

ORDINANCE NO. 285-91

AN ORDINANCE REPEALING THE PREVIOUS ORDINANCE DEALING WITH ANIMAL CONTROL ORDINANCE NO. 272-90, OF THE CITY OF WILLOW PARK, TEXAS; ADOPTING A NEW ANIMAL CONTROL ORDINANCE; CONTAINING A SEVERABILITY CLAUSE, A PENALTY CLAUSE AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WILLOW PARK, TEXAS:

I.

DEFINITIONS:

For the purposes of this chapter, the following words or terms shall have the meanings herein ascribed to them:

- A. Animal shall mean any living creature except a human being.
- B. Animal Control Officer shall mean any person or persons designated by the City Council or the City Administrator of the City to enforce the provisions of this chapter.
- C. City shall mean the City of Willow Park, Texas or the corporate limits thereof.
- D. Guard Dog shall mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler.
- E. Harbor shall mean to keep and care for an animal or to provide premises to which any animal returns for good, shelter, or care for a period of ten (10) days.
- F. Owner shall mean any person, firm or corporation owning, keeping, harboring or in charge of any animal.
- G. Premises shall mean the resident and the attached property, surrounding said residence that is leased or owned by an owner or custodian but not including any common area, park or recreational property jointly owned or leased by the members of a homeowners or tenants association.
- H. Running at Large shall mean:
 - 1. Off premise-any animal which is not held or controlled by a person physically capable of controlling the animal or which is not restrained by means of a leash, rope or chain of sufficient strength and length to control the actions of such animal or not

confined within any vehicle or cage.

2. On premise-any animal which is not confined to the Owners premises.

I. Stray Animal (including estrays) shall mean any animal for which there is no identifiable owner which is found to be at large within the City.

J. Vicious Animal shall mean any animal that, without intentional provocation, bites, scratches, or attacks humans or other animals, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated. Guard dogs are exempted from this definition if maintained in compliance with this chapter.

K. Wild or Exotic Animal shall mean and include any mammal, amphibian, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition; or, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if not kept or maintained in a safe manner or in secure quarters. Wild animals shall include, but are not limited to lions, tigers, bears, skunks, foxes, coyotes, raccoons, alligators, apes and all forms of poisonous animals.

II.

RUNNING AT LARGE PROHIBITED:

It shall be unlawful for the owner or person in charge of any animal, except an ordinary domesticated house cat, to allow said animal to run at large within the City.

III.

NUISANCES:

A. Noise, No person shall knowingly or willfully harbor or keep on his premises or elsewhere any animal that makes or creates an unreasonable disturbance to the neighbors or for such animal to make or create disturbing noises by howling, barking, crowing or otherwise, for two or more distinct episodes within a twenty four hour period.

A person shall be deemed to have willfully and knowingly violated the terms of this section if such person shall have been notified by the neighbors or the animal control officer or any police officer of such disturbance and shall have refused, for a period of twenty-four (24) hours to correct such disturbance and take action to prevent its recurrence.

B. Odors. It shall be unlawful for any person to maintain an animal in such a manner that residents of adjacent or nearby property are subjected to obnoxious odors.

C. Feces. It shall be unlawful for any owner, keeper or walker of any animal to permit

said animal to discharge its feces upon any public or private property (other than the property of the owner, keeper or walker) within the city unless said person immediately thereafter removes and cleans up such animal feces.

D. Trespassing. It shall be unlawful for any person to maintain an animal which constitutes a nuisance by reason of repeated trespasses on public property or private property (other than that of the owner) or by reason of damage to public or private property.

IV.

SPECIAL REGULATIONS AND LIMITATIONS.

A. Guard Dogs. It shall be unlawful for any person to place or maintain guard dogs in any area for the protection of persons or property unless the following provisions are met:

1. The dogs shall be confined to an enclosed area adequate to insure they will not escape; or
2. They shall be under the absolute control of a handler at all times when not securely enclosed; and
3. The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such a dog is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curbline or a distance of fifty (50) feet, whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day; and
4. Prior to the placing of a guard dog on any property, the person or persons responsible for the placing shall inform the animal control officer, the police department and the fire department, the number of dogs to be posted, the location where said dog or dogs will be posted, the approximate length of time said dog or dogs will be guarding the area, the daily hours said dog or dogs will be guarding the area, the breed, sex, age and rabies tag number of said dog or dogs. Such notice must be renewed every six (6) months.

B. Swine. It shall be unlawful for any person to keep or harbor any swine within the city.

C. Wild or Exotic Animals.

1. Any person owning a wild or exotic animal may, with the approval of the animal control officer and payment of a fee as established by the City Council, obtain a permit, to retain said animal provided that:

(a) A permit application is filed with the animal control officer within forty-five (45) days of the effective date of this chapter.

(b) The facilities for housing and containment of said wild animal is inspected and found to be adequate to prevent such animal from escaping or injuring the public or public safety personnel acting in an official capacity.

(c) An annual permit fee in an amount set by the City Council is paid by the owner to the city.

(d) Bees. No person shall keep any beehives within fifty (50) feet from any adjacent property. Under no circumstances shall anyone be authorized to keep more than three hives per acre.

(e) Other Animals. No more than five (5) of any other type of animal, bird or reptile more than four (4) months old shall be kept within the city. No more than two (2) head of livestock or twenty-five (25) fowl is allowed per acre.

(f) General Provisions.

1. No farm animals, including but not limited to, horses, goats, cows, chickens, sheep, ducks, geese, and turkeys shall be kept on the premises of less than one (1) acre. In no case shall such animals be kept or maintained within 50 feet of any dwelling occupied by any person other than that of the owner of such animals.

2. It shall be unlawful to ride or allow any type of livestock upon any public school grounds, public park grounds, or municipal grounds within the city except within public street right-of-ways or areas specifically designated as bridle paths or other designated riding or exhibiting areas for animals. On streets, horses shall be ridden as close as practicable to the curb.

3. It shall be unlawful for any person to willingly permit any animal to enter or remain inside any establishment in the city wherein food is sold except Seeing Eye dogs and animals that aid the handicapped. This section does not prohibit the selling of live crustaceans or shell fish sold as food.

V.

ANIMAL SHELTER AND ANIMAL CONTROL OFFICER

A. Animal Shelter. It shall be any premises designated by the City Council or City Administrator for the humane boarding and caring for any animal impounded under the provisions of this chapter or any other ordinance or law of the state.

B. Animal Control Officer. The provisions of this chapter shall be enforceable by the animal control officer and by any uniformed member of the police department. They shall be authorized to issue, sign and serve summons and complaints and to make all determinations within their discretion in compliance with the provisions of this chapter.

C. Interference with Animal Control Officer.

1. It shall be unlawful for any person to interfere with the animal control officer or his agents in the lawful discharge of their duties.

2. It shall be unlawful for any person to remove from any place of confinement any animal which has been confined as authorized, without the consent of the impounding agency. No person shall remove, alter, damage, or otherwise tamper with a trap set out by the animal control office or his deputies or any of their equipment.

VI.

IMPOUNDMENT AND DISPOSITION OF STRAY OR AT LARGE ANIMALS

A. Impoundment. It shall be the duty of the animal control officer or any police officer to take any stray animal or animals found running at large and confine said animal in the designated animal shelter for a period of up to 120 hours for animals with tags and 72 hours for animals without tags.

B. Notification of Owner. The animal control officer shall make every reasonable effort to identify and notify the owner of the impoundment of his animal by mail, public notice in newspaper of general circulation and posting of notice at City Hall.

C. Redemption. Upon satisfactory proof of ownership and any licenses and vaccinations as may be required by this chapter, the owner may redeem his animal upon payment of all charges and fees as established by the City Council. The fees and charges shall include pound fees and fees for licenses and/or vaccinations if the same were not previously obtained as required by this chapter. The City Administrator shall promulgate these fees in accordance with city procedures concerning administrative charges for city service.

D. Disposition of Unclaimed Animals. If the owner of any untagged animal impounded under the provisions of this section does not redeem his animal within 72 hours and if the owner of a tagged animal does not redeem the animal within 120 hours from the time the owner was notified, the animal shall become the property of the City of Willow Park and shall be disposed of at the discretion of the City Administrator or his designee.

E. Court Procedures. If any animal is impounded, the animal control officer or a police officer may institute proceedings in the municipal court of the City of Willow Park on behalf of the City of Willow Park against the animal owner, if known, charging the

owner with a violation of this chapter. Nothing in this section shall be construed as preventing the animal control officer, a police officer or complaining citizen from instituting a proceeding in municipal court for violation of this chapter when there has been no impoundment. When an animal is found to be in violation of this chapter and its ownership is known, such animal need not be impounded, but the animal control officer or a police officer may issue a complaint and summons to the owner of such animal to appear in municipal court to answer charges of the violation of this chapter.

VII.

VICIOUS ANIMALS

A. Prohibited. It shall be unlawful for any person to keep or harbor a fierce or vicious animal within the city.

B. Disposition. When the animal control officer or a police officer receives a report of a vicious animal, he shall investigate; and, if in his opinion, the animal is vicious, he shall immediately take such animal into custody and make such fact known to the judge of the municipal court, who shall thereupon direct that a hearing be held as hereinafter provide. If the identity or address of the person or persons having custody or control of such animal can be determined with a reasonably diligent search, such person shall be notified of the pendency of such hearing and summoned to appear within fourteen (14) days before the municipal judge; said judge being hereby vested with jurisdiction for the purposes of hearing such cases.

If it is determined that the animal is vicious, the municipal judge is hereby authorized and directed, at his discretion, to order that the animal be released, released and kept muzzled, released to be taken out of the city, or that the animal be destroyed in a humane manner as a public nuisance.

If an animal has been found by the municipal judge to have bitten a human, the animal shall be destroyed unless the municipal judge finds, by a preponderance of the evidence, that he has reasonable assurance that the animal can be safely maintained without danger to the community. In determining whether the animal can be safely maintained by its owner, the judge shall consider all relevant and reliable evidence, whether or not the same is admissible at trial, including, without limitation, pre-bite or absence of other instances of post-bite viciousness shall not be sufficient to support a finding in favor of release. Surrender of an animal by the owner thereof to the animal control officer shall not relieve or render the owner immune from the decision of the court or from the fees and fines which may result from a violation or violations of this chapter.

Any order releasing an animal shall not occur without twenty-four (24) hours' notice to the animal control officer and the city attorney's municipal court office and an opportunity to oppose release based on the character of the animal, prior offenses involving the same owner or animal, improper care or prior unpaid fines, fees or charges. The municipal judge may order that the animal be destroyed if the alleged owner has

failed, without prior excuse, to appear at any hearing.

The animal shall not be released from impoundment or disposed of except on the order of the municipal judge and payment of all fees or charges under this chapter in addition to any penalties for violation of this section. If the fees and charges are not paid within three (3) days after an order releasing the animal, it shall be deemed an unclaimed animal under Section 6 of this chapter.

Any owner or person having custody or control of such animal who shall attempt to impede the enforcement of this section by refusing to abide by the order of the judge as to the proper restrictions on such animal, or by refusing to deliver such animal for impoundage, or by concealing such animal from the animal control officer, or by otherwise willfully interfering with the impoundage of such animal shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding \$200.

C. Defense. It shall be an affirmative defense to charges under this section if the actual or intended victim of any attack has made an unlawful entry into the dwelling or onto the premises of the owner.

D. Immediate Destruction if Warranted. Nothing in this section shall be construed to prevent the immediate destruction by the animal control officer or a police officer of any vicious animal when less drastic methods, such as tranquilizing, are not available or effective and when neither the animal control officer, a police officer, nor the animal's owner is able to restrain or control the animal so that it might be impounded in an animal shelter.

VIII.

VACCINATION AND QUARANTINE

A. Vaccination of Household Pets-Required. All dogs, cats and other household pets over four (4) months of age within the city shall be immunized against rabies annually by a licensed veterinarian and by means of any standard vaccine as approved by the U. S. Government for the prevention of rabies. The licensed veterinarians who administer such vaccine shall issue a rabies vaccination certificate and a rabies tag to the owner or the person having such animal vaccination and kind of vaccine used.

B. Reporting of Rabies. All veterinarians practicing in the city are required to report to the animal control officer all cases of rabies with which they come in contact or to which their attention has been directed.

C. Quarantine. If an animal has bitten, scratched, or otherwise attacked a person, has rabies or symptoms thereof, or is suspected by the animal control officer of having rabies, or has been exposed to rabies, upon demand of the animal control officer or a police officer, it shall be immediately and securely confined for a period of fourteen (14) days after the bite. The animal control officer may require that the animal be kept in

an approved shelter or veterinary hospital with the fees to be paid by the owner or harbinger of said animal or he may require that said animal be securely confined on the owner's premises by a chain of sufficient strength to prevent escape. During confinement, the animal shall be subject to examination by the animal control officer or a police officer at any time.

IX.

DOG AND CAT LICENSES

A. Required. It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon premises under his control, any dog or cat over four (4) months of age without having obtained a license therefore as herein provided.

B. Fees and Issuance. Upon payment of a prorata fee as established by the City Council, the City of Willow Park shall issue a receipt, license and numbered metal tag; provided that no license shall be issued for any dog or cat unless, within twelve (12) months prior to the issuance of such license. Said dog or cat shall have been vaccinated against rabies by a licensed veterinarian. The metal tag shall be securely fastened in some manner to the dog or cat. The City of Willow Park shall keep a registry of all licenses issued in which shall be entered the name of the owner, description of the dog or cat, number of the license issued, the date of issuance, and the expiration date.

C. Term of License. All licenses shall expire January 31, each year with a 30 day grace period permitted.

X.

CRUELTY TO ANIMALS

Upon conviction, a person shall be guilty of a misdemeanor if, within the city, he willfully or wantonly kills, maims, wound, disfigures, poisons, or cruelly and unmercifully beats or abuses any animal; or overrides, overdrives, overloads, or in any manner mistreats such animal; or fails to provide same with proper food, drink, or shelter, or shall drive or work or otherwise use such animal when same is maimed, wounded, sick or otherwise unfit for work; or shall willfully abandon any such animal to die; or shall leave the same tied up and confined without proper feeding and care.

This section is not to be construed to prevent the humane killing of animals by municipal employees who are entitled to do so by statute of this state or any ordinance of the city now in effect or that may be hereinafter enacted.

XI.

DESTRUCTION OF ANIMALS

Destruction of Certain Animals. Any animal impounded or found at large within the city may be destroyed or ordered to be destroyed by the animal control officer upon determination that such animal has been injured or is sick and in such a state that its recovery is seriously in doubt, or that such animal is sick and endangers the health of other animals or persons, insofar as such animal is suspected of having rabies.

XII.

REMOVAL OF DEAD ANIMALS

Upon request, the animal control officer shall remove or cause to be removed any dead animal from any premises within the city.

XIII.

FEES

The fees and charges as stated in this chapter shall be as follows:

Pound fees	\$8.00 per day
Dog or cat license	6.00
Neutered dog or cat	4.00
Wild & Exotic Animal Permit	50.00
Pickup fee	25.00

XIV.

Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

XV.

Any person, firm or corporation that violates, disobeys, neglects or refuses to comply with, or that resists the enforcement of, any of the provisions of this Ordinance will be fined not less than TEN DOLLARS (\$10.00), nor more than TWO HUNDRED DOLLARS, (\$200.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

The City may also bring suit for injunction against, any person, firm or corporation that shall violate or threaten to violate any of the provisions of this ordinance, in order to prevent a continued violation of such threatened violation.

This ordinance shall be effective from and after its passage and publication as required by law.

PASSED AND ADOPTED this the 15th day of January, 1991.

APPROVED:

Sharon Riley Suarez
SHARON SUAREZ, Mayor

ATTEST:

Kathy Mitchell
CITY SECRETARY

APPROVED

Walter W. Leonard
WALTER W. LEONARD, CITY ATTORNEY