

#082007
AN ORDINANCE OF THE CITY OF POTH, TEXAS,
ON THE KEEPING OF ANIMALS

General Provisions

1.01 Definitions:

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Animal: Every nonhuman species of animal, both domestic and wild.

Animal Control Officer: A municipal or county Animal Control Officer with the authority over the City of Poth where the animals are kept or harbored. The Animal Control Officer may be an employee of the City of Poth or may be an authority with whom the City of Poth enters into a contract to provide animal control services and to enforce the regulations in this ordinance.

Animal Shelter: Any premises designated by the City for the purpose of impounding and caring for animals under authority of this chapter.

At Large: Off the premises of the owner or not under control of the owner or any member of the owner's immediate family. If at the owner's home, "at large" means when the animal is not enclosed in a fence of suitable repair. When off the premises of the owner, when the animal is not restrained by a leash, chain, cord, or other suitable material attached to a collar or harness.

City Health Officer: The person appointed by the City Council under Tex. Health & Safety Code, Section 122.05.

Domestic Animal. An animal, whether pet or livestock, who has been domesticated for use, either financial or companionship, by humans. The term shall expressly not include any exotic animals or animals who are regulated as exotic or game animals by the Texas Department of Agriculture or the United States Department of Agriculture. The term shall expressly not include any animals of sufficient size or temperament (other than dogs) to inflict serious bodily injury or death on a human.

Harboring: The keeping of an animal.

Indoor Pets. Indoor pets shall constitute any pets who are kept at all times inside an area of human habitation. Indoor pets shall include only those pets who are kept indoors the residence of the owner for all or substantially all of the hours in each day.

Kennel. The facility required for the keeping of more than five dogs and/or the required facility for dangerous or vicious dogs.

Must consist of all of the following:

- (a) Concrete slab floor.
- (b) Roof covering the kennel.
- (c) Six foot chain link fence surrounding the kennel.
- (d) Locked gate.

Normal Work Day: Includes any other than weekends or holidays.

Normal Working Hours: Includes all time from 8:00 a.m. to 5:00 a.m. during a normal work day.

Owner: Any person, corporation, or any other entity keeping or harboring an animal.

Public Nuisance: Any animal that unreasonably annoys humans, or endangers the life or health of another animal or person, or substantially interferes with the rights of citizens to enjoyment of life or property. The term “**public nuisance animal**” shall mean and include, but is not limited to, any animal that:

- (A) Is found at large on more than two occasions within two years of the first occasion to be found at large.
- (B) Damages the property of anyone other than its owner.
- (C) Molests or intimidates pedestrians or passersby.
- (D) Chases vehicles.
- (E) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (F) Causes fowling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (G) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- (H) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or type of animals maintained.
- (I) Attacks other domestic animals or people.

Residence: A place or the house where one resides.

Restraint: An animal is under “**restraint**” under the following circumstances:

- (A) When in the owner’s yard or home, the animal is indoors, securely caged, or fully enclosed in a good, secure, and substantial fence; or
- (B) When in public with the owner, the animal is secured by a leash or lead and under the effective control of a responsible person and obedient to that person’s commands.

Vaccination: Rabies vaccination for an animal.

1.02 Vaccination of Dogs and Cats Required

It shall be unlawful for the owner of any dog or cat to keep a dog or cat unless the cat or dog shall have been vaccinated for rabies. Tags showing such vaccination must be worn by the animal at all times. This chapter shall not apply to dogs or cats under the age of three months.

1.03 Keeping Livestock

Except as expressly provided in this ordinance, it shall be unlawful for any person to keep or have any cattle, horses, sheep, goats, or poultry anywhere in the city. Notwithstanding the provisions above, in the event that a single property owner shall have more than two (2) acres of land, he or she shall be entitled to maintain the following animals on such property:

- A. All animals must be maintained in a clean and sanitary environment, without any concentration of odors, flies, or refuse, so as to create a nuisance to any surrounding property owners;
- B. There may be maintained on such tract (so long as such tract contains two (2) acres or more) one horse, cow, mule, jack, or jenny per acre; or there may be maintained on each tract (so long as each tract contains more than two (2) acres) four sheep, goats, or laying hens per acre.
- C. There shall not be maintained on any tracts inside the city limits any roosters, swine, pigs, or exotic animals of any nature.

1.04 Pens Maintained in Sanitary Condition

Every stable or place where any animal is kept shall be kept in a clean and sanitary condition. All pens, enclosures, or other areas shall be cleaned and disinfected on a regular schedule. The Animal Control Officer shall have the right to inspect said premises from time to time.

1.05 Inhumane Treatment; Endangering Animals Prohibited

- (A) Animals in the city will not be treated cruelly in any way. Any person who inhumanely beats, underfeeds, overloads, or abandons any animal shall be deemed guilty of a violation of this section.
- (B) All owners must provide their animals with sufficient wholesome and nutritious food, water in sufficient quantities, proper air, shelter space, and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.
- (C) It is unlawful to crop a dog's ear or dock a dog's tail, except when a licensed veterinarian issues a signed certificate that the operation is necessary for the dog's health and comfort. In no event shall any person except a licensed veterinarian perform such an operation.
- (D) It is unlawful to expose any known poisonous substance, whether mixed with food or not, so that the poisonous substance could be eaten by any animal, with the exception that a person may expose common rat poison mixed only with vegetable substance on his own property.

1.06 Dog Fighting Prohibited

- (A) A person commits an offense if he intentionally or knowingly:
 - (1) Causes a dog to fight with another dog.
 - (2) For a pecuniary benefit causes a dog to fight with another dog.
 - (3) Participates in the earnings of or operates a facility used for dog fighting.
 - (4) Uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting.
 - (5) Owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting.
 - (6) Attends as a spectator of an exhibition of dog fighting.
- (B) Definition:

Dog Fighting: For the purposes of this ordinance means any situation in which one dog attacks or fights with another dog.

- (C) Party to an offence under subsections (2), (3), or (4) of division (A) of this section may be required to furnish evidence or testify about the offense but may not be prosecuted for the offense about which he is required to furnish evidence or testify.
- (D) A conviction under subsection (2), (3), or (4) of division (A) of this section may be had upon the un-corroborated testimony of a party to the offense.
- (E) It is a defense to prosecution under subsection (1) or (2) of division (A) of this subsection that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.
- (F) An offense under subsection (1) or (5) of division (A) of this section is a Class A Misdemeanor. An offense under subsection (2), (3), or (4) of division (A) of this section is a felony on the third degree. An offense under subsection (6) of division (A) of this section is a Class C Misdemeanor.

1.07 Certain Animals Not to be Kept Within City; Exception

- (A) The City shall have the power to release or order the release of any infant wild animal under temporary permit that is deemed capable of survival.
- (B) It is unlawful to keep, or permit to be kept any wild animal as a pet, display, or for exhibition purposes.
- (C) It shall be unlawful for any person, firm, or corporation to keep, or cause to be kept, for any purpose whatsoever, any swine, poultry, exotic animals, or purportedly domesticated wild animals within the corporate limits of the city. An exception shall be made for any school district activities within the following stipulations:
 - (1) Pens shall be cleaned daily and must be at least 500 feet from any residence.
 - (2) Solid waste must be removed from the area at least once a week.
 - (3) Failure to comply with above regulations causing resident complaints, shall be cause for suspension of this exception.

1.08 Limitation on Number of Domesticated Animals

It is unlawful for any person to keep on any one premises, owned or occupied by him or her, more than four domesticated animals, if said domesticated animals are more than six months old, unless said domesticated animals are properly housed in kennels approved by the Public Health Department.

1.09 Nuisance Animals

All owners shall exercise proper care and control of their animals to prevent them from becoming a public nuisance to include but not limited to preventing excessive, continuous, or untimely noises, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon school grounds, trespassing upon public property, or trespassing upon private property.

1.10 Indoor Animals

Notwithstanding any of the other provisions of this ordinance, an owner may keep such indoor animals (as that term is defined above) without regard to the limits stated above, except that no person shall be entitled to keep indoor numbers of such number or such concentration that they constitute a hazard of health to human habitation. Further, no owner may be entitled to keep indoor animals in such numbers or in such concentration so that they constitute a nuisance, either by noise, smell, or otherwise.

1.11 Restraint of Animals Required

All animals must be kept under restraint. Unrestrained animals may be taken by police, or any Animal Control Officer designated by the City Health Officer, or any humane officer and impounded in an animal shelter, and there confined in a humane manner.

1.12 Confinement of Female Dogs and Cats in Heat

Every female dog or cat in heat shall be confined in a building or a secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

1.13 Staking Animals Along Street for Grazing Purposes Prohibited

It shall be unlawful to picket or tie any animals in or along any of the streets or alleyways of the city for the purpose of grazing or feeding.

1.14 Proper Disposal of Animal Waste

- (A) The owner of every animal shall be responsible for the removal of any excreta (feces) deposited by his animals on public walks, recreation`areas, or private property.

- (B) Collection and removal of animal feces shall be in a container of such type that, when closed, is rat proof and fly tight. Such container shall be kept closed after each collection. At least once a week, each such animal owner shall cause all feces so collected to be disposed of in such a way as not to permit fly breeding.

1.15 Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Unprovoked. With respect to an attack by a dog means that the dog 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.

Vicious Conduct. With respect to a dog means an attack by the dog on a person in which the dog initiated physical contact with the person and:

- (1) The attack was unprovoked.
- (2) The attack did not occur in a pen or other enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the pen or enclosure on its own.
- (3) The attack resulted in bodily injury to the person.

1.16 Restraint of Animal; Insurance Requirements

- (A) A person who owns or keeps in his custody a dog that he knows has engaged in vicious conduct must immediately and continuously restrain the dog in a kennel or other enclosure reasonably certain to prevent the dog from leaving the kennel or enclosure on its own; and have insurance coverage in an amount of at least \$100,000.00 insuring against liability of the person for damages resulting from bodily injury to an individual caused by any dog belonging to or in the custody or control of the person. Any dog seized under the terms of this provision will remain in custody until such time as the owner provides proof of insurance to the City of Poth and further until such time as the kennel as required by these regulations is properly prepared for such animal.
- (B) Every vicious animal shall be confined by the owner within a building or secure enclosure and must be securely muzzled and caged whenever off the premises of its owners.

1.17 Authority to Take Possession of or Dispose of Vicious Animal

The Animal Control Officer is authorized to take possession of and dispose of any animal with a record of vicious conduct if the owner fails to fulfill any of his responsibilities and obligations under this subchapter.

1.18 Quarantine; Diagnosis of Rabies

Any animal which bites or scratches a person shall be quarantined for ten days. During quarantine such animal shall be securely confined and kept from contact with any other animal. At the discretion of the City Health Officer or Animal Control Officer, the quarantine may be on the premises of the owner. If such officer requires other confinement, the owner shall surrender such animal for the quarantine period to an animal shelter, or shall, at his own expense, place it in the veterinary hospital. It shall be the discretion of the City Health Officer as to whether or not to kill, or cause to be killed, an animal suspected of being rabid. If a veterinarian diagnoses rabies in an animal in quarantine, then the animal shall be humanely killed and the head of such animal sent to the laboratory for pathological examination and confirmation of such diagnosis.

1.19 Diseased Animals Running-At-Large Prohibited

It is unlawful to allow any animal afflicted with a contagious or infectious disease to run-at-large, or to be exposed in any public place whereby the health of man or beast may be affected. The City Health Officer or the Animal Control Officer will seize and arrange treatment of the diseased animal and any affected premises so as to prevent spread of the contagion or infection.

1.20 Report of Rabies

It shall be the duty of the owner, the harbinger, or the practicing veterinarian to report to the City Health Officer or City Secretary all cases of rabies with which he or she comes in contact or to which his or her attention has been directed. This report shall be made immediately upon either diagnosis or suspicion of rabies.

1.21 Offense

An offense under this subchapter is a Class B Misdemeanor.

Impoundment

1.22 Authority for Enforcement; Interference Prohibited

- (A) Any officer acting in behalf of the city shall have police powers in the enforcement of this chapter, and no person shall interfere with, hinder, molest, or abuse such officer in exercise of such powers.
- (B) It is unlawful to refuse to deliver any animal to an officer acting in behalf of the City upon grounds for impounding.

1.23 Impoundment by Private Persons; Complaints

Any person may seize and deliver to the city, or such officer acting in its behalf, any animal which should be impounded, and the city shall thereupon hold and dispose of such animal, as though such animal had been found running at large and impounded by the city. Any person who observes an animal in violation of any of the terms of this chapter shall have the right to file a written complaint against the owner of such animal with the Municipal Court or the City Secretary.

1.24 Duty of Officers to Impound

It shall be the duty of the City Health Officer or the Animal Control Officer to apprehend and impound any animal not under control or in violation of this chapter. In the event any such animal cannot be safely seized and the animal is deemed to be a threat to any person or property, any City Officer is hereby empowered to eliminate the animal. An impounded animal shall not be released until all expenses of apprehension, notification, and impounding have been paid by the owner or harborer.

1.25 Notification to Owners; Time Period for Claim of Animal

The known owner or harborer of the impounded animal wearing a valid permit vaccination tag shall have five working days from the time of notification in which to claim the animal. Failure by the known owner or harborer to obtain release of the impounded animal within this time period shall be deemed an act of disclaiming and the

City Health Officer or his agent shall consign said animal to a recognized animal humane society or licensed animal shelter, or otherwise dispose of the animal in accordance with state law.

1.26 Reclaim of Animals; Fees; Vaccination and Permit Required

An owner reclaiming an impounded animal shall pay a fee of \$50.00 plus \$10.00 for each day that the animal has been impounded. All fees shall be paid at City Hall prior to the release of the impounded animal. All dogs and cats shall be vaccinated by a Licensed Veterinarian.

1.27 Disclaim of Ownership

If, for any reason, the owner or harbinger of an animal chooses to disclaim ownership of same or voluntarily delivers the animal to be disclaimed to the City Health Officer or his representative, and executes formal acknowledgment of such an act, the City Health Officer or his representatives shall humanely dispose of the animal in accordance with state law.

1.28 Penalty

- (A) As set forth in Tex. Loc. Gov't. Code, § 51.001 and § 54.001, any person found guilty of violating any section of this chapter shall be fined:
 - (1) Not less than \$75.00 nor more than \$300.00 for the first offense.
 - (2) Not less than \$100.00 nor more than \$400.00 for the second offense.
 - (3) Not less than \$150.00 nor more than \$1,000.00 for the third offense.
- (B) If any violation be continuing, each day's violation shall be deemed a separate violation. If a person be found guilty by a court of violating any provision of this chapter, his permit to own, keep, harbor or have custody of dogs or cats shall be deemed automatically revoked, and no new permit may be issued for a period of one year.

1.29 Application

The terms of this ordinance shall apply to all residents of the City of Poth except that the requirements for a kennel for dogs as required above shall not apply to any owner who does not otherwise have a kennel and who does not add any new dogs or other domesticated animals from and after the date of the enactment of this ordinance. However, an owner who does add new domesticated animals (even if such owner maintains the same or a smaller number of animals than he has at the passage of this ordinance) shall be subject to all of the provisions of this ordinance.

PASSED AND APPROVED at Poth, Texas, on this the 20 day of August, 2007.

CITY OF POTH

BY: Chrystal Eckel
CHRYSTAL ECKEL, Mayor

ATTEST:

Gladys Bullimek
City Secretary

APPROVED AS TO FORM:

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AMENDMENT

ORDINANCE NO: 082007 – The Keeping of Animals

AMENDMENT NO: I

ARTICLE NO: N/A

SECTION NO: 1.03

ORDINANCE NO. 082007 is hereby amended as follows:

SECTION 1.03


Exception: Sheep and Goats may be raised for 4-H, FFA, or other organized youth activities during the months of July through March on tracts of land that are less than 2 acres provided the following conditions are met:

- 1) Pens or enclosures shall meet the requirements of Section 1.03, Part A of this ordinance.
- 2) Beginning in July of 2008, any persons owning, keeping, harboring or having custody of sheep or goats within this municipality under this exception must obtain a permit as herein provided.
 - a) Permits shall be issued by the City for each sheep or goat.
 - b) A permit, if not revoked, shall be valid for a period of 9 months beginning in July of the year the permit was issued and extending through March of the following year.
 - c) The City may revoke any permit if the person holding the permit refuses or fails to comply with this chapter, or any state law governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely remove the animal from the City.

PASSED and APPROVED this 17th day of September 2007


Chrystal Eckel -- Mayor

ATTEST:


Gladys Billimek - City Secretary