

CITY OF HAYS
ORDINANCE NO. 100713
ANIMAL CONTROL

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAYS, TEXAS; TO REGULATE THE NUMBER, LICENSING, AND RESTRAINT OF CERTAIN ANIMALS; TO ESTABLISH A RABIES CONTROL PROGRAM; TO DESIGNATE A LOCAL ANIMAL CONTROL AUTHORITY; TO PROVIDE DEFINITIONS; TO PROVIDE LIMITATIONS & PROHIBITIONS; TO PROVIDE ADMINISTRATION; TO PROVIDE FOR ANIMAL CARE AND THE PREVENTION OF CRUELTY TO ANIMALS; TO PROVIDE PENALTIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Hays is authorized by Chapters 822 and 826 of the Texas Health & Safety Code to enact a local ordinance to regulate animals and require rabies vaccinations and other means to prevent the spread of rabies;

WHEREAS, it is the intent of the City Council of the City of Hays to enact this animal control ordinance in an effort to protect the public health and safety of residents of the City by limiting the number of animals within the City and to encourage the humane treatment of animals;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAYS, TEXAS, THAT:
The following provisions were adopted on the 7th day of October, 2013.

SUBCHAPTER A. GENERAL PROVISIONS

§ 1.001 Authority

The City Council of the City of Hays, Texas, acting in its capacity as the governing body of the City of Hays, Texas, adopts this ordinance as authorized by Chapters 822 and 826 of the Texas Health & Safety Code and Chapter 54 of the Texas Local Government Code.

§ 1.002 Intent; Authority; Scope

(a) Intent. It is the intent of the City Council to enact this ordinance to protect the public health and safety of the citizens of the City of Hays, Texas, and the City Council declares that this ordinance is necessary for the preservation of the public peace, health, and safety. This ordinance is further intended to encourage the humane treatment of animals and prevent cruelty to animals.

(b) Authority of Hays County. Under Chapters 822 and 826 of the Texas Health & Safety Code, counties have the authority to regulate and restrain animals and to require the vaccination of animals and other measures to prevent and control the spread of rabies within their geographical boundaries. The Commissioners Court of Hays County, Texas has adopted an ordinance pursuant to those chapters for those animal control purposes within Hays County, which includes all of the geographical area of the City. The City has entered into an agreement with Hays County for the County to administer and enforce the County's ordinances for the regulation, licensing, and control of animals; the control of rabies; the control of dangerous and nuisance animals; and the enforcement of those ordinances within the city limits of the City.
Cross-Reference - Hays County Animal Control Ordinance No. 20893. Appendix A

(c) Scope. The scope of this ordinance is to supplement and supercede the Hays County Animal Control Ordinance only in the specific areas that this ordinance addresses and is not to affect the administration and enforcement of the Hays County Animal Control Ordinance for which the City has an agreement for Hays County to administer and enforce within the city limits of the City of Hays, Texas.

(d) Conflict. While it is the intent of the City Council that this ordinance not conflict with the Hays County Animal Control Ordinance, if any provision of this ordinance conflicts with any provision of the Hays County Animal Control Ordinance, then the more restrictive provision shall control, supercede, and take precedence over the less restrictive provision.

§ 1.003 Definitions.

(a) Adoption by Reference. The definitions of the words and terms in the Hays County Animal Control Ordinance, as amended, are adopted by reference.

Cross-Reference - See Hays County Animal Control Ordinance No. 20893. Appendix A

(b) Definitions. When used in this Chapter, the following definitions shall apply unless the context clearly indicates otherwise:

“ACO” means the Hays County Animal Control Officer or his or her designated agent.

“Adult Animal” means any animal which is more than six months of age.

“Animal” means any living non-human creature, including dogs, cats, reptiles, amphibians, fowl, and livestock.

“Bird” means a feathered, winged, bipedal, warm-blooded, egg-laying, vertebrae animal and member of the Aves family.

“Cat” means a male, female, or neutered felis catus.

“Dangerous Animal” means:

(1) Any animal that, without provocation, inflicts bites on or attacks a human being or domesticated animal on either public or private property; or

(2) Any animal that, in a vicious or terrorizing manner, approaches a human being in an apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places; or

(3) Any animal with a known propensity, tendency, or disposition to attack without provocation, that causes injury or otherwise threatens or endangers the safety of a human being or a domesticated animal; or

(4) Any animal suspected of being a dangerous animal if the owner, keeper, or harbinger of such animal fails to refuse to make such animal available for inspection to an animal control officer; or

(5) Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or

(6) Any animal that has behaved in such a manner that the owner of that animal knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or domesticated animals.

“Dog” means a male, female, or neutered canine familiaris, but does not include a wolf, jackal, coyote, fox, or other Wild Animal of this family or hybrid of such excluded animal.

“Domesticated Animal” means an animal that is not wild and is kept as farm animal or pet.

“Exotic Animals” means non-native species of animal, including nonpoisonous reptiles that, when mature are over six-feet in length, ostriches, any member of the Ratite family, or exotic livestock as defined by the Texas Animal Health Commission.

"Fish" means a cold-blooded vertebrae animal that lives in water.

"Fowl" means all of those birds commonly called poultry including chickens, ducks, geese, guinea fowl, turkeys, pigeons, and all the relatives of those birds that can be housed in pens, coops, cages, or enclosures of any kind.

"Goat" means a horned animal related to sheep with backward curving horns, straight hair, and a short tail and member of the Bovidae family.

"Hays County Animal Control Ordinance" means Ordinance No. 20893 that the Commissioner Court of Hays County adopted on March 18, 2003. *Appendix A.*

"Large Animals" means animals roughly larger than a human adult and any animals in the family *Megafauna*.

"Large Livestock" means horses, mules, donkeys, cattle, and similarly-sized livestock regardless of age, sex, size, or breed, but does not include pot-bellied pigs, miniature horses, or pygmy goats.

"Litter" means one or more newborn animal(s) under six months of age.

"Medium Livestock" means pigs, hogs, swine, pot-bellied pigs, miniature horses, sheep, goats, pygmy goats, and similarly-sized livestock regardless of age, sex, size, or breed.

"Owner" means any person having title to any animal or a person who has, harbors, keeps, or causes or permits to be harbored or kept, any animal in his or her care, custody, or control.

"Pet" means dogs, cats, ferrets, rabbits, rodents, birds, reptiles, and any other species of animal that are purchase or retained as household animals for companionship, interest, or amusement, but does not include any species of dangerous animals.

"Pig/Hog/Swine" means a wild or domesticated swine; any of the animals in the genus *Sus* within the Suidae family of even-toed hoofed animals.

"Poultry" means a domesticated fowl kept for eggs or meat.

"Premises" means real estate improved with residential buildings.

"Sheep" means a four-legged ruminant mammal within the *Ovis* genus of the even-toed hoofed animals.

"Small Livestock" means poultry, rabbits, and similarly-sized livestock regardless of age, sex, size, or breed.

"Veterinarian" means a doctor of veterinary medicine who holds a valid license to practice the profession.

"Vicious Animal" shall have the same meaning as "dangerous animal."

§ 1.004 Limitations on Number of Animals.

(a) General Standard for Number of Adult Animals in Possession. For all animals not listed in subsection (b) below, a person may not own, control, or otherwise possess adult animals in a number that exceeds the corresponding number of adult animals on the subject amount of land within the City, as follows:

<i>Type of Animal</i>	<i>Minimum Number of Square Feet of Lot Per Animal</i>	<i>Special Permit Required</i>
Large Livestock	40,000	Yes
Medium Livestock	5,000	Yes
Small Livestock	2,175	No

(b) Number of Adult Animals in Possession. A person may not own, control, or otherwise possess any of a particular type of animal in a number that exceeds the corresponding number of adult animals on the subject amount of land within the City, as follows:

<i>Type of Animal</i>	<i>Number of Animals per 22,000 Square Feet of Lot</i>	<i>Number of Additional Animals per Additional 10,000 Square Feet of Lot</i>	<i>Special Permit Required</i>
Pet Dogs with proper license tag	5	2	No
Pet Cats with proper license tag	5	2	No
Pet Fish	No Numerical Limit	No Numerical Limit	Not Applicable
Other Pet Animals	8	4	No
Poultry or Fowl	10	8	No
Goats & Sheep (combined number)	6	2	Yes
Pigs, Hogs, or Swine	None	None	Not Applicable
Exotic Animals	None	None	Not Applicable
Wild Animals	None	None	Not Applicable
All other animals not listed above	By Special Permit	By Special Permit	Yes

(c) Litters. A person may own, control, or otherwise possess one litter of the animals allowed in this section at any given time within the City.

§ 1.005 Special Permits

(a) Special Animal Permit. A resident or property owner who desires to own, control, or otherwise possess animals for which Section 1.004 requires a special permit, must obtain a Special Animal Permit from the City prior to possessing the subject animal(s) on any one lot or tract of land within the City.

(b) Special Animal Permit by Variance. A resident or property owner who desires to own, control, or possess, animals on land within the City in a number exceeding the limitations in Section 1.004, may apply to the City for a Special Animal Permit by Variance.

(c) Non-Conforming Special Animal Permit. A resident or property owner who owned, controlled, or was otherwise in possession of a particular type of animal on any one lot or tract of land within the City on May 1, 2013, that would be a violation of Section 1.004 and may apply for a Non-Conforming Special Animal Permit if the person files the application with the City no later than sixty (60) days of the effective date of this ordinance.

(d) Application. To file an application for any of the above special animal permits, the applicant must file with the City secretary the following information:

- (1) Name, address, and contact information of the applicant;
- (2) The address or other lot or tract identifier of the lot or tract on which the animals are or will be located and the amount of acreage or square footage the lot or tract encompassess;
- (3) The number of animals;
- (4) A description of the animals (*i.e.*, species, sub-species, breed, color, markings, tattoos, microchips, unique color patterns, name, etc.);
- (5) A description on how the animals will be confined to the subject property; photos and drawings are acceptable;
- (6) The name of the veterinarian that applicant uses or will use for the subject animal(s).

(d) Issuance Required. Other than for a Non-Conforming Special Animal permit, an applicant may not locate an animal for which they have applied for a special animal permit within the City until they are in possession of the special animal permit that the City issues.

(e) Term. All special animal permits will expire five (5) years from the date of issuance.

§ 1.006 Animal Care

(a) Proper Care. An owner of animals within the City shall provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) Proper Enclosures. An owner of animals within the City shall keep yards, pens, and enclosures in which such animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects, or, in any manner, to endanger the public health or safety, or create a public nuisance.

(c) Sanitary Requirements. All owners of animals within the City shall comply with the following sanitary requirements:

(1) *Droppings*. Manure and feces droppings shall be removed from pens, yards, cages, and other enclosures at a minimum of one time per week and handled or disposed of in such manner as to keep the premises free of any nuisance.

(2) *Insect Breeding*. Watering troughs or tanks, if utilized, shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitoes, or other insects.

(3) *Putrescible Matter*. No putrescible matter shall be allowed to accumulate on the premises, and all such matter used to feed that is unconsumed shall be removed and disposed of by burial or other sanitary means.

(d) Tethering. An owner shall not use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object in violation of state law.

§ 1.007 Prohibitions and Limitations

(a) No Commercial Purposes. No resident shall keep any animal or animals for commercial purposes (*i.e.*, sale of animals or animal products).

(b) Prohibition of Certain Nuisances. An owner of an animal shall not maintain any of the following conditions within the City, which are declared to be public nuisances:

(1) *Urination, Defecation.* Either willfully or through failure to exercise care and control, allowing a dog or other domesticated or pet animal to urinate or defecate upon the sidewalk or parkway or any public street, or upon the floor of any common hall in any entranceway or stairway, or upon any wall of any public place or building or public park and any private property not of the owner, if the owner of the offending animal fails to remediate or clean-up the waste deposited by the animal.

(2) *Unsanitary Conditions.* Allowing any house, building, business, lot, pen, enclosure, yard, or similar place used for the keeping of animals to become unsanitary, offensive by reason of odor, or disagreeable to persons of ordinary sensibilities residing in the vicinity or to the public at large. Any condition injurious to public health caused by improper waste disposal will be considered a violation of this provision.

(3) *Unreasonable Cats at Large.* Allowing cats to run at large to such a degree that it causes an unreasonable disturbance to a person of ordinary sensibilities.

(4) *Slaughtering, Etc.* Slaughtering, skinning, or defeathering an animal, unless for the purposes of promoting the public health and safety. Butchering or displaying the carcass of an animal on residential property whereby it is in the view of the public, except an animal carcass actually cooking over a barbeque pit.

(5) *Carcass Removal.* Permitting the carcass of any dead animal to be, or remain, on the owner's property for more than 24 hours after the death of the animal.

(c) Loose Animals. It shall be unlawful for person who own, controls, or otherwise possesses an animal within the City to allow that animal to roam at large outside of the property of that person without the effective control of a human.

(d) Proper Control or Enclosure. It shall be unlawful for a resident or property owner who owns, controls, or otherwise possesses an animal within the City not to provide effective means of control that animal while on that person's property through fences, enclosures, or other means.

SUBCHAPTER B. ADMINISTRATION

§ 1.010 Animal Control Officer. For purposes of this Chapter, the Animal Control Officer is designated as the local health authority that the Commissioner Court of Hays County designates. The ACO may delegate such authority to persons that he or she finds appropriate as needed to effectuate the provisions of this Chapter.

Authority - Texas Health & Safety Code § 826.017.

SUBCHAPTER C. ENFORCEMENT

§ 1.020 Enforcement Procedures

(a) Contents of Complaints. When a person files a written complaint alleging a violation of this Section 1.004, the complaint should contain:

- (1) the name of the owner/keeper of animal(s) in question.
- (2) the address or location of such animal(s).
- (3) a description of the animal(s), including approximate size, color, and breed, if known.

(b) Action on Complaints.

(1) *Notice.* The City will notify the owners/keepers of objectional animals of the complaint in writing and include a copy of this ordinance.

(2) *Council Meeting.* The City Council will act upon a complaint at the next council meeting that will be held at least thirty (30) days after the receipt of the filed complaint.

(3) *Action.* The City Council will hear from the complainant, the owners/keepers, and any other witness desiring to present testimony. Thereafter, the Council may (A) dismiss the complaint, (B) continue the hearing to a future date for any purpose, including the opportunity to present additional testimony, or (C) find that a violation has occurred, is occurring, or both and punish such violation this public health and sanitation ordinance by a fine not to exceed \$2,000 per violation or revocation of a special animal permit or both.

(c) *Opportunity to Respond.* Owners/keepers of objectionable animals may present proof of compliance with the provisions of this section within thirty (30) days of the date of the notice of complaint.

SUBCHAPTER D. ADOPTION

§ 1.030 Severance Clause. If any section, sentence, provision, or clause of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this ordinance.

§ 1.031 Repealer. This ordinance repeals Ordinance 108, (passed 8-8-82); Ordinance 111, (passed 5-4-82); Ordinance 111, (passed 9-3-91) enacted by the City Council of the City of Hays and all other ordinances in conflict with this ordinance.

§ 1.032 Notice to Potentially Affected Person. The City will provide a copy of the ordinance to all persons about whom the City believes are potentially affected based on the information readily available to the City.

§ 1.033 Effective Date.

This Ordinance shall become effective on the 7th day of October, 2013.

PASSED and APPROVED on the 7th day of October, 2013.



Michael Warnken, Mayor
City of Hays, Texas

ATTEST:


Kathy Davidson, City Secretary

City of Hays

Non-Conforming Special Animal Permit

Name: _____

Address: _____

Contract Information: _____

Address or other lot or tract identifier of the lot or tract on which the animals are or will be located and the amount of acreage or square footage the lot or tract encompasses: _____

Number of Animals: _____

Description of Animals (i.e., species, sub-species, breed, color, markings, tattoos, microchips, unique color patterns, name, etc.): _____

Name of Veterinarian that applicant uses or will use for the subject animal(s):
