

**ORDINANCE 2011-O-11A
ANIMAL SERVICES ORDINANCE**

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MARBLE FALLS, CHAPTER 6, "ANIMALS" BY DELETING THE CURRENT CHAPTER 6 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER SIX IN ITS PLACE; PROVIDING FOR DEPARTMENT OF ANIMAL SERVICES; DIRECTOR OF ANIMAL SERVICES; ANIMAL CONTROL ADVISORY COMMISSION; VACCINATION AND REGISTRATION OF DOGS AND CATS; KENNELS AND MULTIPLE PET OWNERSHIP; COMMERCIAL ANIMAL SALES PERMIT; IMPOUNDMENT; DISPOSITION OF IMPOUNDED ANIMALS; FEES; ANIMAL BITES; RABIES CONTROL; ANIMAL CARE; DUTY TO PROVIDE CARE; CRUEL TREATMENT; ABANDONMENT; RESTRAINT REQUIREMENTS FOR DOGS ON PRIVATE PROPERTY; ENCLOSURE FOR DOGS; SLAUGHTERING OF ANIMALS; NUISANCE; DANGEROUS DOGS; PROCEDURE FOR DECLARING DOG AS DANGEROUS; KEEPING REQUIREMENTS; RESTRAINT AND CONFINEMENT; INSURANCE; DESTRUCTION ORDER; APPEAL OF DESTRUCTION ORDER; OFFENSES RELATED TO DANGEROUS DOGS; LEASH-FREE ZONE; LIVESTOCK; RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL; KEEPING BEES; FERAL CAT COLONY PERMIT; PROPER MANAGEMENT AND STERILIZATION; PROVIDING FOR A CRIMINAL PENALTY OF UP TO \$2,000 DOLLARS PER DAY FOR VIOLATIONS OF THE ORDINANCE; AND PROVIDING FOR FINDINGS OF FACT; SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, residents of the City of Marble Falls should be free to enjoy the public streets and places without fear of attack or harassment by dogs and cats or wild or exotic animals; and

WHEREAS, for the health, safety, and protection of the residents of the City of Marble Falls, and for the protection of the dogs and cats in the City of Marble Falls, regulation of animals is desirable; and

WHEREAS, the City Council of Marble Falls deems it desirable to revise its current Animal Services Ordinance to cope with the ever changing challenges related to both domestic and wild animals; and

WHEREAS, it is the decision of the City Council of Marble Falls to enact an ordinance designed to protect the public health and safety; to prohibit animals running at-large; to reduce stray animals; to provide humane protection of pets; to set forth penalties for violations of provisions in accordance with and pursuant to Chapter 826, Rabies, of the Health and Safety Code, Title 10 otherwise cited as the Rabies Control Act of 1981; and

WHEREAS, the adoption of a revised Animal Services Ordinance is in the best interest of the city and its citizens;

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

SECTION I. PREAMBLE. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Marble Falls and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

SECTION II. AMENDMENTS.

The City of Marble Falls Code of Ordinances is hereby amended by deleting Chapter 6 “Animal Services” of the Code of Ordinances in its entirety and replacing it with the following:

* * *

Article 6.01 General Provisions

- 6.01.001 Definitions
- 6.01.002 Penalties; conflicting regulations
- 6.01.003 Department of animal services; director of animal services
- 6.01.004 Animal Control Advisory Commission
- 6.01.005 Dead animals and fowl
- 6.01.006 Tampering with traps and equipment of animal services department
- 6.01.007 Injury or destruction of wild birds
- 6.01.008 Harboring wild animals prohibited
- 6.01.009 Prohibited, Wild Animals or Wildlife
- 6.01.010 Sale of animals
- 6.01.011 Molesting or releasing animals
- 6.01.012 Animal enclosures
- 6.01.013 No animal allowed in place where food is sold or served
- 6.01.014 Right to confine dogs, cats, or other animals
- 6.01.015 Chapter 251, Agriculture Code

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- 6.02.001 Vaccination required
- 6.02.002 Certificate of vaccination
- 6.02.003 Rabies tag
- 6.02.004 Registration tag and collar
- 6.02.005 Guard dog permit
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- 6.02.007 Enforcement
- 6.02.008 Annual registration and fees
- 6.02.009 Nonresident owners

Article 6.03 Kennels

- 6.03.001 Permit required; exceptions
- 6.03.002 Duration of permit; permit fees
- 6.03.003 Facility requirements for kennels
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- 6.03.005 Commercial animal sales permit

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- 6.04.001 Impoundment
- 6.04.002 Authorized; fees
- 6.04.003 Disposition of impounded animals
- 6.04.004 Release of animals held on complaint
- 6.04.005 Unauthorized removal of animal from confinement; interfering with officers
- 6.04.006 Animal at-large
- 6.04.007 Confinement of female dogs and cats during estrus
- 6.04.008 Adoption of impounded animals
- 6.04.009-6.04.030 Reserved

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- 6.04.031 Running at-large
- 6.04.032 Authorized impoundment; procedures
- 6.04.033 Advertisement of impounded livestock
- 6.04.034 Claiming of animal by owner
- 6.04.035 Fees
- 6.04.036 Sale of impounded livestock
- 6.04.037 Recovery of sale proceeds by owner
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Article 6.05 Animal bites; Rabies control

- 6.05.001 Reporting of bites and scratches
- 6.05.002 Reporting of suspected rabies cases
- 6.05.003 Quarantine or disposition of animal
- 6.05.004 Animals not to be killed or disposed of

Article 6.06 Animal Care

- 6.06.001 Duty to provide care
- 6.06.002 Cruel treatment
- 6.06.003 Abandonment
- 6.06.004 Offering animal as prize or inducement
- 6.06.005 Poisonous substances; traps
- 6.06.006 Theatrical exhibits
- 6.06.007 Safety of animals in motor vehicles
- 6.06.008 Restraint requirements for dogs on private property
- 6.06.009 Enclosure for dogs
- 6.06.010 Selling dyed animals
- 6.06.011 Trapping and shooting
- 6.06.012 Slaughtering of animals
- 6.06.013 Keeping of cats outdoors
- 6.06.014 Zoning Restrictions

Article 6.07 Nuisances

- 6.07.001 Nuisance
- 6.07.002 Creating health hazard
- 6.07.003 Authority to destroy injured or diseased animals

Article 6.08 Dangerous Dogs

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- 6.11.001 Bee Keeping
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Section II Fee Schedule

CHAPTER 6

ANIMAL SERVICES

ARTICLE 6.01 GENERAL PROVISIONS

Sec. 6.01.001 Definitions

When used in the city Code of Ordinances, the following words and terms, unless the context indicates a different meaning, or unless otherwise specifically defined for application to a portion of this chapter, shall be interpreted as follows:

Altered - Surgical sterilization of an animal.

Animal - Live creatures, both domestic and wild, except humans and fish. "Animal" includes fowls, and reptiles.

Animal control officer - An employee or agent of the city designated by the city to investigate, administer and enforce the city Code of Ordinances and laws of the state pertaining to the licensing, care and control of animals within the city.

Animal shelter - Any facility operated by the city or its authorized agents which is used for the temporary care, confinement, and detention of animals and for the humane disposition and destruction of animals. The term shall also include any private or public facility authorized by the city to serve these purposes on behalf of the city.

At-large - An animal, other than a protected animal as that term is defined herein, that is off the premises of the owner, and/or not under the control of the owner, either by leash, cord, chain, enclosure or other restraint. The term may also include an animal that is on the premises of the owner, but is not within the direct, constant and immediate presence of a person who controls the animal and is not confined to that premises by means of leash, cord, chain, enclosure or other restraint.

Bird sanctuary - A safe haven where certain species of birds (as designated by the state and federal environmental statutes) are protected from being destroyed or hunted by people.

Boarding kennel - An establishment used for the purpose of boarding animals on a temporary basis and where no animals are bred or sold. (See definition of "kennel" below.) Animal grooming parlors, where no animals are to be kept overnight, and/or veterinary clinics shall not be considered to be boarding kennels.

Breeding kennel - An establishment designed or used for the boarding, selling or breeding of animals where more than an aggregate total of six (6) dogs and/or cats (or any combination thereof) are to be boarded, sold or bred at any single time. Animal grooming parlors, where no animals are to be kept overnight, and/or veterinary clinics shall not be considered to be breeding kennels.

Commercial sales - Sales that are managed and developed primarily for financial profit on a larger than incidental basis.

Dangerous and/or vicious animal - Any animal that is known to carry or be susceptible to the rabies virus and that cannot be effectively vaccinated against that virus with any vaccine approved by the department of state health services. Also included in the definition of “dangerous and/or vicious animal” is any animal or any pet that has attacked, bitten, or physically injured a human, other domestic animal or pet animal, and/or livestock without adequate provocation, or that, because of temperament or training, has a known propensity to attack, bite, or physically injure human beings or livestock. Any wild animal or any animal that without provocation has bitten or attacked a human being, pet animal, domestic animal and/or livestock shall be prima facie presumed to be dangerous and/or vicious.

Dangerous dog - Any dog that, because of its aggressive nature, training or characteristic behavior, has demonstrated that it presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term “dangerous dog” includes any dog that, according to the records of the city animal shelter, the city department of animal services, or any law enforcement agency:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own;
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or
- (3) As otherwise defined by state law.

Domestic animal - Includes dogs, cats, domesticated horses, fowl, confined hares and rabbits, and other birds and animals raised and/or maintained in confinement, any animal whose physiology has been determined or manipulated through selective breeding and that does not occur naturally in the wild, any animal that can be vaccinated against rabies with an approved rabies vaccine, and/or any animal which has an established rabies quarantine observation period.

Estray - Includes, but is not limited to, any stray horse, stallion, mare, gelding, filly, colt, mule, jenny, jack, jennet, hog, sheep, and goat, normally confined and domesticated hares and rabbits, and any species of cattle, as well as other animals that are generally found in agricultural habitats.

Exotic species - Monkeys, alligators, crocodiles, poisonous snakes, reptiles, or birds, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles, or any other animal (other than domestic cats and dogs) that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops or domestic farm animals generally found in agricultural habitats.

Feral - An animal that is not domesticated, cultivated, intentionally bred or generally approachable and/or an animal that is not readily able to be handled by humans.

Feral Cat Colony- A group of 5 or more feral, homeless, stray, wild or untamed cats, that has been registered with the animal services department and is maintained by a feral cat colony manager, that congregate, more or less, together as a unit and, although not every cat in a colony may be feral, any cat that congregates with a colony shall be deemed to be a part of it.

Feral Cat colony manager - A person who provides food and water to a cat colony.

Harboring - The act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care for a period of three days or longer.

Keep - To retain on the premises by any means; to harbor, control, own or have custody or possession of an animal for a period of three (3) days or longer.

Kennel - A place in which a total of a combination of six (6) or more dogs or cats is kept, boarded, or trained, by the owners of the dogs or cats or by persons providing facilities and care, with or without compensation. Veterinary clinics/hospitals and Humane Society facilities shall be exempt.

Livestock - Animals that are routinely raised on a farm and/or are generally found in agricultural habitats.

Maintain - To feed, shelter, protect, provide for and/or bear expense of.

Normal working day – Any other day than on a weekend or holiday.

Normal working hours – All time from 8:00 a.m. to 5:00 p.m. during a normal working day.

Owner - Any person, corporation or entity having temporary or permanent custody of, owning, keeping, sheltering, in charge of, controlling, maintaining, having property rights to, or harboring one or more animals covered by this chapter. The temporary feeding of a pet at the pet owner's request while the owner is unable to feed such pet does not cause the individual temporarily feeding the pet to become an owner for purposes of this definition.

Person – Any individual, corporation, partnership or other entity.

Pet animal - Dogs, cats, rabbits, rodents, commercially bred ferrets, birds, nonpoisonous reptiles, and other species of animals which are sold or retained as a household pet, but shall specifically not include skunks, ferrets from natural habitats, nonhuman primates (e.g., monkeys, apes, etc.), or any other species of wild, exotic or carnivorous animal that is susceptible to, but not an animal that may be vaccinated for rabies. The term also includes any animal that may be further restricted in this chapter.

Pet shop - Any person, firm, partnership, or corporation conducting a business at a properly zoned location, whether operated separately or in connection with another business enterprise other than a kennel, that buys, sells or boards any animal(s).

Poultry / fowl -

- (1) All domesticated poultry and fowl; and
- (2) All game/undomesticated poultry, fowl and birds that are kept in captivity, but excluding poultry, fowl and birds that are protected animals, as that term is defined herein.

Private breeder - Any person or entity who breeds or allows his/her animals, whether purebred or mixed breed, to produce offspring.

Prohibited animals - Any or all animals, including but not limited to venomous reptiles, nonvenomous reptiles over six feet (6') in length, alligators, crocodiles, caimans, elephants, rhinoceroses, skunks, raccoons, nonhuman primates, foxes, coyotes, bats, wolves, bears, or any hybrid of these listed animals. Any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, hyenas, bears, bobcats, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, miniature pigs, apes, llamas, alpacas or such other nondomestic species of animal not common to this area are also a prohibited animal for purposes of this chapter.

Protected animals - Poultry, fowl and birds that are harbored in any city park or park area.

Public nuisance animal - Any animal, other than a protected animal, that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life or property. The term "public nuisance animal" shall include, but is not limited to any animal, other than a protected animal, that:

- (1) Is found to be at-large;
- (2) Engages in conduct which establishes the animal as either dangerous and/or vicious;
- (3) Damages, soils, despoils or defecates on private property, other than the animal owner's property, or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;
- (4) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, growling or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others who are in close proximity to the premises where the offending animal is kept, maintained or harbored;
- (5) Chases vehicles or otherwise molests, attacks or interferes with other animals or persons on public property;
- (6) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity of the animal(s);

(7) Is offensive or dangerous to the public health, safety, or welfare, by virtue of the number, conditions, and/or types of animals maintained by the owner(s); or

(8) Has been found by the municipal court to be a public nuisance animal, by virtue of being a menace/hazard to the public health, welfare, or safety of the citizens of the community, after notice to the owner and after a hearing before the municipal court.

Quarantine - A period of ten (10) days, which time is generally used for observation of a domestic pet or other animal to determine the health status of that animal in relation to the rabies virus.

Quarantine by owner - Quarantine by an animal owner, with the permission of the city, under the following conditions:

- (1) The animal must have a current rabies vaccination and be registered with the city.
- (2) The animal must either be inside a secure enclosed structure, i.e., house or garage, and must remain there for a minimum of ten (10) days; or if the animal is maintained outside, it must be contained within an enclosure from which it cannot escape (e.g., either a fenced area, or inside a covered pen or kennel from which it cannot escape).
- (3) The animal must be kept away from any other animal(s) and all people, except those who must care for it during its quarantine period.
- (4) The animal may not be removed from the municipal limits of the city while under quarantine, except if the removal is done by an authorized state, county or local official.
- (5) The owner shall notify animal control officer and/or the police department immediately if the quarantined animal becomes sick or displays any behavioral changes.
- (6) The owner shall not subject the quarantined animal to any medical procedure(s) during the quarantine period without first notifying the animal control department. This includes providing the quarantined animal with any vaccination(s).
- (7) The quarantined animal must be examined by a licensed veterinarian, by no later than the close of business on the first day of home quarantine, and again on the final day of quarantine. The veterinarian shall be informed of the animal's quarantine status. The owner shall be responsible for producing proof of the required veterinarian examinations of any quarantined animal in compliance with this code.
- (8) No animal that is at-large or unleashed at the time of exposure related to the rabies virus may be quarantined by owner. Rather, such animals must be quarantined by the city or its designee(s).
- (9) The owner must allow the animal services department, after giving reasonable notice, to view and confirm the health of the animal during the home quarantine period.

Rabies vaccination - The vaccination of a dog, cat or other animal (domestic or otherwise) with an anti-rabies vaccine, as approved by the department of state health services and as administered by a veterinarian licensed by the state.

Registered dangerous dog - A dog that has been determined to meet the criteria of being a dangerous dog as per section 6.08.003 et seq. of this code, and/or state law, as amended from time to time, and after such dogs have been registered, by obtaining a city registration, pursuant to section 6.08.010 of this code.

Restraint - A chain, rope, tether, leash, cable or other device that is under the physical control of the owner or of another responsible person; or attaches an animal to a stationary object or trolley system that isolates the animal from the public and from other animals except for animals owned by or under the control of the owner; or any fence in good repair within the lot line of the premises or within the domicile of the person residing on the premises.

Running at-large -

- (1) Any animal, dog or cat, that is not restrained by means of a leash, chain, or other apparatus of sufficient strength, length or nature to control the actions of such animal, while off the owner's premises.
- (2) Any animal, except a pet cat and/or a protected animal, that is not confined to premises of the owner in a manner that prevents the animal from escaping from there.
- (3) Any pet, dog or cat, other than a protected animal, that is creating a nuisance off the owner's property.
- (4) Animals that are confined within a vehicle in a manner that would prevent that animal's escape and/or that would prevent contact with other persons or animals shall not be deemed to be at-large.

Secure enclosure - A fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing the release or escape of an animal;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Tall enough or covered so that the animal cannot climb out; and
- (5) Has a perimeter structure that prevents the animal from digging out or going under the side fence or wall.

Serious injury - Includes, but is not limited to, bodily injury resulting from severe attack or severe bite from an animal that produces severe pain, trauma, or loss of blood or tissue, and that would cause most prudent and reasonable people to seek medical care for treatment for the injury.

Severe attack - Includes, but is not limited to, an attack in which the animal repeatedly bites, scratches, or vigorously shakes its victim and the victim, or a person intervening, has extreme difficulty terminating the attack.

Severe bite - A puncture, scratch or laceration made by an animal's teeth, that breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without consideration of rabies prevention alone.

Stray animal (including estrays) - Any animal, for which there is no identifiable owner or harborer, that is found to be at-large within the corporate limits of the city.

Theatrical exhibition - Any exhibition or act featuring performing animals. Such exhibitions shall not include resident or nonresident dog and cat shows that are sponsored and sanctioned by the American Kennel Club, United States Kennel Club, Cat Fanciers Association or affiliates thereof, nor shall it include any horse or agricultural animal show or sale.

Unaltered - An animal not surgically sterilized.

Vaccination – Rabies vaccination, or other vaccinations required by law, for an animal or animals.

Veterinarian - Any practitioner of veterinary medicine licensed by the state to practice in Texas.

Wild animal - Any live monkey, nonhuman primate, raccoon, skunk, fox, leopard, panther, tiger, lion, lynx or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include: domestic dogs (excluding hybrids with wolves, coyotes or jackals), domestic cats (excluding hybrids with ocelots or margays), farm or agricultural animals, and captive-bred species of common cage birds and rodents.

Wild bird - A bird that normally lives in a state of nature and is not ordinarily domesticated, but specifically does not include pigeons, English sparrows, European starlings, grackles, ravens, red-winged blackbirds, blackbirds, cowbirds, feral rock doves or crows.

Sec. 6.01.002 Penalties; conflicting regulations

(a) Any person found guilty of violating any section of this chapter shall be fined as provided in section 1-9 of the City of Marble Falls Code of Ordinances.

Sec. 6.01.003 Department of animal services; director of animal services

(a) In order to protect the public health and welfare, to provide for the public safety, and to more effectively control, regulate and provide for animals within the city, there is hereby created the department of animal services ("department"), which is a division of the city police department. The department shall consist of the director of animal services and such other officers and employees as may be provided by the city council.

(b) There is hereby established the office of director of animal services. The chief of police is hereby designated director of animal services. The director shall supervise the department employees, subject to the supervision and control of the city manager.

(c) The director or his designee shall enforce all laws and ordinances in the city pertaining to the registration, keeping, treatment, impounding and regulation of animals within the city. In every case and instance wherein the keeping of, or existence of, animals presents a health hazard or threat to the public health, the director of animal services shall have concurrent jurisdiction with the county health department.

(d) The director or his designee shall manage the city's animal shelter, or the city may contract with one or more public or private entities for the purpose of operating an animal shelter to serve the city's needs. The director or his designee shall cause to be kept such records and make such reports concerning the activities of the department as may be required by ordinance, by the city manager, or by the city council.

(e) It shall be the duty of members of the department to enforce the ordinances of the city applicable to animals and to avoid the use of unnecessary force on animals while undertaking their responsibilities.

Sec. 6.01.004 Animal control advisory commission

There is hereby created an animal control advisory commission for the advising of the City of Marble Falls on the promulgation of animal control ordinances, procedures of enforcement and administration thereof. The animal control advisory commission shall consist of the following members: the city manager and/or his designee, the chief of police and/or his designee, the animal control officer, a local veterinarian and a representative of a local Humane Society and/or a representative from the Society for the Prevention of Cruelty to Animals.

Sec. 6.01.005 Dead animals and fowl

It is unlawful for any person in the city to place, or cause to be placed, or allow to remain in or near their premises or on the premises of any other person, or in any of the streets or other public ways, any dead animal. Specifically, if any person finds dead animals or fowl upon their own property, he/she shall be responsible for proper removal and disposal of same. If a person sees a dead animal or fowl on property that is not owned or controlled by him/her, then he/she is responsible for contacting and notifying the proper authority so that the animals and fowl may be properly removed.

Sec. 6.01.006 Tampering with traps and equipment of animal services department

No person shall remove, alter, damage or otherwise tamper with a trap or equipment belonging to, or set out by, the animal services department or its designee.

Sec. 6.01.007 Injury or destruction of wild birds

(a) The city is hereby declared a bird sanctuary. Any person who shall willfully kill or injure any wild bird, remove the eggs or young from the nest of a wild bird, or in any manner destroy the eggs or young of wild birds, excluding the pigeon, English sparrow, European starling, grackle, raven, red-winged blackbird, blackbird, cowbird, feral rock dove and crow shall be guilty of a class C misdemeanor. Canaries, parrots, and other exotic non-game birds may be sold, purchased, and kept as domestic pets.

(b) Nothing in this chapter invokes the application of the Endangered Species Act of 1973, as amended, or any other federal, state or local law or regulation related to wild birds or animals, unless such provisions would otherwise apply.

Sec. 6.01.008 Harboring wild animals prohibited

It shall be unlawful for any person to harbor wild animals within the city limits. A wild animal may be impounded or humanely destroyed by the animal control officer or his agent if, in his sole discretion, such action appears to be reasonably necessary and in the public interest.

Sec. 6.01.009 Prohibited, Wild animals or Wildlife

(a) No person shall possess, keep or have care, custody or control of a prohibited animal, wild animal or wildlife within the city except as provided herein.

(b) All persons shall be prohibited from selling, giving, transferring or importing into the city any wild animal.

(c) This section shall not apply to approved zoological parks or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity or any animal assisting physically handicapped persons.

(d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal that was not capable of surviving on its own and that such animal was kept for three days or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

Sec. 6.01.010 Sale of Animals

It shall be unlawful for anyone to sell, trade, barter, lease, rent, give away, or display for commercial purpose, any live animal, on any roadside, public right-of-way, commercial parking lot, or any flea market within the corporate limits of the city; excluding any non-profit animal welfare group.

(a) Enforcement; impoundment

(1) In the enforcement of the provisions of this article, any person authorized to enforce the provisions of this chapter shall have the authority to impound any animal found in violation of this article.

(2) The owner of any animal impounded pursuant to this article shall be liable to the city in the amount of the impoundment and boarding fees charged the owner pursuant to the provisions of this chapter, and any animal so confined pursuant to this article shall be handled and disposed of in the same manner as any animal that is so confined because of being found at-large within this city.

Sec. 6.01.011 Molesting or releasing animals

It shall be unlawful for any person to in any manner, tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises. It shall be unlawful for any person, except the owner of a pet animal or his/her authorized agent, to willfully open any door or gate on any private or public premises for the purposes of enticing or enabling any animal to leave such private or public premises.

Sec. 6.01.012 Animal enclosures

All pens, cages, coops, lofts or enclosures wherein animals, fowl or birds are kept shall be securely built and maintained, adequate in size for the kind and number of animals, fowl or birds contained therein and maintained in a sanitary condition; such enclosures shall be cleaned and maintained so as to not become offensive to residents or businesses adjacent thereto.

Sec. 6.01.013 No animal allowed in place where food is sold or served

No owner of any animal and no manager, clerk, owner or operator of any place where food is exposed or offered for sale, served or sold for human consumption, shall permit any animal to enter, be or remain within any interior area of a store, restaurant, cafe, shop, building, structure or place where food is offered for sale, displayed or handled for human consumption within the corporate limits of the city, except for certified assistance animals. Animals may be allowed on outdoor decks or patios of stores, restaurants, cafes, shops, buildings, structures or places where food is offered for sale, displayed or handled for human consumption, so long as such animals never enter the interior area of such locations.

Sec. 6.01.014 Right to confine at-large dogs, cats, or other animals

Any at-large dog, at-large cat, or other at-large animals found upon the private premises of a person other than the owner, may be humanely confined and held until such time as the animal control officer may be notified. Upon such notification, the animal control officer shall respond immediately, and take said confined animal for the purposes of impound as provided herein.

Sec. 6.01.015 Chapter 251, Agriculture Code

The City of Marble Falls recognizes the protections placed on certain property and individuals as a result of Chapter 251 of the Texas Agriculture Code. Any defense against prosecution or enforcement of the city's ordinances based upon Chapter 251 shall be as an affirmative defense which is the responsibility of the person alleged to have violated the city's ordinances to plead and prove.

ARTICLE 6.02 VACCINATION AND REGISTRATION OF DOGS AND CATS

Sec. 6.02.001 Vaccination required

Every owner of a dog or cat over four (4) months of age shall have such animal vaccinated against rabies, in compliance with applicable state law. Any person establishing residence within the city shall demonstrate compliance with this requirement within ten (10) days of establishing residency. If an unvaccinated dog inflicts a bite, scratches, or otherwise attacks any person within the city limits, a rabies vaccine shall not be administered to the dog until that animal is released from quarantine.

Sec. 6.02.002 Certificate of vaccination

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be provided to the owner. The vaccination certificates shall contain all information required by state law, including but not limited to the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;
- (2) The date of vaccination;
- (3) The type of rabies vaccine used;
- (4) The year and number of the rabies tag provided to the owner; and
- (5) The breed, age, color and sex of vaccinated dog or cat.

Sec. 6.02.003 Rabies tag

Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the vaccinated dog and/or cat shall cause to be attached to the collar or harness of the vaccinated animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance of the certificate of vaccination.

Sec. 6.02.004 Registration tag and collar

Upon payment of the annual registration fee, where applicable, the city shall issue to the owner a registration certificate and metal tag having stamped the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the registered animal. In case a tag is lost, a duplicate will be issued by the city police department, or its designee, upon presentation of the receipt showing the payment of the registration fee. Tags shall not be transferable from one animal to another, and no refunds shall be made. In lieu of wearing a registration tag and collar, the owner of an animal may satisfy such requirement if the animal is identifiable through a surgically implanted microchip.

Sec. 6.02.005 Guard dog permit

(a) All dogs that are kept solely for the protection of persons and property, residential, commercial or personal, shall obtain a guard dog permit from the city police department. The annual fee for a guard dog permit shall be set by the city council, and is as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.02.005 of the fee schedule in ~~Appendix~~Appendix A to this code. The area or premises in which any guard dog is confined shall be conspicuously posted with warning signs bearing letters not less than two inches high stating, at a minimum: "Guard Dog on Premises."

(b) The area or premises protected by a guard dog shall be subject to inspection by the city police department to determine that the animal in question is maintained and secured at all times in such a manner so as to prevent the guard animal from coming in contact with the public.

(c) Guard, search or other trained dogs or trained animals that are used by federal, state, county, or municipal law enforcement agencies are exempt from the requirements of this section.

Sec. 6.02.006 Revocation of registration

(a) The director of animal services or his/her designee may revoke any cat or dog registration, after an informal hearing held by the director or his designee, for any one or more of the following reasons:

(1) Impoundment of a cat or dog by the city two (2) or more times during any twelve (12) month period;

(2) Two (2) or more convictions of a person for any violation of this chapter, when such convictions relate to the cat or dog that is being considered for revocation of its registration;

(3) Any combination or subsections (a)(1) and (a)(2) of this section, totaling three (3) incidents or more, over any period of time.

(b) Upon revoking the registration of any cat or dog, the animal services department shall notify the owner of the cat or dog of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the cat's or dog's owner, is deposited in the U.S. mail.

(c) Upon the expiration of ten (10) calendar days after written notification of revocation is deposited in the U.S. mail, as provided above, the cat or dog that has had its registration revoked shall no longer be kept, maintained or harbored within the city's corporate limits, and each 24-hour period that an animal with a revoked registration remains in the city shall constitute a separate violation of this article.

(d) Upon revocation of a registration, an owner of the animal with the revoked registration shall notify the animal services department of the location to which the animal is being removed outside of the municipal limits.

(e) An animal owner may appeal the decision of the director of animal services to revoke a registration of a dog or cat as a result of the informal hearing held by the director or his designee, by writing and requesting that the decision be appealed to and reviewed by the city manager or his designee. The city manager's decision may be appealed by the owner to the municipal court of the City of Marble Falls within 15 days of the city manager's decision. The municipal court shall consider the relevant issues *de novo*.

Sec. 6.02.007 Enforcement

(a) While primary enforcement duties rest with animal control officers, the provisions of this chapter may be enforced by peace officers, code enforcement officers and such other persons as are designated by the city.

(b) It shall be unlawful for any person to interfere with, obstruct, resist or oppose any person authorized to enforce the provisions of this chapter.

(c) In the enforcement of this chapter, any person authorized to enforce the provisions of this chapter shall have the authority to tranquilize, trap or shoot any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury.

(d) Any person authorized to enforce the provisions of this chapter shall have the right to pursue and apprehend an at-large dog, cat, livestock or other animal considered a nuisance onto private property without first requesting permission from the owner of the property before entering the property or without obtaining a search warrant.

(e) Any peace officer or animal control officer is empowered to demand the exhibition by the owner of an animal's current vaccination information and/or the registration for such animal, in accordance with the provisions of this article.

(f) The owner of each animal located within the city is required to produce the registration and current vaccination information for each animal in his ownership, possession or control, upon demand by an animal control officer or peace officer. Failure to do so will result in enforcement of this code, as set forth herein.

(g) It is further provided that any agent of the animal control officer, based upon a warrant, or after gaining lawful permission, may enter upon the premises where any animal is kept or harbored in a reportedly cruel or inhumane manner and demand to examine such animal, and to take possession of such animal, when in his opinion, it requires humane treatment, and humanely destroy such animal upon the recommendation of a veterinarian. The seizure and/or subsequent destruction of the animal shall be done only by obtaining lawful permission, or by obtaining a warrant for such purposes.

Sec. 6.02.008 Annual Registration and fees

(a) Registration tag required. No person shall own, keep or harbor a dog and/or cat over the age of four (4) months within the city, unless a registration has been obtained for the dog and/or cat owned.

(b) Administration of registration and registration tag. The city will furnish registration(s) as provided for herein. Registration(s) shall be available at the following locations:

(1) The city police department; and

(c) Application. Written application(s) for dog and/or cat registration(s) shall be made upon a printed application form provided by the city and shall state the name and address of the owner of the dog(s) and/or cat(s), and the name, breed, color, age and sex of each dog and/or cat being registered. Applications may be obtained at the locations provided for above in subsection (b) of this section.

(d) Conditions for registration. Dog and/or cat registration tag(s) shall be issued upon payment of a registration fee and upon presentation of a rabies certificate issued by a licensed veterinarian showing that such vaccination was given in compliance with state law.

(e) Registration fee and terms of registration.

(1) If the owner presents documentation prepared and signed by a veterinarian licensed by the state which demonstrates that the dog and/or cat to be registered has been altered, the annual fee for such registration shall be set by the city council, and is as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.02.008 of the fee schedule in ~~Appendix~~Appendix A to this code;

(2) Owners of an unaltered dog(s) and/or cat(s) shall be required to file an application for a new registration for the dog(s) and/or cat(s), each year. The annual fee for such registration shall be as set by the city council, and is as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.02.008 of the fee schedule in Appendix A to this code;

(3) No registration fees shall be due or paid for any dog and/or cat that is owned by a citizen 65 years of age or over, if such animal is altered. The annual fee for unaltered animals owned by citizens 65 years of age or over shall be set by the city council, and is as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.02.008 of the fee schedule in Appendix A to this code.

Sec. 6.02.009 Nonresident owners

Registration requirements set out herein do not apply to nonresidents in transit within the corporate city limits possessing, keeping or harboring domestic dogs or cats, provided such animals shall not be kept or harbored within the city limits longer than thirty (30) consecutive days, and that the animals are kept under restraint as provided herein.

ARTICLE 6.03 KENNELS

Sec. 6.03.001 Permit required; exceptions

Permits shall be required for the operation of all kennels within the corporate limits of the city.

Sec. 6.03.002 Duration of permit; permit fees

Permits issued under this article shall be valid for one year from date of issuance. The fees for permits under this article shall be set by the city council, and are as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.03.002 of the fee schedule in Appendix A to this code.

Sec. 6.03.003 Facility requirements for kennels

Upon inspection by the animal services department of premises that are to be operated as a kennel, a permit will be issued if, in the opinion of the animal control officer, all of the following conditions are met:

- (1) The kennel facility is adequate for the number and type of animals to be kept therein.
 - (A) The kennel facility is of a sufficient size as to allow all animals in the kennel to move about freely, considering the maximum possible size of the individual animal's height and weight that may be kept within the kennel.
 - (B) Adequate food and fresh water is continuously provided so that each and all animals kept in the kennel shall be maintained in good health and free of malnutrition and/or dehydration.
 - (C) The kennel premises are kept in a sanitary condition and reasonably free of animal waste, parasites, insects, rodents and flies that could be harmful to the animal's health and/or to the health of the general public.
 - (D) Nothing about the operation of the kennel poses any public or private nuisance within the city's corporate limits.
- (2) The animals and the kennel facility shall, at all times, be kept free of odor or stench which is offensive to a person of ordinary sensibilities.
- (3) The animals in the kennel shall at all times be maintained in a manner that does not pose a danger to the health of the animals themselves, to adjacent animals within the kennel, or to visitors or workers in the kennel facility.
- (4) The animals in the kennel shall not cause noise(s) or other disturbances which are offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.

(5) If an applicant for or a holder of a kennel permit has been issued citations for violation of this chapter on two separate occasions, or possesses or controls animals covered by or to be covered by the kennel permit that have been impounded on two separate occasions, the kennel permit may be revoked (or the application for renewal of same be rejected) by the city.

(6) In the case of a boarding kennel, no animal may be bred or sold or transfer of ownership of an animal be otherwise effected from within the boarding kennel.

Sec. 6.03.004 Revocation or suspension of permit

(a) Any kennel permitted under this chapter found to be in violation of any municipal zoning law, health law or any other applicable ordinance of the city or of the state, or found to have a facility maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity because of the animals owned, controlled or housed by the kennel on the premises, may have all applicable permits suspended by the animal services department, pending a final informal hearing of information and evidence related to the offenses alleged. The informal hearing on such matters shall be before the director of animal services or his designee.

(b) Upon suspension of the permits, the animal services department shall notify the permit holder of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the permit holder is deposited in the U.S. mail.

(c) Upon the expiration of ten (10) days after written notification of suspension is deposited in the U.S. mail, as provided above, the permit holder shall no longer keep, maintain or harbor animals within the city's corporate limits, and each 24-hour period that an animal with a suspended registration remains in the city shall constitute a separate violation of this article.

(d) Upon suspension of the permit, the holder of the revoked permit shall notify the animal services department of the location to which the animal(s) are being removed.

(e) A permit holder may appeal the decision of the director of animal services to suspend a permit, after the informal hearing is held by the director, by appealing the decision, in writing, to the city manager or his designee. If the city manager determines that grounds exist for permanent or extended suspension and/or termination of the kennel permit, his/her decision on the matter is final and is not subject to further appeal.

Sec. 6.03.005 Commercial animal sales permit

(a) All persons engaged in the commercial sale of any animals, domestic or otherwise, including, but not limited to, pet stores and stores in which pets and animals are not the central item of sale within the store, such as department stores, drugstores and convenience stores, must apply for a commercial animal sales permit at the animal services department. The commercial animal sales permit shall be issued provided the applicant meets all the provisions of this section and shall be valid for one year from the date of issuance. The annual fee shall be set by the city council and is as

shown in the animal services fee schedule maintained by the city secretary and as set forth in section A6.03.005 of the fee schedule in Appendix A to this code.

(b) Those persons currently engaged in the commercial sales of animals as described in this section are required to apply for the commercial animal sales permit prior to engaging in the sale of any animal within the city.

(c) Upon inspection of the premises by the animal services department, the permit shall be issued if, in the sole discretion of the animal control officer, all of the following conditions are met:

(1) The facility is adequate for the number and type of animals to be kept therein.

(A) The facility is of a sufficient size as to allow all animals in the facility to move about freely, considering the maximum possible size of the individual animal's height and weight that may be kept within the facility at any time.

(B) Adequate food and water is continuously provided so that each and all animals in the facility kept shall be maintained in good health and free of malnutrition and/or dehydration.

(C) The facility's premises are kept in a sanitary condition and reasonably free of animal waste, parasites, insects, rodents and flies that could be harmful to the animal's health and/or to the health of the general public.

(D) Nothing about the operation of the facility poses any public or private nuisance within the city's corporate limits.

(2) The animals and the facility shall, at all times, be kept free of odor or stench which is offensive to a person of ordinary sensibilities.

(3) The animals in the facility shall at all times be maintained in a manner that does not pose a danger to the health of the animals themselves, to adjacent animals within the facility, or to visitors or workers in the facility.

(4) The animals in the facility shall not cause noise(s) or other disturbances which are offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.

(5) If an applicant for or a holder of a commercial animal sales permit has been convicted of a violation of this chapter on two separate occasions, the commercial animal sales permit may be revoked by the city, and issuance of or renewal of a commercial animal sales permit may be refused.

(d) The commercial animal sales permit may be revoked by the animal services department if, upon investigation, it is determined that the permit holder has failed to adhere to any of the above conditions listed in this section. Once the commercial animal sales permit has been revoked, neither the individual nor the store whose permit has been revoked may reapply for a period of six months,

and they shall not engage in the sale of animals in the manner described in this section for that period.

(e) Upon revocation of the commercial animal sales permit, the animal services department shall notify the permit holder of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the permit holder, is deposited in the U.S. mail.

(f) Upon the expiration of ten (10) days after written notification of revocation is deposited in the U.S. mail, as provided above, the permit holder shall no longer keep, maintain or harbor animals within the city's corporate limits, and each 24-hour period that an animal with a revoked permit remains in the city shall constitute a separate violation of this article.

(g) Upon revocation of the commercial animal sales permit, the holder of the revoked commercial animal sales permit shall notify the animal services department of the location to which the animals are being removed.

(h) A holder of a commercial animal sales permit may appeal the decision of the director of animal services to revoke a permit, after the informal hearing is held by the director, by requesting, in writing, that the city manager or his designee hear an appeal of the director's decision. If the city manager determines that grounds exist for permanent or extended revocation or termination of the commercial animal sales permit, his/her decision on the matter is final and is not subject to further appeal.

ARTICLE 6.04 IMPOUNDMENT

Division 1. Generally

Sec. 6.04.001 Impoundment

Notwithstanding any other provisions of this chapter, the city shall NOT impound any animal unless there is a proper facility in which to keep the animal. For the purposes of this section, a proper facility is one that adequately provides for the needs of the animal and for the protection of the public.

Sec. 6.04.002 Authorized; fees

(a) Animals owned or harbored in violation of the city code of ordinances or laws of the state may be taken into custody by an animal control officer or other designated official and impounded under the provisions of this article.

(b) Owners of impounded pets are required to pay all fees and other costs related to the impoundment as set by the city council and as detailed in this article. Fees for the impoundment of pets shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.04.001 of the fee schedule in Appendix A to this code.

Sec. 6.04.003 Disposition of impounded animals

(a) Dogs, cats and estrays impounded without identification. All dogs, cats and estrays impounded by the animal services department or brought to the animal shelter by a person other than the harborer or owner of that animal, and which animals do not have identification, shall be held for a minimum of seventy-two (72) hours, during which time period the owner may present proof of ownership at the shelter in order to reclaim the animal. After paying all applicable fees and costs incurred during and/or related to the impoundment of the animal, including registration fees, the owner or harborer may reclaim the dog/cat/stray. In the event that an animal is not claimed after seventy-two (72) hours in the shelter, that dog/cat/stray shall become the property of the city or its agent/designee.

(b) Dogs, cats and estrays impounded with identification. All dogs, cats and estrays impounded by the animal services department or brought to the animal shelter by a person other than the harborer or owner of that animal that are wearing traceable identification, micro-chipped or where an owner/harbinger of the animal is otherwise known by the department, may be held by the shelter, or its assignee, for a minimum of ten (10) business operation days of the facility, from the date the animal enters the facility, during which time the animal services department, or its agent/designee, will attempt to notify the owner/harbinger (as shown on the identification or as otherwise determined by the department) of the impoundment of the animal. Holidays and days that the facility is closed (i.e., is not generally open to the public) are specifically excluded from the minimum ten-day holding period noted herein. The owner/harbinger of such animal that is impounded with identification may claim the animal from the shelter or its designee at any time during the ten (10) day confinement period, after compliance with the requirements noted herein. Unless:

- (1) The owner/harbinger of an animal that is impounded with identification has:
 - (A) Notified the animal services department in writing (which shall include but is not limited to notification to the department by facsimile), on or before the close of business on the tenth (10th) day of impoundment, of his/her intention to claim the impounded dog/cat/stray; and
 - (B) Provided the animal services department, within the body of the writing noted in subsection (A) above, of the date certain by which time the owner will reclaim the impounded dog/cat/stray; and
 - (C) Satisfied all applicable fees and other animal services department requirements necessary for claiming the impounded animal; and
- (2) The arrangement proposed by the owner and/or harbinger of the impounded animal related to timely retrieval of the animal and payment of impoundment costs has been approved by the director of animal services.

The impounded animal(s) shall be deemed voluntarily surrendered by the owner/harbinger, and shall become the property of the city, or its agent/designee, as of the start of business on the eleventh (11th) day of impoundment, and the city may dispose of the animal as it deems appropriate, based upon the circumstances at hand.

(c) Animals surrendered by owner/harboree. In addition to the voluntary surrender of an animal that is not timely claimed from impoundment, as noted above, the animal surrendered by the owner/harboree to the animal services department or its agent/designee shall become the property of the city immediately upon completion of the owner/harboree surrender form. Fees for the owner/harboree surrendered animal shall be set by the city council and are as shown in the animal services fee schedule maintained by the city secretary and as set forth in section A6.04.002 of the fee schedule in Appendix A to this code.

(d) Animals other than dogs, cats or estrays. All animals, other than dogs, cats, estrays or animals holding current restricted animal permits in the city that are impounded by the animal services department or its agent/designee, or brought to the animal shelter by a person other than the owner/harboree, shall become the property of the city unless such ownership by the city is prohibited by state or federal law.

(e) Disposition of animals not claimed or adopted. Any animal that cannot be adopted or transferred to a proper and appropriate agency or person shall be euthanized by means approved by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association or by other state-approved method. The euthanasia is to be administered in compliance with the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date or otherwise maintained in accordance with state and federal laws.

Sec. 6.04.004 Release of animals held on complaint

If a complaint has been filed in municipal court against the owner and/or harboree of an impounded animal for a violation of this chapter, the animal shall not be released except on the order of the animal services department, which may also direct the owner and/or harboree to pay any penalties for violation of this chapter, in addition to payment of all impoundment fees and costs incurred in accordance with this chapter. Surrender of an animal by the owner and/or harboree thereof to the animal services department does not relieve or render the owner and/or harboree immune from the decision of the court related to that animal, nor from the fees, fines or other costs that may result from a violation of this chapter.

Sec. 6.04.005 Unauthorized removal of animal from confinement; interfering with officers

(a) Removal of animal from confinement. It shall be unlawful for any person to remove or allow to escape from any place of confinement any dog, cat or other animal which has been ordered to be confined by the animal services department, without the express consent of the animal services department.

(b) Interfering with officers. It shall be unlawful for any person to interfere or attempt to interfere with the animal control officer, police officer or to interfere or attempt to interfere with any person acting for the city in the taking up, handling, and/or impounding of animals in the city.

Sec. 6.04.006 Animals at-large

(a) Except as provided for in section 6.06.013, it shall be unlawful for any person owning and/or harboring an animal to permit such animal, other than a protected animal, to run at-large as that term is defined by section 6.01.001 of this chapter.

(b) Any officer or citizen of the city is authorized to take up and deliver to the animal services department any animal, other than a protected animal, found running at-large that may be found at-large in the corporate limits of the city, subject to the applicable provision of the law.

(c) The animal control officer or his agent(s) and city peace officer(s) are authorized to impound any animal, other than a protected animal, that is believed to be in violation of this chapter. In the event the animal, other than a protected animal, is on [private] property or property of the animal's owner, the animal control officer, his/her agent, or peace officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of this chapter and other applicable laws.

Sec. 6.04.007 Confinement of female dogs and cats during estrus

The owner/harbinger of any unneutered female dog or cat in the state of estrus (in heat) shall confine the animal that is in heat during such period of time, by enclosing the animal in a house, building or other secure enclosure. The area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animal(s), except for the purpose of intentional breeding of the animal by the owner/harbinger. An owner/harbinger who is not compliant with this requirement shall be ordered to immediately remove the animal that is in heat from other person's or public property, and to place the animal in confined quarters. Failure to comply with the removal order of the animal services department shall be a violation of this article and the dog or cat that is in heat, but is not confined, may be impounded as prescribed in this chapter. All expenses incurred as a result of this confinement shall be paid by the owner/harbinger of such animals.

Sec. 6.04.008 Adoption of impounded animals

(a) All animal(s) adopted from the animal shelter shall be neutered. If the animal has not been neutered before it leaves the animal shelter, then the person adopting the animal shall sign an adoption contract with the city stating that he/she will have the adopted animal neutered and provide the date by which the surgery must be performed.

(b) It shall be the responsibility of the person adopting an animal to provide proof of neutering of each adopted animal to the animal services department within thirty (30) days after the date for neutering of the animal(s), as shown on the contract for adoption.

(c) The fees for the adoption of impounded pets shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.04.008 of the fee schedule in Appendix A to this code.

Secs. 6.04.009–6.04.030 Reserved

Division 2. Livestock

Sec. 6.04.031 Running at-large

It is unlawful for any owner or person in control of any horse, mule, donkey, jack, jenny, cattle, hog, goat or sheep (stray) to permit any such animal to run at-large on land that is not owned or otherwise controlled by the owner or harbinger (e.g., via a lease or permit), or on any street, alley or other public property or place within the city's corporate limits.

Sec. 6.04.032 Authorized impoundment; procedures

It shall be the duty of the animal services department to impound any and all strays and other livestock that may be found running at-large and upon any street or alley or upon any unenclosed lot in the city, or otherwise found running at-large, and to confine such strays and other livestock for safekeeping or destruction or other disposal by the city, as is deemed appropriate in the sole discretion of the city. Upon impoundment, the animal services department shall prepare a file, to be located in the animal services department, related to the incident of impoundment. Each entry shall include the following:

- (1) The name and address of the person who notified the animal control department of the stray and other livestock being at-large;
- (2) The date, time and location of the stray and other livestock when found;
- (3) The location of the stray and other livestock until disposition; and
- (4) A description of the animal impounded, including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

Sec. 6.04.033 Advertisement of impounded livestock

When an stray or other livestock has been impounded, the animal services department shall make a diligent search of the register of recorded brands in the county for the owner of the stray or other livestock. If the search does not reveal the owner, the animal services department shall advertise the impoundment of the stray in a newspaper of general circulation in the county at least twice during the next fifteen (15) days following impoundment and post a notice of the impoundment of the stray or other livestock on the public notice board of city hall.

Sec. 6.04.034 Claiming of animal by owner

The owner of an stray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this article if:

- (1) The owner has provided the animal services department with an affidavit of ownership of the stray or other livestock containing at least the following information:
 - (A) The name and address of the owner;

- (B) The date the owner discovered that the animal was missing;
 - (C) The property from which the animal strayed;
 - (D) A description of the animal, including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;
- (2) The owner has paid all fees to those entitled to receive them.

Sec. 6.04.035 Fees

For each and every estray or other livestock taken and impounded there shall be paid to the city by the owner or his agents the fees established by the city council, as set forth in section A6.04.035 of the fee schedule in Appendix A to this code, for each and every day that the animal remains in the custody of the animal services department. The owner shall also pay for any veterinarian care or drug fees incurred for the animal(s) while in the custody of the animal services department, as well as all costs associated with feeding, grooming and housing and maintaining the estray or livestock. Additionally, the owner shall be responsible for reimbursing the city for all costs related to advertising pursuant to this chapter related to estrays and livestock recovered by the city and returned to the owner.

Sec. 6.04.036 Sale of impounded livestock

(a) If the ownership of an estray or other livestock is not determined within fourteen (14) days following the final advertisement required by this article, title to the estray or other livestock rests with the city and the animal services department shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the city.

(b) Title shall be deemed vested in the animal services department for the purposes of passing a good title, free and clear of all claims, to the purchaser at the sale. The disposition of the proceeds derived from the sale at public auction will be as follows:

- (1) Pay all handling fees to those entitled to receive them;
- (2) Execute a report of sale of impounded stock; and
- (3) The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the animal services department to the city's finance office. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock, as provided herein, after payment to the city of all costs incurred by it in keeping and handling the estrays and sale of same.

If the bids are too low, the animal services department shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

Sec. 6.04.037 Recovery of sale proceeds by owner

(a) Within twelve (12) months after the sale of an estray or other livestock under the provisions of this article, the original owner of the estray may recover the net proceeds of the sale that were delivered to the finance office if:

- (1) The owner has provided the animal services department with an affidavit of ownership of the animal(s) sold;
- (2) The animal services department has accepted the affidavit of ownership; and
- (3) Any proceeds remain after city costs are paid in full.

(b) After the expiration of twelve (12) months from the sale of an estray or other livestock as provided by this article, the sale proceeds shall revert to the city. If the animal was forfeited to the city due to no bidders at the auction, then the city is not to be liable to the owner for any proceeds of the sale, since no proceeds were received.

Sec. 6.04.038 Use of livestock while impounded

During the period of time an estray or other livestock is held by one who impounded the estray or other livestock, it may be used by any person for any legal purpose that does not harm or otherwise endanger the animal.

Sec. 6.04.039 Death or escape of livestock while impounded

If the estray or other livestock dies or escapes while held by the person who impounded it, the person shall report the death or escape to the animal services department. The report shall be filed in the record of the impoundment related to the animal reported as dead or escaped.

ARTICLE 6.05 ANIMAL BITES; RABIES CONTROL

Sec. 6.05.001 Reporting of bites and scratches

Every physician and medical practitioner who treats a person within the city for any animal bite/scratch/laceration, or any person having knowledge that an animal has bitten or scratched a person within the city, shall, within twelve (12) hours of learning of this situation, report such occurrence to the city police department, giving the name, age, sex and precise location of the bitten/scratched person and such other information as the officer or department may require.

Sec. 6.05.002 Reporting of suspected rabies cases

Any veterinarian who clinically diagnoses rabies, or any person who suspects rabies in any animal, shall immediately report the incident to the animal services department, stating, to the best of the informant's knowledge, where such animal may be found.

Sec. 6.05.003 Quarantine or disposition of animal

(a) Dogs, cats or other pet animals. Any dog or cat or other pet animal that has bitten or scratched a person shall be quarantined for observation for a period of ten (10) days from the date of the bite/scratch. The procedure and place of quarantine and observation shall be designated by the animal control officer or his/her designee, in compliance with state law. If the animal is not quarantined by confinement on the owner's premises, then confinement shall be in an approved quarantine facility or veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense. Stray dogs and cats, or those animals whose owners cannot be located, shall be confined for a period of ninety-six (96) hours and, if unclaimed during that time, may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination. The owner of any animal that has been reported to have inflicted a bite/scratch/laceration on any person shall, on demand, produce the animal for impoundment, as prescribed in this article. Home quarantine, as defined in this article, may be allowed only in those situations where permitted by state law and as agreed to by the animal services department. Refusal to produce the animal involved in the biting/scratching/laceration incident shall constitute a violation of this chapter, and each day of such refusal to produce the animal shall constitute a separate and individual violation, subject to the penalties as stated in section 6.01.002.

(b) Other animals. Any wild, exotic, dangerous or vicious animal, excluding pet animals, as defined in this chapter, and/or any animal considered high risk by state law, that has bitten or scratched a person, shall be caught and humanely killed and the brain submitted for rabies examination. Wild animals that are classified as "low risk animals" shall be handled as dictated by state law in the event that they inflict bites or scratches upon a person.

Sec. 6.05.004 Animals not to be killed or disposed of

No person shall kill, or cause to be killed, any rabid dog or cat; any dog or cat suspected of having been exposed to rabies; or dog or cat that has bitten or scratched any person, except as otherwise provided herein; nor shall such dog or cat be removed from the corporate city limits of Marble Falls without the express written permission of the animal control officer or other designated representative.

ARTICLE 6.06 ANIMAL CARE

Sec. 6.06.001 Duty to provide care

(a) It is a violation of this chapter for an owner, harbinger or custodian of any animal to fail to provide the animal(s) in his/her care or custody with sufficient wholesome and nutritious food, potable water, adequate shelter and protection from weather, i.e., artificial shade in the summertime, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and humane care and treatment.

(b) Adequate shelter shall be construed to mean a structure that is enclosed by at least three walls or sides and a roof, which structure is located such that the animal is protected from weather conditions.

- (1) The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.
- (2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.
- (3) The enclosure shall be structurally sound and maintained in good repair.
- (4) Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.

Sec. 6.06.002 Cruel treatment

It shall be a violation of this article for any person to willfully or maliciously strike, beat, cruelly treat, torment, mentally abuse, overload, overwork, intentionally run down with a vehicle, or otherwise cause or inflict unnecessary pain, injury, suffering or death to an animal; except that reasonable force may be used to drive away vicious, dangerous or trespassing animals. It shall be a violation of this chapter for any person to abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

Sec. 6.06.003 Abandonment

It shall be a violation of this article for a person to abandon an animal in his care, control, ownership, or custody.

Sec. 6.06.004 Offering animal as prize or inducement

(a) No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or an inducement to enter any contest, game or other competition; or an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.

(b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of a project conducted by a recognized educational agricultural program such as FFA or 4-H.

Sec. 6.06.005 Poisonous substances; traps

No person shall place any known poisonous substance, whether mixed with food or not, in a manner that makes it likely to be eaten by any domestic animal or person. This section is not intended to prohibit use of herbicides, insecticides or rodent and vermin control materials. No person shall utilize steel leg-hold traps within the city limits. This provision is not intended to include humane traps nor restrict the use of them.

(a) It shall be unlawful for any person to administer poison to an animal belonging to another. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person.

(b) It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the city.

(c) The provisions of subsection (a) and (b) shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits used to control insects and wild rodents. For purposes of this section, the term "exterminator" shall mean an individual licensed by the Texas Structural Pest Control Board, unless he/she is exempt from such licensing.

Sec. 6.06.006 Theatrical exhibits

All theatrical exhibits as defined herein shall, in addition to other requirements of this chapter, comply with the minimum standards of this section. Facilities shall be subject to inspection by an animal control officer upon his/her request, during reasonable hours.

(1) The animal services department must be notified of all displays or performances, including date, time and exact location, at least forty-eight (48) hours in advance of a display or performance.

(2) Animal quarters shall be of sufficient size to allow each animal to stand up, lie down and turn around in a natural position without touching the sides or top or any other animal or waste.

(3) Each enclosure shall be maintained in a comfortable and healthy temperature level as well as have adequate ventilation.

(4) No animal shall be made to perform by means of any prod, stick, electrical shock, chemical or physical force or by causing pain or discomfort. Any whip or riding crop must be used so as to not cause injury to the animal.

(5) No animal shall be caused to fight, wrestle or be physically matched against any other animal or person.

Sec. 6.06.007 Safety of animals in motor vehicles

(a) A person may not transport an animal in a motor vehicle on public roadways or areas open to the public unless:

(1) The animal is enclosed within the vehicle; or

(2) If the animal is transported in an unenclosed vehicle, including a convertible, pickup truck, flatbed truck, or motorcycle, the animal shall be confined in a secure and

appropriately sized vented container or confined in a manner that prevents the animal from falling or jumping from the vehicle or otherwise being injured.

(b) It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. An animal control officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle in addition to any criminal penalty that may be imposed under this section.

(1) A peace officer or animal control officer who removes an animal from a vehicle, or enclosed space in accordance with this subsection shall not be liable for damage caused to the vehicle and/or property contained therein.

(c) Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle related incidents that result in animals being left uncontrolled or unattended, animal control officer or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the city's animal shelter, a veterinarian, humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.

(d) Duty of motor vehicle operator to report an accident involving animals.

(1) Any person who, as the operator of a motor vehicle within the city, strikes any animal shall report the accident to the police department within a reasonable time if the stricken animal is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

(2) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or the local humane society.

Sec. 6.06.008 Restraint requirements for dogs on private property

(a) Except as provided in subsection (b), a person may not restrain a dog with a chain or tether unless the person is holding the chain or tether.

(b) The prohibition in subsection (a) does not apply to a temporary restraint, which temporary restraint shall not be longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained occurring:

- (1) During a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity;
- (2) During a period that is necessary to protect the safety or welfare of a person or the dog, if the dog's owner or handler remains in visual proximity to the dog throughout the period of restraint;
- (3) While the owner is engaged in, or actively training for, an activity for which the license issued is associated with the use or presence of a dog.

(c) If temporary restraint is allowed as per subsection (b), above, then during any such temporary restraint, a person may not restrain a dog:

- (1) In a manner that does not allow the dog to have access to necessary food, shelter and water;
- (2) In a manner that allows the dog to move outside the person's property;
- (3) In the case of extreme weather conditions, including conditions in which:
 - (A) The actual or effective temperature is below thirty-two (32) degrees Fahrenheit;
 - (B) A heat advisory has been issued by a local or state authority, or jurisdiction; or
 - (C) A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service;
- (4) Between the hours of 10:00 p.m. and 6:00 a.m.;
- (5) Within five hundred (500) feet of the premises of a school;
- (6) By use of a restraint that unreasonably limits the dog's movement. A restraint unreasonably limits a dog's movement if the restraint:
 - (A) Uses a collar that is pinch-type, prong-type, or choke-type or one that is not properly fitted to the dog;
 - (B) Is a length shorter than the greater of:
 - (i) Five times the length of the dog, as measured from the tip the of dog's nose to the base of the dog's tail; or

(ii) Ten (10) feet;

(7) Is in an unsafe condition; or

(8) Is in a manner that causes or may cause injury to the dog.

(d) A person restraining a dog with a chain or tether, whether the chain or tether is held by the person or attached to an inanimate object during a period of temporary restraint, shall attach the chain or tether to a properly fitting collar or harness worn by the dog. A person may not wrap a chain or tether directly around the dog's neck. A person may not restrain a dog with a chain or tether that weighs more than one-eighteenth (1/18) of the animal's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.

(e) Should a violation of this section occur, at the discretion of a peace officer or animal control officer, after attempting to locate the animal's owner, a peace officer or animal control officer may enter onto private property for the sole purpose of removing the animal. If professional services are required to remove the animal, the owner is responsible for any and all costs associated therewith.

Sec. 6.06.009 Enclosure for dogs

(a) An outdoor enclosure used to keep four (4) or more dogs, other than puppies less than six (6) months old, must be located at least fifty (50) feet from an adjacent residence or business, excluding the residence or business of the owner or handler of the dogs.

(b) An outdoor enclosure used as the primary living area for a dog, or used regularly as an area for the dog to eat, sleep, drink, and eliminate, must have at least one hundred fifty (150) square feet of space for each dog six (6) months of age or older.

(c) All dogs left in an outdoor enclosure must have access to necessary food, shelter, and water.

Sec. 6.06.010 Selling dyed animals

It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

Sec. 6.06.011 Trapping and shooting

(a) Trapping Prohibited. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel jawed, leg-hold trap or for any person, other than animal control officers, to set or otherwise use other trapping devices including "live traps" used for the capture of any animal. Consistent with the provisions herein, the animal control division is authorized to utilize humane "live traps" and may conduct trapping operations or provide or authorize such devices use to property owners as may be needed throughout the city. This subsection is not intended to prohibit the prudent use of traps on one's own property to control varmints and rodents.

(1) Any city resident that has a humane box type trap and wants to use that trap for trapping of stray and/or nuisance domesticated dogs and/or cats within the corporate city limits, shall obtain a trap permit. This permit shall be issued to this individual for use only on his/her premises. The fee for a trap shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.06.011 of the fee schedule in Appendix A to this code.. Any dogs and/or cats caught in these traps must be surrendered to the city Animal Services Department. No steel jaw leg hold traps in the city limits shall be permitted.

(b) Hunting prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. This subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(c) Domestic animals. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. This subsection shall not be construed or interpreted to prohibit animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(d) It is an affirmative defense to prosecution for the trapping of animals if it is shown that the object of trapping is the capture of feral cats and such operations are being conducted in connection with a feral cat colony as defined herein and further that affixed to the top of animal activated live traps, a yellow 6" x 6" metal tag bearing in contrasting color the name of the corporation, address and telephone number. Live traps that require human monitoring and activation shall have no tag requirements.

(e) It is an affirmative defense to prosecution that section 229.002 of the Local Government Code related to the regulation of the discharge of a weapon applies to the hunting or shooting activity complained of.

Sec. 6.06.012 Slaughtering of animals

Animals may be slaughtered for human or animal consumption within the city, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

Sec. 6.06.013 Keeping of cats outdoors

It shall be unlawful for the owner of a cat which is not spayed or neutered to permit or allow such cat to be outside while not on a leash under the direct and continuous supervision and control of a person. The owner of a spayed or neutered cat may allow such cat to be outside provided that such animal has a collar which identifies the animal, the animal's owner, and contact information sufficient to contact the owner. In lieu of wearing a collar with identifying information, the owner

of an animal may satisfy such requirement if the animal is identifiable through a surgically implanted microchip.

Sec. 6.06.014 Zoning restrictions

No provision of Chapter 6 of the City of Marble Falls Code of Ordinances is intended to violate or otherwise override or supersede the City of Marble Falls Zoning Ordinance. In the event of a conflict between any provision contained within Chapter 6 and the city's Zoning Ordinance, the Zoning Ordinance shall control.

ARTICLE 6.07 NUISANCES

Sec. 6.07.001 Nuisance

Any animal found causing excessive and continuous noise, molesting passersby, chasing vehicles, habitually attacking or biting other animals, or trespassing upon school property shall be deemed a public nuisance, and such animal may be impounded as set out herein and/or humanely destroyed after a hearing and determination by the City of Marble Falls Municipal Court.

Sec. 6.07.002 Creating health hazard

(a) Generally. It shall be unlawful for any person to keep any animal, other than a protected animal, on any property located within the corporate limits of the city when the keeping of such animal constitutes a public nuisance, as defined by public nuisance animal in Sec. 6.01.001, or menace to public health or safety. Any person who harbors or keeps on his/her premises, or in or about premises under his/her control, an animal, other than a protected animal, and who allows his/her premises to become a hazard to the general health and welfare of the community, or who shall allow his/her premises to give off obnoxious or offensive odors and/or noises due to the activity or presence of such animals, other than the presence of a protected animal, shall be guilty of a class C misdemeanor.

(b) Status update on potential hazard posed by protected animals. In order to monitor whether protected animals continue to pose no hazard to the citizens of the city, the city manager, or his designee, shall periodically report to the city council concerning the status of the protected animals and shall indicate whether, in his opinion, the protected animals continue to pose no apparent health risk, nuisance to humans, and whether the population of such protected animals remains at a reasonable level. In addition, the city manager will report to council upon the city's receipt of credible, documented complaints related to the presence or activities of protected animals in the city.

Sec. 6.07.003 Authority to destroy injured or diseased animals

(a) The animal services department or its designated representative is authorized to destroy any injured or diseased animal, whether such animal is on public or private property, when the recovery

from such injuries or disease is in serious doubt, and after a reasonable effort has been made to locate and notify the owner of the condition of such animal.

(b) The animal services department or its designated representative is authorized to destroy any animal that is known to be wild or feral, or due to its temperament or vicious behavior, constitutes a threat to the public or the animal services department, its representatives, employees, or designees.

ARTICLE 6.08 DANGEROUS DOGS

Sec. 6.08.001 Authority

This article is enacted pursuant to the general police power, the authorities granted to cities and towns by the state constitution, the city's Home Rule Charter, and the state through its Health and Safety Code, chapter 822 et seq.

Sec. 6.08.002 Purpose and intent

The purpose of this article is to promote the public health, safety, and general welfare of the citizens of the city. It is intended to be applicable to dangerous dogs, as defined herein, by ensuring responsible ownership and handling of such dogs by their owners through registration, confinement, and acquisition of liability insurance.

Sec. 6.08.003 Definitions

When used in this article, the following words, terms, and phrases and their derivations shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous dog - As used in this article, means any dog that, because of its aggressive nature, training or characteristic behavior, has demonstrated that it presents a risk of serious physical harm or death to human beings, or would constitute a danger to human life, physical well-being, or property of others (including other animals) if not kept under the direct control of the owner. This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties. The term "dangerous dog" includes any dog that, according to the records of the City of Marble Falls, the City of Marble Falls Police Department or any other municipality or law enforcement agency:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and which enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and which enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person or that person's property or the property of others; or

(3) As otherwise defined by state law and this code, as amended from time to time.

Direct control - Immediate, continuous physical control of a dog such as by means of a leash, cord, secure fence, or chain of such strength adequate to restrain the dog and controlled by a person capable of restraining the dog, or safe and secure restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct control shall not be required of dogs actually participating in a legal sport in an authorized area or of government police dogs.

Dog - A domesticated animal that is a member of the canine family.

Impoundment - The taking or picking up and confining of an animal by any police officer, animal control officer or any other public officer under the provisions of this chapter.

Muzzle - A device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting people or other animals.

Owner - As used in this article, means any person, partnership, corporation or other individual or legal entity temporarily or permanently owning, maintaining, harboring or keeping, or otherwise having responsibility for, the care or custody of any animal, or, in the case of a person under the age of eighteen (18), that person's parent or legal guardian. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

Sanitary condition - A condition of good order and cleanliness to minimize the possibility of disease transmission.

Secure enclosure. A fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing the release or escape of an animal;
- (3) Capable of preventing the entry of the general public, including children;
- (4) Clearly marked as containing a dangerous animal by posting signs bearing letter not less than two (2) inches high on all sides of the enclosure;
- (5) Tall enough or covered so that the animal cannot climb out; and
- (6) Has a perimeter structure that prevents the animal from digging out or going under the side fence or wall.

Under restraint - Means that an animal is secured by a leash, led under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.

Sec. 6.08.004 Penalty

Persons or entities found to be in violation of this article shall be subject to penalties of this code, as applicable and periodically amended.

Sec. 6.08.005 Procedure for declaring dog as dangerous

(a) An animal control officer or any adult person may request, under oath, that a dog be classified as a dangerous dog, as defined in section 6.08.003, by submitting a sworn, written complaint to the city's animal control officer, on a form approved by the city. Upon receipt of such complaint, the animal control officer shall notify the owner of the dog that a complaint has been filed and that an investigation into the allegations, as set forth in the complaint, may be conducted by the department or its designee.

(b) It may be a defense to the determination that a dog is dangerous and to the prosecution of the owner of that dog if, at the hearing, the owner is able to establish that:

(1) The threat, injury, or damage done by the dog was sustained by a person who at the time was committing a willful trespass or other crime upon the premises occupied by the owner of the dog;

(2) The person who was injured was teasing, tormenting, abusing or assaulting the dog, or has in the past been reported for teasing, tormenting, abusing or assaulting the dog;

(3) Evidence demonstrates that the person attacked was committing or attempting to commit a crime;

(4) The dog was protecting or defending a person from an unjustified threat, attack or assault; or

(5) The dog was injured and was responding to pain when it attacked.

(c) At the conclusion of its investigation, the city may:

(1) Determine that the dog is not dangerous and, if the dog has been impounded during the investigation, the city will waive any impoundment fees incurred and release the dog to its owner; or

(2) Determine that the dog is dangerous and order the owner to comply with the requirements for keeping dangerous dogs set forth in section 6.08.009, and, if the dog has been impounded during the investigation, release the dog to its owner after the owner has paid all fees incurred for the impoundment. If all impoundment fees have not been paid within ten (10) business days after a final determination that a dog is dangerous, the animal control officer may cause the dog to be humanely destroyed.

Sec. 6.08.006 Notification of dangerous dog declaration

(a) Within five (5) business days after declaring a dog as dangerous, the animal control officer shall notify the owner by certified mail (return receipt requested, to the last known address of the owner) of the dog's designation as a dangerous dog and shall enclose with the notice a copy of this article detailing the specific restrictions and conditions for keeping the dangerous dog within the city. The animal control officer also shall notify the city manager and the police department of the designation of any dog as a dangerous dog, with such notification including a general description of the dog, the identity of the current owner, the address of the dog's current location, and specify any particular requirements or conditions placed upon the dog owner for the care and control of the dangerous dog.

(b) The notice shall inform the dog owner that he may request, in writing, a hearing to contest the animal control officers' finding and designation within five (5) business days after the date of mailing notice of the dangerous dog declaration.

(c) If the animal control officer cannot with due diligence locate the owner of a dog that has been seized pursuant to this article, the animal control officer shall cause the dog to be impounded for not less than ten (10) business days. If, after ten (10) days, the owner fails to claim the dog, the animal control officer may cause the dog to be humanely destroyed.

Sec. 6.08.007 Hearing upon request related to dangerous dog declaration

(a) The city shall hold a hearing within ten (10) business days after receiving the dog owner's written request for a hearing related to a declaration that a dog is dangerous. The city shall provide notice of the date, time and location of the hearing to the dog owner and the complainant by certified mail.

(b) At a hearing, all interested persons shall be given the opportunity to present evidence on the issue of the dog's dangerousness. The hearing is before the director of animal services or his designee, who will be the final decision-maker in the matter. Criteria to be considered in a hearing required by this section shall include, but are not be limited to, the following:

- (1) Provocation;
- (2) Severity of attack or injury to a person or domestic animal;
- (3) Previous aggressive history of the dog;
- (4) Observable behavior of the dog;
- (5) Site and circumstances of the incident; and
- (6) Statements from interested and/or affected parties.

(c) A determination at a hearing that the dog is in fact a dangerous dog as defined in section 6.08.003 shall subject the dog and its owner to the provisions of this chapter.

(d) Failure of the dog owner to request a hearing shall result in the dog being finally declared a dangerous dog and shall subject the dog and its owner to the provisions of this chapter.

Sec. 6.08.008 Appeal of dangerous dog declaration

(a) If the director of animal services or his designee determines that a dog is dangerous at the conclusion of a hearing conducted under section 6.08.007, that decision shall be final unless the dog owner applies to the municipal court for any remedies that may be available within fifteen (15) days after receiving notice that the dog has been finally declared dangerous.

(b) An appeal of the decision of the municipal court of the city shall be made within twenty (20) days in the same manner as an appeal from civil cases originating in the justice of peace courts within the state, and the municipal court shall order the appellant to post a bond payable to the city in an amount not less than two thousand dollars (\$2,000) to cover costs of caring for the dog pending the outcome of the appeal on the matter. The appellant shall be responsible for the cost of appeal.

Sec. 6.08.009 Keeping requirements; restraint and confinement; insurance

(a) The keeping of a dangerous dog as defined in section 6.08.003 shall be subject to the following requirements:

(1) Leash. No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its kennel, pen or other secure enclosure unless such dog is securely restrained by a substantial chain or cable leash having a minimum tensile strength of one thousand (1,000) pounds and not to exceed six (6) feet in length. No such person shall permit a dangerous dog to be kept on a restraint or chain outside its kennel or pen unless a person capable of controlling the dog is in physical control of the leash at all times.

(2) Muzzle. It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its secure enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision or otherwise be inhumane to the dog.

(3) Confinement. Except when leashed and muzzled as provided in this section, a dangerous dog shall be securely confined indoors or confined in a secure enclosure, as that term is defined herein. The secure enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation for the animal. The enclosed structure shall be kept in a clean and sanitary condition and shall meet the secure enclosure requirements as defined in section 6.08.003.

(4) Indoor confinement. No dangerous dog shall be kept on a porch or patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(5) Signs. All owners, keepers or custodians of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dangerous Dog."

(6) Liability insurance or surety bond. The owner of a dangerous dog shall present to the city proof that he has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000.00) covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing the policy in the event that the insurance policy is canceled, terminated or expired. The liability insurance or surety bond shall be obtained prior to the issuing of a permit to keep a dangerous dog. The owner of a dangerous dog shall sign a statement attesting that he/she shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which a permit is sought, unless he/she ceases to own or keep the dangerous dog prior to the expiration date of the permit period. In the event that the owner proves to the satisfaction of the city that insurance is not available, he/she may pay a nonrefundable cash fee in the amount of one thousand dollars (\$1,000) to the city.

(7) Spay / Neuter. The dog must be altered within thirty (30) days of the determination that the dog is dangerous.

(8) Notification of escape, bite or attack. The owner or keeper of a dangerous dog shall notify the city's animal control officer and police department immediately if such dog escapes from its secure enclosure or restraint and is at-large. Such immediate notification shall also be required if the dog bites or attacks a person or other animal.

(9) Orange collar. The dog, shall at all times, wear a bright, orange collar with registration tags, that is to be visible at a minimum distance of fifty (50) feet.

(10) The animal services department may, as a condition of registration for the dog, require of the owner or person harboring the dog, annual attendance of a class on responsible pet ownership conducted by the City of Marble Falls Animal Services Department or its designee.

(11) The animal services department may inspect the secure enclosure in which any dangerous dog is maintained, without notice, at any reasonable hour.

(12) Any owner, of a pre-determined dangerous dog, who moves into the city limits, must register the animal with the City of Marble Falls Police Department within ten (10) days of bringing the animal into this jurisdiction.

(13) Any other requirements imposed by state law.

(b) It shall be unlawful and a misdemeanor for any owner of a dangerous dog registered with the city to fail to comply with the requirements and conditions set forth in this article. Any dog found to be in violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in this chapter shall result in the

revocation of the dog's registration and the permit providing for the keeping of such animal, and shall result in fines and penalties against the owner, in accordance with this chapter.

Sec. 6.08.010 Registration and tag

(a) The owner of a dangerous dog shall, within thirty (30) business days after the classification of the dog as dangerous or upon acquisition of such a dangerous dog, obtain an annual registration tag from the city to harbor the dog. The annual fee for such registration shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.08.010 of the fee schedule in Appendix A to this code.

(b) At the time the permit is issued, a bright, orange collar and a "dangerous dog" tag shall be issued to the owner of the dangerous dog. The tag shall be worn at all times by the dog to clearly and easily identify it as a dangerous dog.

(c) The registration for maintaining a dangerous dog shall be presented to an animal control officer upon demand.

Sec. 6.08.011 Notification of intent to impound

(a) When the animal control officer or his designee intends to impound a dog declared to be dangerous for violation of section 6.08.009, he shall notify the owner or custodian of the dog, by certified mail, of the intended impoundment at least five (5) business days prior to beginning the intended impoundment, except as provided in section 6.08.012.

(b) The notice of intent to impound shall inform the owner or custodian of the dog that he may request in writing, within five (5) business days prior to the intended impoundment, a hearing to contest the intended impoundment and finding of violation.

(c) Upon request by the owner or custodian of the dog for a hearing pursuant to subsection (b), a hearing will be held within ten (10) business days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog's owner or custodian requesting such hearing and any complainant involved.

(d) If the owner or custodian of the animal requests a hearing pursuant to subsection (b), no impoundment shall take place until conclusion of the hearing, except as authorized in section 6.08.012.

Sec. 6.08.012 Immediate impoundment

(a) A dog declared to be dangerous may be immediately impounded without a pre-impoundment hearing when the animal control officer or his designee, or a peace officer of the city, county or state, determines such immediate impoundment is necessary for the protection of public health or safety. Such immediate impoundment may be ordered for violation of section 6.08.009 or when the dog bites or attacks a person.

(b) The owner or custodian of the dog immediately impounded pursuant to subsection (a) shall be notified of the impoundment by certified mail within five (5) business days after the dog's impoundment.

(c) The notice of impoundment shall inform the owner or custodian of the dog that he may request, in writing, a hearing to contest the impoundment within five (5) business days after the mailing date of the notice of impoundment.

(d) Upon request by the owner or custodian of the dog for a hearing under subsection (c), a hearing shall be held within ten (10) business days after such request. Notice of the date, time and location of the hearing shall be provided by certified mail to the dog owner requesting the hearing.

Sec. 6.08.013 Impoundment hearing

(a) If, after a hearing on impoundment, the director of animal services or his designee finds no violation of section 6.08.009, or that the dog has not bitten or attacked an individual or other animal, the dog shall be returned to its owner or custodian if already impounded, or shall not be impounded as intended.

(b) Incident to the findings and conclusions made at the impoundment hearing, the animal control officer or his designee may impose reasonable restrictions and conditions for the maintenance of the dog to ensure the health and safety of the public and the animal. Such conditions may include, but shall not be limited to:

- (1) Posting of bond or other proof of ability to respond in damages;
- (2) Specific requirements as to size, construction and design of a secure enclosure in which to house the dog;
- (3) Requirements as to type and method of restraint and/or muzzling of the dog;
- (4) Photo identification or permanent marking of the dog for purposes of identification; and
- (5) Payment of reasonable fees to recover the costs incurred by the city in ensuring compliance with this chapter.

Sec. 6.08.014 Destruction order

(a) The animal control officer or his designee may order the destruction of a dog that is determined to be extremely dangerous to public health or safety, or that has made an extremely vicious attack upon an individual or other animal(s), or a dog that has been declared dangerous whose owner is unable or unwilling to adequately restrain it.

(b) The animal control officer or his designee shall give written notice by certified mail of the intention to destroy such dog to the owner or custodian of the dog, who may request in writing,

within five (5) business days after delivery of such notice, a hearing to contest the intended destruction.

(c) If no hearing is requested by the owner or custodian pursuant to subsection (b), the dog shall be destroyed pursuant to applicable provisions of law.

(d) If a hearing is requested pursuant to subsection (b), such hearing shall be held within ten (10) business days after the request, and the dog shall not be destroyed prior to the conclusion of the hearing.

(e) The dog owner shall be responsible for payment of all boarding costs and other fees as may be required for the city to humanely and safely keep the animal during any legal proceeding and pending the outcome thereof.

Sec. 6.08.015 Appeal of destruction order

If the animal control officer or his designee orders a dangerous dog to be humanely destroyed, pursuant to section 6.08.014, that decision shall be final unless, within ten (10) days after receiving notice of the destruction order, the dog owner applies to a court of competent jurisdiction for any remedies that may be available. If an appeal is timely filed, the animal control officer shall suspend the destruction order pending the final determination of the court. The appeal hearing must be a trial de novo and shall be a civil proceeding for the purpose of affirming or reversing the city's destruction order.

Sec. 6.08.016 Change of ownership

(a) Any owner of a dangerous dog who sells or otherwise transfers ownership, custody or residence of the dog shall, within ten (10) business days after such change of ownership or residence, provide written notification to the city of the name, address and telephone number of the new owner. It also shall be the responsibility of the person transferring ownership or custody of the dog to provide written notification of the dog's classification as dangerous to the person receiving the dog. The previous owner shall furnish a copy of such notification to the city, along with written acknowledgment by the new owner of his receipt of such notification. The animal control officer or his designee shall notify the city manager and the police department of any changes of ownership, custody or residence of the dog within three (3) business days after receiving the required information from the previous dog owner.

(b) Any person receiving a dog classified as dangerous must obtain the required registration, tag and secure enclosure inspection prior to acquisition of the dangerous dog. The new owner shall comply fully with the provisions of this chapter pertaining to maintaining liability insurance, payment of fees, and maintenance, control and ownership of a dangerous dog.

Sec. 6.08.017 Continuation of dangerous dog declaration for dogs moved into city

Any dog that has been declared dangerous by any agency or department of this city or another municipality, county, or state shall be subject to the provisions of this article for the remainder of the animal's life. The person owning or having custody of any dog designated as a dangerous dog

by any municipality, county, or state government shall notify the city of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the city. The restrictions and conditions of maintenance of any dog declared dangerous by this city or another municipality, county, or state shall remain in force while the dog remains in the city.

Sec. 6.08.018 Offenses related to dangerous dogs

(a) 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 or another animal outside the dog's secure enclosure, which attack causes bodily injury to the other person or animal.

(b) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with the regulations contained in this article.

Sec. 6.08.019 Defenses applicable to attacks by dangerous dogs

(a) It is a defense to prosecution under section 6.08.018 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or the city to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.

(b) It is a defense to prosecution under section 6.08.018 that the person is an employee of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(c) It is a defense to prosecution under section 6.08.018 that the person is a dog trainer or an employee of a guard dog company under chapter 1702 of the Texas Occupations Code.

ARTICLE 6.09 LEASH-FREE ZONE

Sec. 6.09.001 Zone designated

A portion of Johnson Park is hereby designated as a leash-free zone for dogs. The area is generally bounded by Yett Street to the north, Backbone Creek to the south, Whitman Branch to the east and the city wastewater treatment facility to the west. The city manager is authorized to erect signs designating this area of Johnson Park as a leash-free zone and indicating the boundaries thereof.

Sec. 6.09.002 Dogs within zone exempt from certain provisions

Subject to the provisions of this article, dogs within the leash-free zone shall not be subject to the regulations stated in section 6.01.001 (restraint), section 6.04.006 (animals at-large), and section 15-21.

Sec. 6.09.003 Owner's responsibility; dog subject to regulations upon leaving zone

(a) The owner or person in control of the dog shall be responsible for keeping the dog within the designated leash-free zone at all times. If an unrestrained dog leaves the leash-free zone, then it is

subject to all applicable ordinances and regulations, including restraint as defined in section 6.01.001, section 6.04.006, and section 15-21.

(b) Unaltered (not spayed / neutered) dogs shall be prohibited.

Sec. 6.09.004 Owner's responsibility for dog's waste

The owner or person in control of the dog using the leash-free zone is responsible for removing and discarding the waste of their dog.

Sec. 6.09.005 Display of registration and vaccination required

All dogs within the leash-free zone must display a city registration, if applicable, and vaccination on a chain, collar or harness that shall be worn by the dog at all times.

Sec. 6.09.006 Owner's responsibility for dog's behavior

The owner or person in control of the dog shall be responsible for ensuring that their dog does not harm other persons utilizing the park or any property, including other animals.

Sec. 6.09.007 Dangerous dogs prohibited

It shall be unlawful for any owner of a dangerous dog to authorize, permit, or allow their dangerous dog to enter the leash free zone established by this article.

ARTICLE 6.10 LIVESTOCK

Sec. 6.10.001 Restrictions on keeping livestock and fowl

(a) Keeping hogs prohibited; exceptions.

(1) It is unlawful and constitutes a violation of this chapter for a person to keep any hog in any house, shed, pen, lot, pasture or other enclosure in the corporate limits of the city.

(2) This subsection does not apply to hogs kept temporarily (i.e., for a period not to exceed forty-eight (48) consecutive hours) in shipping pens, when such holding pens are utilized for the purposes of shipment.

(3) The keeping of hogs by persons involved in recognized educational agricultural programs, such as FFA and 4-H, is exempt from the blanket prohibition noted in subsection (1) above, but such activities must comply with other applicable provisions in this chapter, for example those related to noises, odors and adequate housing for such animals.

(b) Unless otherwise allowed in this section, it is unlawful for any person, firm or corporation to keep and feed, for any reason, any cattle, sheep, goats or livestock within the corporate city limits of Marble Falls.

(c) Property zoned for agricultural use: The prohibition on keeping livestock found in subsection (b) above shall not apply to the property on which the livestock are housed if such property is zoned for agricultural use.

(d) Annexed property: The prohibition on keeping livestock found in subsection (b) above shall not apply to property annexed into the city, where livestock was housed on the property prior to its annexation, and livestock have been located on such property continuously since annexation. The number of livestock allowed on such annexed property is capped at the number of livestock that was lawfully located on the property immediately prior to the annexation of the property.

(e) AG exempt property: The prohibition on keeping livestock found in subsection (b) above shall not apply to property that is classified as "AG Exempt" property by the Appraisal District. The number of livestock allowed on such property is capped at the number of livestock that was lawfully located on the property as of January 1, 2011.

(f) "Grandfathered Animals": The prohibition on keeping livestock found in subsection (b) above shall not apply to animals lawfully located on the property on January 1, 2011. Such animals may continue to be located on the property. Once a period in excess of ninety (90) consecutive days has elapsed without livestock being located on the property, it shall be unlawful for any person, firm or corporation to keep any livestock on such property.

(g) Recognized educational agricultural programs such as 4-H Club or Future Farmers of America members may, under certain conditions, keep not more than one animal as a club project. Recognized educational agricultural programs such as 4-H Club and Future Farmers of America members may obtain a permit to keep one animal provided the conditions of sanitation set forth in the following sections are met.

(h) Keeping livestock and fowl generally. It is unlawful and constitutes a violation of this chapter to keep any horse, cattle, sheep, goat, rabbit or other livestock, including poultry/fowl, at any place in the city if:

(1) Within fifty (50) feet of any private residence or dwelling place of a person other than the owner(s) of the animal or fowl;

(2) Within one hundred (100) feet of any building or structure that is open to the public, with the exception of open park land; or

(3) The animal or poultry/fowl in question are being kept in any manner or location that results in noises, odors, pests, or other conditions associated with the animal or poultry/fowl that would annoy, offend or disturb the reasonable sensibilities of residents or person(s) occupying or visiting the private residences and dwelling places, or the buildings and structures which are open to the public.

While the distance provisions do not apply to open park land, the other requirements of this section relating to the manner in which animals are kept (i.e., provisions prohibiting annoyances and offensive conditions created by animals therein), shall apply.

(i) Exceptions to distance restrictions (other restrictions and regulations not affected).

(1) The distance restrictions of this chapter do not apply to property zoned as agricultural.

(A) According to the zoning ordinance of the city, or to property properly zoned or used as veterinary clinics or facilities or established kennels that are for the purposes of care or boarding of animals and fowl.

(2) If the owners/animal locations that are in existence at the time of the adoption of this amended chapter (January 3, 2012) are in full compliance with the distance requirements in effect prior to the amendment, then the distance restrictions of this amended chapter will not be applied to animals/fowl that are owned and living within the city limits prior to the passing of this chapter, provided that the animals/fowl are not within fifty (50) feet of any water supply wells/sources, so long as:

(A) The use of the animal location is continuous from the date of the adoption of the amended chapter and such use of the location is not interrupted for more than a ninety (90) continuous days period; and

(B) The number of animals being kept in the animal location is not increased above the number of animals existing at the time the amended chapter is adopted, except for newborn animals that may remain with the mother for a period of three (3) months.

(i) When all of the above requirements are met, then the distance restrictions noted herein shall only be applied prospectively from the date of final adoption of this amended chapter. Note, however, that at such time as the then-existing animals and/or use of a location ceases or is interrupted for a period over ninety (90) continuous days; then the exemption from these newly amended distance standards is forfeited, and all new animals and/or new locations must meet all requirements of this amended chapter. All other requirements relating to the manner in which animals are kept shall apply and are specifically not excepted from compliance and enforcement.

(3) The distance restrictions do not apply to livestock/fowl that are being raised by members of recognized educational agricultural programs, such as 4-H, FFA, or other city-recognized youth groups, providing the animals/fowl are not within fifty (50) feet of the water supply wells/sources used by citizens of the city. All other requirements relating to the manner in which animals, livestock, and fowl are kept shall apply. A permit will be issued to the group member at no charge. Violations of this Code of Ordinances will result in the revocation of the permit, and livestock removal from the city. Hogs being raised by members of recognized educational agricultural programs

such as 4-H, FFA or other recognized youth groups will require a written request for an exemption from the city manager with a recommendation from the animal services department.

(j) Keeping animals near water supply wells. It is unlawful and constitutes a violation of this chapter for a person, whether for himself or as the agent, representative or servant of other(s), to participate in keeping any animal (other than pet animals) in any pen, pasture, lot, shelter, or enclosure that is located within fifty (50) feet of any water supply wells, or a water supply source from which the city or any citizen of the city obtains its water supply, as per Texas Administrative Code, title 30, Natural Resources and Conservation, section 290.41(c)(1)(C), (D), (F), or in violation of any other applicable state or federal law related to drinking water supplies.

(k) The City of Marble Falls recognizes the protections placed on certain property and individuals as a result of Chapter 251 of the Texas Agriculture Code. Any defense against prosecution or enforcement of the city's ordinances based upon Chapter 251 shall be as an affirmative defense which is the responsibility of the person alleged to have violated the city's ordinances to plead and prove.

Sec. 6.10.002 Picketing

It shall be unlawful for any person to picket or tie any animal in or along any public street, alleyway, right-of-way, or other public lands for the purpose of grazing or feeding.

Sec. 6.10.003 Horse enclosures

(a) Substantial enclosures required.

(1) Any person, firm or corporation desiring to keep any horse, foal, or pony within the corporate city limits of Marble Falls shall provide substantial enclosure of no less than two thousand (2,000) square feet for each animal located on the controlled property of the owner of the animal so that no part of such enclosure is less than two hundred fifty (250) feet from the dwelling, business office, or store of any other person. All such pens or enclosures shall be consistent in appearance with surrounding structures and shall be maintained in a sanitary condition, free from waste at all times. Manure shall be cleaned daily from such pens and disposed of by means other than the sewer or other sanitation facilities of the city. Precautions shall be taken to prevent the accumulation of flies, insects, rodents or other pests. Feed or hay for horses, kept within the corporate city limits of Marble Falls, shall be stored in rodent-proof compartments.

(b) Animal enclosures subject to inspection.

(1) The location and conditions of animal enclosures shall be subject to inspection and review by the code enforcement officer, or his representative, the health officer or his representative, the fire marshal or his representative, or other agencies of the City of Marble Falls. Approval for the keeping of such animals may depend upon reasonable objection of adjacent property owners at any time. Exceptions may be allowed in Zoning District "AO"

(Agriculture Only), where inspection determines that no offense will be caused to other persons.

Sec. 6.10.004 Tripping of horses prohibited

It is unlawful to trip a horse.

Sec. 6.10.005 Registration of livestock

All livestock kept inside the corporate city limits of Marble Falls must be registered with the animal services department. Owner's information, including two (2) contact emergency phone numbers must be provided. The annual fee for such registration shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.10.005 of the fee schedule in Appendix A to this code.

Sec. 6.10.006 Rabbits

(a) Proper hutches required.

(1) Any person, firm or corporation desiring to keep rabbits within the corporate city limits of Marble Falls shall provide hutches conforming in appearance and painting with surrounding structures. Hutches shall provide a minimum area of seven and one-half (7 1/2) square feet of floor space for each grown rabbit and be of the self-cleaning type with floors of one-half (1/2) inch, or larger, hardware cloth. Droppings will be removed daily and properly disposed of without resort to use of sewer or other sanitation facilities of the city. No hutch will be placed closer than fifty (50) feet to any inhabited residence. Precautions shall be taken to prevent the accumulation of flies, insects, rodents and offensive odors.

(b) Inspection.

(1) Inspection and approval for the regulation of the keeping of rabbits and other small animals shall be the same as for horses in section 6.10.003 (b).

Sec. 6.10.007 Chickens

(a) Chickens to be kept in adequate enclosures.

(1) Any person, firm or corporation desiring to keep chickens within the corporate city limits of Marble Falls shall provide enclosures and housing to adequately accommodate these birds without disturbing adjacent property owners.

(2) No person, firm or corporation keeping chickens shall permit the same to run or fly at-large, or to trespass on the premises of any other person.

(3) No person, firm or corporation shall keep any grown male chicken or other birds that disturb adjacent property owners by the crowing or making of disturbing noises.

- (4) No person, firm or corporation shall keep chickens within the corporate city limits of Marble Falls for commercial purposes where the birds or their eggs, or both, are sold on the market or to individuals, or where the birds are used for gambling or profit.
 - (5) Enclosures for chickens will include housing which will provide a minimum of four (4) square feet of floor space for each grown chicken and will conform in appearance to the surrounding structures.
 - (6) No chicken house will be closer than fifty (50) feet from any inhabited residence.
 - (7) Chicken houses will be kept clean and sanitary at all times without resort to sewer or other sanitary facilities of the City of Marble Falls.
 - (8) Precaution shall be taken to prevent the accumulation of flies, insects, mites, fleas and other pests.
 - (9) Emission of offensive odors shall be prevented.
 - (10) Sick or dead birds shall be properly disposed of immediately upon detection without resort to use of the sewer or other sanitation facilities provided by the City of Marble Falls.
 - (11) Enclosures shall be constructed as to restrict soil, feathers or dust to the area of the enclosure and same shall not be allowed to blow or wash onto other private or public property.
- (b) Location of pens for fowl.
- (1) Any chickens shall be kept in a pen that is located no closer than one hundred (100) feet from any city street.
- (c) Other similar animals.
- (1) Adult turkeys, ducks, geese, guineas or other fowl shall not be kept within the corporate city limits of Marble Falls except poultry, fowl and birds that are harbored in any city park or park area.
- (d) Inspection.
- (1) Inspection and approval of the keeping of chickens set out herein shall be the same as for horses in 6.10.003 (b).

Sec. 6.10.008 Exceptions

The provisions of this article shall not apply where persons temporarily keep animals within the corporate city limits of Marble Falls for short periods of time not to exceed seventy-two (72)

consecutive hours, for the purpose of shipment, show, marketing or butchering, provided such animals are under supervision and control at all times.

ARTICLE 6.11 BEES

Sec. 6.11.001 Bee Keeping

It shall be unlawful to keep bees in any area of the city, except in those areas where the bee hives will be located at least one hundred fifty (150) feet or more from the nearest dwelling other than the dwelling of the owner of the bees. The one hundred fifty (150) foot distance requirement may be waived by the Police Chief with the written consent of the property owner who's dwelling will be nearer than the one hundred fifty (150) foot limit. Such written consent must be granted on an annual basis. It shall further be unlawful to keep bees, regardless of the above limitation, in such numbers on property, other than that of the owner of the bees, in such a way as to interfere with the peaceful occupancy of such other property.

Sec. 6.11.002 Registration of Bees

The owner of a bee hive shall register each bee hive on a yearly basis. "Bee Hives" will be counted on a per queen basis. A structure containing multiple queen bees will require multiple registrations. As a part of the annual registration process, each hive shall be "re-queened" on an annual basis, and proof of "re-queening" shall be required prior to the issuance or renewal of the annual registration. The annual fee for such registration shall be set by the city council, and is as shown on the animal services fee schedule maintained by the city secretary and as set forth in section A6.11.002 of the fee schedule in Appendix A to this code.

ARTICLE 6.12 FERAL CATS

Sec. 6.12.001 Feral Cat colony permit.

(a) A feral cat colony manager shall obtain a permit from animal services department to become a feral cat colony manager. It shall be unlawful to manage operate, own, or control a feral cat colony without a feral cat colony manager permit. A feral cat colony manager may manage any number of feral cat colonies. Each feral cat colony must be registered with the city. Registration of feral cat colonies shall be free of charge.. All feral cat colony managers feeding colonies prior to the effective date of this ordinance shall register each colony within ten (10) business days from the effective date of this ordinance.

(b) To apply for a permit to become a feral cat colony manger, a person must present evidence to animal services department of satisfactory completion of a trap, neuter, and release educational course.

(c) It shall be a violation of this chapter to feed a cat running-at-large outside of the property owned by the person feeding the cat, without first obtaining a feral cat colony manager permit and maintaining proper management and sterilization as required by section 6.12.003.

(d) A feral cat colony manager shall implement proper management and sterilization practices as required by the animal services department to maintain a valid permit.

(e) Any feral cat colony manager determined to be in violation of proper management and sterilization practices required by the animal services department shall be issued a written warning and allowed a period of time, which shall not exceed ninety (90) days, to come into compliance. Failure to comply within the given time period is a violation of this chapter.

(f) The animal control officer may immediately seize and remove all, or parts of any colony for the following reasons:

- (1) Public health or safety concerns including, but not limited to rabies or other epizootic and certain zoonoses identified by the department of health;
- (2) Animals creating a public nuisance by interfering with passing vehicles, trespassing on school grounds, or crying or whining in an excessive, continuous or untimely fashion.

Sec. 6.12.002 Duration of permit; permit fees

Permits issued under this article shall be valid for one year from date of issuance. The fees for permits under this article shall be set by the city council, and are as shown in the animal registration fee schedule maintained by the city secretary and as set forth in section A6.12.002 of the fee schedule in Appendix A to this code.

Sec. 6.12.003 Proper management and sterilization.

(a) A feral cat colony manager must provide the animal services department with a reasonable estimation of the number of cats in each feral cat colony on an annual basis or as required by the animal control officer.

(b) A feral cat colony manager must sterilize at least fifty percent (50%) of the unsterilized cats of each permitted feral cat colony annually and show proof to the animal services department of the number sterilized.

(c) A feral cat colony manager must provide, on a daily basis, adequate fresh food and water to the cats in the feral cat colonies that the feral cat colony manager has obtained a permit for.

(d) A feral cat colony manager must make all reasonable efforts to catch a sick or injured cat within the feral cat colony that the feral cat colony manager has obtained a permit for and take the cat to a veterinarian.

(e) A feral cat colony manager shall ensure that all cats which the feral cat colony manager has caused to be sterilized will be vaccinated for rabies and obtain an ear tip amputation performed by a veterinarian.

(f) A feral cat colony manager shall submit annual reports to the animal services department as to the estimated number of cats per colony that the feral cat colony manager has obtained a permit for, the number of cats vaccinated for rabies and sterilized, and the location of the veterinary clinic used.

(g) A feral cat colony manager must obtain written permission of the landowner or the landowner's agent where the feral cats congregate or are fed to obtain a permit for the feral cat colony and provide a copy of the written permission to animal control.

(h) A feral cat colony manager may apply for a waiver of any provision of this section. The ruling of the animal services department on the application is final and non-appealable.

Sec. 6.12.004 Revocation of permit

(a) A permit issued under this chapter may be revoked by the animal services director or authorized representative, for any violation of the provisions of this chapter by the holder thereof.

(b) The animal services department shall provide written notice of the revocation to the holder by sending the notice certified mail or by personally delivering the written notice to the holder of the permit.

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SECTION II. FEE SCHEDULE

The City of Marble Falls Code of Ordinances is hereby amended by deleting Chapter A6 "Fee Schedule" in its entirety and replacing it with the following:

* * *

CHAPTER 6 ANIMAL SERVICES

ARTICLE A6.02 VACCINATION AND REGISTRATION OF DOGS AND CATS

Sec. A6.02.005 Guard dog permit

Guard dog permit: \$35.00

Sec. A6.02.008 Registration fees

Altered dog / cat: \$10.00

(a) 65 years and over: \$0.00

Unaltered dog / cat: \$20.00 per animal, per year.

(a) 65 years and over: \$20.00

Service Animals: \$0.00

ARTICLE A6.03 KENNELS

Sec. A6.03.002 Duration of permit; permit fees

Kennel permit: \$50.00

Sec. A6.03.005 Commercial animal sales permit

Commercial animal sales permit: \$50.00

ARTICLE A6.04 IMPOUNDMENT

Division 1. Generally

Sec. A6.04.001 Authorized; fees

Initial impoundment fee: \$40.00 per animal.

- (a) Dog / cat per additional day: \$5.00 per animal.

Sec. A6.04.002 Owner surrender fees

Animals surrendered by owner/harbinger.

- (a) Owner surrender per pet:
 - (1) City of Marble Falls resident: \$10.00
 - (2) Non-Resident: \$55.00
- (b) Owner surrender pets in litter, 8 weeks - 3 months:
 - (1) City of Marble Falls resident: \$25.00 per litter.
 - (2) Non-Resident: \$55.00 per litter.

- (c) Owner surrender under 8 weeks of age:
 - (1) City of Marble Falls resident: \$10.00 per animal.
 - (2) Non-Resident: \$55.00 per animal.

Sec. A6.04.008 Adoption of impounded animals

Adoption fee with mandatory spay/neuter agreement: \$10.00

Division 2. Livestock

Sec. A6.04.035 Fees

Livestock and estray impoundment fees (cattle, equine, goats/sheep, swine, exotic fowl):

- (a) Initial impoundment fee, per head: \$40.00
- (b) Per head, per additional day: \$5.00

ARTICLE A6.06 ANIMAL CARE

Sec. A6.06.011 Trapping and Shooting

Resident trap one-time permit fee: \$5.00

ARTICLE A6.08 DANGEROUS DOGS

Sec. A6.08.010 Registration and tag

Dangerous dog: \$100.00

ARTICLE 6.10 LIVESTOCK

Sec. 6.10.005

Registration: \$5.00

ARTICLE A6.11 BEES

Sec. A6.11.002 Registration of Bees

Registration: \$5.00 per hive

ARTICLE A6.12 FERAL CATS

Sec. A6.12.002 Duration of permit; permit fees

Feral Cat Colony Manager Permit: \$0.00

* * *

SECTION IV. REPEALER. All ordinances or parts of ordinances in force when the provisions of this ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this ordinance are hereby repealed, but only to the extent of any such conflict.

SECTION V. PROVIDING FOR SEVERABILITY. If any provision, section, sentence, clauses or phrase of this ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Marble Falls in adopting, and the Mayor in approving this ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION VI. EFFECTIVE DATE. This ordinance shall be in full force and effect from its date of approval.

SECTION VII. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

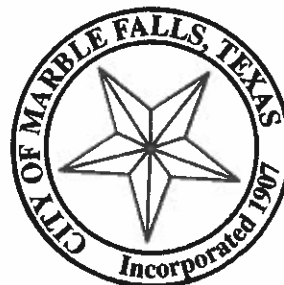
PUBLIC HEARING AND FIRST READING OF ORDINANCE: November 1, 2011.

SECOND READING OF ORDINANCE: November 15, 2011.

APPROVAL OF ORDINANCE: January 3, 2012.

CITY OF MARBLE FALLS:


George Russell, Mayor



ATTEST:

Christina Laine

Christina Laine, City Secretary



APPROVED TO FORM:
Patty Akers

Patty Akers, City Attorney