

Sec. 26-1. - Definitions.

As used in this chapter, the following words, terms and phrases 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, or to fail to timely redeem an animal impounded by the animal control department, as specified herein.

Animal means any living, vertebrate creature, domestic or wild, other than *homo sapiens*.

Animal care and control center means any facility operated or designated by the city for the purpose of impounding and caring for animals as prescribed by law.

Animal control department means the city's code enforcement department with authority to enforce the provisions of this chapter and state law related to the health, care, and safety of animals.

Animal control manager means the city manager or his or her designee charged with enforcement of the provisions of this chapter and state law related to the health, care, and safety of animals.

Animal control officer means an authorized agent or employee of the animal control department.

Animal establishment means any pet shop, kennel, grooming shop, auction, flea market, performing animal exhibition, or other facility engaged in the handling of domestic animals, excluding veterinary clinics, hospitals, animal shelters and individuals caring for animals in their private residence in compliance with the terms of this chapter.

Assistance animal means an animal that is specially trained or equipped to help a person with a disability and that:

- (1) Is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animal; and
- (2) Has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type.

At large or running at large means any animal not kept under restraint.

Bodily injury means physical pain, illness, or any impairment of physical condition.

Cat means a commonly domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other prohibited animal.

Circus means a commercial variety show featuring animal acts for public entertainment.

City means the City of McKinney, Texas.

Currently vaccinated means the inoculation of an animal with a rabies vaccine or other medicine satisfying all of the following criteria.

- (1) The animal must have been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that animal species at or after the minimum age requirement and using the recommended route of administration for the vaccine;
- (2) At least 30 days have elapsed since the initial vaccination; and
- (3) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer and as required by state law.

Dangerous animal means an animal, other than a dog, that:

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

Dangerous dog means a dog that:

- (1) Makes an unprovoked attack on a person or other animal 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; or
- (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.

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

Dog means a commonly domesticated member of the Canidae (canine) family, other than a wolf, jackal, fox, dingo, coyote, or other prohibited canines.

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

Domestic animal means any animal whose physiology has been determined or manipulated through selective breeding, and that does not occur naturally in the wild, and that may be vaccinated against rabies with an approved rabies vaccine, and that has an established rabies quarantine observation period. The term domestic animal includes livestock, caged or penned fowl other than animals belonging to the class aves, order Falconiforms and subdivision Raptae, normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, nonpoisonous reptiles or nonpoisonous snakes.

Emu means a fowl of the Order of Struthioniforme.

Fowl means any bird of any kind.

Guard dog means any dog that has been trained for the purpose of protecting property by a guard dog company that is required to be licensed pursuant to Texas Occupations Code, ch. 1702, V.T.C.S., as amended from time to time, or a dog that received protection or guard dog training and is used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and is used only for protective functions, irrespective of its status as a personal pet of its owner or handler.

Impound means to take an animal into custody by the city; impoundment shall begin at the time any animal control officer or police officer takes control of an animal either by hand, rope, trap, projectile or confinement to a vehicle.

Kennel means any premises in which five or more dogs three months of age or older are kept, or where the business of buying, selling, breeding, grooming, training or boarding of dogs is conducted. The term "kennel" does not include veterinary hospitals or humane societies.

Licensed veterinarian means a person authorized to practice veterinary medicine who is currently licensed by the state board of veterinary medical examiners.

Livestock means an animal raised for human consumption or an equine animal including, but not limited to, a horse, stallion, mare, gelding, filly, colt, mule, hinny, jack, jennet, hog, sheep, goat, a head of any species of cattle, or an emu, ostrich, or rhea.

Local Rabies Control Authority (LRCA) means the officer designated by the city under the Health and Safety Code § 826.017 or his or her designee.

Miniature Swine means any member of the swine family including “potbellied pigs” that has, through selective breeding, been genetically manipulated to attain a maximum height of no more than 24 inches at the shoulder when fully grown, has short ears and a straight tail, and a maximum weight of 150 pounds. No swine shall be considered a Miniature Swine or a potbellied pig if its weight exceeds 150 pounds or its height at shoulder level is more than 24 inches.

Ostrich means a fowl of the Order of Struthioniforme.

Owner means any person who owns, keeps, shelters, maintains, feeds, harbors or has temporary or permanent custody of a domestic or prohibited animal, or who knowingly permits a domestic or prohibited animal to remain on or about any premises occupied by that person or over which that person has control. An animal shall be deemed to be owned by a person who harbored it, fed it, or sheltered it for three consecutive days or more.

Person means an individual, association, partnership, corporation, trust, estate, joint-stock company, or foundation.

Pet means any animal kept for pleasure rather than utility.

Pet shop means a commercial enterprise regularly engaged in the buying, selling, grooming, breeding or boarding of animals.

Prohibited animal means:

(1) any animal not normally born and raised in captivity, including but not limited to the following:

a. *Class Reptilia*: Family Helodermatidae (venomous lizards) and Family Hydrophiidae (Venomous Marine snakes); Family Viperidae (rattlesnakes, pit vipers and true vipers); Family Elapidae (coral snakes, cobras, and mambas); Family Columbridae-Dispholidus Typus (boomslang); Bioga Dendrophilia (mangrove snake) and Kirklandii (twig snake only); Order Crocodilia (such as crocodiles and alligators); Family Boidae (boa constrictor; anaconda) over eight feet in length; Family Pythonidae (python) over eight feet in length;

b. *Class Aves*: Order Falconiforms (such as hawks, eagles, falcons and vultures);

c. *Class Mammalia*: Order Carnivores,

1. Family Felidea (such as lions, tigers, bobcats, jaguars, leopards and cougars), and any hybrid of an animal listed in this section except commonly domesticated cats;

2. Family Canidae (such as wolves, dingos, coyotes, foxes and jackals), and any hybrid of an animal listed in his section except commonly domesticated dogs;

3. Family Mustelida (such as weasels, skunks, martins, minks, badgers and otters) except ferrets;

4. Family Procyonidae (such as raccoons and coati);

5. Family Ursidae (such as bears);

6. Marsupialia (such as kangaroos, opossums, koala bears, wallabies, bandicoots, and wombats);

7. Chiroptera (bats);

8. Edentata (such as sloths, anteaters, and armadillo);

9. Proboscidea (elephants);

10. Primata (such as monkeys, chimpanzees, orangutans, and gorillas);

11. Rodentia (such as beavers and porcupines); and

12. Ungulata (such as antelope, deer, bison and camels);

d. *Class Amphibi*: Poisonous frogs; does not include non poisonous reptiles or non poisonous snakes.

(2) The term "prohibited animal" does not include livestock, fowl, or normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, nonpoisonous reptiles, or nonpoisonous snakes not otherwise listed above.

Properly fitted with respect to a collar or other neck restraint means a collar or other neck restraint that measures the circumference of a dog's neck plus at least one

inch. With respect to a harness, properly fitted means a harness that is of an adequate size, design, and construction as appropriate for the dog's size and weight.

Protective custody means the holding of an animal by the city:

- (1) Due to the arrest, eviction, hospitalization, or death of the animal's owner;
- (2) Pursuant to a court order; or
- (3) At the request of a law enforcement agency.

Public nuisance means the following:

- (1) An owner's failing to control or to restrain, or otherwise allowing, either by conduct, omission, or condition of premises, any animal to:
 - a. Engage in conduct that establishes such animal as a dangerous animal;
 - b. Be at large or running at large as defined herein;
 - c. Cause a disturbance by excessive, continuous, or untimely barking, howling, crowing, or otherwise audible noise. Such noise, in excess of 15 minutes, even if in sporadic bursts, shall be prima facie evidence that the same constitutes a nuisance;
 - d. Accumulate, attract, or generate maggots, flies, odors or unclean conditions sufficient to annoy adjacent property owners or residents;
 - e. Chase vehicles or molest, attack or interfere with other animals or persons on public property;
 - f. Damage, soil, defile or defecate on private property other than the owner's property or on public walks or recreation areas unless such waste is immediately removed and properly disposed of by the owner; or
 - g. Generate or accumulate fecal matter or other waste to such a degree as to cause unsanitary, dangerous, or offensive conditions; or
- (2) Any animal normally found in the wild that has entered onto any public or private property and by its presence is committing a threat to public health and safety or is generally interrupting the tranquility of the location.

Quarantine means to take into custody and place in confinement as defined in this chapter isolated from human beings and other animals in such a way as to preclude the possibility of disease transmission. The quarantine period for a dog, cat, or a domestic ferret in rabies quarantine is ten days from the date of the bite, scratch, or

other exposure, or as recommended by the regional veterinarian from the department of state health services.

Rabies means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite, scratch, or other exposure.

Restraint means an animal is under restraint under the following conditions:

- (1) It is securely enclosed or confined to its owner's yard by a physical fence in a manner that will isolate the animal from the public and from other animals except for animals owned or under the control of the owner; or
- (2) It is accompanied by its owner or trainer at a bona fide dog show, field trial, or exhibition; or
- (3) It is secured by a person holding a leash no more than six feet in length and of sufficient strength to control the animal; or
- (4) It is an assistance or service animal, as defined by this chapter, that is being used by a person with a disability; or
- (5) It is a guard dog in the performance of duty in an enclosed building or securely fenced and locked area that is marked on all sides with signs in four-inch letters stating "guard dog" and clearly visible to the public.

Rhea means a fowl of the Order of Rheiforme.

Sanitary means any condition of good order and cleanliness that discourages and limits disease transmission.

Secure enclosure means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous animal in conjunction with other measures that may be taken by the owner. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal(s) from escaping from the enclosure. The enclosure shall be posted with signs on all sides in four-inch letters warning of the presence of a dangerous animal.

Securely enclosed or confined means:

- (1) An area that is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design as to prevent any animal from escaping from the area and in a manner that will isolate the animal from the public and other animals except for animals owned or under the control of the owner.

(2) The term "securely enclosed or confined" does not mean enclosure or confinement by an invisible or electronic fence.

(3) Such fence or enclosure shall comply with the appropriate zoning regulations applicable to the property.

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

Service animal means an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability or, by the virtue of a natural aptitude or acquired ability, is able to provide therapeutic treatment, mitigation, safety, or rescue.

Sterilization means the surgical removal of the reproductive organs of a dog or cat to render the animal unable to reproduce.

Stray means an animal that is roaming with no physical restraint beyond the premises of the animal's owner or keeper.

Unprovoked attack by a dog means an incident in which a dog that attacked a person or an animal was not hit, kicked, or struck by a person with any object or part of a person's body, nor was any part of the dog's body pulled, pinched, or squeezed by a person, nor was the dog taunted or teased by any person, nor was the person in the dog's territory on the property of the dog's owner at the time of the attack.

Vaccination certificate means the certificate issued by a licensed veterinarian on a form approved by the department of state health services.

Veterinary hospital or clinic means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of disease and injuries to animals.

Zoological park means any permanent collection of living animals for public display, other than a pet shop or kennel, displaying or exhibiting one or more species of animals.

Sec. 26-41. - Keeping of livestock.

(a) Generally.

(1) It shall be unlawful for any person to keep or permit the keeping of livestock on premises owned by the person or under his or her control, except in compliance with the following regulations:

a. Livestock shall be kept on lots or tracts of land with a zoning classification permitting such use.

b. It shall be unlawful for any person to keep a cow or horse on any premises, the overall area of which is less than one-third of an acre for each cow or horse kept, or to keep more than can be cared for under sanitary conditions and not create a public nuisance, and in no event shall the number of such animals exceed the permitted number of adults, and their foals or calves up to six months of age. The number of cows or horses permitted shall not exceed one adult per one-third of an acre for the first acre, and two adults per acre for each additional acre over two acres of a single tract of land. The persons in lawful possession of the premises, as owner or tenant, may keep thereon cows and horses belonging to others, but the limitation as to the number of cows or horses on the premises and the area and distance requirements of this section shall apply and the keeping of such animals shall not be done as a commercial business in violation of the zoning ordinance.

c. Any enclosure, pen, corral, or other restrictive area for small livestock shall consist of a solid wall stretching from the ground to at least four feet in height, that does not sway or give way when tested by an animal control officer; or shall consist of a fence. Such fence must have at least 16-gauge wire arranged in a grid pattern (hogwire) with the maximum size of any grid in the wire being 7½ inches by 12 inches. The wire pattern must stretch continuously from the ground to at least 32 inches above the ground. Above this wire pattern must be stretched tautly at least two strands of at least 16-gauge wire with at least one of these strands at least four feet above the ground. The maximum distance allowed between fence posts shall be 15 feet. The fence posts must not sway more than six inches when tested by an animal control officer. Trees may not be used as fence posts.

d. Gates for small livestock enclosures shall be mounted on hinges to a solid wall or fence post and stretch from the ground to at least four feet above the ground. Such a gate must connect with another fence post or wall in such a manner that small livestock cannot pass through it, and the gate itself must be constructed so that there is not an opening in it larger than 7½ inches by 12 inches. Such gates must have a latch or chain attached capable of keeping the gate closed when tested by an animal control officer.

e. Any enclosure, pen, corral or restrictive area for large livestock shall consist of a solid wall stretching from the ground to at least four feet above the ground, that does not sway or give way when tested by an animal control officer; or shall consist of a fence. Such fence must have at least 16-gauge wire stretched tautly between fence posts. Such a fence shall have at least four strands of wire with one strand one foot above the ground and one strand at least four feet above the ground, with the two other strands uniformly spaced between the top and bottom strands. The maximum distance between fence posts shall be 15 feet. The fence posts must not sway more than six inches when tested by an animal control officer. Trees may not be used as fence posts.

f. Gates for large livestock shall be mounted on hinges to a solid wall or fence and stretch from one foot above the ground to at least four feet above the ground. Such a gate must connect to another fence post or solid wall in such a manner that large livestock cannot pass through and the gate itself must be constructed so that there is not an opening in it large enough for large livestock to pass through. Such gates must have a latch or chain attached capable of keeping the gate closed when tested by an animal control officer.

g. When small and large livestock are kept together, the standards for small livestock must be met.

h. It shall be unlawful for any person to keep on premises under his control, within the city limits, any small or large livestock in such a manner that the livestock will be quartered closer than 150 feet to any human living quarters, other than the living quarters of the owner or keeper.

i. Male equines, including, but not limited to, horses, capable of breeding, will be confined in such a manner that said animal will not be dangerous to human beings, and all breeding shall be under the control of the owner or handler.

j. ~~The provisions of sections 26-38 and 26-46, relative to animal care in general, shall specifically apply to the keeping of livestock. Notwithstanding anything herein to the contrary, it shall be unlawful and a violation of this chapter for any person other than a veterinarian, to keep any live swine within the city, except in zoning districts in which a stockyard or stable is permitted. This section shall prohibit the keeping of Vietnamese potbellied pigs.~~ The provisions of sections 26-38 and 26-46, relative to animal care in general, shall specifically apply to the keeping of livestock. Notwithstanding anything herein to the contrary, it shall be unlawful and a violation of this chapter for any person other than a veterinarian, to keep any live swine within the city, except in zoning districts in which a stockyard or stable is permitted. However, "Miniature Swine" as that term is defined in Sec. 26-1, "Definitions," may be kept as a pet subject to compliance with all of the requirements of Sec. 26-41(a)(3), "Keeping of Miniature Swine Restricted.

(2) Notwithstanding the foregoing, should another provision of this code, such as the zoning ordinance, govern the setback requirement for a specific structure, or relate to the keeping of livestock, said other provision controls.

(3) Keeping of Miniature Swine Restricted.

(a) Miniature Swine, as defined in Sec. 26-1, "Definitions," may be kept as pets in the City of McKinney. The following requirements shall apply to the keeping of Miniature Swine within the City of McKinney.

(1) There shall be a maximum of one Miniature Swine per single-family dwelling unit or business. The Miniature Swine may be of any age. Under no circumstances may a person keep more than one Miniature Swine per dwelling unit or business.

(2) Miniature Swine shall be prohibited in multi-family dwelling units.

(3) All Miniature Swine must be either spayed or neutered. Under no circumstances may the person engage in the propagation or breeding of Miniature Swine within the city limits.

(4) It shall be unlawful for any person to keep or maintain Miniature Swine outdoors. A person may permit Miniature Swine outdoors for brief periods of time not to exceed one (1) hour per occurrence as necessary to exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the Miniature Swine may not escape to prohibit the Miniature Swine from running at large.

(5) The accumulation of waste from Miniature Swine that will create obnoxious odors and/or health hazards is prohibited. Miniature Swine are subject to all other applicable sections of this chapter including by way of illustration, and not limitation, the enclosure requirements in Sec. 26-41 regarding the keeping of livestock and the requirements of this chapter regarding the restraint of animals and prohibiting animals being or running at large.

(b) Vaccination Requirements. It shall be unlawful for any person to keep or maintain Miniature Swine unless the Miniature Swine has received annual vaccinations against erysipelas, parvo virus and leptospirosis. The first inoculations for such diseases must be received before the animal is four months of age.

It shall be the responsibility of the owner or caretaker of the Miniature Swine to forward to the City of McKinney Code Compliance Department, within 14 days of vaccination, a certificate from a licensed veterinarian which shall include the following information:

(1) Name, street address, and phone number of the owner; and

(2) Name, street address, and phone number of the licensed veterinarian issuing the certificate; and

(3) Name and description of the Miniature Swine; and

(4) The microchip number and microchip manufacturer name for the microchip provided to the Miniature Swine; or

(5) The other approved permanent identification and national registry name with which the Miniature Swine is registered; and

(6) Types and dates of vaccinations; and

(7) Tag numbers, if any previously issued; and

(8) Approximate weight, height, and age of the Miniature Swine; and

(9) The Miniature Swine's general health.

(c) Conditions. All locations where Miniature Swine are kept shall be kept in a clean and sanitary condition. Exercise areas shall be cleaned of swine excrement on at least a daily basis.

(d) Violations; Penalties.

(1) Any violation, disobedience, omission, neglect or failure or refusal to comply with the enforcement of any of the provisions of this section shall be punishable in accordance with Section 26-5 of this Chapter.

(2) In addition, thereto, if any person is found guilty of having violated any provision of this article, such violation may result in revocation of such person's authorization to keep or maintain Miniature Swine.

(b) *Adequate fences and barriers.* It shall be unlawful for any person to keep on his premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping and/or damaging neighboring flowers, trees, shrubbery and/or other property located on adjacent property. It shall be a rebuttable presumption that such fences or barriers are inadequate for the designated purpose, if livestock escapes from the premises. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code § 2.05. A fence or barrier may include, but is not limited to, electronic barriers, whether underground, electrified wiring, or the erection of any structure of wood or wire, wood and wire, masonry or any other material, whether it encloses land on all sides or only on one or more sides, which is intended to prevent the passage of livestock. Such a fence or barrier is the means by which the land is enclosed so as to prevent the ingress and egress of livestock, and to make a complete

enclosure that is sufficient, in usual circumstances, to turn livestock of ordinary habits and disposition.

(c) *Barns, stables and other animal facilities.* All barns, stables, and other animal facilities constructed after the effective date of the ordinance from which this chapter is derived shall meet the requirements of the city building code and zoning ordinances, as applicable thereto.

(d) *Places livestock prohibited.* It shall be unlawful for any person to ride or allow any type of livestock upon any public school ground, public park, or municipal grounds within the city other than public rights-of-way or areas designated for such purpose; provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with authorized parades, carnivals, or other school or civic sponsored programs or events.