

TITLE IV: GENERAL REGULATIONS

CHAPTER 40: ANIMALS

GENERAL PROVISIONS

§ 40.01 TITLE.

This chapter shall be known, and may be cited, as the Animal Control Ordinance of the city.

§ 40.02 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. A nonhuman live, vertebrate creature, wild or domestic.

ANIMAL CONTROL OFFICER. The person duly designated to carry out the duties of the Animal Control Officer as prescribed in this chapter; unless otherwise specifically designated by the City Council, any TECLOSE Certified employee of the Coffee City Police Department shall be the Animal Control Officer.

CITY POUND. A facility operated or used by the city for the purposes of impounding animals as prescribed in this chapter.

COMMERCIAL ANIMAL ESTABLISHMENT. Any commercial operation which is reasonably calculated to provide shelter, care, maintenance, training, breeding, treatment of, or the provision of services to ten or more animals at one time.

DANGEROUS ANIMAL. Any animal that is not tame or gentle, but is of a wild nature or disposition and which, because of its size, nature, or other characteristics would constitute a danger to human life or property if it was not kept or maintained in a safe manner or in secure quarters.

ESTRAY. A stray horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, or head of any species of cattle.

OWNER. Any person, partnership, firm, corporation, company, or association who has, harbors, or keeps an animal on or about its premises. An animal is harbored if it is fed or sheltered for three or more consecutive days.

PERMIT. A printed or written certificate issued by the designated representative of the city authorizing the holder to operate a commercial animal establishment within the corporate limits of the city.

PUBLIC NUISANCE. Includes but is not limited to any animal that:

- (1) Molests passersby or passing vehicles;
- (2) Acts in a threatening manner in any location other than the property of its owner toward any person other than its owner;
- (3) Attacks or chases another animal, when the animal is on the property of its owner or custodian;
- (4) Causes trash or garbage to be removed from a trash or garbage container;
- (5) Defecates on the property of another person;
- (6) Trespasses on school grounds;
- (7) Damages private or public property;
- (8) Makes frequent or long continued noise which is disturbing to a person who has normal nervous sensibilities and ordinary tastes, habits, and modes of living; or
- (9) Causes an offensive odor which is detectable across its owner's property line.

RESTRAINT.

- (1) The securing of an animal by leash or lead;
- (2) The securing of an animal by confinement in a structure, cage, vehicle, wall or fence of sufficient strength or construction to prevent the animal from escaping;
- (3) The securing of an animal by the actual physical control of the owner or owner's agent.

TETHERING. Securing an animal by attaching a lead, chain, rope, or similar manner which restricts the animal's ability to move within a specific area.

VICIOUS ANIMAL. Any animal which constitutes a physical threat to human beings or other animals.

WILD ANIMAL. Any live monkey or nonhuman primate, raccoon, skunk, fox, panther, tiger, lion, lynx, or any other animal normally found in the wild state.

(B) Terms not defined herein shall be construed in accordance with customary usage.

§ 40.03 ADOPTION OF THE RABIES CONTROL ACT OF 1981.

The Rabies Control Act of 1981, TEX. HEALTH & SAFETY CODE, Chapter 826, as amended, and the standards and regulations adopted by the state Board of Health pursuant to the act, are adopted and incorporated into this chapter as minimum standards; however, to the extent that this chapter provides standards that are compatible with, equal to, or more stringent than the act or the standards and regulations adopted by the state Board of Health, this chapter prevails over the act and the standards and regulations.

§ 40.04 LOCAL HEALTH AUTHORITY.

For purposes of the Rabies Control Act of 1981, TEX. HEALTH & SAFETY CODE, Chapter 826, as amended, the Animal Control Officer of the city is designated as the Local Health Authority.

ADMINISTRATION

§ 40.20 AUTHORITY; RECORDS.

(A) General authority. The procedures established in this chapter shall be administered by the Animal Control Officer, who may employ the personnel, equipment, and facilities of the Police Department to hire or authorize persons, equipment, and facilities as necessary to implement and enforce the provisions of this chapter.

(B) Records required. The Animal Control Officer shall maintain for each commercial animal establishment or impounded animal coming under the purview of this chapter:

- (1) A file that includes but is not limited to a record of all pertinent names, addresses, and dates; copies of all correspondence, notices, applications, permits and certificates; and a record of all other related activities; and
- (2) An accurate accounting of all fees and charges and of funds and payments collected, including date of payment and identification of payee.

§ 40.21 FEES.

(A) A receipt for all fees paid under this chapter shall be furnished to the person paying.

(B) All fees collected under this chapter shall be turned over to the City Secretary of the city.

§ 40.22 HEARING.

(A) Upon the written request of an addressee of a notice under 40.48 or 40.71 of this chapter for a hearing, the City Judge, or a designated representative, shall conduct an informal hearing.

(B) Written notice of the place, date, and time of such hearing shall be given to the person requesting the hearing, and the person must be given the opportunity to present any evidence that may be pertinent to the hearing.

(C) The City Judge, or a designated representative, must determine, after reviewing the evidence presented, whether the addressee was in fact in violation of the chapter, and make his or her ruling as set out in 40.49(B) and 40.73(B) of this chapter.

COMMERCIAL ANIMAL ESTABLISHMENTS

§ 40.40 PERMIT REQUIRED.

A permit is required in order to operate a commercial animal establishment within the corporate limits of the city. Permit applications must be approved by the Coffee City City Council.

Penalty, see 40.99

§ 40.41 PERMIT APPLICATION.

An applicant for a new permit, or a permit renewal or transfer, must make application on a form provided by the city, accompanied by the permit fee set out in 40.42.

§ 40.42 PERMIT FEE.

(A) The fees related to commercial animal establishments are as follows:

(1) The owner of a commercial animal establishment must pay an annual permit fee of \$75 to operate the commercial animal establishment; however, the fee for permit applications made during the second half of a fiscal year is \$37.50;

(2) A permit transfer fee of \$10 must be paid to transfer a permit for a commercial animal establishment to a new owner or operator; and

(3) A reapplication fee of \$10 must be paid if reapplication is made within 180 days from the date of a permit denial; if reapplication is made after 180 days from the date of denial, the applicant must pay the fee set out in division (A)(1) of this section.

(B) All fees paid under this section are non-refundable.

(C) No permit fees are required of any government-operated zoological park or any veterinary hospital or clinic; however, facilities exempted from permit fees are not exempted from the requirement to obtain a permit.

§ 40.43 TERM OF PERMIT.

(A) Permits expire on the last day of the fiscal year in which they are issued.

(B) Upon the change of ownership or operation of a commercial animal establishment, the new owner or operator must have any existing current permit transferred to the new owner or operator's name. The transferred permit expires on the last day of the fiscal year in which it is issued.

(C) Renewals of existing permits must be issued on the first day of the city's fiscal year, subject to compliance with applicable provisions of this chapter.

§ 40.44 MINIMUM STANDARDS.

(A) All commercial animal establishments within the city shall meet and maintain the following minimum standards:

(1) Be located not closer than 500 feet from any:

(a) Building used for residential purposes by anyone other than the person maintaining the commercial animal establishment or the person's immediate family;

(b) School, hospital, church, public park, restaurant, food store, or building where people are employed; or

(c) Public way, other than an alley.

(2) Maintain premises and surrounding grounds in a clean and sanitary manner, in order to keep them free from accumulations of manure, decaying food, and refuse.

(3) Utilize airtight receptacles or containers for the storage of manure, decaying food, and refuse.

(4) Dispose of solid waste in a manner that is not offensive or unsanitary:

(5) Be constructed and maintained in order to prevent infestation by rats or other rodents. The presence of rats in a commercial animal establishment is prima facie evidence that the establishment is maintained in violation of this chapter.

(B) Any permit holder who fails to comply with the requirements of this chapter is in violation of this chapter.

(C) In addition to the requirements of this section, all commercial animal establishments must comply with the city zoning ordinance and all other applicable ordinances, laws, and governmental rules and regulations. Penalty, see 40.99

§ 40.45 INSPECTIONS.

It is a condition of the issuance of any permit that the Animal Control Officer is permitted, at any time, to inspect the commercial animal establishment, its animals, and the property on which such establishment is located.

§ 40.46 PERMIT REFUSAL OR REVOCATION.

(A) A new or renewal permit may be refused, or an existing permit revoked, if:

(1) Permission for an inspection in accordance with the provisions of 40.45 above is refused;

(2) Upon inspection, the premises of a commercial animal establishment are found:

(a) Not to be in compliance with the minimum standards established in 40.44 of this chapter;

(b) To be in an unsanitary or offensive condition affecting the health, safety, and general welfare of the public and the animals being maintained on the premises;

(3) The permit holder has falsified any information on the application for a permit;

(4) The permit holder has been convicted in a court having jurisdiction over these matters of:

(a) The offense of cruelty to animals; or

(b) refusal or failure to comply with the provisions of this chapter or of any other law governing the protection and keeping of animals.

(B) Upon the revocation of, or refusal to renew, a commercial animal establishment permit, the permit holder must humanely dispose of all animals owned, kept, or harbored at such commercial animal establishment within ten days.

(C) Any person who is denied a permit or whose permit is revoked:

(1) May not reapply for a period of 30 days from the date of the denial or revocation; and

(2) Will be considered to be a new applicant, unless reapplication is made within 180 days from the date of denial or revocation.

§ 40.47 NOTICE OR REFUSAL OR REVOCATION.

(A) Any person who is denied a permit or whose permit is revoked must be given notice of the denial or revocation.

(B) The notice must:

(1) Be dated and in writing;

(2) State the reason for the denial or revocation;

(3) Advise that a written request for an informal hearing to show cause why the permit should not have been denied or revoked must be made within five working days of the date of the notice by mailing the request to:
City of Coffee City - City Judge

P. O. Box 716

Frankston, Texas 75763

(4) Advise, if applicable, that the person must humanely dispose of all animals within ten days from the date of the notice.

§ 40.48 HEARING.

(A) The filing of a written request on or before the 10th business day for an informal hearing stays the denial or revocation of a permit until final action is taken by the City Judge, or a designated representative.

(B) A permit will not be denied or revoked if, after hearing by the City Judge, or a designated representative, it is determined that the Owner was not in violation of the chapter.

IMPOUNDMENT

§ 40.70 GENERAL AUTHORITY.

(A) The Animal Control Officer, or a designated representative, may order impoundment of an animal, if the animal:

(1) Has bitten or injured any person within the city; or

(2) Is dangerous, vicious, or wild and is not securely confined in such a manner that it cannot come in contact with, or do harm to, any person or other animal.

(B) Should the owner of an animal fail or refuse to allow the impoundment of the animal, or attempt to interfere with the impoundment, the Animal Control Officer may use reasonable means to accomplish the impoundment.

(C) Estrays within the city shall be reported to the County Sheriff for impoundment, pursuant to the provision of the TEX. AGRICULTURAL CODE, Chapter 142.

§ 40.71 NOTICE OF IMPOUNDMENT.

(A) In addition to, or in lieu of, impounding an animal, the Animal Control Officer, based on the reasonable belief that the owner is in violation of this chapter, may issue to the owner of the animal a notice of ordinance violation requiring appearance of the owner in the municipal court of the city for prosecution of the alleged violation or violations of this chapter.

(B) When the owner of an animal that is impounded is known, or reasonably thought by the Animal Control Officer to be identifiable, the Animal Control Officer must give written notice to the owner of the impoundment, provided, that no notice is required if the owner voluntarily retrieves the animal from impoundment prior to giving of the written notice.

(C) The notice must contain the following information for animals impounded for any reason:

- (1) Date of notice;
- (2) Date and location of an animal's impoundment;
- (3) Reason for impoundment;
- (4) Description of the animal, including identifying marks and characteristics;
- (5) Location of impoundment facilities and hours during which an animal can be retrieved by the owner;
- (6) If the animal is over four months of age and subject to contracting rabies, the Animal Control Officer may not release the animal into the owner's possession unless the owner provides satisfactory evidence that the animal has had a rabies vaccination within the preceding twelve months or the Animal Control Officer has issued a citation to the owner for violation of 40.77 (G) of this chapter;
- (7) That the owner of an impounded animal may not take possession of the impounded animal until the fees and charges incurred during the impoundment have been paid in full; and
- (8) (a) That the owner has a right to a formal hearing before the City Council, or a designated representative, to show cause why the owner should not be subjected to fees for return of the animal; and
(b) That a written request for an informal hearing must be sent to and received by the City Council, or a designated representative, within five working days of the date of the notice; the request must be addressed to:

City of Coffee City - City Judge
P. O. Box 716
Frankston, Texas 75763

§ 40.72 FEES IMPOSED; COLLECTED.

(A) Fees imposed. The following fees will be charged by and collected for the Impoundment Facility and collected by the Animal Control Officer in accordance with this chapter for each animal impounded hereunder:

- (1) A fee of \$20 for the first and \$50 for the second impoundments within the previous 12-month period;
- (2) After an animal has been impounded twice during the previous 12-month period, \$50 multiplied by the number of times the animal has been impounded during the previous 12-month period, but not exceeding \$500;
- (3) A fee for each day an animal remains impounded will be imposed by the Impoundment Facility;
- (4) Actual cost for the preparation and posting or mailing of each notice required under this chapter;
- (5) Charges for long distance telephone calls in connection with the administration of this section;
- (6) The cost of additional personnel and specialized equipment necessary during an animal's apprehension and impoundment;
- (7) Medical costs, including but not limited to veterinarian fees, vaccines, and other specialized care and equipment; and
- (8) Any other expenses incurred incidental to the impoundment of an animal hereunder.

(B) Fees collected.

- (1) All fees and charges incurred under this section will be charged against and are the obligation of the owner of an impounded animal, regardless of the disposition of the animal.
- (2) Except as otherwise specifically provided herein, the owner, adopter, or purchaser may not take possession of an impounded animal until the fees and charges incurred during the impoundment of the animal have been paid in full.
- (3) For purposes of purchase or adoption of an animal, if the fees and charges incurred during the impoundment of an animal are more than the reasonable value of the animal and prevent its purchase or adoption, the Animal Control Officer may fix a charge for the purchase or adoption of the animal which

reasonably relates to the animal's value.

§ 40.73 HEARING.

- (A) The filing of a written request on or before the 10th business day for an informal hearing stays the proceedings under this chapter until final action is taken by the City Judge, or a designated representative.
- (B) The fees and charges imposed under 40.72 above shall not be imposed if, after hearing by the City Judge, or a designated representative, it is determined that the owner was not in violation of the chapter, or that the animal should not have been impounded under the provisions of this chapter.

§ 40.74 DISPOSITION OF ANIMALS.

- (A) Impounded animals, other than an animal being impounded for biting, shall be kept impounded for not less than 24 hours. Written or oral notice shall be given to the owner of an impounded animal soon as reasonably practical. This section shall not apply to animals that have been determined to be terminally ill, terminally injured or suffering from a disease that is a threat to the public health or the health of other animals.
- (B) No animal over the age of four months and subject to contracting rabies may be released to the owner until the Animal Control Officer has received evidence sufficient to demonstrate that the animal has had a rabies vaccination within the preceding one year, or the Animal Control Officer has issued a citation for violation of 40.77(G) of this chapter to the owner.
- (C) No animal may be released to a person other than the owner or the owner's authorized representative unless the requirements of the TEX. HEALTH & SAFETY CODE, Chapter 828, which relates to sterilization of dogs and cats, have been satisfied.
- (D) If the animal is adopted by a person other than the owner and the Animal Control Officer has not received evidence to demonstrate that the animal has had a rabies vaccination within the preceding one year, and has been sterilized, the purchaser must provide sufficient evidence of the rabies vaccination and sterilization to the Animal Control Officer within 30 days of the sale of the animal. Failure to provide evidence of vaccination or sterilization within 30 days of the sale of the animal is in a violation of this chapter and subject to fines.
- (E) Any animal described in subsection (A) of this section that is not claimed by its owner within the time period designated in this section, becomes the property of the city. The city may then either sell the animal or humanely dispose of it.
- (F) At any time prior to its sale, adoption, or disposal, the owner of an animal may claim it from the city after satisfying the requirements of this chapter.

§ 40.75 DESTRUCTION OF ANIMAL.

- (A) The Animal Control Officer may destroy or authorize the destruction of an animal under the following circumstances:
- (1) When the animal is attempting or threatening injury to any person or another animal, and such destruction appears to be the most reasonable means available to prevent such injury;
 - (2) When there is evidence that any person or another animal has been bitten or scratched by an animal which is attempting or threatening escape, and the owner of the animal inflicting such injury is unknown or cannot be located; or
 - (3) When there is evidence that the animal is terminally ill or injured or is suffering from a disease that is a threat to public health.
- (B) Any animal destroyed pursuant to division (A) of this section must be tested for rabies.

§ 40.76 BITING ANIMAL.

(A) An animal impounded for biting could be confined for at least ten days. At the request of its owner, and with the consent of a veterinarian, the animal may be confined at facilities maintained by a licensed veterinarian.

(B) When the owner of an animal impounded for biting is known, or reasonably thought by the Animal Control Officer to be identifiable, the Animal Control Officer must attempt to personally contact the owner in order to determine if and when the animal has been vaccinated for rabies.

(C) In addition to all of the notice requirements listed in § 40.71(C), the notice must contain the following information for animals impounded for biting:

(1) That the animal may be confined for at least ten days but not more than 14 business days if no documentation of vaccination is provided and confirmed;

(2) That, if the owner has not already done so, the owner should immediately contact the Animal Control Officer to discuss if and when the impounded animal was vaccinated for rabies; and

(3) That the owner may not take possession of the impounded animal until the Animal Control Officer has received a certificate signed by a licensed veterinarian certifying that the animal is free of transmissible rabies.

(D) No animal impounded for biting shall be released to its owner until the Animal Control Officer has received either:

(1) A certificate signed by a licensed veterinarian certifying that the animal is free of transmissible rabies; or

(2) If the animal is over the age of four months and subject to rabies, evidence sufficient to satisfy the Animal Control Officer that it has had a rabies vaccination within the preceding three years or that it has been given the required vaccination during its period of impoundment.

(E) An animal impounded for biting becomes the property of the city if the owner of the animal fails or refuses to claim the animal from the city pound or from the veterinarian, if the animal was confined by the veterinarian. The veterinarian confining the animal must release the animal into the custody of the city. The city may then either sell the animal or humanely dispose of it. At any time prior to its sale or disposal, its owner may claim it from the city.

§ 40.77 PROHIBITIONS.

It is a violation of this chapter to:

(A) Maintain a public nuisance defined by § 40.02;

(B) Allow an un-spayed female dog, while the dog is in heat, to be upon the streets and in public places of the city;

(C) Own or operate a commercial animal establishment without having in force or effect a permit issued in accordance with this chapter;

(D) Fail to keep an animal under restraint while in a public setting;

(E) Tether an animal between 10:00 P.M. and 6:00 A.M., during extreme weather conditions, for any period longer than 2 hours in any 24 hour period, that prevents access to food, water, and shelter, or results in bodily injury.

(F) Tamper with any trap or animal-catching device set out by the Animal Control Officer or a designated representative;

(G) Keep within the city an animal subject to contracting rabies which is over the age of four months and fail to:

(1) Have the animal vaccinated at least once every year for rabies.

(2) Affix around the animal's neck a collar with a current rabies tag attached when it is not on the property of

the owner;

(H) Keep, maintain, use, or have a dangerous, vicious, or wild animal, unless it is securely confined in a manner that it cannot come in contact with, or do harm to, any person or another animal;

(I) Interfere with, hinder, or molest any city employee in the performance of the employee's duties under this chapter;

(J) Do any act which otherwise is proscribed in this chapter;

(K) Transport or carry on any public place any animal on a motor vehicle (including but not limited to flatbed trucks), without restraining the animal by a vented container or cage, or by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a leash;

(L) Leave any animal in any standing or parked motor vehicle in such a way as to endanger the animal's health or safety; or

(M) Fail to promptly remove and sanitarily dispose of feces left on public or private property by an animal being handled by the person, other than property owned by the owner or handler of the animal.

Penalty, see § 40.99

AGGRESSIVE DOGS

§ 40.80 PURPOSE DEFINED.

The City Council has determined that some dogs exhibit aggressive behavior and threaten the health, safety and welfare of the Citizens of Coffee City and other animals. The owners of an aggressive dog, bear the ultimate responsibility for the actions of their dog and should be held accountable for these aggressive actions.

§ 40.81 LEVELS DEFINED.

Classification of a dog as aggressive shall be based upon specific behaviors exhibited by the dog. For purposes of this chapter, behaviors establishing various levels of aggressive dogs are the following:

(A) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of a domestic animal.

(B) Level 2 behavior is established if a dog, while at large, causes serious bodily injury to any domestic animal or livestock.

(C) Level 3 behavior is established if:

(1) A dog, while at large, kills or causes the death of any domestic animal or livestock; or

(2) A dog classified as a level 2 aggressive dog that repeats the behavior in subsection (B) after the owner or keeper receives notice of the level 2 classification.

(D) Notwithstanding subsections (A), (B), and (C), the director of animal control shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors specified in subsections (A), (B), and (C), if the director of animal control determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

Penalty, see § 40.99

§ 40.82 APPEALS; RESTRICTIONS PENDING APPEAL.

(A) The director of animal control shall have authority to determine whether any dog has engaged in the behaviors specified in §40.81. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the director of animal control.

These observations and testimony can be provided by animal control officers or by other witnesses who personally observed the behavior. They shall sign an affidavit attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(B) The director of animal control shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.

(C) The director of animal control shall give the dog's owner or keeper written notice by certified mail or personal service of the dog's specified behavior, of the dog's classification as aggressive, and of the restrictions applicable to that dog by reason of its classification. If the owner or keeper denies that the behavior in question occurred, the owner or keeper may appeal the director of animal control's decision to the municipal court.

(D) Upon receipt of notice of the dog's classification as a level 1, 2, or 3 aggressive dog pursuant to subsection (C), the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Failure to comply with the specified restrictions shall be a violation of this chapter for which a fine can be imposed. Additionally, the director of animal control, shall have authority to impound the dog pending completion of all appeals.

(E) If the director of animal control's decision finds that a dog has engaged in aggressive behavior, the dog may be impounded pending the completion of any appeals.

(F) Any dog classified as a level 3, that is found to have repeated level 3 behavior as defined under this code, shall be humanely destroyed.

Penalty, see § 40.99

§ 40.83 HEARINGS; NOTICE OF HEARINGS; APPEAL.

(A) Notice of appeal of a classification of aggressive dog must be given to the director of animal control within fifteen (15) working days of the date the dog is classified as aggressive by the director of animal control. The director of animal control or his designee shall set an aggressive animal hearing. The owner shall be notified of said hearing by certified mail, return receipt requested. Failure of the owner of the animal to appear at the hearing shall result in a final classification with no further appeal. The owner may be represented by counsel.

(B) A municipal court judge shall sit as the administrative appeal hearing officer. The Judge shall conduct a de novo appeal and shall make a determination based upon a preponderance of the evidence. The judge shall prepare a written order. The judge may order any remedial measures that the animal control officer is authorized to by this section that is reasonably necessary to safeguard the public from the aggressive dog.

(C) The result of the administrative appeal hearing is final.

Penalty, see § 40.99

§ 40.84 REGULATION.

In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall comply with the following conditions:

(A) Dogs classified as level 1 dogs shall be restrained, so as not to be at large, by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside the owner's or keeper's home and not on a leash. The director of animal control may order sterilization of the animal.

(B) Dogs classified as level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises. In addition, the director of animal control may require the owner or keeper to obtain

and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00). In addition, the owner or keeper may be required to complete a responsible pet ownership program as prescribed by the director of animal control or the Municipal Judge. The director of animal control may order sterilization of the animal.

(C) Dogs classified as level 3 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises, and the owner or keeper shall post warning signs, which are provided by the director of animal control, on the premises where the dog is kept, in conformance with rules to be adopted by the director of animal control. In addition, the director of animal control may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00). The owner or keeper shall not permit the dog to be off the owner's or keeper's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the director of animal control may require the owner or keeper to satisfactorily complete a pet ownership program. The director of animal control may order sterilization of the animal. The director of animal control, or upon appeal, the municipal judge, may order the animal be humanely destroyed.

(D) To ensure correct identification, all dogs that have been classified as aggressive shall be microchipped and photographed, and may be fitted with a special tag or collar determined by the director of animal control at the owner's expense. The director of animal control shall adopt rules specifying the type of required identification.

(E) The owner or keeper of a level 3 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner or keeper of any aggressive dog shall not permit the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not permit the dog to be moved to a new address or change owners or keepers without providing the director of animal control with ten (10) days' prior written notification.

Penalty, see § 40.99

§ 40.85 DECLASSIFICATION.

Declassification will be automatic pursuant to this section.

(A) The following conditions must be met:

(1) Level 1 or level 2 dogs have been classified for one (1) year without further incident, and two (2) years for level 3 dogs;

(2) There have been no violations of the specified regulations; and

(3) If ordered by the director of animal control or Municipal Judge at the time of classification:

(a) The owner or keeper provides the director of animal control with written certification of satisfactory completion of obedience training for the aggressive dog with the owner or keeper; and

(b) The owner or keeper provides the director of animal control with written verification that the classified dog has been sterilized from a licensed veterinarian.

(B) When the owner or keeper of an aggressive dog meets all of the conditions in this chapter, the restrictions for level 1 and level 2 classified dogs may be removed. Restrictions for level 3 may be removed, with the exception of the secure enclosure.

Penalty, see § 40.99

§ 40.86 DEFENSES.

It shall be a defense to prosecution that the dog was:

(A) A dog in service of a local, state or federal law enforcement agency;

(B) Being taunted or teased at the time of the incident;

- (C) Injured and responding to pain;
- (D) Being aggressive in response to a willful trespass or other tort or crime being committed upon the premises occupied by the owner or person in control of the dog in question;
- (E) Acting in defense of its owner or a third person from an unjustified attack or assault.

Penalty, see § 40.99

§ 40.87 COST.

The City may impose a charge upon the owner of a dog found to be aggressive under the terms of this section. The City Council may set fees by resolution for microchipping, photographing, signage, training, collars, tags, licenses, impoundment or destruction of an aggressive dog.

Penalty, see § 40.99

§ 40.99 PENALTY.

(A) Any person found guilty of violating a provision of this chapter for which no other specific penalty has been set forth shall be subject to the penalty set forth in § 40.99 (H) of this code of ordinances.

(B) Any person found to be violating the provisions set out in §40.77 is guilty of a misdemeanor and, upon conviction, is subject to a fine not to exceed \$500.00. Each day of such violation constitutes a separate offense.

(C) The fines stated in §40.72(A):

- (1) Are cumulative and not exclusive of any other rights or remedies the city may have; and
- (2) May be imposed notwithstanding provisions for the denial or revocation of a permit to operate a Commercial Animal Establishment or the impoundment of an animal under this chapter, and whether or not any of the procedures provided for in this chapter are initiated or carried out.

(D) Leaving any animal in a parked or standing motor vehicle when the outside temperature is 85 degrees Fahrenheit or greater for any period of time and the animal appears to be in distress; or confining any animal in a motor vehicle for more than four hours without adequate water shall constitute a per se danger to the animal's health and safety.

(E) It shall be a defense to prosecution under this chapter that the animal was being used for bona fide law enforcement purposes.

(F) Notwithstanding §45.05 of the City of Coffee City Code of Ordinances it shall be a defense to prosecution under §40.77(E) that the animal was on the premises of a city park designated as a dog park by the City Judge and posted as such with official signage.

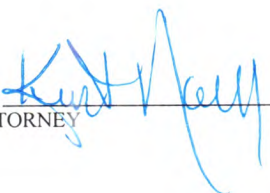
(G) It shall be a defense to prosecution under §40.77(E) that the animal was a service animal being used by a disabled person as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101 et seq., as amended.

(H) A person in violation of §§40.80-40.87 shall be guilty of a Class C Misdemeanor punishable by a fine of not less than \$50.00 nor more than \$500.00. This offense is hereby declared to be a strict liability offense and the culpable mental state required by Chapter 6.02 of the Texas Penal Code is hereby specifically negated and clearly dispensed with.

PASSED AND ADOPTED THIS APRIL 9, 2012


TONY M. MOORE, MAYOR

ATTEST: 
ANGELA JONES, CITY SECRETARY

ATTEST AS TO FORM: 
KURT NOEL, CITY ATTORNEY