

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TALTY, TEXAS, ADOPTING ANIMAL CONTROL REGULATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Talty, Texas, finds it to be in the public interest to adopt comprehensive regulations pertaining to the ownership, maintenance and care of animals, in order to minimize public nuisances, protect against the spread of rabies, protect and preserve property values, preserve the safety, aesthetics and integrity of neighborhoods, and to provide for the care, safety and well-being of household pets. Now, Therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALTY, TEXAS:

SECTION 1. That the following regulations and requirements, to be referred to as the Animal Regulations of the City of Talty, Texas, be and are hereby adopted and shall be enforced within the city limits of the City of Talty, Texas:

ANIMAL REGULATIONS

Sec. 1. Definitions.

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

Abandon means:

- (1) leaving an animal in any place without providing reasonable and necessary care including, but not limited to, air, food, water, or protection from heat, cold, or other elements of nature; or
- (2) the intentional or knowing failure of an owner to redeem an animal that has been impounded by or at the direction of the city within three days after impoundment.

Animal means any living creature, including but not limited to, dogs, cats, cows, horses, bird, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.

Animal control official means any person designated by the city to represent and act for the city to receive reports of animal bites, investigate bite reports, ensure quarantine of possibly rabid animals, and carry out and enforce the general regulations of the provisions of this ordinance.

Animal shelter means any facility operated, approved or used by the city for the purpose of impounding and caring for animals held under the authority of this ordinance.

Bee means any common domestic honeybee (*apis mellifera*).

Dangerous dog means:

- (1) Any dog that when unprovoked inflicts bites on or attacks a human being either on public or private property or, in a terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places;
- (2) Any dog with a known propensity, tendency or disposition to attack unprovoked to cause injury or to otherwise endanger the safety of human beings; or

- (3) Any dog suspected of being a dangerous dog if the owner, keeper or harbinger of such dog fails or refuses to make such dog available for inspection by an animal control official;
- (4) Any dog that engages in an unprovoked attack causing bodily injury outside a secure enclosure, or that engages in unprovoked acts causing one to believe the dog will attack and cause bodily injury outside a secure enclosure.

Dangerous propensities means any one, or a combination, of the dog behaviors of biting, snarling, charging aggressively toward a person, growling with curled lips, popping of teeth, or barking with raised hackles.

Direct physical control means within the owner's observation and in such close proximity as to permit the owner reasonable opportunity to control the animal should it become necessary to do so in order to protect the animal, a human or another animal from harm.

Dog means a domesticated member of the family canidae, but shall not include a wolf, jackal, coyote, fox or other wild animal of this family or hybrid thereof.

Dog tethering means the use of a chain, rope, tether, leash, cable or other device to attach a dog to a stationary object or trolley system.

Exotic animal means nonnative species of animal including, but not limited to, nonpoisonous reptiles which, when mature, are over six feet in length, ostriches, any member of the Ratite family or exotic livestock as defined by the state animal health commission.

Fowl means all of those birds commonly called poultry including, but not limited to, chickens, ducks, geese, guinea fowl, turkeys, pigeons and all the relatives of those birds which can be in pens, coops, cages or enclosures of any kind.

Harboring means the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of at least three consecutive days.

Humanely euthanized means to cause the death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
- (2) Utilizes anesthesia produced by an approved agent which causes painless loss of consciousness, and death following such loss of consciousness.

Impound means to seize and hold in the effective custody of the city.

Large livestock means horses, mules, donkeys, cattle, goats, sheep and swine regardless of age, sex, size or breed, but does not include the pot-bellied pig, miniature horse, or pygmy goats.

Miniature livestock means swine or goats that have been specifically bred to be significantly smaller at maturity than all other breeds of similar animals. Miniature livestock includes, but is not limited to, pot-bellied pigs, pygmy goats and miniature horses.

Owner means any person having ownership of any animal, or a person who has possession of, harbors, keeps or maintains, or who causes or permits to be harbored or kept, an animal in his care, or who permits an animal to remain on or about his premises.

Person means any individual, firm, association, partnership, or corporation.

Properly fitted with respect to a collar or neck restraint means one that measures the circumference of a dog's neck plus at least one inch. With respect to a harness, "properly fitted" means one that is of an adequate size, design and construction as appropriate for the dog's size and weight.

Rabies vaccination means an injection of a United States Department of Agriculture approved rabies vaccine administered under the direct supervision of a licensed veterinarian.

Residence means any building or portion thereof, which is designed or used as a living quarters for one or more families.

Running at large means not completely confined by a building, wall or fence of sufficient strength or function to restrain the animal, except when such animal is either on a leash, or held in the hands of the owner or keeper. An animal within an automobile or other vehicle of its owner shall not be deemed to be at large.

Secure enclosure means a house or a building, or in the case of a dangerous animal being kept outdoors, the kennel/pen shall include a roof which is fastened to all vertical walls, which are submerged in a subpervious material. The kennel/pen must be at least six feet in height and have the minimum dimensions of five feet by ten feet. The kennel/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump, or otherwise escape of its own volition. The enclosure shall be securely locked at all times. The kennel/pen will provide protection from the elements and allow for daily removal of waste.

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

Vicious dog means any dog that has on at least two separate occasions, without provocation, attacked or bitten any domestic animal; or any dog which a peace officer or animal control official has reason to believe has a dangerous disposition likely to be harmful to domestic animals.

Wild animal means any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated including, but not limited to, foxes, leopards, lions, lynx, monkeys (nonhuman primates), panthers, raccoons, skunks and also includes offspring of domesticated canine and wild canine cross-breeds such as coyote or wolf hybrids. This shall apply regardless of duration of captivity.

Sec. 2. Enforcement

(a) Generally. Any peace officer or animal control official of the city shall have the authority to issue citations for any violation of this ordinance and any other power or duty stated within the terms of this ordinance. If the person being cited is not present, the officer may send the citation to the alleged offender by registered or certified mail, return receipt requested, by depositing the same in the United States mail, postage prepaid.

(b) Enforcement interference. It shall be unlawful for any person to interfere with any officer in the performance of duties under this ordinance.

(c) Pursuit of animals. For purposes of discharging the duties imposed by the provisions of this ordinance or other applicable laws, and to enforce the same, a peace officer or animal control official may enter upon private property to the full extent permitted by law, which shall include, but not be limited to, entry upon private unfenced property, except dwellings located thereon, when in pursuit of any animal

which he has reason to believe is subject to impoundment pursuant to the provisions of this ordinance or other applicable laws.

(d) Euthanization or destruction. Any animal control official or police officer shall have the authority to humanely euthanize and/or destroy any animal in accordance with the provisions of this ordinance.

Sec. 3. Running at large; authority to impound.

(a) It shall be unlawful for any owner of an animal, other than a cat, to cause, permit, suffer or allow the animal to run at large.

(b) Any animal control official or police officer is authorized to impound such animals running at large, other than a cat, and may impound a cat upon receipt of a complaint that the cat causes a nuisance or hazard to the health or welfare of any person or animal.

Sec. 4. Limitation of number of animals.

(a) Animal limitations. It shall be unlawful for any person to keep within the city, in any residential district, more than three animals, each of which is at least six months of age, on a residential lot of 10,000 square feet or less; provided, however, that such person may keep one additional adult animal for each additional 10,000 square feet of lot area. Each residence owner or occupant shall be permitted to keep no more than one litter of newborn animals under six months of age.

(b) Special permit. Notwithstanding the provisions of this section, any person who desires to keep additional animals in a residential area shall apply to the animal control official for a special permit to keep the same. The applicant shall provide the city with satisfactory proof from adjoining property owners within two hundred feet (200') that they have no objection to the issuance of the special permit.

Sec. 5. Animal Nuisance.

(a) Noise. A person commits an offense if he knowingly or recklessly harbors an animal that unreasonably barks, howls, crows or makes other unreasonably loud or persistent noise near a private residence that disturbs the peace and quiet of a person of ordinary sensibilities. If the noise lasts for a period of at least 15 minutes, even if the noise is sporadic within the 15-minute period, such shall be prima facie evidence of a violation of this provision and that the same constitutes a nuisance.

(b) Animals defecating/urinating in public places. It shall be unlawful for an owner of an animal to allow, permit, either intentionally or through failure to exercise care and control, the animal to urinate or defecate upon the property of another, a sidewalk or parkway or any public street, or upon the floor of any common hall in any entranceway, stairway or upon any wall of any public place or building without immediately removing the animal waste.

(c) Animal waste. It shall be unlawful and considered a public nuisance for any person to allow 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 thereof or to the public at large. Any condition injurious to public health caused by improper waste disposal will be considered a violation of this ordinance.

(d) Cats. Cats running at large to such a degree that it causes an unreasonable disturbance to a person of ordinary sensibilities is prohibited.

(e) Wild or exotic animals. No person shall keep or permit to be kept on his premises or premises under his control any wild or exotic animal for pet ownership, sale, or display, or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

(f) Dead animals. It shall be unlawful for any person to permit the carcass of any dead animal to be, or remain, upon any property under his control for more than 24 hours after the death of the animal.

Sec. 6. Animal care guidelines.

(a) Provisions of food, shelter, and care. No person shall fail to provide his animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(b) Dog tethering. It shall be unlawful for a person to use a chain, rope, tether, leash, cable or other device to attach a dog to a stationary object or trolley system.

(c) Defenses. It shall be a defense to an offense alleged to have been committed under subsection (b) if the tethering of a dog is a temporary restraint that occurs:

- (1) During a lawful animal event, veterinary treatment, grooming, training or law enforcement activity;
- (2) In order to protect the safety or welfare of a person or the dog and the dog's owner maintains direct physical control of the dog;
- (3) In the direct physical control of an owner in a designated city dog park; or
- (4) While on the owner's premises and:
 - a. The dog is within the owner's direct physical control, and
 - b. The restraint prevents the dog from advancing to within 15 feet of the edge of any public street, sidewalk or other public right-of-way.

(d) Restraint specifications. The defenses provided in subsection (c) do not apply unless the restraint meets the following specifications:

- (1) The chain, rope, tether, leash, cable or other device is attached to a properly fitted collar or harness worn by the dog and is not placed directly around the dog's neck;
- (2) The chain, rope, tether, leash, cable, or other device does not exceed one-tenth of the dog's body weight;
- (3) The chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and
- (4) The dog is restrained in a manner that provides necessary shelter and clean wholesome water.

(e) Penalties. An offense under this section is a class C misdemeanor punishable by a fine not to exceed \$2,000.00. If a person violates this section with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense. An offense under this section is cumulative and not exclusive of any other offense under the law.

(f) Hand-held leashes. This section does not apply to and shall not prohibit a person from walking a dog with a hand-held leash.

(g) Fenced enclosures. It shall be unlawful for any person to keep a dog within a fenced enclosure in which the fence is in a state of disrepair or in which any gate is open inadequate to secure animals or in disrepair..

Sec. 7. Large livestock.

(a) It shall be unlawful for any person to allow large livestock to be at large on private or public property. Any livestock at large within the city limits shall be reported to the sheriff of Kaufman County as soon as reasonably possible, in accordance with county and state laws.

(b) It shall be unlawful for any person to keep large livestock in an area zoned residential on any lot having an area less than one acre. For lots of at least one acre in size, no more than two large livestock may be kept on the lot and a minimum of one-third of that acre shall be set aside for exclusive use by the livestock. For each one additional large livestock, an owner must have an additional 5,000 square feet, in addition to the one-acre minimum, of available space.

(c) Large livestock must not be located closer than 150 feet distance from any person's living quarters, other than his own, unless located on a lot of at least two acres.

(d) The provisions of subsection (c) of this section shall not apply to livestock kept on property adjacent to any newly constructed development, provided that the owner can substantiate to the city that livestock was maintained on the property prior to construction of the new development and so long as the livestock are continuously maintained after construction.

Sec. 8. Miniature livestock.

(a) Keeping. Notwithstanding anything else contained in this article, miniature horses and pygmy goats are prohibited in any area zoned residential having less than one acre.

(b) Pot-bellied pigs. In addition to other generally applicable requirements, the owner of a pot-bellied pig shall comply with the following:

- (1) The term "pot-bellied pig" shall refer to a variety of swine that is no more than 18 inches in height at shoulder level when fully grown, has short erect ears and a straight tail. No swine shall be considered a pot-bellied pig if its weight exceeds 95 pounds, unless registered with a licensed breeder.
- (2) It shall be unlawful for any person to keep, harbor, or raise more than two pot-bellied pigs in any one location or residence within the city.
- (3) All such pot-bellied pigs shall be kept indoors at all times other than for evacuation of waste material or during exercise periods. The pot-bellied pigs may not be left in the back yard or front yard of the owner's residence unattended. All waste material must be collected and disposed of in a manner that will not create a nuisance.
- (4) It shall be unlawful for any person to keep, harbor, or raise a pot-bellied pig which has not received annual vaccinations for erysipelas, parvo virus and leptospirosis (the first of which vaccination shall be obtained before the animal reaches the age of four months). It shall be the responsibility of the owner or caretaker of the pot-bellied pig to forward to the city within 14 days of the vaccination a certificate from a licensed veterinarian which shall include the following information:
 - a. The name, address, and phone number of the owner;
 - b. The name, address and phone number of the licensed veterinarian issuing the certificate;
 - c. The name and description of the animal;
 - d. The types and dates of the vaccinations;
 - e. The tag numbers;
 - f. The approximate weight, height and age of the animal; and
 - g. The animal's general health.

- (5) Any individual wanting to keep a pot-bellied pig at any location within the city must file a notice with the city that must be accompanied by the required veterinary certificate.
- (6) Should the pot-bellied pig die, be moved or acquire a new owner or caretaker, it shall be the owner's duty to inform the city of this fact within 14 days of the event.

Sec. 9. Domestic ferrets.

- (a) Certificate required. It shall be unlawful to possess, harbor, or keep a ferret at any residential dwelling without providing notice thereof to the city.
- (b) Vaccination. The owner, keeper or harbinger of a ferret within the city shall present a current certificate of vaccination from a licensed veterinarian issued for such ferret as in accordance.
- (c) Disposition of biting ferrets. Any ferret suspected of biting a person shall be placed under quarantine to determine if the animal is capable of transmitting or exposing humans and/or other animals to rabies or must be humanely euthanized and sent to the state department of health for rabies testing. The quarantine period for ferrets shall be for a period of not less than ten days after biting such person. The place of quarantine shall be at an authorized animal shelter or in quarters supervised by a licensed veterinarian for the period of the quarantine and shall not be allowed to be quarantined on the owner's premises.
- (d) At large. It shall be unlawful to have a ferret in a public place without being on a leash no longer than six feet in length or in an adequate enclosure capable of controlling the animal's actions.
- (e) Sterilization. It shall be unlawful for any person to own, keep or harbor within the city any ferret over six months in age which has not been sterilized.

Sec. 10. Nonpoisonous reptiles.

- (a) Snakes. Nonpoisonous snakes that do not exceed six feet in length at maturity may be kept in the city.
- (b) Lizards. Adult lizards which do not exceed three feet in length at maturity may be kept in the city.

Sec. 11. Fowl.

- (a) Generally. The keeping of fowl such as roosters, ducks, turkeys, geese, peacocks, guineas, or other such loud fowl within the city limits, in any pen, coop or enclosure that is within 200 feet of any residence (other than the owner's), business or school is prohibited.
- (b) Chickens. No person shall keep more than two hens in an area zoned residential within the city and shall be no closer than 50 feet to the nearest inhabited dwelling, other than that of the owner.
- (c) Secure pen or enclosure. Any fowl kept within the city limits shall be in a secure pen, coop or enclosure, and such structure shall be of such construction and strength to keep such animals from running at large.

Sec. 12. Pigeons.

(a) Generally. Pigeons shall be kept in an enclosure or coop that is located no closer than 30 feet from any residential dwelling, other than that of the owner, and no closer than 50 feet from any swimming pool on an adjoining or adjacent lot.

(b) Supervised exercise. When an owner allows his pigeons to exercise outside of their enclosure or coop, he shall ensure that his pigeons do not roost on or about a neighbor's dwelling nor interfere with a neighbor's enjoyment of his property.

Sec. 13. Rabbits.

Rabbits shall be kept in a secure pen or enclosure that is at least 30 feet from an inhabited dwelling, other than that of the owner. Rabbit enclosures shall be of a design which prohibits waste material dropping to the ground and such construction and strength to keep such animal from running at large.

Sec. 14. Bees.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Apiary means a place where bee colonies are kept.

Colony means a hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.

Hive means a structure intended for the housing of a bee colony.

(b) Keeping. It shall be unlawful for any owner, person, or beekeeper to keep any colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

(c) Hives. All bee colonies shall be kept in "Langstroth" type hives with removable frames, which shall be kept in sound and useable condition.

(d) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, birdbath, or other water sources where they may cause human, bird, or domestic pet contact.

(e) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly "re-queen" the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.

(f) Colony densities. It shall be unlawful to keep more than the following number of colonies on any lot, in an area zoned residential within the city, based upon the size of the lot which the apiary is situated:

- (1) One-half acres or less of lot size: two colonies;
- (2) Larger than one-half but less than one acre of lot size: four colonies;
- (3) Regardless of lot size, where all hives are situated at least 100 feet in any direction from all property lines of the lot on which the apiary is situated, there shall be no limit to the number of colonies.

(g) Marking hives. The name, address, and telephone numbers of the owner or beekeeper shall be painted, or otherwise clearly marked upon the structure of each hive.

(h) Compliance. The city, upon determination that any colony situated within the city is not being kept in compliance with this section, may order the bees removed from the city or destroyed.

Sec. 15. Vicious Dogs.

(a) Running at Large. Any vicious dog found running at large and endangering the safety of persons and property may be destroyed by the local health authority, or any peace officer or animal control official in the interest of public safety if such danger is imminent and a real or apparent necessity exists to destroy such vicious dog.

(b) Impoundment; notice; destruction. No person shall own or harbor a vicious dog within the city. A vicious dog may be impounded in the interest of public safety. If an attempt is made to impound a vicious dog from the premises of the owner and the impoundment cannot be made with safety, the owner will be given 24 hours' notice that if that dog is not surrendered to the city's designated official for impoundment within the 24-hour period, then the dog will be destroyed wherever it is found. After this notice, the vicious dog may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this section may be verbal or in writing. A written notice left at the entrance to the premises where the vicious dog is harbored will be considered valid notice under this article.

(c) Determination of vicious dog. A determination that a dog is a vicious dog shall be based on the following:

- (1) A dog is automatically determined to be a vicious dog if it commits acts as defined in the definition of the term "vicious dog" found in section 1 of this ordinance;
- (2) The owner of a determined dangerous dog fails to comply with the requirements set out in this ordinance for keeping of a dangerous dog; or
- (3) An animal control official or the health authority makes a determination, based on the necessity to preserve the public health, safety and welfare of the community, that a dog is a vicious dog. If an officer determines that the dog is vicious, he shall order a disposition of the dog, which shall be one of the following:
 - a. Order the humane destruction of the vicious dog; or
 - b. Order any owner or person having care, custody, or control of any vicious dog to take such dog permanently from the city.

(d) Notification and appeal of a vicious dog designation

- (1) Within five working days of determining a dog vicious, the animal control official will notify, by certified mail, return receipt requested, the person owning or harboring the dog of its designation as a vicious dog. The notice shall contain a statement that the owner/harbinger has a right to appeal. If certified mail cannot be delivered or is refused, the animal control official may give notice by ordinary mail to the last known address of owner. Written notification may also be delivered by the animal control official in person to the owner/harbinger of the dog.
- (2) If the dog is determined to be vicious under this ordinance, the owner may appeal the decision of the animal control official to the municipal court within ten days of notification. Failure to appeal the determination of vicious dog shall result in the animal control official's determination becoming final and binding.

(e) Status of vicious dog pending appeal. Pending the outcome of the appeal to municipal court, the vicious dog must be confined at an approved animal shelter, the cost of which shall be borne by the owner. If the owner fails to immediately surrender the dog or place it in an approved animal shelter, the city shall have the right to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. If the dog cannot be taken into custody by the animal control division, it may be taken into custody under a search warrant issued by the municipal judge in the interest of public safety.

(f) Disposition of vicious dog.

- (1) If the municipal court upholds the determination by the animal control official, the court shall order the vicious dog to be euthanized in a safe and humane manner. Alternatively, the court may uphold the determination by the animal control official and order that the vicious dog be removed from the city limits permanently.
- (2) If the owner or harbinger of a vicious dog agrees with the determination of the animal control official to remove the vicious dog from the city limits, or the court upholds the official's determination of removal, the owner or harbinger will not be returned custody of the dog until written information is provided to the city of the location where the vicious dog will be taken, and the owner reimburses the city for any veterinary medical treatment administered to such dog while in the custody of the animal shelter.
- (3) If the owner has met the requirements as described in subsection (b) of this section, the vicious dog shall be released to its owner, and the owner shall immediately remove such dog from the city limits. A police officer may follow the owner to the city limits to ensure that the vicious dog is taken from the city. The owner/harbinger of the dog shall, within ten days after the determination to remove the dog from the city has been made by the animal control official or municipal court, report in writing that the dog has been removed from the city and shall inform the animal control official of the location to which the dog has been relocated.
- (4) If the municipal court reverses or modifies the determination, the dog in question shall be released to its owner, provided that the owner reimburses any shelter fees or veterinary expenses while such dog was in the custody of the animal shelter.

(g) Penalties for violation of vicious dog requirements.

- (1) A person commits an offense if the owner of a vicious dog fails to remove such dog as provided for in this ordinance. Each day the owner or harbinger fails to remove the dog from the city limits constitutes a separate offense.
- (2) A person commits an offense if the owner of a vicious dog fails to report in writing within ten days of the determination the disposition and relocation of such dog. Each day thereafter that such information is not provided shall constitute a separate offense.
- (3) The penalties, remedies and procedures provided for in this article are in addition to those provided by state law and are cumulative, not exclusive, of state law.

Sec. 16. Dangerous Dogs.

(a) Owner's knowledge. For purposes of this section, a person learns that he is the owner of a dangerous dog when:

- (1) He knows of an attack described in this ordinance's definition of the term "dangerous dog"; or
- (2) He is notified by the animal control official that the dog is a dangerous dog.

(b) Determination of dangerous dog. If the animal control official determines that a dog is dangerous, he shall make a disposition determination based on necessity to preserve the public health, safety and welfare of the community. This determination shall be one of the following:

- (1) Order humane destruction of the dangerous dog;

- (2) Declare the dog to be a vicious dog and order that it be removed from the city permanently;
or
- (3) Order secure confinement of the dangerous dog.

(c) Notification. If, after investigating a report of a dangerous dog, the animal control official determines the dog is a dangerous dog, he shall notify the owner of that fact, as well as any known victim of the dangerous dog. The notice shall be in writing and shall contain a statement that the owner has a right to appeal. Notice shall be mailed by certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person. If certified mail, return receipt requested, cannot be delivered, the animal control official may then give notice by ordinary mail. A written notice left at the entrance to the premises where the dangerous dog is harbored will also be considered valid notice under this article.

(d) Appeal. An owner, not later than ten days after the date the owner is notified that a dog owned by him is a dangerous dog, may appeal the determination of the animal control official to the city's municipal court. Failure to appeal the determination within ten days of the notification shall result in his determination becoming final and binding. On timely notice of appeal, the municipal court shall hear the evidence and uphold, reverse or modify the animal control official's determination. If the municipal court reverses the determination, the dog shall be returned or released to its owner, provided that the owner reimburses the city for any veterinary medical treatment administered to the dog while in the custody of the city.

(e) Status of dog during appeal. Pending the outcome of an appeal, the dog must be confined at a veterinary clinic or at a city-approved animal shelter, the cost of which shall be borne by the owner of the dog. If the dog is not in the possession of the animal control division or a veterinary clinic at the time of the determination, the owner must surrender the dog to the city when ordered to do so. If the owner fails to surrender the dog, the city shall have the authority to take the dog into its possession from the premises of the owner or elsewhere, wherever the dog may be found within the city limits. A search warrant may be issued by the municipal court, on a showing of probable cause, to authorize the seizure of the dog.

(f) Humane destruction. Upon a final order of destruction, if the dangerous dog is in the care and custody of a veterinarian clinic, the owner will have 48 hours to surrender the dangerous dog to the city or provide proof of destruction. If the owner fails to surrender or provide such proof, the dog may be impounded and humanely destroyed.

(g) Confinement. Upon a final determination that a dog is a dangerous dog, and if the dog is not euthanized or removed from the city, the owner shall comply with the following requirements within ten days of notification by the city, or within 48 hours of an unsuccessful appeal:

- (1) Present proof of liability insurance or financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog which causes bodily injury to a person;
- (2) Present proof of current rabies vaccination of the dangerous dog;
- (3) Pay a registration fee established by the city;
- (4) Present proof that the dog has been spayed/neutered so as to prevent reproduction;
- (5) Present proof satisfactory to the city that the enclosure in which the dog will be kept is a secure enclosure. The term "secure enclosure" shall mean a house or a building, or in the case of a dangerous dog being kept outdoors, a kennel or pen that includes a roof which is fastened to all vertical walls, which are submerged in a subpervious material. The kennel or pen must be at least six feet in height and have the minimum dimensions of five feet by ten feet. The kennel/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that a dog cannot climb, dig, jump, or otherwise escape. The

enclosure shall be securely locked at all times. The kennel/pen shall provide protection from the elements and allow for daily removal of waste.

- (6) The owner shall post a sign on the premises where the dangerous dog is kept warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the street. In addition, the owner shall conspicuously display a sign with a symbol warning, understandable by small children, of the presence of a dangerous dog.
- (7) On an annual basis, the proof of liability insurance, vaccination and secure enclosure shall be provided to the city.
- (8) The owner shall microchip and register the dangerous dog for the remainder of its life with a national registry, and present proof thereof to the city. The cost shall be at the owner's expense. The owner of the dangerous dog shall microchip the animal by implanting a microchip identification device on the dog within seven calendar days after being notified by the city or the court that such dog is dangerous or within 48 hours of an unsuccessful appeal.

(h) Muzzling and restraint. When a dangerous dog is taken outside the approved proper enclosure, the dog must be securely muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting a person or other animal; the dog must be restrained by a substantial chain, cable or leash having a minimum tensile strength of 1,000 pounds and not exceeding six feet in length; and the dog must be under the direct control or supervision of its owner.

(i) Disposition/relocation. Prior to disposing of or moving the dangerous dog either inside or outside the city limits, the owner must notify the city. If the dog is moved permanently outside the city limits, the owner must comply with state law in notifying the animal control authority in control of the area into which the animal has been moved.

(j) Attacks; notification. The owner or harbinger of a dangerous dog shall immediately notify the city of any attack made by the dog on humans or domestic animals, or if the dog is at large. For the purposes of this section, the term "immediate" shall mean within 30 minutes of the owner or harbinger becoming aware of the attack or of the dog being at large.

(k) Dog determined dangerous in another jurisdiction. The owner of a dog that has been determined to be dangerous by another jurisdiction is prohibited from having such dog within the city limits.

(l) Penalties for violation.

- (1) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person whether or not the dog was on a leash, securely muzzled, or escaped without fault of the owner.
- (2) A person commits an offense if the person is an owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while such dog was outside the dog's secure enclosure, and the attack causes bodily injury or death to the domestic animal or domestic fowl whether or not the dog was on a leash, securely muzzled, or escaped without fault of the owner.
- (3) A person who owns or has custody or control of a dangerous dog commits an offense if the person fails to comply with any requirement imposed by this article on an owner of a dangerous dog.
- (4) A person commits an offense if he owns or has custody or control of a dangerous dog that is not currently registered as a dangerous dog with the city.
- (5) The owner of a dangerous dog commits an offense if he fails to provide notice of an attack as provided for in this article.

(6) The owner of a dangerous dog commits an offense if he sells or transfers the dog to another person and fails to notify the city.

(m) Defense to prosecution. It is a defense to prosecution of an offense under this section that the person is:

- (1) A veterinarian, peace officer, employee of the city in the performance of his duties; or
- (2) An employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(n) If a person is found guilty of an offense under this section, the court may order the animal impounded and humanely destroyed.

(o) The municipal court may issue search warrants if there is probable cause to believe any requirements of this section are being violated.

(p) The penalties, remedies and procedures provided for in this section are in addition to those provided by state law and are cumulative, not exclusive, of state law.

SECTION 2. That any provisions of the ordinances of the City of Talty in conflict with the provisions of this ordinance be and the same are hereby repealed and any provisions not so in conflict shall remain in force and effect.

SECTION 3. That if any section, paragraph, sentence, subdivision, clause, phrase or provision 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 or provision hereof other than the part so decided to be unconstitutional, illegal, or invalid and shall not affect the validity of the remainder of this ordinance or any other provision of the ordinances of the City as a whole.

SECTION 4. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall upon conviction shall be punished by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, except where otherwise expressly provided.

SECTION 5. That this ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

DULY PASSED by the City Council of the City of Talty, Texas, on the _____ day of _____, 2020.

APPROVED:

MAYOR

ATTEST:

CITY SECRETARY

APPROVED AS TO FORM:

CITY ATTORNEY