

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS AMENDING CHAPTER 90 “ANIMAL CONTROL” OF THE CITY OF MANSFIELD, TEXAS CODE OF ORDINANCES BY PROVIDING NEW DEFINITIONS FOR FOWL, POTBELLIED PIG, AND TETHER; EXTENDING TIME FOR AN OWNER TO APPEAL A DANGEROUS DOG DETERMINATION; AMENDING REGULATIONS FOR IMPOUNDED ANIMALS; AMENDING THE FEE SCHEDULE; PROVIDING REGULATIONS FOR TETHERING OF ANIMALS; CLARIFYING LICENSING REQUIREMENTS AND ADMINISTRATIVE OVERSIGHT AND ENFORCEMENT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mansfield is a home rule city acting under its charter adopted by the electorate to Article IX, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Mansfield has previously adopted regulations governing animal control; and

WHEREAS, the City Council has determined that the amendments to the Code of Ordinances as set out herein are in the best interest of the health, safety and general welfare of the citizens of Mansfield and the public.

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

SECTION 1.

Section 90.01 “Definitions” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by revising the definition of “Fowl” and adding definitions for “Potbellied pig” and “Tether” to read as follows:

“FOWL Any bird, including chickens, roosters, and poultry.”

“POTBELLIED PIG A domesticated miniature Vietnamese, Chinese, or Asian potbellied or potbelly pig, not exceeding 250 pounds in weight and thirty inches (30”) in height measured at the shoulder, kept as a pet for personal enjoyment and not kept or raised for breeding, sale or human consumption.”

“TETHER Any leash, chain, cord, rope, or other means of restraining an animal or the act of chaining, tying, fastening or otherwise securing an animal to a fixed point so that it can move or range only within certain limits.”

SECTION 2.

Section 90.02 “Establishment of Office of Animal Control Manager” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsections (C) and (D) to read as follows:

“(C) The Animal Control Manager shall employ Animal Control Officers to assist in the carrying out of his duties.

(D) The Animal Control Manager and Animal Control Officers shall be assigned to the Mansfield Police Department under the authority of the Chief of Police.”

SECTION 3.

Section 90.06 “Livestock and Livestock Permits” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended to read as follows:

“(A) The keeping of livestock on any property within the City of Mansfield must comply with the regulations of the Zoning Ordinance.

(1) Permits will only be issued by the Animal Care and Control Department for livestock that are kept in conformance with the zoning regulations and the regulations in this Chapter.

(2) The provisions of the Zoning Ordinance related to livestock shall be enforced by the Code Compliance Department.

(B) It shall be unlawful and illegal for any person owning or having control over any livestock to knowingly allow the same to be at-large unattended on any public property, or on the property of another without the consent of such other person.

(C) It shall be unlawful and illegal for any person owning or having control over any livestock to keep said livestock, regardless of whether livestock are kept for personal use or for commercial purposes, unless a livestock permit has been obtained from the Animal Control Manager.

(D) In order to obtain a livestock permit, an owner of livestock shall complete an application and be required to pay a one-time permit fee established by City Council to register his/her property and to describe the type and number of livestock thereon.

(E) Any person obtaining a livestock permit will be issued a permit sign and will be required to post and maintain prominently said sign at the main entrance to the property where the livestock is kept.

(F) All livestock permits will be required to be renewed on an annual basis (twelve (12) months from date of issuance). Livestock owners will not be required to pay a permit renewal fee. The Animal Control Manager shall send a form annually to each registered owner, at the designated (last known) mailing or email address, seeking updated registration information for permit renewal.

(G) Livestock permits may be denied or revoked for any of the following reasons:

- (1) Health or safety issues.
- (2) Animal cruelty or neglect as defined in Tex. Penal Code § 42.09.
- (3) More than three violations of livestock at-large within a permit year.
- (4) Failure to obtain a livestock permit within ten business days of placing livestock on property within the city.
- (5) Failure to maintain or post the issued permit sign.

(H) If a livestock permit is denied or revoked, the applicant or permit holder will have thirty (30) calendar days from the date of denial or revocation to remove any and all livestock from the city limits or said livestock may be impounded by the Animal Control Manager. Failure to renew a permit, in accordance with this chapter, shall presumptively be considered a revocation.

(I) A person denied or having a permit revoked may appeal the denial or revocation as set out in §90.20.

SECTION 4.

Section 90.07 “Swine Prohibited” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended to read as follows:

“§ 90.07 SWINE AND POTBELLIED PIGS

(A) It shall be unlawful for any person to keep any swine, not including potbellied pigs, in any house, shed, pen, lot, or pasture within the city.

(B) It shall be unlawful for any person to keep, harbor or raise more than two (2) potbellied pigs on any one (1) tract or lot within the city.

(C) It shall be unlawful for any person to breed, sell, give away, or release a potbellied pig in any one (1) location within the city.

(D) It shall be unlawful for any person to keep a potbellied pig outdoors other than at those times necessary for the elimination of waste materials, eating, or exercise, and no potbellied pig may be outside more than two (2) hours during a twenty-four (24) hour period. All outdoor areas must be kept clean and free of excess waste material.

(E) Potbellied pigs are subject to all applicable sections of this chapter including the requirements of this chapter which prohibit animals at-large.

(F) It shall be unlawful for any person to keep a potbellied pig at any location within the city unless such person has first paid an annual registration fee and filed a registration application with the Animal Control Division. Each application must include the following:

- (1) Name, street address and phone number of the owner;
- (2) Evidence that the animal has been spayed/neutered;
- (3) Name and description of the animal;
- (4) Approximate weight, height and age of the animal; and
- (5) Animal's general health.”

SECTION 5.

Section 90.08 “Keeping of Fowl” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended to read as follows:

“(A) The keeping of fowl on any property within the City of Mansfield must comply with the regulations of the Zoning Ordinance.

(B) The provisions of the Zoning Ordinance related to fowl shall be enforced by the Code Compliance Department.

(C) A person commits an offense if he/she:

(1) Keeps or maintains more than four (4) fowl on one-half acre or less or at a distance closer than fifty (50) feet from any habitation located on another's property;

(2) Keeps or maintains more than ten fowl on more than one-half acre but less than one acre at a distance closer than fifty (50) feet from any habitation located on another's property;

(3) Keeps or maintains twenty-five (25) fowl or more on one acre or more at a distance closer than fifty (50) feet from any habitation located on another's property;

(4) Fails to keep any duck, goose, or swan from being at-large however, all ducks, geese, or swans found within the parks of the city are hereby exempted;

(5) Fails to keep any chicken, pea-fowl, turkey, or guinea fowl contained within a coop or pen;

(6) Keeps or maintains roosters except with written permission of the Animal Control Manager; and

(7) Keeps or maintains fowl within one hundred (100) feet of any private water well.

In connection with all of the above, the premises and facilities used for the keeping of fowl authorized to be kept under any of the provisions of this section must be kept in such a manner as to prevent the emission of odor or noise offensive to persons of ordinary sensibilities in the neighborhood or the existence of any nuisance dangerous to the public health.”

SECTION 6.

Section 90.11 “Dangerous Animals” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (C) to read as follows:

“(C) An owner, not later than the fifteenth (15th) business day after the date the owner is notified that an animal owned by the owner is a dangerous animal, may appeal the determination of the Animal Control Manager to Municipal Court.”

SECTION 7.

Section 90.22 “License, Vaccinations and Microchip Requirements” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (B) to read as follows:

“(B) A person commits an offense if he owns any dog or cat over sixteen (16) weeks of age without having such dog or cat currently licensed with the city and issued by the Animal Care and Control Division. City license will be valid for twelve (12) months from October to September. The color of the city license will change from year to year for easy visual recognition. This does not apply to animals temporarily within the city for a period not to exceed fourteen (14) days.”

SECTION 8.

Section 90.23 “Impoundment; Fees” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (E) to read as follows:

“(E) (1) The animal shelter shall be considered the designated caretaker of an impounded animal immediately upon intake at the shelter. After the expiration of any required holding period, the city shall become the owner of the animal in question and may dispose of it in accordance with this chapter.

(2) Any animal not reclaimed by the owner may be humanely euthanized after being impounded for seventy-two (72) hours, except that any animal wearing a current rabies vaccination tag and any animal that is microchipped shall be impounded for not less than six (6) days and any animal wearing a city license tag shall be impounded for not less than fifteen (15) days.

(3) Any impounded feral or unmanageable animals, unless there is reason to believe that it has an owner, may be immediately disposed of as may be deemed appropriate by the Animal Control Manager for the safety of staff caring for the animal during the impoundment period.

(4) Any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately euthanized to prevent further suffering.

(5) An owner who no longer wishes responsibility of an animal, or believes the animal to be in an ill or injured condition, may sign an Owner Surrender Form allowing the animal to be immediately euthanized in a humane manner, provided that no dog or cat that has bitten a human being shall be euthanized before expiration of the ten (10) day quarantine period.

(6) Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a non-profit humane organization for the purpose of veterinary medical care, as determined by the Animal Control Manager.

(7) After the expiration of any required impoundment period or immediately after being voluntarily released by its owner, the animal shall become the property of the city, all ownership rights for the animal shall transfer to the city, and the department may dispose of the animal by any of the following methods: adoption, transfer to another agency, reclamation, or humane euthanasia.”

SECTION 9.

Section 90.23.1 “Fee Schedule” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended to read as follows:

“(A) A fee schedule for animal control related matters shall be established by the City Council to be incorporated in the policies and procedures associated with this chapter.

Adoptions	Spay/Neuter	\$25 (voucher)/per animal
	Rabies	\$10 (voucher)/per animal
	Microchip	\$20/animal
	Core Vaccine	\$5/per animal

City License	Spay/Neuter	\$10/\$5 with a microchip
	Non-Spay/Neuter	\$15/\$10 with a microchip
Registration	Potbellied Pig	\$25/per animal
Multiple Pet Permit		\$25 per year
Impoundment Fees	Dogs/Cats – 1 st	\$20
	Dogs/Cats – 2 nd	\$30
	Dogs/Cats – 3 rd	\$45
	Boarding	\$5 per day per animal
Ownership Relinquish		
Pickup Fee	Licensed	\$30 per animal
	Non-Licensed	\$40 per animal
Owner Drop Off	Licensed	\$20 per animal
	Non-Licensed	\$30 per animal
Quarantine	Boarding	\$10 per day per animal
	Testing	\$60 per animal
Microchip	Implant	\$20 per animal”

SECTION 10.

Section 90.24“Enforcement” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (A) to read as follows:

“(A) Enforcement of this subchapter shall be the responsibility of the Animal Control Department, Planning & Zoning Department, and Code Enforcement Division. In the absence of an animal control officer, any department or official designated by the City Manager shall have enforcement responsibilities and authority.”

SECTION 11.

Section 90.25 “Care and Humane Treatment of Animals” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (G) to read as follows:

“(G) Tethering animals.

(1) A person commits an offense if he tethers an animal to a stationary object for any length of time except as allowed by subsections (2) and (3) of this section.

(2) Restraint on the owner's property or for a lawful animal event, veterinary treatment, grooming, training, law enforcement activity, or when needed to protect the safety or welfare of a person or animal, shall be allowed provided that all of the following conditions are met:

(a) The animal's owner maintains continuous, direct physical control of the animal throughout the period of restraint;

(b) The tether is attached to a properly fitting collar or harness and is not wrapped around the animal's neck. Choke or prong-type collars are prohibited;

(c) The tether is designed and placed in a manner to prevent entanglement or injury; and

(d) The tether does not allow the animal to move outside the person's property or come within ten (10) feet of public property if tethered outside a fenced area.

(3) A "skyline" type aerial trolley consisting of a line that is strung between two (2) fixed points that arc at least twenty (20) feet apart with a down line that is at least five (5) feet in length is allowed as long as the requirements of subsections (2)(b) and (d) of this section are met and the animal is enclosed behind a fence of adequate size and strength capable of preventing the general public, including children, and other animals from entering the area."

SECTION 12.

Section 90.37 "Quarantine Procedures for Animals" of Chapter 90 "Animal Control" of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsections (A) and (C) to read as follows:

"(A) The owner of an animal that has bitten a human commits an offense if he fails to submit the animal to the Animal Control Manager for quarantine immediately upon notification by the Animal Control Manager of a biting incident."

"(C) The Animal Control Manager shall follow these procedures for quarantining and testing:

(1) When a dog or cat has bitten a human, the dog or cat shall be placed in quarantine in a facility specified by the Animal Control Manager and approved by the Texas Department of State Health Services.

(2) When an animal that has not bitten a human is suspected of having rabies, it shall be placed in quarantine for ten (10) days in a facility specified by the Animal Control Manager and approved by the Texas Department of State Health Services.

(3) Upon the request of the owner of a dog or cat which has bitten a human, and at the sole discretion of the Animal Control Manager, the Animal Control Manager may permit home quarantine for the animal if the following criteria can be met:

(a) The animal was currently vaccinated against rabies at the time of the bite or scratch;

(b) The animal was not at-large at the time of the bite;

(c) The animal's owner has secure facilities at his home for the animal which have been approved by the Animal Control Manager;

(d) The Animal Control Manager or a licensed veterinarian must observe the animal on at least the first (1st) and eighth (8th) days of the quarantine period;

(e) If the animal becomes ill during the observation period, the person with possession of the animal must notify the Animal Control Manager;

(f) The owner must sign an agreement to abide by the quarantine rules; and

(g) At the end of the quarantine period, the animal shall be observed by a licensed veterinarian and the veterinarian will generate a letter authorizing the release of the animal from quarantine.

(4) If the Animal Control Manager is in possession of a dog or cat which has bitten a human, and such animal is designated as unowned, the Animal Control Manager may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

(5) If the animal which has bitten a human is a high risk animal, the Animal Control Manager shall cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

(6) If the animal which has bitten a human is a low risk animal, the Animal Control Manager shall cause the animal to be euthanized, and shall submit its brain for rabies diagnosis by a Texas Department of State Health Services certified laboratory if the Animal Control Manager has cause to believe the animal is rabid. If the Animal Control Manager has no cause to believe the animal is rabid, then neither quarantining nor testing will be required.

(7) If the animal, including a dog or cat, which has bitten a human, inflicted multiple bite wounds, lacerations or punctures to a person, the Animal Control Manager may cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

(8) If the animal which has bitten a human is not included in subsection (C)(1), (C)(2), (C)(3), (C)(4), (C)(5), (C)(6) or (C)(7) of this section, the Animal Control Manager shall cause the animal to be euthanized, and shall submit the animal's brain to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

(9) The Animal Control Manager shall cause to be euthanized any animal required to be quarantined under this subsection (C) which cannot be maintained in a secure quarantine, and shall submit the animal's brain to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

(10) The Animal Control Manager shall follow the rules promulgated by the Texas Department of State Health Services when submitting an animal brain for testing.

(11) The Animal Control Manager may euthanize an unowned animal prior to the end of the quarantine, and have the brain tested for rabies.

(12) All quarantined animals shall be separated from all other animals in such a manner that there is no possibility of physical contact between animals.”

SECTION 13.

Section 90.38 “Disposition or Release of Quarantined Animal” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended by amending subsection (D) to read as follows:

“(D) The owner of a quarantined animal shall pay to the Animal Control Manager all costs of quarantine and disposition of the animal by fee set by the Council. No quarantined animal shall be released until all fees have been paid, unless waived by the Animal Control Manager.”

SECTION 14.

Section 90.99 “Disposition or Release of Quarantined Animal” of Chapter 90 “Animal Control” of the City of Mansfield, Texas Code of Ordinances shall be amended to read as follows:

“Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving public health and sanitation, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this chapter. Each day that a violation is permitted to exist shall constitute a separate offense.”

SECTION 15. CUMULATIVE

That all Ordinances of the City in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provision of this Ordinance shall remain in full force and effect.

SECTION 16.
SEVERABILITY

Should any paragraph, sentence, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of the Mansfield Code of Ordinances as a whole.

SECTION 17.
PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined no more than Two Thousand Dollars (\$2,000.00) for all violations involving zoning, fire safety or public health and sanitation, and shall be fined not more than Five Hundred Dollars (\$500.00) for all other violations of this Ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 18.
SAVINGS

All rights and remedies of the City of Mansfield are expressly saved as to any and all violations of the provisions of the Code of Ordinance of the City of Mansfield, as amended, or any other ordinances affecting animals or animal control which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 19.
PUBLICATION

The City Secretary of the City of Mansfield is hereby directed to publish this ordinance as required by law.

SECTION 20.
EFFECTIVE DATE

This Ordinance shall take effect as specified in the above sections after its passage on third and final reading and publication as required by law.

FIRST READING APPROVED ON THE _____ DAY OF _____, 2019.

SECOND READING APPROVED ON THE _____ DAY OF _____, 2019.

DULY PASSED ON THE THIRD AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF MANSFIELD, TEXAS, THIS _____ DAY OF _____, 2019.

David L. Cook, Mayor

ATTEST:

Susana Marin, City Secretary

APPROVED AS TO FORM AND LEGALITY:

E. Allen Taylor, Jr., City Attorney