

ORDINANCE 2011-04

AN ORDINANCE OF THE CITY OF HUDSON OAKS, TEXAS, AMENDING AND REPLACING CHAPTER 2 OF THE HUDSON OAKS CODE OF ORDINANCES IN ITS ENTIRETY; ESTABLISHING REGULATIONS RELATING TO THE CARE AND CONTROL OF ANIMALS TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF HUDSON OAKS; REPEALING SECTION 8.04.005(3) OF THE HUDSON OAKS CODE OF ORDINANCES REGARDING NOISE NUISANCES CREATED BY ANIMALS; PROVIDING THAT THIS ORDINANCE BE CUMULATIVE OF ALL OTHER ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hudson Oaks, Texas is a Type A general-law municipality located in Parker County, created in accordance with the provisions of Chapter 6 of the Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Council (“City Council”) of the City of Hudson Oaks, Texas (“Hudson Oaks”) finds that it will be advantageous, beneficial and in the best interest of the citizens of Hudson Oaks to amend Chapter 2, “Animal Control” of the Hudson Oaks City Code, as provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUDSON OAKS, TEXAS:

SECTION 1.

Chapter 2, “Animal Control” of the Hudson Oaks City Code is amended in its entirety to read as follows:

**“CHAPTER 2
ANIMAL CARE AND CONTROL**

Sec.2.01.001 Definitions.

Adult dog/cat shall mean any dog or cat four months of age or older.

Animal shall mean any living creature, including but not limited to, dogs, cats, pigs, horses, birds, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding humans.

Animal Control Authority shall mean the individual or agency, designated by the City Administrator of the City of Hudson Oaks, which is authorized to represent and act for Hudson Oaks to receive reports of animal nuisances, animals at large, animal bites, and other animal matters, and to serve as the Local Rabies Control Authority, investigating bite reports, ensuring quarantine of possibly rabid animals, and carrying out provisions of Texas law pertaining to control and eradication of rabies and otherwise enforcing the provisions of this Chapter.

Animal Shelter shall mean any facility designated and/or operated by the City of Hudson Oaks for the purpose of impounding and caring for animals held under authority of this Chapter.

At Large shall mean any animal of any family or breed which is *off premises of the owner and is not either*:

1. Restrained by means of a crate, carrier, leash or chain, as described in Section 2.01.010 D of this Chapter, or by other physical apparatus of sufficient strength and length to preclude the animal from making any unsolicited contact with any person, their clothing, their property, or their premises, or
2. Confined within the animal owner or handler's vehicle in such a manner as to preclude the animal from making any unsolicited contact with any person, their clothing, their property, or their premises, provided such confinement is in accordance with Section 2.01.010 J of this Chapter.

Bodily Injury shall mean physical pain, illness, or any impairment of physical condition.

Cat shall mean a domesticated member of the Family Felidae (felis catus).

City shall mean the City of Hudson Oaks, Texas.

City Limits shall mean the corporate city limits of Hudson Oaks, Texas.

Collar means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog or cat. *Properly fitted collar* means, with respect to a collar, a collar that measures the circumference of the animal's neck plus at least one inch.

Cruel treatment shall mean any treatment to any animal in violation of the Texas Penal Code.

Currently Vaccinated shall mean vaccinated for rabies and satisfying the following criteria:

1. The animal must have been at least three months of age at the time of the rabies vaccination;

2. Not more than 12 months must have elapsed since the most recent rabies vaccination.

Dangerous Animal shall mean an animal that:

1. makes an unprovoked attack on a person or other domestic animal that causes serious bodily injury or death; or
2. is not in a secure enclosure or safely restrained as described in Section 2.01.014 of this Chapter, and acts, unprovoked, in such a way as to cause a person to reasonably believe that the animal will attack and cause bodily injury, serious bodily injury, or death to that person or another domestic animal.

Dangerous Wild Animal shall mean an animal of a species, other than a common domestic species, that poses a potential physical or disease threat to the public regardless of state and duration of captivity, including but not limited to the following:

1. *Class Reptilia*: Family Helodermatidae (venomous lizards); Family Viperidae (rattlesnakes, copperheads, cotton mouths, other pit vipers and true vipers); Family Elapidae (coral snakes, cobras, mambas and other Elapid); the following listed species of Family Colubridae – Dispholidus typos (Bloom slang), Hydrodynastes gigas (water cobra), Boiga (mangrove snake) and Thelotornis (African twig snake) only; Order Phidia, Family Doidae (racers, boas, water snakes and pythons) and Order Crocodilia (crocodiles, alligators, caimans and gavials);
2. *Class Aves*: Order Falconiforms (such as hawks, eagles and vultures); Subdivision Ratitae (such as rheas, and cassowaines); and Order Sting forms (such as owls);
3. *Class Mammalia*: Order Carnivora, Family Felidae (such as lions, cheetahs, bobcats, lynxes, servals, caracals, ocelots, margays, tigers, jaguars, binturongs, leopards and cougars), except commonly accepted domesticated cats; Family Canidae (such as wolves, dingoes, hyenas, coyotes, jackals or hybrids thereof), except domesticated dogs; Family Mustelidae (such as weasels, skunks, martins, mink and badgers), except ferrets; Family Procyonidae (raccoon); Family Ursidae (such as bears); Order Marsupialia (such as kangaroos and common opossums); Order Edentata (such as sloths, anteaters and armadillos); Order Proboscidae (elephants); Order Primata (such as monkeys, chimpanzees, orangutans, and gorillas); and Order Ungulata (such as antelope, deer, bison and camels, except where harbored on property which is zoned for Agricultural use and is at least five (5) acres); and
4. *Other dangerous animals not listed*: The animal control authority may declare any species of animal not listed in this definition as prohibited if the confinement of the animal within Hudson Oaks is shown to constitute a threat to public health and/or safety.

Dog shall mean any domesticated member of the Family Canidae, but shall not include a wolf, jackal, coyote, fox or other dangerous wild animal of this family or hybrid thereof.

Fowl shall mean chickens, turkeys, pheasant, quail, geese, ducks, ostriches, emus, pigeons, or similar feathered animals regardless of age, sex or breed.

Harbor means to feed, shelter or maintain any animal, fowl, livestock or wildlife.

Hybrid shall mean the product of mating two different species of animal regardless of the number of generations born since that original mating.

Kennel/Cattery shall mean any premises where any person engages in the business of boarding, breeding, buying, letting for hire, or selling dogs, cats, or other animals and that is located within the corporate limits of the City of Hudson Oaks on property zoned to allow such use as permitted by the City's zoning regulations.

Livestock shall mean horses, mules, donkeys, cattle, goats, sheep, emus, and ostriches, llamas, alpacas, and any member of the Order Ungulata (such as antelope, deer, bison and camels) regardless of age, sex, size or breed.

Microchip means a passive electronic device implanted under the skin of an animal for the purpose of identifying its owner. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners. The microchip implant shall be supplied with an exterior collar-type tag for purposes of an external means of notifying others that the animal has been implanted with a microchip.

Nuisance animal shall mean any animal which negatively impacts the health, safety, property, or environment of another animal or person, including, but not limited to, any animal which:

1. molests passersby or passing vehicles;
2. attacks other domestic animals;
3. trespasses on school grounds;
4. is repeatedly at large;
5. climbs upon a motor vehicle belonging to another;
6. damages private or public property not belonging to the animal's owner;
7. barks, whines, or howls in an excessive, continuous, or untimely fashion;
8. tears, punctures, or otherwise opens refuse containers, causing their contents to be emptied or exposed to the elements;
9. causes fouling of the air by odor, thereby creating an unreasonable annoyance or discomfort to a person of ordinary sensibilities in close

- proximity to the premises where the animal is kept or harbored;
10. defecates on any property except that belonging to the animal's owner; or
 11. interferes with refuse collection or other service personnel.

Owner shall mean any person, firm or corporation that has a property right in an animal, or who has care, control, custody, possession of or harbors an animal, or who provides a premise to which the animal returns for food, shelter or care. An animal shall be deemed to be owned by a person who harbored it, fed it, or sheltered it for three (3) or more consecutive days.

Performing animal exhibition shall mean any spectacle, display, or act or event, other than circuses, in which animals perform tricks, feats, or other exhibitions of training.

Person shall mean any individual, firm, association, syndicate, partnership, corporation, or other entity.

Pet shop shall mean an establishment offering small animals such as dogs, cats, birds, fish, ferrets, and similar animals which are not dangerous wild animals or livestock, for sale, and that is located within the corporate limits of the City of Hudson Oaks on property zoned to allow such use as permitted by the City's zoning regulations.

Registration shall mean the requirement for all dogs and cats and any animal declared to be dangerous to be registered annually with the City of Hudson Oaks, for all relevant fees to be paid, and for all animals to wear appropriate City-issued registration tag(s).

Restraint means a chain, rope, tether, leash, cable, or other device that attaches or ties a dog or other animal to a stationary object or trolley system.

Secure enclosure shall mean a fenced area that is locked; capable of preventing the entry of the general public, including children; capable of preventing the escape or release of an animal; and, if applicable, clearly marked as containing a dangerous dog.

Serious bodily injury shall mean an injury characterized by bite wounds or ripping and tearing of muscle and/or bodily tissues that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Service personnel shall mean any person providing legitimate, authorized service to a property including, but not limited to, public safety personnel, utility technicians, letter carriers, couriers, or delivery personnel, plumbers, electricians,

lawn maintenance workers, pest control professionals, or contractors, and other comparable service professions.

Spay or neuter shall mean a medical procedure removing the reproductive organs or otherwise rendering a dog or cat unable to reproduce.

Swine shall mean pigs, hogs, potbellied pigs, or any member of the family Suidae.

Unprovoked shall mean the animal was not hit, kicked, struck, pulled, pinched, squeezed, etc. by a person or an object, and the animal was not provoked or taunted in a manner that an ordinary person would find unreasonable or objectionable.

Vaccinated shall mean properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed to practice in the State of Texas.

Sec. 2.01.002 General Offenses; strict liability; presumption of ownership; parental responsibility.

- A. A person commits an offense if he/she violates, disobeys, or fails to comply with a term or provision of this chapter. Unless specifically provided otherwise herein, an offense does not require proof of a culpable mental state. It is the intent of this chapter to impose strict liability for violation or failure to comply with provisions of this chapter.
- B. For purposes of enforcement and prosecution, a rebuttable presumption of ownership exists with respect to each adult resident of premises upon which an animal which is the subject of a prosecution is kept, maintained, harbored or possessed upon the date of the violation alleged.
- C. A person commits an offense if, with intent to deceive, he/she knowingly makes a false report or statement, either verbal or written, to the animal control authority which is material to an investigation of an alleged violation of this chapter. This applies whether such false statement is made to an animal control officer, an animal control technician, an animal control veterinary technician or other personnel duly designated by the Hudson Oaks City Council to enforce this chapter. A false report or statement under this provision shall include, but not be limited to, a report of the occurrence of a violation or incident which the reporting person knows did not occur.
- D. *Parental Responsibility.*
 - 1. If an animal is owned or purported to be owned by an individual who is younger than seventeen (17) years of age, responsibility and liability for

compliance with this Chapter with respect to such an animal shall be imposed on the parent, legal guardian, or other person who has the duty of control and reasonable discipline of the minor individual, regardless of whether the parent, legal guardian, or other person otherwise meets the definition of “owner” with respect to the animal at issue.

2. Financial liability imposed under this subsection shall not exceed limits imposed by state law.

3. It shall be an affirmative defense to imposition of responsibility and liability under this subsection that the parent, legal guardian, or other person establishes by a preponderance of the evidence that he or she made a reasonable good faith effort to ensure compliance with this Chapter.

Sec.2.01.003 Rabies Control.

A. *Vaccinations.* An owner of a dog, cat, or other animal for which a rabies vaccination is commonly given shall keep the animal currently vaccinated against rabies, as defined in Section 2.01.001 above. Any person moving into Hudson Oaks from a location outside of Hudson Oaks shall comply with this Section within ten days after moving into Hudson Oaks, except when the animal has inflicted a bite on a human within the previous ten days. In such case, the owner of the animal shall report the bite to the veterinarian and the Hudson Oaks animal control authority within twenty-four (24) hours of the animal’s arrival in the Hudson Oaks city limits. No rabies vaccine shall be administered until after the ten-day observation period.

B. *Certificate of vaccination.* Upon vaccination, the veterinarian shall execute and furnish to the owner of the animal as evidence thereof a vaccination certificate on a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. The certificate shall contain the following information:

1. The name, address and telephone number of the owner of the vaccinated animal;
2. The date of vaccination;
3. The year and number of the rabies tag; and
4. The breed, age, color and sex of the vaccinated animal.

C. *Rabies tags.*

1. Concurrent with the issuance and delivery of the certificate of vaccination referred to in section B above, the owner of the animal shall:

- a) Outfit the animal with a properly fitted collar or harness, and
 - b) Affix a tag, serially numbered to correspond with the vaccination certificate number, bearing the year of issuance and the name and address of the issuing veterinarian to the collar or harness, and
 - c) Require the animal to wear the collar or harness with the attached metal tag at all times.
2. Duplicate tags. In the event of loss or destruction of the original vaccination tag, the owner of the animal shall obtain a duplicate tag from the veterinarian who administered the vaccination. Vaccination certificates and tags shall be valid only for the animal for which they were originally issued.
- D. *Animals exposed to rabies.* Any person having knowledge of the existence of any animal known to have been, or suspected of being, exposed to rabies shall report such knowledge to the animal control authority within twenty-four (24) hours, giving any information which may be required. Any animal that has been, or is suspected of having been, exposed to rabies shall be quarantined in accordance with Texas Health and Safety Code, Chapter 826.

Sec. 2.01.004 Animal bites to humans.

A. Reporting animal bites.

1. A person having knowledge of an animal bite to a human, except bites by rodents, rabbits, fowl, or reptiles, shall report the incident to the animal control authority as soon as possible, but no later than 24 hours after the time of the incident. The animal control authority will investigate each bite incident.
 2. Any person moving into Hudson Oaks from a location outside the city limits and owning an animal which has inflicted a bite on any person in the last ten days, shall report such fact to a licensed veterinarian and the Hudson Oaks animal control authority within twenty-four (24) hours of the animal's arrival in the Hudson Oaks city limits.
- B. *Owner responsibility.* If the biting animal is owned, the owner shall place that animal in quarantine, as prescribed in Section 2.01.005 below, under the supervision of the animal control authority or a licensed veterinarian.

Sec. 2.01.005 Procedures for animal quarantine.

- A. *Disposition of biting animals.* The owner of an animal subject to quarantine pursuant to this Chapter is required to quarantine the animal for a period of not less than ten days confinement from the date of the bite, at the owner's expense. The quarantine may be accomplished by:

1. Quarantine in the animal shelter, supervised by the local animal control authority;
 2. Quarantine at a veterinary clinic, supervised by a licensed veterinarian; or
 3. Home quarantine. The owner of the animal may request permission from the animal control authority for home quarantine, which may be granted if the animal control authority determines that:
 - a) No other animals are kept at that residence;
 - b) Secure facilities are available at the home of the animal's owner and the animal control authority has verified the facilities enable proper isolation of the animal;
 - c) The animal is currently vaccinated against rabies as required by state law;
 - d) The nature of the bite is not severe;
 - e) A quarantine fee as specified by the sheltering agency is paid to that agency;
 - f) The animal was not running at large at the time the bite occurred;
 - g) The animal has not been quarantined for a previous bite incident; and
 - h) The bite victim agrees to the home quarantine.
- B. *Observation of the animal.* The animal control authority or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the person having possession of the animal shall notify the animal control authority as soon as the animal presents with symptoms of any illness.
- C. *Destruction of animal.* If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis. The owner of the animal shall be required to reimburse the expense of shipping the brain of the animal.
- D. *Interruption.* A person commits an offense if the person interrupts the observation period by removing an animal from the quarantine facility approved by the animal control authority. Any interruption of the quarantine by any person shall be just cause for seizure and impoundment of the quarantined animal by the animal control authority.
- E. *Release.*
1. An animal that has been quarantined may be released by the local rabies control authority under the following conditions:
 - a) At the end of the observation period, if the owner can provide proof that the animal is currently vaccinated,

- b) When all applicable fees have been paid; and
 - c) If the animal is not being impounded for legal proceedings.
2. If, by the end of the observation period, the owner cannot provide proof that the animal is currently vaccinated, the animal control authority will conditionally release the animal with a voucher for rabies vaccination paid for by the animal's owner. The owner commits an offense if (s)he does not provide proof of vaccination to the animal control authority within one business day of the animal's release from quarantine.
- F. *Dangerous wild animals.* No dangerous wild animal will be placed in quarantine. Any dangerous wild animal involved in a biting incident will be humanely euthanized and the brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.
- G. *Disposition of unclaimed, quarantined animal.* If the owner of a quarantined animal does not take possession of the animal, it may be disposed of in accordance with this Chapter, and Texas Code 826.043 (d).

Sec. 2.01.006 Reserved.

Sec. 2.01.007 Reserved.

Sec. 2.01.008 Kennel/Cattery/pet shop requirements.

- A. Kennels and pet shops shall be located and operated in accordance with the City's zoning regulations.
- B. *Kennel permits.* Kennels may only be operated within the city limits of Hudson Oaks if permitted by the City. The animal control authority is allowed to issue such a permit if:
 - 1. The property and facility are inspected by the animal control authority or its designee and are determined to meet the requirements of this Chapter as regards the care and treatment of animals, nuisance, and the prevention of zoonotic disease.
 - 2. The owner/operator of the kennel has paid the kennel permit fees established by City Council.
 - 3. Kennel permits must be renewed annually and each renewal will require inspection and approval by the animal control authority or its designee.
- C. A kennel permit may be revoked by the animal control authority for cause, including but not limited to, violations of the provisions of this Chapter or the inability of the permit holder to keep the animals in a healthy or sanitary environment.
- D. Kennels and pet shops must be operated and all animals must be cared for in accordance with the Texas Health and Safety Code and this Chapter.

Sec. 2.01.009 Prohibited animals.

- A. *Dangerous wild animals.* A person commits an offense if the person keeps a dangerous wild animal. It is an affirmative defense to prosecution for this violation that the dangerous wild animal is kept as part of a circus, performing animal exhibition, zoological park, or to individuals keeping wild animals as properly permitted wildlife rehabilitators, as required by state and federal regulations.
- B. *Swine.* A person commits an offense if the person keeps swine on any property within Hudson Oaks's corporate limits. It is an exception to this Section that the animal kept is a swine other than a potbellied pig and:
1. It is kept and maintained strictly for educational purposes on the premises of an accredited secondary school or institution of higher learning, and is kept or maintained on the premises for no longer than 12 consecutive months; or
 2. It is temporarily kept and maintained in accord with applicable zoning ordinances and applicable state law and regulations for the purposes of a rodeo or other livestock show or event.
- C. *Livestock and fowl.* Livestock and fowl, that are kept, owned or harbored within a land use zoning classification allowing same shall constitute a nuisance if any such animal is kept, fenced, stabled, or pastured within 100 feet of an occupied building. The term "occupied building" as used herein shall mean a building occupied by any person, other than buildings and structures owned or controlled by the owner of the animals involved. This subsection does not apply to "occupied buildings" constructed after the keeping of any livestock and/or fowl is in place, or if the land upon which the animals are maintained is zoned "A-Agriculture."
1. Any animal of the Order Ungulata (such as antelope, deer, bison and camels) may not be kept on parcels of land of less than five acres and which are not zoned for agricultural use.
 2. The keeping of livestock and fowl within the zoning classification "SF-32-Single Family Residential" is prohibited, except horses and mules.
 3. Tracts or parcels of land of less than ten acres that are zoned as "SF-15-Single Family Residential" may maintain horses and/or mules at a rate of two head for the first full acre under fence and an additional one head per fenced acre thereafter. Pasture fencing must be a minimum of five feet in height at its lowest point and cannot extend into the front yard between the main building structure and the street.
 4. Horses and/or mules kept on land zoned as "SF-2A, Single Family District" shall be provided with a minimum of a three-sided roofed shelter, approved by the city, with a minimum of 300 square feet per animal.

5. Pigeons kept for purposes of competition and registered with a recognized association of pigeon fanciers shall be an exception to this section, provided that:
 - a) A person may not keep more than 100 pigeons at one location.
 - b) The enclosure for such birds is maintained in a sanitary and odor-free condition, and is located no less than 50 feet from an adjacent residential or commercial structure, excluding the residence or business of the owner.

Sec. 2.01.010 Care and humane treatment of animals.

- A. *Use of traps with holding mechanisms prohibited.* A person commits a Class A Misdemeanor offense under Section 42.09 of the Texas Penal Code, if within the city limits, the person sets up or allows to be set up on the person's property a steel jaw trap, a spring trap with teeth or perforated edges on the holding mechanism, or any type of trap with a holding mechanism designed to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped prey.
- B. *Knowing exposure to poison prohibited.* A person commits a Class A Misdemeanor offense under Section 42.09 of the Texas Penal Code if the person knowingly exposes any known poisonous substance, whether mixed with food or not, so that the same may be eaten by any animal, excluding rodentia.
- C. *Care and treatment.* A person commits a Class A Misdemeanor offense under Section 42.09 of the Texas Penal Code if the person:
 1. deprives an animal of sufficient good and wholesome food and/or water, adequate shelter and protection from weather, veterinary care, and humane care and treatment; or
 2. beats, cruelly ill-treats, overloads, overworks or otherwise abuses an animal as described in Section 42.09 of the Texas Penal Code, as amended; or
 3. abandons any animal in the person's custody.
- D. *Unlawful restraint of animals.*
 1. A person commits an offense if the person leaves a dog or other animal outside and unattended by use of a restraint that unreasonably limits the animal's movement. In this Section, a restraint unreasonably limits the movement of a dog or other animal if the restraint:
 - (a) uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the animal;

- (b) is a chain or tether wrapped directly around an animal's neck
 - (c) is a length shorter than the greater of:
 - (1) five times the length of the animal, as measured from the tip of the nose to the base of the tail; or
 - (2) 10 feet;
 - (d) is in an unsafe condition;
 - (e) causes injury to the animal; or
 - (f) is a chain or tether that weighs more than 1/8 of the animal's body weight.
2. An owner may not leave a dog or other animal outside and unattended by use of a restraint:
 - (a) between the hours of 10:00 p.m. and 6:00 a.m.;
 - (b) within five hundred (500) feet of the premises of a school; or
 - (c) in the case of extreme weather conditions in which:
 - (1) the actual or effective outdoor temperature is below thirty-two (32) degrees Fahrenheit;
 - (2) a heat advisory has been issued by a local or state authority or jurisdiction; or
 - (3) a hurricane, tropical storm, or tornado warning has been issued or the jurisdiction by the National Weather Service.
 3. No unattended animal shall be restrained by any means on any public property such as City parks or utility easements, or on public access private property such as undeveloped lots or unfenced yards, or on any other plot or tract where the public has unrestricted access.
 4. Any restrained animal shall have continuous access to shade and water, and have unrestricted access to a wind and moisture proof shelter.
 5. Any restrained animal shall be arranged so that the restraint cannot become tangled around trees, poles or other obstacles nor prevent the access to shade, water and shelter.
 6. No animal shall be restrained in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, attacks by other animals, or in a manner which creates an unsafe condition or causes injury to the animal.
 7. Exceptions to the unlawful restraint of animals shall be governed by the provisions of Texas Health and Safety Code, Chapter 821.078.
 8. Penalties for the unlawful restraint of animals shall be governed by the provisions of Texas Health and Safety Code, Chapter 821.079.
- E. *Fences/enclosures.* A person commits an offense if the person keeps a dog or other animal within a fence/enclosure which is in such a state of disrepair that the animal may escape or be injured or may pose a threat to passers by.
- F. *Young rabbits and fowl.* A person commits an offense if the person sells, offers for sale, barter or gives away as toys, premiums or novelties, baby

chickens, ducklings or other fowl under three weeks old and rabbits under two months old, unless the manner or method of display is first approved by the animal control authority.

- G. *Dyed Animals.* A person commits an offense if the person colors, dyes, stains or otherwise changes the natural color of any chickens, ducklings, other fowl or rabbits, or possesses, for the purpose of sale or to be given away, any of the above-mentioned animals which have been so colored.
- H. *Animals not to be used as prizes or inducement.* A person commits an offense if the person gives away or auctions any animal as a prize for, or as an inducement to enter any contest, game or competition, or as an inducement to enter a place of business or amusement, or offer such animal as an incentive to enter into any business establishment whereby the offer was for the purpose of attracting trade.
- I. *Hunting and trapping.* No person may hunt, trap, wound, kill, maim, torture or otherwise threaten the health and safety of any indigenous wild animal in the city limits of Hudson Oaks, excluding the trapping of nuisance wildlife under the authorization and supervision of the animal control authority; also excluding any person who holds a seasonal hunting license for a species for which there exists a hunting season, and that person's hunting activities occur on property which is properly zoned, and property owner's permission has been granted for such activity; or a person holds proper permits issued by the animal control authority or Texas Parks and Wildlife.
- J. *Animals in parked vehicles.* A person commits an offense if the person leaves any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. The animal control authority or peace officer is authorized to use reasonable force to remove an animal from a vehicle whenever it appears the animal's health, safety or welfare is or soon will be endangered, and said animal shall be impounded. Animals in parked vehicles must not be at large, as defined in Section 2.01.001 of this Chapter.
- K. *Seizure.* The animal control authority shall liberally utilize the authority granted by section 821.022 of the Texas Health and Safety Code to seize and impound any animal, if the animal control authority has reason to believe that an animal has been or is being cruelly treated, pending a hearing before the municipal court on the issues of cruelty and disposition of the animal. Seizure of the subject animal prior to receiving a warrant is hereby authorized if such delay endangers the life of or would unreasonably prolong the suffering of the subject animal.

L. *Sale of animals in public places.*

1. Definition – In this Section, the term “public place” shall mean any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public rights-of-way, sidewalks, open air markets, flea markets, trade days, parking areas and parking lots, the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
2. Offense – A person commits an offense if he/she sells, offers for sale, barter, trades, exchanges, or gives away an animal in a public place as defined herein. A person commits an offense if he/she receives a live animal through sale, barter, trade, exchange or giveaway that is conducted in a public place.
3. Exception – It is an exception to the provisions of this subsection that the person or entity is an authorized animal shelter maintained by a government entity or recognized animal welfare organization and offers the animals for adoption at no profit. The animal control authority is hereby authorized to enter onto premises utilized by any animal shelter or animal welfare organization for adoption of animals for the purpose of inspection of the premises for compliance with the provisions of this chapter.
4. Authority for removal of animal – The animal control authority shall have authority to remove or cause to be removed from the premises on which the animal is offered for adoption any animal which, in the determination of the animal control authority, poses a risk to the health of safety of the public or of other animals.

Sec. 2.01.011 Animals at large.

- A. *Generally.* An owner of any animal commits an offense if the animal is at large. For purposes of this section, an offense occurs without regard to any culpable mental state of the owner and there shall be an irrebuttable presumption that any animal which is at large shall have become so by the permission of its owner or harbinger.
- B. *Confinement during estrus.* Any unspayed female dog or cat in the state of estrus (heat) shall be humanely confined during such period of time in a house, building, or secure enclosure, and such enclosure shall be so constructed that no other dog or cat from outside such enclosure may gain access to the confined animal, other than as intended for planned breeding. Owners not complying, or who are found to be confining the animal inhumanely, may be ordered by the animal control authority to remove the animal in heat to a boarding kennel, veterinary hospital, or animal shelter for the duration of estrus. All expenses incurred as a result of such confinement shall be the responsibility of the owner. Failure to

comply with the removal order of the animal control authority shall be a violation of this chapter and the dog or cat may be impounded.

- C. *Impoundment.* The animal control authority is authorized to impound any animal at large. The animal control authority is specifically authorized to enter onto private property, other than a private dwelling, for the purpose of impoundment of an animal observed to be or to have been running at large.

Sec. 2.01.012 Impoundment.

- A. *Generally.* Any animal violating any provisions of this Chapter may be impounded by the animal control authority.
- B. *Complainant.* If any animal named in this chapter is found at large upon the premises belonging to any person other than the animal's owner, the owner or occupant of the premises may confine such animal in a humane manner until he can notify the animal control authority to impound such animal. When so notified, it shall be the duty of the animal control authority to have such animal impounded, as soon as possible, as herein provided.
- C. *Impoundment period.*
1. The period of impoundment shall be determined by the sheltering agency designated by the Hudson Oaks City Council as the local rabies control authority.
 2. If the owner of an impounded animal does not claim the animal within the prescribed impoundment period, disposition of the animal will be made as provided in Section 2.01.012, below.
 3. Animal disposition may occur prior to expiration of the impoundment period in the following circumstances.
 - a. If a nursing baby animal is impounded without its mother or where the mother is unable to provide adequate nutrition for the baby animals causing the baby animals to suffer, the animal control authority shall have immediate authority to transfer the baby animals to a nonprofit humane organization or to humanely euthanize the baby animals.
 - b. If an impounded animal is suffering from injury or illness, the animal control authority shall have the authority to immediately transfer the animal to a nonprofit humane organization or animal welfare organization or to humanely euthanize the animal.
 - c. If an animal cannot be moved from the location where it is found due to injury or illness, the animal control authority shall be authorized to dispose of the animal in the most expedient, humane manner possible to avoid prolonging its suffering.

D. *Redemption.*

1. All impounded animals, including those released from quarantine, other than dangerous wild animals, shall be available for immediate redemption by the owner once the owner has presented the City with his/her photo identification and has paid all applicable fees.
2. An impounded dangerous wild animal shall be available for immediate redemption by the owner or a person designated by the owner, if such owner or person holds a certificate of registration issued by an animal registration agency, as provided in Section 822.103 of the Texas Health and Safety Code, after the owner pays all applicable fees and signs an agreement with the City to immediately transport the dangerous wild animal outside the city limits, not to keep the dangerous wild animal at any time within the city limits, and authorizing the City to humanely destroy the dangerous wild animal if it comes inside the city limits again.

E. *Disposition of unclaimed animals.* Any animal that is not timely claimed by its owner may be adopted, transferred to a nonprofit humane organization, humanely euthanized, or sold, as determined by the animal control authority.

F. *Disposal of dangerous wild animals.* Any dangerous wild animal may be immediately, humanely disposed of as deemed appropriate by the animal control authority if the dangerous wild animal cannot be safely impounded.

G. *Baby animals.* Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide adequate nutrition and the baby animal is suffering may be immediately euthanized or given to a nonprofit humane organization for the purpose of veterinary care, as determined by the animal control authority.

H. *Owner relinquishing responsibility.* An owner who no longer wishes responsibility for an animal may sign a written waiver supplied by the animal control authority allowing the animal to be immediately euthanized in a humane manner, adopted, sold, or care and custody may be transferred to a nonprofit animal welfare organization approved by the animal control authority.

I. *Injured animals.* Any impounded animal that appears to be suffering from injury or illness may be immediately euthanized in a humane manner or care and custody may be transferred to a nonprofit animal welfare organization, approved by the animal control authority, for the purpose of veterinary medical care, as determined by the animal control authority.

Sec. 2.01.013 Nuisance.

- A. *Offensive odors.* A person commits an offense if the person keeps any animal in such a manner as to endanger the public health, or to annoy a person of ordinary sensibilities by the accumulation of animal wastes which cause foul or offensive odors or are considered to be a hazard to any other animal or human.
- B. *Animals defecating.* An owner of an animal commits an offense if the person permits, either willfully or through failure to exercise proper care and control, any animal to defecate upon the sidewalk or parkway or any public street, or upon the floor of any common hall in any entrance way, stairway or wall of any public place or building or any private property except the owner's. It shall be an affirmative defense to prosecution under this section if the owner immediately removes any excreta deposited by the owner's animal or the animals are performing in a parade or circus.
- C. *Noise.* A person commits an offense by keeping any animal or bird which, by causing frequent or long, continued noise, shall disturb the comfort of a person of ordinary sensibilities in the immediate vicinity.
- D. *Bees.*
 - 1. The keeping of bees in such manner as to deny the lawful use of adjacent property or endanger personal health and welfare is prohibited.
 - 2. A person commits an offense by constructing, placing, or maintaining a beehive within 300 feet of any residence other than his/her own. It is a defense to prosecution under this section that the person who placed or maintained the beehive within 300 feet of the residence(s) of other person obtains the written consent of the occupants of all such residences.
- E. *Nuisance complaints.*
 - 1. *Generally.* The presence of nuisance animals should be reported to the animal control authority.
 - 2. *Humane Traps.* If a person shall report a nuisance animal, the animal control authority may provide the person a trap to set for the animal. The animal control authority may, upon capture, impound the animal.
 - 3. *Nuisance barking or other animal noise.* Animal noise nuisances should be reported to the animal control authority or police department.
 - 4. In order for someone other than the animal control authority or a peace officer to file a formal complaint regarding an animal-related noise nuisance, that person must:
 - a) In the presence of either an animal control officer or a clerk of the

Hudson Oaks Municipal Court, complete and sign an official, notarized complaint form, alleging that the animal's owner has committed the crime of violating the City's nuisance code.

- b) If called, appear in municipal court as a witness on the date specified by the court.

Sec. 2.01.014 Dangerous animals.

- A. *Nuisance declared.* It is hereby declared to be a public nuisance for an owner to keep a dangerous animal within the city limits unless the owner complies with the requirements of this Section and with Chapter 822, Title 10 Health and Safety of Animals, of the Texas Health and Safety Code, as amended.
- B. *Dangerous animal investigation.* The animal control authority shall investigate all reports of an attack or unprovoked act by an animal.
- C. *Reporting of incident.*
 1. A person shall report to the animal control authority within twenty-four (24) hours any incident in which an animal:
 - a) makes an unprovoked attack on a person or another domestic animal that causes bodily injury, serious bodily injury, or death; or
 - b) is not in a secure enclosure or safely restrained as described in Section 2.01.010 D of this Chapter, and acts, unprovoked, in such a way as to cause a person to reasonably believe that the animal will attack and cause bodily injury, serious bodily injury, or death to that person or another domestic animal.
 2. The animal control authority shall require sworn statements from all victims and witnesses of the unprovoked attack or act.
 3. No animal shall be considered dangerous because it causes bodily injury to another animal if both animals are running at large when the injury occurs or if the injured animal is running at large when the injury occurs.
- D. *Determination and delivery or seizure of dangerous animal.*
 1. If the animal control authority determines that the animal is a dangerous animal, the animal control officer shall give the owner written notification of this determination.
 2. The animal control authority shall require the owner to deliver the dangerous animal to the animal control authority not later than five days after the date on which the owner receives the notice that the animal is a dangerous animal. If the owner fails to deliver the animal, the Municipal Court Judge shall order the animal control authority to seize the animal, and the municipal court shall issue a warrant authorizing the seizure.

E. *Appeal of animal control authority's determination.*

1. The owner may appeal the animal control authority's determination that the animal is a dangerous animal by making a written appeal to the Hudson Oaks Municipal Court not later than 10 days after the owner receives notice from the animal control authority of the determination that the animal is a dangerous animal.
2. The Municipal Court, upon receiving a written appeal as provided above, shall set a time for a hearing. The hearing must be not later than 15 days after the owner receives notice from the animal control authority of the determination that the animal is a dangerous animal.
3. The Municipal Court shall give written notice of the time and place of the hearing to:
 - c) the owner of the animal;
 - d) the person who made the complaint;
 - e) all witnesses.
4. Any interested party, including the city attorney, is entitled to present evidence at the hearing.
5. The Municipal Court shall issue its written decision within 10 days after the hearing.

F. *Impoundment of animal pending final determination.*

1. Any animal that the animal control authority determines is a dangerous animal shall be impounded in secure and humane conditions by the animal control authority pending final notice, as defined in subsection G 2 below, regarding whether the animal is a dangerous animal.
2. Regardless of whether the animal is ultimately determined to be a dangerous animal, the owner shall pay all costs incurred in seizing and impounding the animal. The owner of a dangerous animal shall pay all costs incurred, if any, in euthanizing the dangerous animal.

G. *Requirements for owner of a dangerous animal.*

1. Not later than 10 days after the owner receives final notice that the animal is a dangerous animal, the owner shall comply with all of the following:
 - a) obtain a registration certificate and identification tag, numbered and clearly marked with the text "dangerous animal", for the dangerous animal from the animal control authority; said dangerous animal to wear such identification tag at all times;
 - b) at the owner's expense, have the animal microchipped and registered with the microchip company, either through the animal control authority or a licensed veterinarian;
 - c) restrain the dangerous animal at all times on a leash in the immediate control of a person over the age of eighteen or in a secure enclosure that has secure sides and a secure top attached

to the sides. Additionally:

- i. If the pen or structure has no bottom secured to the sides, the ground beneath of the gate shall be secured by embedded posts and the sides must be embedded into the ground no less than one (1) foot, unless such pen has a concrete bottom.
 - ii. If the pen or structure has a concrete bottom, the sides need only be embedded two (2) inches deep into the concrete.
 - iii. All such pens or structures must be adequately lighted and kept in a clean or sanitary condition.
 - iv. Any sanitary enclosure or pen shall be at least two (2) square feet per pound, per animal so confined.
 - v. The structure must be species-appropriate.
- d) at all times when the dangerous animal is taken off the property of the owner for any reason, secure the dangerous animal with a muzzle in a manner that will not cause injury to the animal nor interfere with its vision or respiration but that will prevent it from biting any person or animal;
 - e) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority; and
 - f) spay or neuter the dangerous animal within 30 days of final determination, and provide proof of the alteration to the animal control authority within one business day after the surgery is performed.
2. For purposes of subsection D 1, a person receives final notice that the animal is a dangerous animal upon the latest of:
 - a) witnessing or otherwise knowing of an attack;
 - b) receiving notice that the animal control authority has determined that the animal is a dangerous animal;
 - c) receiving a written decision from the Municipal Court of record that the animal is a dangerous animal; or
 - d) receiving a final order from an appellate court that the animal is a dangerous animal.
 3. If the owner of a dangerous animal does not comply with subsection G 1, the owner shall sell, convey or relocate the animal to a person who can comply with such requirements, or the animal control authority shall humanely destroy the dangerous animal.

H. *Registration of a dangerous animal.* The animal control authority shall annually register a dangerous animal if the owner presents proof of:

1. Liability insurance or financial responsibility as required in subsection

- G above;
 - 2. Current rabies vaccination of the dangerous animal;
 - 3. The security of the enclosure in which the dangerous animal will be kept; and
 - 4. Payment of an annual registration fee, as established by City Council, to the City animal control authority.
- I. *Notifications.* The owner of a dangerous animal shall notify the animal control authority within 24 hours if the dangerous animal is at large, unconfined, has attacked a human being or another animal, has died, or has been sold or given away. If ownership of the dangerous animal changes, the former owner shall provide the animal control authority with the name, address, and telephone number of the new owner. If the new owner's address is within the city limits or if the dangerous animal is kept within the city limits, the animal control authority shall notify the new owner by certified mail, return receipt requested, or in person that the animal has been determined to be a dangerous animal and provide the new owner a copy of the requirements contained in this Section. It shall be unlawful for new owners to fail to comply with any requirements of this Section. The same reporting and registration requirements are imposed on any and all subsequent owners of the dangerous animal.
- J. *Violations and defenses.*
- 1. A person who owns a dangerous animal commits an offense if:
 - a) the person fails to comply with any provision of this Section;
 - b) the dangerous animal makes an unprovoked attack on another person or domestic animal outside the animal's enclosure and causes bodily injury to the other person or domestic animal.
 - 2. An offense under this section is a Class C misdemeanor, unless it is an attack by a dangerous dog, under J 1(b) above, that causes serious bodily injury or death to a person, in which event such attack by a dangerous dog is a Class A misdemeanor as provided by Section 822.044 of the Health and Safety Code.
 - 3. It is a defense to prosecution under this Section that:
 - a) the person is a veterinarian, a peace officer, or a person employed by the State, City, or a recognized animal shelter for the purpose of handling stray animals; has temporary ownership, custody, or control of the animal; and is acting within the course and scope of the person's official duties;
 - b) the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency; trains or uses animals for law enforcement or corrections purposes; and is acting within the course and scope of the person's official duties; or
 - c) the animal at issue is a trained working dog, recognized by the

Texas Board of Private Investigators or an official law enforcement agency, in the performance of official duties while confined or under the control of its handler.

Sec. 2.01.015 Animal Fighting.

- A. A person commits an offense if he/she intentionally, knowingly, recklessly or with criminal negligence:
 - 1. causes, instigates or permits an animal to fight with another animal or human, or
 - 2. allows property that he/she owns or controls to be used for the purpose of conducting fights between animals or between animals and humans.
- B. It is a defense to prosecution under this section that the person caused a dog to fight with another dog in order to protect a person, livestock, or other property from the other dog and for no other purpose.

Sec. 2.01.016 Fees.

- A. *Generally.* The City Council shall establish fees for all animal-related services provided by Hudson Oaks's animal control authority, including those for adoption, immunization, and multi-pet permits. The fees for all animal-related services provided by Hudson Oaks's animal control authority shall be established or provided for by the Hudson Oaks City Council, through the annually-adopted fee schedule and/or through other agreements providing for animal control authority services.
- B. *Impoundment and boarding.* The owner must pay all fees for impoundment, quarantine, and boarding, as well as veterinary bills and other fees that are due to the designated animal shelter.

Sec. 2.01.017 Interference with city agents.

- A. A person commits an offense if the person interferes with or hinders any agent of the City in the performance of any duty pursuant to this Chapter, or seeks to release any animal in the custody of the City or its agents, except as provided in this Chapter.
- B. A person commits an offense if the person fails to comply with any lawful order of the animal control authority in the performance of any duty pursuant to this Chapter.
- C. A person commits a Class B misdemeanor offense under Texas Penal Code Section 38.15 if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with an officer with responsibility for animal control while the officer is performing a duty or exercising

authority imposed or granted under Chapter 821 or 822 of the Texas Health and Safety Code.”

SECTION 2.

This ordinance shall repeal section 8.04.005 (3) of the Hudson Oaks Code of Ordinances regarding noise nuisances created by animal or bird cries.

SECTION 3.

This ordinance shall be cumulative of all provisions of ordinances and the Code of the City of Hudson Oaks, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and Code, in which event the conflicting provisions of such ordinances and Code are hereby repealed.

SECTION 4.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 5.

- A. Except as otherwise specifically provided in this Chapter, any person, firm, corporation or business entity violating this Ordinance shall be deemed guilty of a Class C misdemeanor, and upon conviction thereof shall be fined a sum not exceeding two thousand dollars (\$2,000.00) per day for violations involving public health and sanitation, and not exceeding five hundred dollars (\$500.00) per day for all other violations. Each continuing day's violation under this Ordinance shall constitute a separate offense.
- B. The penal provisions imposed under this Ordinance shall not preclude Hudson Oaks from filing suit to enjoin the violation. Hudson Oaks retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 6.

All rights and remedies of the City of Hudson Oaks are expressly saved as to any and all violations of the provisions of the Hudson Oaks City Code or any other

ordinances regulating animals that 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 7.

The City Secretary of the City of Hudson Oaks is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof.

SECTION 8.

The City Secretary of the City of Hudson Oaks is hereby directed to publish in the official newspaper of the City of Hudson Oaks, the caption, penalty clause, publication clause and effective date clause of this ordinance one time in the official newspaper of the City, as authorized by Section 52.011 of the Local Government Code.

SECTION 9.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS ____ DAY OF _____, 2011.

MAYOR

ATTEST: _____
CITY SECRETARY

EFFECTIVE: _____

APPROVED AS TO FORM AND LEGALITY:

CITY ATTORNEY