to replace Ordinance No. 2017-09-File7 in order to reflect changes in the law and to better protect the public’s health, safety and welfare and that the following comprehensive animal ordinance is reasonable and beneficial and in the best interest of and best serves the public health, safety, and welfare of the residents of the City of Ropesville, Texas and will provide regulatory consistency for effective and meaningful enforcement;

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

1. The findings and recitals outlined above are found to be true and correct and are hereby adopted and approved.
2. The following ordinance shall be entitled “Comprehensive Animal Ordinance” which states as follows:

COMPREHENSIVE ANIMAL ORDINANCE

Article I. General Provisions

Section 1.01 Definitions

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

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

Animal control officer – An employee or agent of the city designated by the city to investigate, administer, and enforce the city code and laws of the state pertaining to the care and control of animals within the city.

Animal – Any living nonhuman creature, vertebrate or invertebrate, domestic or wild.

At-large – Not under the control of the owner either by leash, chain, cord, or other suitable material attached to a collar or harness on the dog; not restrained securely within an enclosure or fenced premises.

Cat – A domesticated member of the feline family but does not include lions, ocelots, margays, tigers, jaguars, leopards, or cougars.

City – City of Ropesville, Texas.

Collar – A band, chain, harness or other suitable device worn around the neck of an animal to which a current rabies vaccination tag can be affixed.

Dangerous dog – Any dog that, because of its aggressive nature, training, or characteristic behavior, has demonstrated that it presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term “dangerous dog” includes any dog that according to records of the city or any law enforcement agency:

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

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; and

Meets the definition under state law, Texas Health and Safety Code chapter 822, regulation of animals.

Dangerous wild animal – An animal of a species defined as a “dangerous wild animal” in section 822.101 of the Texas Health and Safety Code (dangerous wild animals) as amended; or an animal of any other species of wild or feral mammal or reptile that by its nature or breeding is capable of inflicting serious bodily injury to a human.

Dog – A domesticated member of the canine family, but does not include a wolf, jackal, coyote, fox, or other wild animal of this family.

Exotic animal – Any animal not commonly domesticated. This does not include small caged animals that are typically sold through pet stores, including rabbits, commercially bred ferrets, indoor caged birds, nonpoisonous reptiles, amphibians and small mammals (hamsters, guinea pigs, rats, mice, and gerbils), and fish kept in an aquarium or ornamental pond.

Fenced yard – An area that is completely surrounded by a substantial fence of sufficient strength, height, construction, materials, and design as to prevent any harbored animal from escaping from the area and any part of the head of a harbored animal from extending over or above the fence line.

Fowl – Domestic birds to include chickens, hens, roosters, ducks, geese, and pigeons.

Harboring – The act of keeping and caring for an animal or providing premises to which the animal returns for food, shelter, or care for a period of seventy-two (72) hours or longer.

Humane officer – Any person designated by the state, a municipal government, or a humane society as a law enforcement officer who is qualified to perform such duties under the laws of this state.

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

Livestock – Animals that are routinely raised on a farm and/or are generally found in agricultural habitats to include horses, cows, sheep, goats, swine, burros, donkeys, and mules.

Owner – An owner, custodian, caretaker, or person who feeds or harbors the subject animal for seventy-two (72) hours or longer. Persons caring for an animal at the specific request of an owner are not included in the definition of owner; however, they are required to keep the animal in compliance with this chapter.

Pet – Any animal kept for pleasure rather than utility.

Prohibited animal – An animal other than a common domestic animal, regardless of state or duration of captivity, that poses a potential physical or disease threat to the public or that is protected by international, federal, or state regulations, including but not limited to:

bats, skunks, hogs, pigs, poisonous reptiles, goose, ducks, rabbits, guineas, pigeons, livestock or wild animal.

Animals not listed. The city council or the animal control officer may declare any species of animal not listed in this subsection as “prohibited” if the confinement of the animal within the city can be shown to constitute a threat to public health and safety.

Quarantine – Strict confinement under restraint by closed cage or paddock or in any other manner approved in this chapter or state law.

Secure enclosure – A fenced area that is:

Locked and in conformance with the requirements for enclosures established by the city and state law;

Capable of preventing the entry of the general public, including children;

Capable of preventing the escape or release of a dog; and

If applicable, clearly marked as containing a dangerous dog.

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

Unprovoked – With respect to an attack or attempt to attack by a dog, that the dog was not hit, kicked, or struck by a person with any object or part of the attacked person's body nor was any part of the dog's body pulled, pinched, or squeezed or in any other manner provoked by the person attacked.

Vaccination – Inoculation of an animal with a vaccine that is licensed by the United States Department of Agriculture, and which is administered by a veterinarian for the purpose of immunizing the animal against rabies and which is administered in compliance with the requirements of this chapter and by state law.

Vicious animal – Any animal that constitutes a physical threat to human beings or other animals.

Wild animal – Animals living in a state of nature and not ordinarily tame or otherwise domesticated.

Section 1.02 Designation of animal control officer

In order to carry out and/or oversee enforcement of the provisions of this ordinance, the following are designated as animal control officers:

- (a) Any licensed animal control officer employed by the city or contracted to provide animal control services within the municipal limits of the city; and
- (b) any law enforcement officer employed by the city, contracted to provide general law enforcement services within the municipal limits of the city or who has general law enforcement jurisdiction within the municipal limits of the city.

Section 1.03 Animal nuisance.

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

- (a) The keeping of an animal which causes frequent or long continued noise, barking, howling, meowing, or whining in such a manner, with such intensity, or with such continued duration, so as to annoy, distress, or disturb the quiet comfort or repose of

- persons of ordinary sensibilities within the vicinity of hearing thereof;
- (b) The keeping of more than three (3) dogs and three (3) cats above the age of four (4) months within the city limits;
 - (c) The keeping of livestock, fowl (with the exception of six (6) chickens per residence); swine; wild animals; bees; and other prohibited animals defined above;
 - (d) The keeping of any animal as to endanger the public health or as to annoy neighbors or other nearby persons of ordinary sensibilities by the accumulation of feces and putrid materials which cause foul and offensive odors or the creation of a condition that is a breeding place for fleas or other vector;
 - (e) The keeping of any animal which habitually deposits body wastes upon or destroys by chewing, scratching, digging or otherwise, property other than that of the owner of such animal;
 - (f) The keeping of animals for which rabies vaccine is available and which remains unvaccinated against rabies; and
 - (g) The failure to restrain and allow a dog to run at-large.

Section 1.04 Vaccination requirements

- (a) Every owner of a dog or cat over four (4) months of age shall have the animal vaccinated against rabies. Thereafter all dogs and cats shall be immunized annually against rabies by means of an anti-rabies vaccine administered by a duly licensed veterinarian in accordance with the Texas Administrative Code, section 169.29 and pursuant to the Texas Health and Safety Code, sections 826.014 and 826.017, as amended.
- (b) Upon vaccination of an animal, the owner shall procure from the veterinarian a durable tag which is stamped with the tag number and year administered and a corresponding vaccination certificate. Such tag and identification tag shall be securely attached to a collar around the neck of the animal or a harness around the neck of and body of the animal vaccinated, except that cats shall not be required to wear such tag so long as the owner of the cat possesses such a tag and certificate.

Section 1.05 Maximum number of dogs and cats

No single-family household in the city may keep more than a three (3) adult dogs or three (3) adult cats or any combination thereof. This section does not restrict litters of kittens or puppies under four (4) months of age.

Section 1.06 Keeping fowl, chickens

- (a) No single household in the city may keep more than six (6) chickens, regardless of the amount of acreage available. Keeping roosters and other fowl are prohibited in the city.
- (b) Chickens must be kept in a pen, lot or enclosure, enclosed with “chicken wire” and they cannot be permitted to run at large. The enclosure must be located in the rear of the property and must be at least fifteen (15) feet from any adjacent lot. All shelters and fencing must be kept in good repair.

Section 1.07 Removal of animal waste

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

- (a) Upon a public area, included but not limited to walks, parks, recreation areas, public streets; and
- (b) Upon private property other than the premises of the owner, handler or controller of the animal.

Section 1.08 Standards of care and conduct

- (a) Every person owning or having charge, care, custody, or control of any animal shall not engage in acts of cruelty and violence toward the animal and shall:
 - (i) Provide basic necessities for the animal:
 - 1) Regular and adequate amounts of nutritious food that is appropriate to maintain the animal in good health;
 - 2) A constant and adequate supply of clean, fresh, potable water that keeps the animal hydrated for environmental conditions; and
 - 3) Care and medical treatment for injuries, parasites, and diseases that is sufficient to maintain the animal in good health and minimize suffering.
 - (b) Provide for proper shelter for the animal so that the animal is not exposed to constant sun and inclement weather;
 - (c) Not abandon any animal in the city; and
 - (d) Not place or confine any animal to remain in a motor vehicle or trailer under life-threatening conditions for a period of time as may endanger the health or well-being of the animal due to heat, cold, lack of food or water, or such other circumstances as may reasonably be expected to cause suffering, disability, or death.

Section 1.09 Disposition/impoundment authorized

- (a) Any animal found to be in violation of any provision of this or any other ordinance of the city or other applicable provisions of any state law may be impounded by the city and delivered to an authorized animal shelter for disposition.
- (b) The animal control officer or any peace officer shall be authorized to capture and impound abandoned stray animals and dogs running at-large and place in an authorized animal shelter. The animal control officer or any peace officer may issue a citation to the owner of the dog whether or not the dog is subsequently impounded.
- (c) A reasonable effort will be made by the animal control officer to locate the owner of any captured dog, utilizing collar tag identification or other means, and to notify the owner by telephone or personal contact.
- (d) In the event that an animal is of a vicious nature, and the actions or behavior constitute an immediate threat to the health and safety of any person, or the animal is about to elude capture, the animal control officer or any peace officer shall be justified in immediately destroying the animal by the use of the most reasonable means available at the time.

- (e) Any animal, whether licensed or unlicensed, which in the professional judgment of the animal control officer or peace officer is in great pain and suffering due to injury from which the animal probably will not recover, or which appears to have rabies, and/or which is at-large and is posing an imminent danger to human beings or to other animals, may be destroyed by the use of the most reasonable means available at the time.
- (f) Any officer finding an animal in a motor vehicle or trailer in violation of the provisions in this chapter is authorized to obtain a locksmith at the owner's cost, or break and enter the vehicle if necessary, to remove the animal. Removed animals will be impounded in accordance with this chapter or placed in a veterinary clinic for safekeeping. Owners may claim their animals upon payment of all reasonable charges or fees that accrued for removal and maintenance of the animal, plus impoundment fees charged by the entity holding the impounded animal. At the time the animal is removed from the motor vehicle or trailer, the officer shall leave a written notice bearing their name and title, and the address of the entity where the animal may be claimed. The animal will be retained in accordance to the rules of the entity and may be disposed of by that entity in accordance with their rules and state regulations.

Section 1.10 Dogs running at-large/Tethering dogs

- (a) No dogs shall be permitted to run at-large within the city. It shall be unlawful for an owner of a dog to permit the dog to run at large within the municipal limits of the city. A dog is at large if it is not within an enclosure adequate to contain the dog upon or within property owned or leased by its owner or under the owner's control or restrained by a leash or harness firmly grasped and at all times within the control of a person physically able to maintain control of the dog.
- (b) It shall be unlawful for the owner of any dog to restrain or anchor a dog by means of a tether, chain, cable, rope or cord to an immovable or inanimate object.

Section 1.11 Animal bites - reporting requirements

A person who knows of an animal bite or scratch in an individual or another animal that the person could reasonably foresee as capable of transmitting rabies or knows of an animal that the person suspects is rabid, shall report the incident and animal to the police department or city offices as soon as possible but not later than twenty-four (24) hours from the time of the incident.

Section 1.12 Enforcement and right of entry

- (a) The provisions of this chapter and of state law, title 10, chapters 821 through 829 et seq., of the Texas Health and Safety Code, as amended, regarding health and safety of animals shall be enforced by an enforcement officer, and such person shall have the authority to issue citations to persons violating the provisions of this chapter or of state law.

- (b) For the purpose of discharging the duties imposed by this chapter and to enforce its provision, any officer is empowered at all reasonable times, upon a determination of probable cause and upon presentation of appropriate credentials if possible, to enter any premises upon which an animal is kept or harbored and to demand the exhibition, by the owner of a dog or cat, of the certificate of vaccination. It is further provided that a law enforcement officer may enter, upon a determination of probable cause and upon presentation of appropriate credentials if possible, the premises where an animal is kept in an allegedly cruel or inhumane manner and demand to examine or impound such animal, when in the officer's opinion, it requires humane treatment.
- (c) No officer shall, however, enter a private residence for purpose of making an inspection under this chapter without first receiving permission from an occupant of such residence or in an emergency situation and determination of probable cause, or by order of a magistrate or of a court of competent jurisdiction as provided by law. Those enforcing the provisions of this chapter and/or state law shall have the right to pursue and apprehend animals running at-large onto private property while enforcing the provisions of this chapter and shall not be guilty of trespass while doing so.
- (d) It shall be a violation of this chapter to interfere with an officer in the performance of their duties.

Section 1.13 Penalties and remedies

Except as otherwise provided by state law:

- (a) Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00). For a violation of this chapter and state law, the state punishment applies;
- (b) Each occurrence shall be deemed to be a separate violation; and
- (c) The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of other ordinance or state law.

Article II. Dangerous Dogs

Section 2.01 Dangerous Dogs

This article is adopted pursuant to and in conjunction with the provisions of Texas Health and Safety Code, Chapter 822, Subchapter D, Dangerous Dogs, as they exist or may be amended, and are incorporated herein. The provisions outlined below are to be read in conjunction with this statute and to the extent of a direct conflict with this state statute, the more strict requirements control.

Section 2.02 Attack by dangerous dog

- (a) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

- (b) An offense under this section is a class C misdemeanor and shall be punished by a fine not to exceed five hundred dollars (\$500.00). For a violation of this chapter and state law, the state law punishment applies;
- (c) Each occurrence shall be deemed to be a separate violation; and
- (d) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by the animal control officer or a licensed veterinarian.

Section 2.03 Requirements for owner

- (a) Not later than the 30th day after an owner has been notified that their dog is considered a dangerous dog by the appropriate animal control officer, the owner shall:
 - (i) Register the dangerous dog with animal control;
 - (ii) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
 - (iii) Muzzle the dog when it is outside the secure enclosure;
 - (iv) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the city's animal control officer; and
 - (v) Have the dangerous dog spayed or neutered.
- (b) If a person reports an incident described by section 26 regarding the definition of a "dangerous dog," the animal control officer may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control officer determines the dog is a dangerous dog, he or she shall notify the owner of that fact.
- (c) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control officer to the municipal court. An owner may appeal the decision of the municipal court in the same manner as for other civil cases.
- (d) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the animal control officer not later than the 30th day after the owner learns that the dog is a dangerous dog.
- (e) If, on the application of any person, a justice court, county court, or municipal court finds, after notice and hearing as provided herein, that the owner has failed to comply with subsection (a) or (d), the court shall order the animal control officer to seize the dog and shall issue a warrant authorizing the seizure. The animal control officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.
- (f) The owner shall pay any cost or fee assessed by the city related to the seizure, acceptance, impoundment, or destruction of the dog.
- (g) The court shall order the animal control officer to humanely destroy the dog if the owner has not complied with subsection (a) before the 11th day after the date on which the dog is seized or delivered to the animal control officer. The court shall order the animal control officer to return the dog to the owner if the owner complies with subsection (a) before the 11th day after the date on which the dog is seized or delivered to the animal control officer.
- (h) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.

- (i) For purposes of this article, a person learns that the person is an owner of a dangerous dog when:
 - (i) The owner knows of an attack described in section 26 regarding the definition of a “dangerous dog”;
 - (ii) The owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog after a hearing on the matter; or
 - (iii) The owner is informed by the animal control officer that the dog is a dangerous dog.

Section 2.04 Registration

- (a) The city shall annually register a dangerous dog if the owner:
 - (i) Presents proof of liability insurance or financial responsibility, as required by section 27(a)(4), proof of current rabies vaccination, proof of sterilization of the dangerous dog, and has a secure enclosure in which the dangerous dog will be kept that is inspected and approved by the animal control officer; and
 - (ii) Pays an annual registration fee of one hundred dollars (\$100.00).
- (b) The animal control officer shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog’s collar. The collar must be of a distinctive color and design that identifies the dog as a dangerous dog.
- (c) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control officer for the area in which the new address is located. On presentation by the current owner of the dangerous dog’s prior registration tag and payment of a fee of twenty-five dollars (\$25.00), the animal control officer shall issue a new registration tag to be placed on the dangerous dog’s collar.
- (d) An owner of a registered dangerous dog all notify the city’s animal control officer of any attacks the dangerous dog makes on any person or animal.

Section 2.05 Defense

- (a) It is a defense to prosecution under this article that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.
- (b) It is a defense to prosecution under this article that the person is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
- (c) It is a defense to prosecution under this article that the person is a dog trainer or an employee of a guard dog company under chapter 1702, Texas Occupations Code.

Effective Date. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

Repealed. Ordinance No. 2017-09-File 7 is hereby repealed in its entirety and replaced with this ordinance. All other terms and provisions of the Code of Ordinances of the City of Ropesville not in conflict herewith and not hereby amended shall remain in full force and effect.

Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Ropesville, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

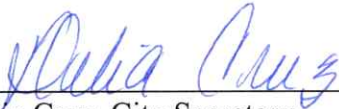
Publication. The City Secretary of the City of Ropesville is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method provided by law.

Passed and approved this 13th day of September, 2021.



Brenda Rabel, Mayor

ATTEST:



Delia Cruz, City Secretary