

ORDINANCE # _____

AN ORDINANCE REPEALING CHAPTER 18, ANIMALS OF THE CODE OF ORDINANCE OF THE CITY OF CLUTE,; REGULATING THE KEEPING OF ANIMALS IN THE CITY OF CLUTE, TEXAS PROVIDING FOR THE ANNUAL VACCINATION OF DOGS BY A LICENSED VETERINARIAN: PROVIDING FOR THE ISSUANCE OF DOG TAGS, EVIDENCING SUCH VACCINATION AND ID: PAYMENT OF AN ANNUAL LICENSE FEE; PROVIDING FOR HUMANE TREATMENT, PROHIBITING CERTAIN ANIMALS AND ESTABLISHING MAXIMUM NUMBERS FOR OTHERS, PROVIDING FOR THE IMPOUNDMENT OF ANIMALS AND THE DISPOSAL OF ANIMALS IF NOT REDEEMED; PROVIDING FOR THE IMPOUNDAGE AND CONFINEMENT OF ANIMALS SUSPECTED OF RABIES; DETAINING DANGEROUS, VICIOUS, FIERCE AND MISCHIEVOUS DOGS; MAKING IT AN OFFENSE FOR ANY OWNER OR OTHER PERSON TO OWN, KEEP OR HARBOR WITHIN THE CITY LIMITS OF SAID CITY ANY DANGEROUS, VICIOUS, FIERCE OR MISCHIEVOUS DOG AS DEFINED IN SAID ORDINANCE AND CONTAINING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AND PROPERLY PUBLISHED FOR HEARING AS REQUIRED BY LAW; CONTAINING A CONFLICT LIMITATION CLAUSE; AND CONTAINING A REPEALER CLAUSE.

WHEREAS, the public health and safety of the City of Clute is endangered by the running at large of dogs; and

WHEREAS, there have been increasing instances of persons, pets, and livestock having been attacked and injured by dogs running at large; and

WHEREAS, there is a real and present danger of the spread of rabies as a consequence of being bitten by a dog without a current rabies vaccination; and

WHEREAS, it has come to the attention of the City Council that dogs are being kept within the City limits in a manner which is disturbing and dangerous to the residents of the City; and

WHEREAS, pursuant to Texas Local Government Code ANN. §51.001 the City is authorized to adopt regulations that are for the good government, peace, or order of the City; and

WHEREAS, the City Council of the City of Clute has determined, based upon the findings stated above, that the regulations established by this Ordinance are necessary for the good government, peace and order of the City; and

WHEREAS, the City Council finds that this Ordinance was adopted at a meeting which was open to the public and preceded by proper notice, as required by Chapter 551 of the Texas Government Code (the Open Meetings Act); and

WHEREAS, the City has previously adopted and amended Ordinances related to Animal Control and now desires to restate and amend these regulations in the manner set forth in this Ordinance;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLUTE, BRAZORIA COUNTY, TEXAS:

First, Chapter 18 of the Code of Ordinances of the City is hereby repealed, revised, rewritten, and new provisions added so that hereafter Chapter 18, entitled "Animals", shall read as follows:

CHAPTER 18 - ANIMALS

ARTICLE I. - IN GENERAL

SECTION 18-1. DEFINITIONS.

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

Abandon means to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; and shall also mean failing to properly redeem any animal impounded or quarantined by the City.

Adequate Shelter for domestic animal or pet bird means a shelter that would allow the domestic animal or pet bird to remain dry and protected from the elements at all times while providing sufficient ventilation within the shelter.

Animal Control means control of dogs, cats, and domesticated or undomesticated animals in accordance with Texas Local Government Code ANN. §51.001 and the regulations contained in this ordinance.

Animal Control Officer means a person or persons assigned to the City of Clute or to the Police Department and designated by the Chief of Police as primary enforcement officer of ordinances regulating animals and owners of animals and for the enforcement of all Texas State Statutes pertaining to the care and control of animals.

Board means the state board of health.

Cat means a domesticated animal that is a member of the Felidae (feline) family but does not include a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other wild animal of this family or hybrids.

Dangerous or Vicious Dog means a dog that:

- A. Makes an unprovoked attack on a person that causes bodily injury and the attack occurs in the 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; or
- B. 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 caused a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog means a domesticated animal that is a member of the Canidae (Canine) family but does not include a wolf, jackal, fox, coyote or other wild animal of family or hybrids.

Domesticated Fowl means chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl and other domestic feathered creatures, regardless of age or sex.

Exotic Animal is defined by 9 CFR 1.1 as any animal native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal, and Yak.

Fowl means all members of the bird family commonly considered as fowl, including but not limited to chickens, ducks, geese and turkeys.

Hybrid means the product of the mating of two different species of animals regardless of the number of generations born since that original mating.

Livestock means all animals commonly considered as livestock, including but not limited to horses, mules, donkeys, burros and jacks; cattle; swine, hogs and pigs; goats; sheep; and domesticated wild animals, regardless of age or sex.

Local Rabies Control Authority means certified Animal Control Officer designated by the Chief of Police in accordance with Section 826.017 of the Texas Health and Safety Code (Vernon Supp. 1996).

Foul, Offensive, or Obnoxious Odor means an odor that unreasonably disturbs or interferes with the peace, comfort and repose of neighboring persons of normal sensibilities.

Harbor means to possess while in the act of keeping and caring for an animal; or of providing a premises to which the animal returns for food, shelter or care for a period of three days or longer.

Habitual Offender or Habitually means or refers to, an owner who has received two or more final convictions of this Ordinance or the owner of an animal who has been the subject of impoundment in the Animal Shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.

Owner or Harboring means any person owning, keeping or harboring an animal, including members of the same household.

Quarantine Facility means a facility approved by the Texas Department of Health for the strict confinement of an animal for rabies observations, as defined in Section 826.051 Subchapter F. of the Texas Health and Safety Code.

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

Secure enclosure means a fence area or structure, such as a barn, shed, or fence, constructed of wood, masonry, chain-link or any combination, sufficient to contain any animal or fowl kept in such enclosure that is:

- A. Locked;
- B. Capable of preventing the entry of the general public, including children;
- C. Capable of preventing the escape or release of a dog;
- D. Clearly marked as containing a dangerous dog; and;
- E. In conformance with the requirements for enclosures established by the animal control officer.
- F. Secure enclosure does not mean a wireless or electric fence.

Serious Bodily Injury means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment. (Section 822.001 Texas Health and Safety Code).

Unprovoked means action by an animal that is not:

- A. In response to being tormented, abused, or assaulted by any person;
- B. In response to pain or injury; or
- C. In protection of itself or its food, kennel, immediate territory, or nursing offspring.

Vaccination means an injection of a type of vaccine approved by the Texas Health and Safety Code and administered by a veterinarian licensed under the state law.

Wild Animal means any animal except the common domestic species: (dogs, cats, horses, livestock and other common farm animals) regardless of the state or duration of captivity.

SECTION 18-2. ENFORCEMENT.

- A. **Animal Control Officer.** The chief of police is directed to designate an employee or employees as the animal control officer for the city whose duty it shall be to enforce the provisions of this article.
- B. **Authority.** The Animal Control Officer or a Police Officer shall have the authority to:
 - 1. Issue citations for any violation of this chapter or applicable state law. If the person is not present, the Animal Control Officer or Police Officer may mail the citation to the alleged violator by certified mail, return receipt requested.
 - 2. Impound any animal in violation of this Chapter.
- C. **Power to Enforce.** The Animal Control Officer shall have power in the enforcement of this chapter or applicable state law and no person shall interfere with, hinder, molest, or abuse this officer in the exercise of such powers and such acts shall constitute a violation.
- D. **Right of Entry.** The Animal Control Officer shall have the right of entry onto any unenclosed lots or lands for the purpose of enforcing the provision of this chapter; provided. However, the Animal Control Officer shall not have the right of entry to enclosed dwellings or fenced enclosures used for residential purposes, except when pursuing an at-large animal that has entered said enclosure while fleeing the Animal Control Officer or for the purpose of examining or obtaining any animal suspected of having rabies, having been exposed to rabies or having bitten a person or another animal and or any suspicion of cruelty or neglect from the owner, without first securing a warrant of arrest for the owner of such premises, which shall be served in the manner provided by law.
- E. **Records.** The animal control officer shall keep a daily record of all animals captured by him and/or killed by him. The records shall show:
 - 1. The breed of the dog or cat, if known;
 - 2. A brief description of the dog or cat;
 - 3. The date of the capture and/or destruction of such dog or cat; and
 - 4. The name of the owner, if known.

A copy of such record shall be delivered to the police chief each day.

- F. **Fees.** The City Council shall establish the fees required by the Chapter by resolution from time to time.

SECTION 18-3. RUNNING AT LARGE / RESTRAINT.

- A. It shall be unlawful for an owner of any dog without regard to mental state, to fail to keep a dog from running at large as defined in Section 18-1.
- B. It shall be unlawful to restrain on a leash any unattended animal so that the animal can come within fifteen (15) feet of a public sidewalk, street, or roadway.
- C. All persons having dogs with them upon the public streets or in public places, shall have the dog on a leash and shall keep the animal under control at all times.
- D. Officers with the department of police or the animal control officer are authorized to destroy any dog or cat found running at large which appears to such officer to be of a vicious nature.
- E. **Exception:** The provisions of this section shall not apply to assistance dogs when being used as such by persons with a total or partial disability.

SECTION 18-4. DAMAGE, TRESPASS, DESTRUCTION OF PROPERTY, OR ILLEGAL RELEASE OF AN ANIMAL.

- A. It shall be unlawful for the owner or harbinger to allow any animal to trespass upon, damage, or destroy any public or private property, not their own, while restrained or at-large.
- B. Whoever shall without proper authority break into, open, pull down the enclosure of, or make any opening into any pound or enclosure belonging to or used by the city for the purpose of impounding animals, or shall turn out or release any animal from such pound, shall be guilty of a misdemeanor.

SECTION 18-5. IMPOUNDMENT.

- A. The following animals may be impounded:
 - 1. Dogs not exhibiting evidence of vaccination,

2. Any animal kept under conditions which can endanger the public or an animal's health.
 3. Any animal that has rabies or symptoms thereof or that a person could reasonably suspect of having rabies or that bites, scratches, or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that required observation for rabies as determined by the Animal Control Officer.
 4. Any animal at large.
 5. Any animal treated in a manner determined in violation of Texas Penal Code, Chapter 42.09: Animal Cruelty, as amended.
 6. Any animal in violation of a provision of this Chapter.
 7. Any animal reasonably suspected of having inflicted bodily harm on any human being or animal and that poses a threat to public safety or constitutes a public nuisance.
 8. Any prohibited animal.
- B. If any animal is found on the premises of any person, that person may confine such animal in a humane manner until the Animal Control Officer impounds such animal. When so notified, it shall be the duty of the Animal Control Officer to have such animal impounded.
- C. Impoundment, quarantine, maintenance, and destruction of animals will be contracted through the City of Clute.
- D. **Reasonable effort** shall be made by the Animal Control Officer to contact the owner of any animal impounded, which is wearing a current vaccination tag. However, the final responsibility for an impounded animal is that of the owner.

SECTION 18-6. – HUMANE CARE.

- A. Any person, owner, handler, or keeper of an animal within the city provide humane conditions for such animals as follows:
1. **Enclosure.** Any dogs confined within a fenced yard must have at least 100 square feet for the maximum number of animals' use and exercise. Where dogs are kept or housed on property without a fenced yard, the owner of such dogs, or persons having custody of such dogs, shall provide an enclosure containing not less than 100 square feet for the maximum number of animals' use and exercise. Such enclosure shall be constructed of chain-link fencing or similar type materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top of the enclosure shall be covered with materials to provide the dog with shade and protection from the elements.

2. **Shelter.** The owner or other person having custody of an animal must provide a shelter for the animal. The shelter must be constructed and maintained in such a manner to allow the animal to remain dry and protected from the elements, including sun. Such shelter shall be fully enclosed on three sides, roofed and have a solid floor with bedding appropriate to the season. The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and maintained in good repair.
3. **Sanitary Premises.** The premises shall be appropriately maintained and kept in a sanitary condition, appropriately free of animal waste, parasites, insects, flies, and hazards that could be harmful to the animal's health and/or the health of the public.
4. **Food/Water.** The owner or other person having custody of an animal must provide wholesome and nutritious food appropriate for the age and size of the animal. Fresh clean water must be available at all times. The water container must be of adequate size and affixed in a manner such that it cannot easily be accidentally emptied.
5. **Abandonment.** No person shall willfully abandon any animal on any street, road, highway or public place, or on any private property.
6. **Animals in Vehicles.**
 - a. It shall be unlawful for a person to leave any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare.
 - b. The Animal Control Officer or a police officer is authorized to use reasonable force, including but not limited to the breaking of a side window of the vehicle to remove the animal from the vehicle whenever it appears the animal's health, safety, or welfare is, or will be endangered, if the owner of the vehicle cannot be located after reasonable attempts have been made.
 - c. Any animal removed from a vehicle under this Chapter shall be taken to the Animal Control Facility, or to a veterinarian, if the animal is in distress and appears to need immediate medical care.
 - d. A written notice shall be attached to a vehicle where an animal has been removed. The noticed shall include the name of the Animal Control Authority or police officer, a telephone number where the Animal Control Authority or police officer can be contacted, and the location where the animal may be claimed by the owner.
 - e. A person in violation of this Article shall be responsible for the full cost and expenses incurred by the City in the care, medical treatment, impoundment, and disposal of the animal, including any damage caused to a vehicle or property, during the removal of the animal from the vehicle.
 - f. It shall be unlawful for a person to transport any animal in an open bed or open trunk of a vehicle upon any roadway or parking lot where the animal is either unsecured or unrestrained, or in a manner that presents a significant risk of harm to the animal or to others.

- g. It shall be unlawful for a person to transport any animal in the cargo area/bed of a truck upon any roadway or parking lot where the animal is directly on a metal or similar surface without sufficient protection when temperatures are at or above 90 degrees Fahrenheit.
7. **Notification of Violation.** If the Enforcement Officer determines that any owner, harborer or keeper of an animal is in violation of subsections (A)(1) through (A)(6) of this section relating to the humane care of animals, he or she will notify the owner, harborer or keeper of the animal of the violation by door tag, personal service or certified mail, and to immediately remedy the violation, specifying a time for compliance, not to exceed three days following which, if the person has not complied with the requirements of the Enforcement Officer, the person may be found guilty of a violation of this section. After the second conviction within any six-month period, the Enforcement Officer may apply to the Municipal Judge for a warrant to seize such animal. The animal will be impounded at the city Animal Control Facility. The Municipal Judge will hold a hearing and determine the disposition of the impounded animal, which shall be in the judge's determination to the owner of the animal, a humane organization designated by the animal control officer, or the city animal control facility for humane destruction, which destruction shall occur following the expiration of any required appeal period.
8. **Exception to Subsection 7 Above.** Based on the severity of any violation within section 18-6, the Animal Control Officer may immediately impound, quarantine, or issue a citation to the owner or harborer of any animal, that or he or she determines has violated said section and creates a danger for such animal.

SECTION 18-7. REDEMPTION OF AN ANIMAL.

- A. **The owner may redeem an impounded animal** upon payment of all applicable impoundment fees, handling fees, and any veterinarian bills or other cost incurred by the City for the impoundment, care and welfare of the animal and upon proof of compliance with the vaccination requirements of this Chapter. Any animal being held under quarantine; or observation for rabies shall not be redeemed until released from quarantine by the Animal Control Officer.
- B. **Impounded animals shall be held for 72 hours after the date of impoundment** except any animal wearing a current vaccination tag shall be impounded for five days; If the owner of an impounded animal does not redeem it within the period of impoundment, disposition will be in accordance with Section 18-9.

SECTION 18-8. ANIMAL QUARANTINE.

- A. Any animal that has rabies or may have been exposed, by physical contact; with a rabid animal, or suspected rabid animal, or exhibits symptoms which could reasonably

indicate rabies, or that bites, scratches or otherwise creates a condition which may expose or transmit the rabies virus to a human being shall be impounded immediately. Upon notification, the owner shall surrender the animal to the Animal Control Officer for quarantine at the City's designated quarantine facility, or with approval from the Animal Control Officer deliver the animal to a state-approved veterinarian quarantine facility for quarantine at the owner's expense. Quarantine shall be for a minimum of then (10) days beginning on the date the incident occurred or longer as the Animal Control Officer may deem necessary. Animal quarantine shall be in accordance with any applicable rules and regulations adopted by the Texas Department of Health.

B. Quarantine shall be subject to the following conditions:

1. Any quarantined animal showing clinical signs of rabies shall be immediately destroyed and the head submitted to the nearest Texas Department of Health Laboratory for testing.
2. The animal placed in quarantine shall not be released without prior notification to and written approval from the Animal Control Officer.
3. Home quarantine at the residence of the owner, if approved by the Animal Control Officer, must satisfy the following conditions:
 - a. Secure facilities are available and approved by the Animal Control Officer.
 - b. The animal is currently vaccinated against rabies.
 - c. The owner of the animal shall notify the Animal Control Officer if the animal escapes, becomes or appears to become sick, or dies; and, in case of death of the animal while under quarantine; shall immediately surrender the dead animal to the Animal Control Officer for diagnostic purposes.
 - d. The animal was not running at large at the time of the incident
 - e. The animal is being isolated from all other animals, and human beings other than the individual(s) who own the animal.

C. A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid shall report the incident or animal to the Animal Control Officer. The report shall include the name and address of the victim and owner of the animal, and any other information relating to the incident or animal.

D. The owner shall submit for quarantine an animal that:

1. Is reported rabid or has exposed an individual to rabies; or
2. The owner knows or suspects is rabid or has exposed an individual to rabies; or
3. Has bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being.

- E. When submitted for quarantine, the owner shall provide the name, address and any other relevant information about the animal.
- F. The owner of a quarantined animal shall pay all reasonable costs of the quarantine and disposition of the animal, including charges for shipment of animal tissues, if required, to the Texas Department of Health Laboratory for testing.
- G. An animal that has been quarantined may be released by the Animal Control Officer after a licensed veterinarian determines that the quarantined animal does not show clinical signs of rabies and under the following conditions:
 - 1. At the end of the observation period upon proof of vaccination prior to release from quarantine.
 - 2. When all applicable fees have been paid.
 - 3. If the animal is not being held up for legal proceedings.
 - 4. If appropriate City registration has been completed.
- H. It shall be unlawful for any person to interrupt the observation period or otherwise interfere with quarantine.
- I. It shall be unlawful for any person to destroy or remove from the City any animal that has bitten a person or other animal or that has been placed under quarantine, except when necessary to protect the life of any person or other animal or otherwise approved by the Animal Control Officer.
- J. The carcass of a dead animal exposed to rabies or suspected of having been rabid, shall, upon demand, be surrendered to the Animal Control Officer.
- K. Wild animals shall not be placed in quarantine. Wild animals shall be humanely destroyed in such a manner the brain is not mutilated. The brain will then be submitted to a Texas Department of Health laboratory for testing.
- L. No person shall fail or refuse to surrender an animal for quarantine or for destruction when ordered by the Animal Control Officer.

SECTION 18-9. DISPOSITION OF ANIMALS.

- A. Except as provided herein, any animal not redeemed within the stated time periods after impoundment, or release from quarantine, shall become the property of the City of Clute and shall be humanely destroyed at their discretion.
- B. Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by a court of competent jurisdiction.

- C. Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide care for the baby may be immediately destroyed to prevent further suffering. Any impounded animal that appears to be suffering from extreme injury or illness may be immediately destroyed to prevent further suffering.
- D. Animals appearing to be feral, uncontrollable, or vicious and not wearing an identification tag, collar or vaccination tag can, at the discretion of the animal control officer or police officer, may be destroyed.
- E. The disposition of animals under this Chapter must be performed by:
 - 1. A licensed veterinarian.
 - 2. Personnel of a recognized animal shelter or humane society who are trained the humane destruction of animals; or
 - 3. Personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

SECTION 18-10. ANIMAL NUISANCE.

The commission of any of the following acts, or permitting any of the following conditions to exist shall constitute a nuisance to the health, safety, and general welfare of the city and its inhabitants and shall be unlawful, to-wit:

- A. The keeping of an animal, including cats, in such a manner as to endanger the public health; by the accumulation of animal waste, which causes foul and offensive odors and is considered to be a hazard to other animals or human beings.
- B. To permit or allow an animal, including cats, to defecate upon private or public property other than the property of the owner of said animal; and to fail to remove and dispose or in a sanitary manner any feces left by such animal.
- C. The keeping of any animal that enters the property of another and commits any act that disturbs any person of ordinary sensitivity.
- D. Property not kept free from decaying animal carcasses.
- E. No person shall willfully or knowingly keep or permit any animal, livestock, or fowl on their premises, or in or about their premises, or premises under their control, that barks, howls, or disturbs persons of ordinary sensibilities continually for more than 15 minutes in such a manner as to disturb the peace and quiet of the neighboring occupant.

- F. Any animal running at large in the city limits more than 72 hours which is impractical or impossible to capture and is causing property damage, endangering persons or other domestic animals shall be deemed a nuisance and may be destroyed by a trained, experienced Animal Control Officer or Police Officer.
- G. To harbor an animal that is an animal nuisance as defined in this section.

SECTION 18-11. RESTRICTIONS ON ANIMALS.

A. MAXIMUM NUMBER OF ANIMALS PERMITTED.

1. **Dogs/Cats:** It shall be unlawful for any person to keep or cause to be kept over five (5) dogs and/or cats per household on, at or within the city limits with the only exception being a female dog or cat, which has given birth. Under such circumstances the animal owner will have one hundred twenty (120) days from the animal's date of birth to reduce the required number of animals to the required number of five (5).
2. **Ferrets:** It shall be unlawful for any person to keep or cause to be kept over two (2) ferrets per household within the city limits.
3. **Rabbits:** It shall be unlawful for any person to keep or cause to be kept over six (6) rabbits per household within the city limits, with the only exception being a female rabbit, which has given birth. Under such circumstances the animal owner will have one hundred twenty (120) days from the animal's date of birth to reduce the required number of animals to the required number of six (6). Before any domestic fowl are allowed to be kept or maintained within the city, such animals must be checked for diseases; and a licensed veterinarian must certify that such animals have been inspected and are free from tularemia.
4. **Livestock:** It shall be unlawful for any person to keep or cause to be kept more than six (6) animals defined as livestock in Section 18-1 on any one premises for more than seven successive days, and no more than an aggregate of two of any such animals shall be kept on any one premises for more than seven successive days.
5. **Domesticated Fowl (including Chickens):** It shall be unlawful for any person to keep or cause to be kept over six (6) domesticated fowl as defined in Section 18-1 per household within the city limits, with the only exception being a female, which has given birth. Under such circumstances the animal owner will have one hundred twenty (120) days from the animal's date of birth to reduce the required number of animals to the required number of six (6). Roosters are not permitted.
6. **Exception – Domesticated Fowl (including Chickens):** It shall be an exception to the prohibition against the keeping of domesticated fowl as defined in Section 18-1 within the city if the domesticated fowl in question are kept in a suitable pen or enclosure situated not less than one hundred fifty feet (150')

from any inhabited dwelling, so that no part of said pen or enclosure shall be closer than one hundred fifty feet (150') and the domesticated fowl cannot approach closer than said distance to such inhabited dwelling; provided that this distance requirement shall not apply to the dwelling of the domesticated fowl owner. Before any domestic fowl are allowed to be kept or maintained within the city, such animals must be checked for diseases; and a licensed veterinarian must certify that such animals have been inspected and are free from [psittacosis \(ornithosis\)](#).

B. HONEYBEES.

No person shall construct, place or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the occupants of all such residences.

C. PROHIBITED ANIMALS.

No person may possess a prohibited animal within the City limits. Exotic, wild, and/or dangerous animals or hybrids of such are prohibited animals within the City. Prohibited Animal means any animal which is now or historically has been found to be wild by nature and not customarily domesticated in the City. Any animal which by definition falls into this category is prohibited from being kept, harbored, or maintained within the city limits, except for those temporarily permitted under this Chapter. This includes but is not limited to:

1. **Any venomous, poisonous, or dangerous reptile:** including alligators, crocodiles, gila-monster, lizards, frogs, toads, turtles, or snakes, including non-venomous snakes which exceeds eight (8) feet in length.
2. **Mammals:** skunks, wolves, coyotes, jackals, foxes, cougars, bobcats, leopards, panthers, jaguars, tigers, lions, mountain lions, bears, lynxes, wild-pigs, domestic pigs or hogs, chimpanzees, baboons, orangutans, gibbons, gorillas or any other animal for which there is no approved rabies vaccine.
3. **Wildfowl:** ostriches, rheas, cassowaries and emus, hawks, eagles, falcons, and vultures, and other non-domestic feathered creatures, regardless of age or sex.
4. **Insects/Arachnids:** Brown recluse (*Loxosceles*) and black widow (*Lactrodectus*) spiders.
5. **Non-Native Animals:** Any animal or reptile, fish, insect, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.
6. **Venomous Animals:** Any class, order, species, or hybrid of the Animal Kingdom which is venomous to human beings, whether its venom is transmitted by bite, sting, touch or other means, excepting the honeybee, which does not include any strain of killer bee.
7. **Pigs/Hogs/Swine:** It shall be unlawful for the owner of any premises located within the city to permit any pigs or hogs to be kept on such premises or for the owner of any pigs or hogs to keep them within the city. The keeping of any pigs or

hogs within the city is declared to be a public nuisance and shall be abated by the institution of appropriate legal proceedings.

8. **Endangered Species:** Any class, order, species, or hybrid of the Animal Kingdom which is classified as an endangered species under the Endangered Species Act.
9. **Exception – Zoos/Circuses:** This section shall not apply to city 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.
10. **Exception - Injured Animals:** This section shall not apply to animals being kept that was an infant or injured animal which 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.
11. **Exception - Pigs:** It shall be an exception to the prohibition against the keeping of pigs within the city contained in this section if the pig in question is a domesticated miniature pot-bellied pig and if the following conditions are met:
 - a. No more than one such pig may be kept at the same time on any one premises within the city;
 - b. Any such pig kept within the city may not exceed 16 inches in height;
 - c. The owner of any such pig so kept shall have it tested by a veterinarian licensed to practice in the state for pseudorabies and brucellosis prior to it being brought into the city and shall maintain at all times proof that such testing has been performed;
 - d. Any premises in the city on which any such pig is kept shall, if such pig is allowed to be unattended in the yard of such premises, have a fence constructed and maintained in such manner as to keep such pig from being at large;
 - e. Good sanitation shall be maintained on any premises in the city at which any such pig is kept, and such pig shall be provided with good health care; and
 - f. Any such pig so kept may not engage in continuous or untimely squealing or rooting to such an extent that such pig traverses the property boundary line between the premises on which it is kept and any adjoining premises.
 - g. For purposes of applying the exception in A(11)(d) of this subsection, any such pig kept within the city shall be considered to be at large if such pig is:
 1. Unattended by the owner of such pig or such owner's designee in an unfenced area of the premises on which it is kept;
 2. If such pig, without being restrained by its owner or such owner's designee, is allowed to enter upon the private property or premises of another without the prior consent of the owner or person in possession of such other premises; or
 3. If such pig, without being restrained by its owner or such owner's designee, is allowed upon any publicly owned property or facilities.
 4. The exception contained in subsection A(11) of this section shall not be available to the owner of any such pig if it be shown that any of the

conditions specified in subsection A(11) of this section have not been met on three or more occasions within any 12-month period.

5. It shall be the duty of the animal control officer to see that any such pig found running at large is impounded and disposed of in the same manner as any dog is impounded and disposed of under the applicable provisions of article II of this chapter without the necessity of anyone filing a complaint. Any such pig so impounded that has not been spayed or neutered shall be spayed or neutered at the expense of its owner prior to being released to such owner.

SECTION 18-12. DEAD ANIMALS AND FOWL.

It is unlawful for any person in the City to cause to be placed or place, or allow to remain in or near his/her premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated, for any reason. The carcass of any animal or fowl found dead on any premises within the city from disease or other cause not slaughtered for food shall be removed and disposed of by the owner of such animal or fowl, if known, and if not known, the owner of the premises where such dead animal or fowl is found, at his own expense within 24 hours after such death, according to such method as may be approved by the health officer.

SECTION 18-13. TRAPPING OF ANIMALS OR FOWL PROHIBITED; EXCEPTIONS.

- A. It shall be unlawful for any person to trap by any means any animal or fowl within the corporate limits of the city.
- B. **Exception.** It is an exception to the application of subsection (A) of this section if:
 1. The trap in question is a live trap containing nothing which might produce injury to the person using the trap, the animal or fowl sought to be trapped, any animal that might be accidentally caught therein or any third person; or
 2. The trap is being used by or under the specific direction of the animal control officer designated by the chief of police in accordance with the provisions of section 18-2.

SECTION 18-14. DISEASES COMMUNICABLE FROM ANIMAL TO MAN.

- A. **Reports.** Any veterinarian or other person who shall find any animal within the city afflicted with a disease transmissible from animal to man shall immediately report to the health officer such case together with the name and address of the owner and the location of the premises where such animal can be found.

- B. **Investigation/Control of Disease.** Upon receipt of the report required by subsection (A) of this section, the health officer shall immediately investigate the case and shall take such steps as necessary to eliminate the possibilities of further spread of this disease. The health officer shall keep a record of each such case showing all information concerning the informer, the disease and its control.

SECTION 18-15. – PRIMA FACIE EVIDENCE.

In any prosecution under this chapter in the municipal court or any other court of competent jurisdiction, proof that any premises situated within the city are listed on the tax rolls of the city in the name of any person shall be prima facie proof that such person is the owner of such premises and proof that any animal or fowl mentioned in this chapter is found in the possession of any person or has been kept on any premises shall be prima facie proof that the person having possession of such animal or fowl or the owner of such premises is the owner of such animal or fowl. However, the prima facie proof herein provided for may be rebutted by the defendant in any such prosecution.

ARTICLE II. - DOGS & CATS

DIVISION 1. – DOGS & CATS - GENERALLY

SECTION 18-30. LICENSE TAGS REQUIRED.

- A. It shall be unlawful for any person within the corporate limits of the city to own, keep, possess, harbor, or allow to remain, on any premises under such person's control, any dog or cat without having such animal licensed. Upon licensing, a tag will be furnished. All dogs and cats six months of age or older shall be licensed and the tag must be attached to the collar or harness of the animal at all times.
- B. License tags may be obtained from the city, a local participating veterinarian, or the Southern Brazoria County Animal Shelter. Proof of rabies vaccination shall be required before issuance of license tag. A reasonable fee shall be charged for the tag and the fee shall be used toward the operational costs of the Southern Brazoria County Animal Shelter.

SECTION 18-31. REMOVAL OF TAGS AND COLLARS.

It shall be unlawful for any person to remove any metal tag issued under this article, or any collar from any dog or cat, without the written consent of the owner of such dog or cat.

SECTION 18-32. VACCINATION OF DOGS.

- A. **Rabies Vaccination Required.** The owner of a dog shall have the animal vaccinated against rabies by a licensed veterinarian when the animal is six (6) months of age and within each subsequent thirty six-month interval. After immunization the designated veterinarian will issue a certificate of vaccination, which contains the following information:
1. Name address and phone number of owner;
 2. Animal identification including species, sex, age, size, predominant breed and colors.
 3. Type of vaccination.
- B. A person commits an offense without regard to mental state, if the person owns, keeps, or harbors a dog over six (6) months of age without having such dog vaccinated for rabies. A person committing an offense will be guilty of a class C Misdemeanor.
- C. Concurrent with the issuance of the certificate of vaccination, the designated veterinarian shall provide the owner of the dog a metal/rabies tag serially numbered showing the date of vaccination, the name and address and phone number of the owner; and shall be attached to the collar or harness of the vaccinated animal and worn at all times.

DIVISION 2. – DOGS & CATS - IMPOUNDING OF DOGS**SECTION 18-50. SEIZURE AND CONFINEMENT OF DOGS.**

It shall be the duty of the animal control officer or, at the direction of the chief of police, the duty of any police officer of the city, to seize any unrestrained dog and to confine such dog in the Southern Brazoria County Animal Shelter at Lake Jackson, Texas, for 72 hours in the case of an animal not wearing a collar to which a current license tag is attached and 120 hours in the case of an animal wearing a collar to which a current license tag is attached.

SECTION 18-51. REDEMPTION OF DOGS AND FEES.

- A. The person entitled to the possession of a dog impounded under section 18-50 of this article, upon proper application within the specified time limits after the impounding of such dog, shall be entitled to have the impounded dog released to such person, provided such animal is not infected or thought to be infected with rabies, upon displaying proof of a current rabies vaccination, proof of a current license and payment of current pickup and shelter fees.

- B. Reasonable fees will be charged for the redemption of dogs and for all costs and services rendered by the animal control officer and the Southern Brazoria County Animal Shelter. The animal control officer and the Southern Brazoria County Animal Shelter shall keep a current schedule of fees to be charged and such fees shall be approved by the city council and the board of directors of the Southern Brazoria County Animal Shelter. All fees and monies for pickup and daily fees will be collected by the Southern Brazoria County Animal Shelter and are to be used to defray operational costs of the Southern Brazoria County Animal Shelter facility.

DIVISION 3. – DOGS & CATS - VICIOUS CATS AND DOGS

SECTION 18-70. POSSESSION WITHIN CORPORATE LIMITS PROHIBITED; EXCEPTION.

- A. **Vicious Cat or Dog Prohibited.** It shall be unlawful for any person within the corporate limits of the city to own, keep, possess, harbor or allow to remain upon any premises under such person's control any vicious cat or dog.
- B. **Determining Whether Vicious.** In determining whether or not a cat or dog is vicious, the following shall be taken into consideration by the animal control officer:
 - 1. Whether or not the cat or dog has bitten any person at any time other than the occasion which gave rise to the proposed confinement of the cat or dog;
 - 2. The circumstances surrounding the occasion given rise to the proposed confinement of the cat or dog indicating the temper or ferocity of the cat or dog;
 - 3. The reputation of the cat or dog in the community with regard to its temper or ferocity; and
 - 4. The general menace of the cat or dog to the public.
- C. **Exception:** It is an exception to the application of subsection (b) of this section if such cat or dog has been determined by the animal control officer to be a vicious cat or dog under the provisions of subsection (a) of this section of this article and such cat or dog is at all times kept confined in the manner required by the animal control officer.
- D. **Confinement as determined by Animal Control:** If the animal control officer is of the opinion that any cat or dog is vicious, although not affected with rabies, the animal control officer shall, in addition to the procedure prescribed in section 18-50 (if such cat or dog has not bitten any person), or in lieu of such procedure (if such cat or dog has bitten any person), order the person who owns or has custody of the cat or dog to keep the cat or dog confined at all times in such manner as the animal control officer may direct in order to prevent it from biting or having the opportunity to bite any person,

lawfully on the premises where the cat or dog is confined, until further orders of the animal control officer.

- E. In any prosecution in the municipal court of the city or any other court of competent jurisdiction for a violation of subsection (b) of this section, the complaint charging an offense need not negate such exception; but the same may be raised by any defendant in such prosecution by way of defense; and proof that any dog or cat has bitten any person shall be prima facie evidence that such dog or cat is vicious unless rebutted by other competent evidence.

SECTION 18-71. DETERMINING THAT A DOG IS DANGEROUS BY THE COURT.

- A. If a person reports an incident defined in Division 3 of this Chapter, a police officer or the Animal Control Officer will investigate the incident. If after receiving a sworn statement from the person and witnesses, the municipal court shall issue a warrant to seize the animal and it shall be impounded by the Animal Control Officer or police officer. If impoundment cannot be made safely, the dog may be destroyed without notice to the owner or harborer.
- B. **Court Hearing Set/Notice.** The municipal court shall set a time for a hearing to determine whether the animal is a dangerous dog as defined in this Chapter.
1. The hearing must be held not later than the tenth day after the date on which the warrant is issued.
 2. The municipal court shall give written notice of the time and place of the hearing to:
 - a. The owner of the dog or the person from whom the dog was seized; and
 - b. The person who made the complaint;
 - c. Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- C. **Court Proceedings.** At the hearing the municipal court shall determine whether the animal is a dangerous dog as defined in Section 18-70.
1. If the dog is found not to be deemed a dangerous dog, the dog will be returned to the owner or harborer after the owner or harborer satisfies all applicable requirements for impoundment and vaccination.
 2. If the dog is found to be deemed a dangerous dog, the owner must comply with Section 822.042 of the Texas Health and Safety Code and remove the dog from the corporate city limits of Clute within 24 hours or the dog will be destroyed at a place of confinement or at the place of impoundment and the owner or harborer shall be responsible for all applicable requirements of impoundment and euthanasia.

3. **Exception:** It is an affirmative defense to a finding of dangerousness:
 - a. If the person who was threatened or attacked by the animal at the time of the injury was committing a willful trespass or other tort upon the premises occupied by the owner of the animal or was committing or attempting to commit a crime.
 - b. If the person was teasing, tormenting, abusing or assaulting the animal or has, in the past, been reported to have teased, tormented, abused or assaulted the animal and is older than eight years of age at the time of the attack;
 - c. If the dog was protecting or defending a person while in that person's control from an unjustified attack or assault; or
 - d. If the dog was injured and responding to pain.
 - e. If the animal was an animal in the performance of duty specifically trained to assist police and other law-enforcement personnel in their work, with duties including but not limited to searching for drugs and explosives, searching for lost people, looking for crime scene evidence, and protecting their handlers.

SECTION 18-72. SEIZURE OF A DOG CAUSING DEATH OR SERIOUS BODILY INJURY.

- A. A municipal court, justice court, or county court shall order the animal control authority to seize a dog and shall issue a warrant authorizing the seizure:
 1. On the sworn complaint of a person, including the county attorney, the city attorney, a peace officer or an animal control officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
 2. On a showing of a probable cause to believe that the dog caused the death of or serious bodily injury to the person as stated in the complaint.
- B. The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.
- C. A dog attacking a person may be destroyed by an Animal Control Officer or Police Officer to prevent injury to a person:
 1. Provided the dog is at large.
 2. Provided vocal and physical attempts to stop the dog from attacking have been made by the person being attacked or by the Animal Control Officer or Police Officer.
 3. While restrained or in an enclosure if the attack is being made on a child 8 years of age or younger.

SECTION 18-73. HEARING OF A DOG CAUSING DEATH OR SERIOUS BODILY INJURY.

- A. The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the tenth day after the date on which the warrant is issued.
- B. The court shall give written notice of the time and place of the hearing to:
 - 1. The owner of the dog or the person from whom the dog was seized; and
 - 2. The person who made the complaint.
- C. Any interested party, including the City Attorney, is entitled to present evidence at the hearing.
- D. The court shall order the dog destroyed if the court finds that the dog caused serious bodily injury or the death of a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:
 - 1. Its owner.
 - 2. The person from whom the dog was seized; or
 - 3. Any other person authorized to take possession of the dog.
- E. The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person; and
 - 1. The dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept; and
 - 2. The enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
 - a. The injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred.
 - b. The dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least 8 years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
 - c. The attack, bite, mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

- d. The dog was defending a person from an assault or person's property from damage or theft by the injured person; or
- e. The injured person was younger than eight years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.
- f. Except as provided in Section 18-71 of this Chapter, this subsection applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.

ARTICLE III. – LIVESTOCK.

DIVISION 1. – LIVESTOCK – GENERALLY

SECTION 18-90. REGISTRATION OF LIVESTOCK.

Every person who owns or keeps livestock on any property situated within the city shall register each of such animals with the city manager.

SECTION 18-91. SPACE AND ENCLOSURE REQUIREMENTS; LIMITATION ON NUMBER.

- A. **Permit Required for Livestock:** No permit shall be issued nor shall any livestock be kept unless and until it shall appear that the following requirements have been met:
 - 1. **Livestock.** All horses, cattle, goats, sheep, mules and other livestock kept within the city shall be kept in an enclosure located at least 150 feet from any dwelling occupied for residence purposes, whether such dwelling is located on the premises on which such enclosure is located or on any adjoining premises, and the premises on which any such enclosure is located shall consist of at least one-half acre of land for one such animal so kept and at least one additional acre of land for each additional such animal kept on the same premises.
- B. **Building Permit Required:** A building permit must be acquired for the erection of any shed, barn, and building erected for the occupancy of any livestock.
- C. **Clean and Sanitary Buildings Required:** All barns, sheds, buildings, and enclosures erected for the occupancy of any livestock must be erected in such manner as will facilitate cleaning and must be sanitary in all respects, and no accumulations of animal

excreta or filth shall be permissible. Caution shall be taken to maintain cleanliness in all yards, barns, sheds, buildings, and enclosures to prevent bugs and lice; all structures will be treated weekly with a City approved insecticide spray or powder. All enclosures located within the city in which any horses, cattle, goats, sheep, mules or other livestock are kept shall be maintained in a clean and sanitary manner and all accumulations of excreta or filth shall be removed from such enclosure within a reasonable time.

- D. **Maximum Number Permitted.** Livestock as defined in Section 18-1 more than six (6) in number shall not be kept on any one premises for more than seven successive days, and no more than an aggregate of two of such animals shall be kept on any one premises for more than seven successive days.

SECTION 18-92. VACCINATION; VETERINARIAN CERTIFICATION; CLEANLINESS OF ENCLOSURES; REPORTS.

- A. Before any livestock are allowed to be kept or maintained within the city, such animals must be checked for the following diseases; and a licensed veterinarian must certify that such animals have been inspected and are free from such disease:
1. Horses, mules, donkeys, burros and jacks shall be vaccinated against sleeping sickness (equine encephalomyelitis) with Eastern and Western strain vaccine.
 2. Cows, bulls and calves shall be free of tuberculosis (tuberculin test required); Bang's disease (brucellosis); mastitis; and cowpox.
 3. Goats and sheep shall be free of tuberculosis (tuberculin test required); and brucellosis (Malta fever).
- B. All livestock must be given an anthrax vaccination annually.
- C. Any offspring of the livestock must be checked, certified and vaccinated as above provided as soon as necessary age is attained for testing and vaccination, such age to be determined by ethical veterinary procedure.

SECTION 18-93. MANURE DISPOSAL.

- A. On each property where livestock are kept or maintained, there shall be built a concrete bin to be used as a storage place for manure; such bin shall be large enough to contain at least seven cubic feet of space for each head of livestock; such bin shall have a lid which will not permit ingress or egress for water, bugs, flies and other vermin or animals.
- B. Manure shall be collected from the property where livestock are kept in a timely manner; such manure shall be placed in the bin required in subsection (a) of this section;

after such manure is collected and placed in such bin, a chemical solution or powder shall be applied to the bin and its contents for the purpose of eliminating any unhealthful condition or smell.

Division 2. – LIVESTOCK - IMPOUNDING

SECTION 18-110. REQUIRED; NOTICED; SALE.

The chief of police, animal control officer, or any police officer shall take up and impound any livestock found by him to be running at large, or taken up by any other person and turned over to the officer. Within three days after the animal has been so impounded, such officer shall post two notices, one at the pound and the other at the city hall, giving therein a description of the animal so taken up and impounded and stating the date, time and place of the sale of the animal. Not less than five days from such posting as aforesaid, the chief of police shall sell the animal at public sale to the highest bidder for cash. He shall charge \$50.00 per head for taking up and impounding each animal, and \$10.00 per day for feeding and taking care of each animal, which fees so collected and money from the sale of animals shall be delivered to the city manager, to be placed to the credit of the general fund. After deducting the fees and expenses, the city manager shall return the balance of such sale, if any, to the owner.

SECTION 18-111. REDEMPTION.

At any time within six months after any sale, the owner may apply to the city manager and upon satisfactory proof of ownership, he shall be entitled to receive the balance of the amount deposited on account of such sale after paying costs, fees and expenses. The owner of any animal impounded may reclaim the same from the city pound at any time before sale by paying all fees and expenses of taking up and keeping such animal.

Second, Any violation of this Chapter shall be a misdemeanor punishable on conviction by a fine not less than \$50.00 nor more than \$2,000.00 for the first conviction, a fine of not less than \$100.00 nor more than \$2,000.00 for a second conviction within any 12-month period, and by a fine of not less than \$2,000.00 nor more than \$2,000.00 upon a third or subsequent conviction; and these minimum fines shall not be suspended by orders of any

court. Each day a violation continues may constitute a separate offense and punishable as such.

Third, nothing contained in this ordinance shall cause any rights heretofore vested to be altered, affected or impaired in any way and all such rights may be hereafter enforced as if this ordinance had not been adopted.

Fourth, this ordinance is cumulative of and in addition to all other ordinances of the City on the same subject and all such ordinances are hereby expressly saved from repeal. Provided however, where this ordinance and another ordinance conflict or overlap, whichever imposes the more stringent regulations or penalties, as the case may be, shall prevail.

Fifth, no offense committed and no fine, forfeiture or penalty incurred prior to the effective date of this ordinance is to be affected by the adoption of this ordinance but the punishment for any offense committed and the recovery of any fines or forfeitures incurred prior to such date shall take place as if this ordinance had not been adopted.

Sixth, in the event any section or provision of this ordinance is found to be unconstitutional, void or inoperative by the final judgment of a court of competent jurisdiction, such defective provision, if any, is hereby declared to be severable from the remaining sections and provisions of this ordinance and such remaining sections and provisions shall remain in full force and effect.

Seventh, this ordinance shall not be construed so as to conflict with any state or federal statute. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

04/18/2017

DRAFT

Eighth, this ordinance shall take effect and be in force from and after the descriptive caption of this ordinance has been published twice in the Brazosport Facts.

READ, PASSED AND ADOPTED this ____ day of _____, 2017.

Calvin Shiflet, Mayor

ATTEST:

Approved as to form and legality:

Rosie Poitevint, City Clerk

Wallace Shaw, City Attorney