

ORDINANCE NO. 294

AN ORDINANCE OF THE CITY OF TIOGA, TEXAS, REPEALING ORDINANCE NUMBER 144; PROVIDING GENERAL REGULATIONS FOR THE KEEPING OF ANIMALS; PROHIBITING DOGS FROM RUNNING AT LARGE; PROVIDING FOR VACCINATIONS; DEFINES ACTS CONCERNING ANIMALS WHICH CONSTITUTE PUBLIC NUISANCE; PROVIDING FOR AUTHORITY TO ENFORCE ORDINANCE; PROVIDING FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS;

**SECTION 1. DEFINITIONS.**

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

**ABANDONED ANIMAL.** Any animal which has been:

1. Intentionally or knowingly released from the owner's control with the apparent intention of no longer providing care for the animal;
2. Left at any location within the city by an owner and that owner fails to return to the property;
3. Impounded or otherwise placed under the temporary control of the Animal Control and/or Police Department, and the person having been previously deemed to be the lawful owner of the animal refused to claim or properly redeem the animal.

**ALTERED ANIMAL.** Any animal, male or female, whose reproductive organs have been surgically removed.

**ANIMAL.** Any living creature including, but not limited to, dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.

**ANIMAL CONTROL OFFICER.** The person or persons designated by the city to represent and act for the city in the impoundment of animals, controlling of stray animals and as otherwise required in this ordinance.

**ANIMAL SHELTER.** Any facility operated by a county or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance.

**ASSISTANCE ANIMAL.** Any animal which has been specifically trained by a recognized institution to assist its handicapped or disabled human partner with daily activities and tasks.

**AT LARGE.** An animal that is not confined to the premises of its owner by a containment device of sufficient strength and/or height to prevent the animal from escaping from such premises, and so arranged that the animal will remain upon such premises when a leash, cord, chain or similar direct physical control of a maximum length of six feet, and not being kept physically restrained from leaving the premises of the owner. An animal shall not be considered at large when held and controlled by a person by means of a leash or chain of proper strength and length to control the action of the animal.

**CAT.** Members of the feline species of all ages, both male and female.

**DANGEROUS DOG.** A dog that:

1. Makes an unprovoked attack on a person that causes bodily injury which would cause a

reasonable person to seek medical treatment whether or not that care was actually sought and occurs in a place other than a secure enclosure in which the dog was being kept which was reasonably certain to prevent the dog from leaving the enclosure on its own; or

2. Commits unprovoked acts in a place other than a secure enclosure in which the dog was being kept which was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or
3. Is accustomed to run, worry or kill goats, sheep or water fowl or other animals considered to be property; or
4. Makes an unprovoked attack on another dog causing injury which would cause a reasonable person to seek veterinary care whether or not that care was actually sought.

**DANGEROUS WILD ANIMAL.** Animals including: venomous lizard, poisonous snakes, constricting snakes, raccoon, skunk, fox, bear, elephant, kangaroo, monkey, chimpanzee, antelope, deer, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, bobcats, servals, caracals, hyenas, coyotes, jackals, orangutan, gorillas, baboons, or any other wild animal capable of or inclined to do serious bodily harm to human or other animals or fowl.

**DOG.** Members of the canine species of all ages, both male and female.

**DOMESTIC ANIMAL.** Includes, but is not limited to, dogs, cats, pygmy goats, potbellied pigs and ferrets.

**EXOTIC ANIMAL.** Animals that are not normally considered to be domesticated but may be reasonably kept as pet animals without posing any immediate danger to persons or other animals including, but not limited to: iguanas, non-poisonous snakes, non-constricting snakes, hedgehogs, chameleons and salamanders.

**FOWL.** Chickens, turkeys, pheasant, quail, geese, ducks or similar feathered animals, regardless of age, sex or breed, excluding ostriches, emus and/or rheas.

**GUARD DOG.** Any dog that will, due to training, handling or conditioning, detect and warn its handler that an intruder is present in or near an area that is secured, and that may respond on command or independently, to protect its owner or handler or any property belonging to them.

**LIVESTOCK.** Members of the equine, bovine, bird and ruminant species including, but not limited to, horses, mules, donkeys, cattle, goats, sheep, ostriches, emus, rheas and swine, regardless of age, sex or breed.

**NUISANCE.** Any thing or animal which is injurious to the life, health or morals, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property or which renders the ground, water, air or food a hazard or that is or threatens to become detrimental to the public health.

**OWNER.** Any person who has legal or equitable title to any animal, harbors or keeps any animal in his possession, or who permits any animal to remain on or about his premises.

**PET SHOP.** Any person, partnership or corporation, whether operated separately or in connection with another business enterprise, except a licensed kennel, that buys, sells or boards any species of pets.

**POLICE OFFICER.** The person or persons designated by the city to represent and act for the city in the impoundment of animals, controlling of stray animals and as otherwise required in this chapter in the absence of or in place of an Animal Control Officer.

**POSSESSION.** Actual care, custody, control or management of a certain animal.

**PREMISES.** A parcel of land of one or more continuous lots owned, leased or controlled by one or more person.

**PROHIBITED ANIMALS.** A dangerous wild animal not normally considered domesticated, including, but not limited to, venomous lizard, poisonous snakes, boa, python, constricting snakes, raccoon, skunk, fox, bear, elephant, kangaroo, monkey, chimpanzee, antelope, deer, lions, tigers, ocelots, cougars, leopards, cheetahs, jaguars, bobcats, servals, caracals, hyenas, coyotes, jackals, orangutan, gorillas, baboons, or any other wild animal capable of or inclined to do serious bodily harm to humans or other animals or fowl.

**PUBLIC NUISANCE ANIMAL.** Any animal that unreasonably disturbs humans, endangers the life or health of other animals or humans, or substantially interferes with the rights of citizens, other than their owners, to the enjoyment of life and property. The term *PUBLIC NUISANCE ANIMAL* shall include, but is not limited to, any animal that:

1. Is repeatedly found at large;
2. Damages the property of anyone other than its owner;
3. Molests or intimidates pedestrians or passersby;
4. Chases vehicles;
5. 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;
6. Causes fouling of the air by odor and thereby creates unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
7. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
8. Attacks other domestic animals; or
9. Damages, soils, defiles or defecates 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.

**SECURE ENCLOSURE.** A fenced area or structure that is:

1. Locked;
2. Capable of preventing the entry of the general public, including children;
2. Capable of preventing the escape of a dog;
4. Clearly marked as containing a dangerous dog; or
5. In conformance with the requirements for secure enclosures as established within Section 15 of this ordinance.

**STRAY.** To wander unrestrained upon a public place or upon property belonging to a person other than the owner of the animal.

**UNPROVOKED.** With respect to an attack by a dog: 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.

**VACCINATION.** An injection of any vaccine for rabies approved by the state Department of Health and administered or supervised by a licensed veterinarian.

**VICIOUS ANIMAL.** Any animal, other than a dangerous dog, which bites, scratches, or otherwise threatens to bite or scratch any person while such person is on property other than that of the owner or keeper of such animal.

## **SECTION 2. ENFORCEMENT OFFICER.**

The Animal Control Officer, health authority, or any police officer shall have the authority to issue citations for any violation of this chapter. It shall be unlawful for any person, upon being issued a citation, to intentionally or knowingly give the Animal Control Officer, health authority or any police officer other than his true name and address. It shall be unlawful to intentionally or knowingly fail to appear in accordance with the terms of a citation issued by the Animal Control Officer, health authority or any police officer. If the person being cited is not present, the Animal Control Officer, health authority, or any police officer may send the citation to the alleged offender by certified mail, or registered mail, return receipts requested, whereupon service shall be deemed completed. It shall be unlawful for any person to intentionally or knowingly interfere with the Animal Control Officer, health authority, or any police officer in the performance of his duties. The Animal Control Officer, health authority, or any police officer shall have the right to ingress and egress on private property for the purpose of apprehending an animal at large.

## **SECTION 3. AUTHORITY TO EUTHANIZE.**

The Animal Control Officer, health authority or any police officer shall have the authority to humanely euthanize animals, by the provision of the state penal code or any applicable state law.

## **SECTION 4. PUBLIC NUISANCE ANIMALS.**

(A) *Animals creating disturbances.* It shall be unlawful for any person to keep or harbor on his premises or elsewhere any animal or fowl of any kind that makes or creates an unreasonable disturbance of the neighbors or the occupants of adjacent premises or persons living in the vicinity thereof, or permit such animal to make or create disturbing noises by howling, barking, crowing, bawling or otherwise.

(B) *Animals emitting odors.* It shall be unlawful for any person to maintain any animal or fowl in such a manner that residents of adjacent or nearby property are subject to obnoxious odors. All persons keeping animals shall keep their premises clean and free from obnoxious odors as well as flies, mosquitoes and other insects.

(C) *Animals trespassing, attacking or damaging property.* It shall be unlawful for any person to maintain any animal in any area which constitutes a nuisance by reason of repeated trespassing on public or private property, attacks on other animals or damage to public or private property.

## **SECTION 5. CONFINEMENT AND ABANDONMENT OF ANIMALS.**

(A) *Confinement of animals by individuals.* If a stray animal is found upon the premises of another, the occupant of the premises may confine the animal only for so long as is reasonably necessary, to notify the Animal Control Officer/Police Officer and have the animal impounded. In attempting to confine the animal, the occupant shall not use any force that is intended to be known by the occupant to cause, or in manner of its use is capable of causing, death or injury to the animal.

(B) *Abandonment of animals.* It shall be unlawful for any person to abandon any animal within the corporate limits of the city.

(C) *Confinement of animals in vehicles.* It shall be unlawful for any person to confine, or

allow to be confined, any animal in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health or well-being of the animal due to heat, lack of food or water or any other circumstance which may cause suffering, disability or death of the animal.

(D) *Inspection of premises where animals are kept.* Premises where livestock, fowl or pets are kept or maintained shall be subject to inspections, upon receiving a complaint, by the Animal Control Officer/ Police Department, at any reasonable hour of the day while in the presence of the owner.

## **SECTION 6. CRUELTY TO ANIMALS.**

(A) A person commits an offense if he:

- (1) Tortures or seriously overworks an animal;
- (2) Fails unreasonably to provide necessary food, care or shelter for an animal in custody;
- (3) Abandons an animal in his custody;
- (4) Transports or confines an animal in a cruel manner;
- (5) Kills, injures or administers poison to an animal belonging to another without legal authority or the owner's effective consent;
- (6) Causes one animal to fight with another;
- (7) Uses a live animal as a lure in a dog race training or in dog coursing on a racetrack;
- (8) Unnecessarily trips, in the case of a horse.

(B) *Investigation; warrants; hearing.* The Animal Control Officer/Police Department shall investigate all reported cases of possible cruelty to animals. If the Animal Control Officer/ Police Officer finds evidence which leads him to believe that the animal has been or is being treated cruelly, they shall request the municipal court judge to issue a warrant to seize the animal. A date and time for a hearing to determine if the animal was cruelly treated shall be set within ten days of the seizure, and the owner of the animal shall be notified, in writing, of such hearing. If at the hearing, it is determined that the animal was treated cruelly, the court shall order the animal to be:

- (1) Transferred to an Animal Shelter;
- (2) Given to a nonprofit animal shelter or organization; or
- (3) Humanely destroyed.

(C) If cruelty is determined, the owner shall be denied further custody of the animal. If cruelty is not proven, the court shall order the animal returned to the owner. If returned to the owner, no fees can be charged.

(D) A person who knowingly or intentionally commits an act of cruelty to animals may be prosecuted in a county court. An offense under this section is a class A misdemeanor.

## **SECTION 7. DISPOSAL OF DEAD ANIMALS.**

It shall be the responsibility of the owners of livestock to properly dispose of all dead animals within a 24-hour period. It shall be the responsibility of the animal owner or property owner to dispose of dead dogs, cats, and the like owned by him or on his premises within six hours.

## **SECTION 8. FILING OF COMPLAINTS.**

(A) Any citizen, firm or corporation believing any provision of this chapter to have been violated

by a citizen may file a written complaint with the court.

(B) Any citizen, firm or corporation believing any provision of this chapter to have been violated by an Animal Control Officer, Police Officer or other city employee may file a written complaint with the City Secretary. It shall then be the duty of the employee's immediate supervisor to investigate such complaint and act as necessary on the results of that investigation.

#### **SECTION 9. FIGHTING OF DOGS UPON EXHIBITION.**

(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 dogfighting;
- (4) Uses or permits another to use any real estate, building, room, tent, arena or other property for dogfighting;
- (5) Owns or trains a dog with the intent that the dog be used in an exhibition of dogfighting;  
or
- (6) Attends as a spectator an exhibition of dogfighting.

(B) In this section, the term *DOG FIGHTING* means any situation in which one dog attacks or fights with another dog.

(C) A conviction under division (A)(1) of this section may be had upon the uncorroborated testimony of a party to the offense.

(D) It is a defense to prosecution that the person 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.

#### **SECTION 10. PROCEDURE FOR KEEPING OF DOGS WHICH HAVE BITTEN PERSONS.**

(A) When any currently vaccinated dog has bitten, scratched or otherwise attacked a person, that person or anyone having knowledge of such incident shall immediately notify the Animal Control Officer/Police officer and such dog shall be confined for a period of ten days at a veterinary hospital of the owners choice or an approved Animal Shelter at the expense of the owner.

(B) Such dog shall, during such a period of confinement, be subject to inspection by the Animal Control Officer/Police Officer, or a licensed veterinarian. If, after the ten-day period, the owner fails to pick up the animal, the owner is notified and granted five additional days to pick up the animal. After this time limit, the Animal Control Officer/Police Officer can then release the animal for adoption or disposal.

(C) When any animal other than a currently vaccinated dog has bitten, scratched or otherwise attacked a person, the above regulations apply, as well as additional time required for the length of the quarantine period, determined by species of the animal, as required by state law.

(D) An exception to these requirements is if the animal in question has a valid and current rabies vaccination, the owner may be allowed to secure the animal on his property if the owner can provide secure and adequate facilities for confinement as approved by the Animal Control Officer/ Police Officer, and provided that the animal be inspected by a veterinarian at the end of the quarantine period or at any time the animal shows symptoms of rabies.

#### **SECTION 11. DOGS AT LARGE**

(A) Any person owning, possessing or keeping animals within the city, whether vaccinated or

unvaccinated, licensed or unlicensed, shall confine such animals within an adequate fence or enclosure or within a house, garage or other building, or shall keep such animals confined by leash or chain affixed to the animal's collar and under the control of a person, and adequate to prevent the animals from running at large.

(B) Retractable leashes must be locked at a distance of four feet or less when in the immediate proximity of a passerby either on foot or on a non-motorized vehicle.

## **SECTION 12. IMPOUNDING DOGS.**

The Animal Control Officer/Police Officer may take into custody any dog found at large within the city, and shall impound the dog in an animal shelter or other such place as may be designated for purposes of impoundment to keep and properly care for all dogs impounded. Such impounded dog shall be held for a period of three days. At the end of this time, if the dog has not been claimed and the proper fees paid to the place of impoundment, the dog shall be released for adoption or humanely destroyed.

## **SECTION 13. RABID OR DANGEROUS DOG MAY BE DESTROYED.**

The Animal Control Officer or any law enforcement officer shall have the right to shoot or kill any rabid dog or dangerous dog in the streets which shall manifest a disposition to bite or render itself inaccessible to impounding.

## **SECTION 14. VICIOUS DOGS.**

(A) *VICIOUS DOG* means that a determination that a dog is a *VICIOUS DOG* may be found upon the filing of appropriate affidavits with the Animal Control Officer and/or Police Department by affected or interested persons and the attending physician or veterinarian, where appropriate, attesting to the occurrence of the following acts:

(1) That on at least two separate occasions, a dog has bitten or scratched a person in the city;

(2) That on at least one occasion, a dog has bitten or scratched a person to an extent that the attending physician has presented a signed affidavit to the Animal Control Officer and/or Police Department stating that the person's life may have been endangered by such dog; or

(3) That on at least one occasion, a dog, while running at large, has killed another dog, cat or other domestic pet, fowl or livestock or has seriously injured another such animal to an extent that the attending veterinarian has presented a signed affidavit to the Animal Control Officer and/or Police Department stating that the injured animal's life was seriously endangered or taken by such dog, or that such dog caused a significant permanent impairment of the injured animal's basic bodily functions or mobility; provided, however, that when the incident occurred, the killed or injured animal was not in violation of any provisions of this code concerning the confinement or physical control of dogs, fowl, livestock or other animals in the city.

(4) That the person and dog, cat or other domestic pet, fowl or livestock so attacked was not at the time trespassing on the property of the owner or person having control of such dog, or if it cannot be proved beyond a reasonable doubt that the person, dog, cat or other domestic pet, fowl or livestock so attacked was provoking or teasing such dog, the Municipal Court shall have the authority to order and hold a hearing; and if the court shall determine at the hearing that the subject dog is vicious or dangerous to other persons, dogs, cats or other domestic pets, fowl or livestock, the court may order that such animal be kept muzzled, and/or kept within a sufficient enclosure, or be ordered to remove the dog from the city limits or that such dog be delivered to the Animal Control Officer/Police Officer to be destroyed.

(B) *Private property.* Reasonable measures shall be taken by the owner, handler or keeper of any dog kept on private property to protect the public from accidental contact with any dog which,

by its very nature or by training, has propensities to be a vicious dog as defined in this section.

(C) *Public places.* It shall be unlawful for any owner or person in control of any vicious dog to keep or permit the same in and about any public house, public place, street or alley in the city.

## SECTION 15. DANGEROUS DOG

**As a public safety requirement, it shall be unlawful for any person to keep or harbor any dangerous dog within the corporate limits of the city without complying with Tex. Health & Safety Code §§ 822.041 - 822.047.**

(A) A *DANGEROUS DOG* is a dog which:

(1) Makes an unprovoked attack on a person that causes bodily injury which would cause a reasonable person to seek medical treatment whether or not that care was actually sought and occurs in a place other than a secure enclosure in which the dog was being kept which was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) Commits unprovoked acts in a place other than a secure enclosure in which the dog was being kept which was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or

(3) Is accustomed to run, worry or kill goats, sheep or water fowl or other animals considered to be property; or

(4) Makes an unprovoked attack on another dog causing injury which would cause a reasonable person to seek veterinary care whether or not that care was actually sought.

(B) *Investigation.* When a person reports a dangerous dog to the Animal Control Officer or the Police Department, the authority shall investigate the complaint and notify the owner of the report. Any complaint filed concerning a dangerous dog shall contain a sworn, written statement to the city's Animal Control Officer/Police Officer with the following information:

(1) Complainant's and witness' names, address and telephone numbers;

(2) Dates, times and locations of incidents involving the dog;

(3) Dog's description;

(4) Dog owner's name; address and telephone number, if available;

(5) A statement regarding the facts of the complaint;

(6) A statement of the dog's exhibited dangerous propensities in past conduct, if known;

and

(7) Other facts and circumstances concerning the incident.

(C) *Declaration.* Based on the findings of an investigation regarding a suspected dangerous dog, the investigating officer shall make a determination to:

(1) Declare the animal dangerous and notify the owner of that fact; or

(2) Request a hearing before the court and notify the owner of such hearings;

(3) Close the case, citing insufficient evidence to conclusively deem the animal dangerous at this time; however, closing the case shall not prevent the case from being reopened in the future.

(D) *Notification.* After a sworn complaint has been filed and an investigation has been completed, if the Animal Control Officer and/or Police Officer determines that the dog which is the

subject of the investigation is a dangerous dog, the Animal Control Officer/Police Officer will notify the animal's owner by certified mail, return receipt requested, that a determination has been made that the dog is a dangerous dog. In lieu of notice by certified mail, the Animal Control Officer/Police Officer may elect to have the notice personally served by a police officer of the city. The following information shall be included in the notice:

(1) The owner has the right to appeal the decision of the Animal Control Officer and/or Police Officer to the municipal court and that such appeal must be filed, in writing, not later than the fifteenth day after the date the owner is notified.

(2) The owner may appeal that decision of the municipal court in the same manner as appeal for other civil cases. The intent to file a second appeal must be made, in writing, to the court within 24 hours of the conclusion of the first appeal.

(E) *Appeals.* The owner may appeal the determination of the Animal Control Officer and/or Police Officer to the Municipal Court within 15 days of the determination for a hearing de novo. If the Municipal Court Clerk receives a written appeal notice within 15 days of the determination notice, the Animal Control Officer's or Police Officers determination that the dog should be considered a dangerous dog shall be suspended pending the Municipal Court judge's final decision. The Animal Control Officer and/or Police Officer or a representative shall furnish the Municipal Court judge with all reports, memoranda' and other tangible evidence received by the Animal Control Authority or Police Department, as well as a summary of the evidence and the Animal Control Officer's or Police Officer's findings. The Municipal Court judge's decision will be made by a de novo hearing with the appeal of such judgment being in the same manner as in other civil cases. Each day following will constitute a violation of the chapter if the owner fails to comply with state law requirements for dangerous dogs. The Municipal Court judge may also require the attendance of the complainant, any known witnesses, the animal owner against whom the complaint was filed and the Animal Control Officer or Police Officer or his representative.

(F) *Necessary impoundment.*

(1) *Warrant to seize.* If the Animal Control Officer or Police Officer determines that any dog which cannot be sufficiently contained by the owner during the process of appeal, the Animal Control Officer or Police Officer may seek a warrant to seize the animal from the Municipal Court.

(2) *Hearing.* An owner whose animal has been seized by Animal Control or the Police Department shall be entitled to a hearing, to be held not later than the tenth day after the date on which the animal was seized. This hearing shall be held in the court issuing the warrant and shall be for the purpose of appealing the dangerous dog declaration.

(G) *Redemption.*

(1) A dog which has been seized by animal control or the police department and declared dangerous and that declaration has been upheld by the courts shall be returned to the owner if the owner has met all criteria, paid all fees and has established a secure enclosure in which to house the dog which complies with regulations set forth by the chapter.

(2) If the determination that the animal is dangerous has been reversed through appeal by a court of competent jurisdiction, the dog shall be returned to its owner. In this case, no fees will be charged to the owner.

(3) Should the owner file a second appeal, the dog shall remain impounded until the conclusion of that appearance. The intent to file must be made in writing within 24 hours of the conclusion of the first appeal hearing.

(4) No dog shall be returned to the owner once an order has been received by the courts to destroy the animal.

(H) *Requirements for owners.*

(1) For purposes of this section, a person learns that he or she is the owner of a dangerous dog when:

(a) The owner knows of an attack described in divisions (A)(1) through (A)(4) of this section; or

(b) The owner receives notice that a justice court or municipal court has found that the dog is a dangerous dog under Tex. Health & Safety Code, § 822.0423; or

(c) The owner is informed by an Animal Control Officer or Police Officer that the dog is a dangerous dog.

(2) Not later than the thirtieth day after a person learns that the person is the owner of a dangerous dog, the person shall:

(a) Register the dangerous dog with the animal control authority or police department for the area in which the dog is kept; and

(b) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept.

(3) No person shall knowingly sell, offer for sale, breed, attempt to buy or train a dangerous dog within the city.

(4) The pen, cage or enclosure for a dangerous dog must have secure sides a minimum of eight feet in height, a secure top attached to the sides and a secure bottom or floor which is either attached to the sides or the sides of the structure must be embedded in the ground no less than two feet.

(5) The dangerous dog shall be controlled at all times on a leash in the immediate control of a responsible person when not within a secure enclosure.

(6) No person shall remove a dog that has been declared dangerous to another jurisdiction without the prior knowledge and approval of the animal control authority for the area in which the dog was declared dangerous.

*(I) Registration.*

(1) The animal control authority or police department for the area in which the dog is kept shall annually register a dangerous dog if the owner presents proof of liability insurance or financial responsibility, as required; proof of current rabies vaccination of the dangerous dog; two color photographs of the dangerous dog; two color photographs of the secure enclosure in which the dangerous dog will be kept; and pays an annual registration fee in the amount of \$50.00.

(2) If an owner of a registered dangerous dog moves to a new address, the owner, not later than the fourteenth day after the date of the move, shall notify the animal control authority for the area in which the new address is located.

(3) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

*(J) Subsequent attacks.*

(1) A person commits an offense if the person is the owner of a declared dangerous dog and the dog makes an unprovoked attack on another person or animal outside the dog's secure enclosure and causes bodily injury to the other person or animal.

(2) An offense under this section is a class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a class A misdemeanor.

(3) If a person is found guilty of an offense under this section, the court may order the declared dangerous dog destroyed by the animal control authority.

(4) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having civil jurisdiction in the county or an attorney for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this division shall be retained by the county or municipality .

(K) *Violations.*

(1) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with the insurance or financial responsibility requirements of this section.

(2) An offense under this section is subject to a fine of up to \$2,000 if it is shown at the trial of the offense that the defendant has previously been convicted under this section. *Statutory reference: Dangerous dogs, see Tex. Health & Safety Code, § 822.041 et seq.*

## SECTION 16. RABIES CONTROL

(A) *Reporting of Known or Suspected Rabies Cases Required.* Any person having knowledge of the existence of any animal known to have been, or suspected of being, exposed to rabies or having knowledge of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies must immediately report such knowledge or incident to the Animal Control Officer, health authority or any police officer, and in no case longer than 24 hours from the time of the incident.

(B) *Authority to Quarantine.* The Animal Control Officer or any police officer shall have the authority to order the quarantine of animals responsible for bite incidents or suspected of having any zoonotic disease considered to be a hazard to human population or other animals. Any animal having rabies or symptoms of rabies, suspected of having rabies, or which have been exposed to rabies, shall be immediately released by the owner for quarantined confinement in the city shelter or in a veterinary hospital approved by the city.

(C) *Animals subject to quarantine for biting.*

(1) When a dog or cat which has bitten or scratched a human or attacks another animal has been identified, the owner shall be required to produce the animal for ten days confinement to determine whether such dog or cat has been exposed to rabies. Any unclaimed animal may be destroyed for rabies diagnosis prior to the end of this observation period. The dog or cat may be released from quarantine if a veterinarian determines that the animal does not show the clinical signs of rabies; provided, the owner has paid all reasonable costs associated with the quarantining. Refusal to produce such animal is a misdemeanor and each day of such refusal constitutes a separate and individual violation.

(2) No animal which has a high probability of transmitting rabies, including skunks, bats, foxes and raccoons, will be placed in quarantine for observation. All such animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a laboratory certified by the state Department of Health for rabies diagnosis.

(3) The health authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations to the face, head, or neck of a person to be humanely killed and the brain tested for rabies.

(D) *Disposition of Animals Exposed to Rabies.*

(1) *Domestic animals.*

(a) Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal should be humanely destroyed or if sufficient justification for preserving the animal exists, the exposed vaccinated animal should be immediately given a booster rabies vaccination and placed in strict isolation for 45 days. Unvaccinated animals shall be immediately given a rabies vaccination and placed in strict isolation for 90 days and given booster vaccinations during the third and eighth weeks of isolation. If the unvaccinated animal is under three months of age at the time of the second vaccination, an additional booster should be given when the animal reaches three months of age.

(b) If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, it may be released to the owner prior to or upon expiration of the quarantine period; provided, the owner has paid all of the reasonable costs of such quarantine and any veterinarian bills. However, if the quarantined animal shows the clinical sign of the disease of rabies, the animal shall be humanely destroyed and its head or brain submitted to the nearest laboratory certified by the state Department of Health for rabies diagnosis.

(2) *Wild or exotic animals.* No wild or exotic animal will be placed in quarantine. All wild or exotic animals will be humanely destroyed in such a manner that the brain is not mutilated. The brain will then be submitted to a laboratory certified for rabies diagnosis in order to be tested.

(3) *Quarantining facilities.* Any animal to be placed in quarantine must be placed in an animal control facility approved by the state Department of Health as directed by the health authority. However, the owner of the animal may request permission for home quarantine if the following criteria can be met:

(1) Secure facilities must be available at the home of the animal's owner and must be approved by a licensed veterinarian.

(2) The animal is currently vaccinated against rabies.

(3) A licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the municipality and veterinarian must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be provided in writing by the attending veterinarian and approved by the municipality.

(4) The animal was not stray at the time of the bite incident.

(5) If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a laboratory certified by the state Department of Health for rabies diagnosis.

(E) *Vaccination Required.*

The owner or custodian of each domestic dog or cat shall have the animal vaccinated against rabies by four months of age. The animal must receive a booster within the twelve month interval following the initial vaccination. Every domestic dog or cat must be revaccinated against rabies at a minimum of at least once every three years with a rabies vaccine licensed by the United States Department of Agricultural. The vaccine must be administered according to label recommendations. Any person moving into the municipality shall comply with this requirement within ten days after having moved into the municipality.

(F) *Vaccination Certificate and Tag*

(1) Rabies vaccinations shall only be given by duly licensed and practicing veterinarian and upon vaccination, the veterinarian shall execute and furnish a certificate to the owner of the dog or cat as evidence of such vaccination. Such certificate shall contain at least the following information:

- (a) Owner's name, address and telephone number;
- (b) The date of the vaccination;
- (c) The type of rabies vaccine used, producer, expiration date and serial number;
- (d) The year and number of the rabies tag; and
- (e) A description of the dog or cat.

(2) Concurrent with the issuance and delivery of the certificate of vaccination, the veterinarian shall also issue a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance and the name of the issuing veterinarian and his or her address. The owner of such dog or cat shall cause the metal vaccination tag to be attached to a collar to be worn by his or her dog or cat at all times.

#### **SECTION 17. KEEPING EXOTIC OR DANGEROUS WILD ANIMALS AND POISONOUS REPTILES PROHIBITED.**

It shall be unlawful to harbor, keep, or maintain and wild or exotic animals, including but not limited to, a lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, gorilla, lesser panda, binturong, wolf, ape, elephant, rhinoceros, or any hybrid of an animal listed, or poisonous reptiles with the city limits.

#### **SECTION 18. LIVESTOCK AND SWINE**

- (A) *Swine Prohibited.* It shall be unlawful for any person to keep, cause to be kept, maintain or have, for any purpose whatsoever, any swine other than potbellied pigs within the city limits of Tioga.
- (B) *Stock pens prohibited.* The keeping, maintaining or operation of any stock pen within the city limits of Tioga, Texas wherein any livestock are enclosed or kept in any kind of enclosure for the purpose of being fed and placed in condition to be sold on the market, or for any other purpose except for domestic or dairy purposes is hereby made unlawful and declared to be a nuisance.
- (C) *Fencing Required.* It shall be unlawful for any person to keep on premises under his control any livestock without providing adequate fences or barriers that will prevent such livestock from damaging shrubbery or other property situated on adjacent property. Such fences or barriers must also be sufficient to prevent the animals from escaping.
- (D) *Maintenance of Premises.* All premises upon which livestock are kept must be kept in a clean and sanitary manner. It shall be unlawful for the owner, harbinger, keeper, person in charge or in control of any premises upon which is located or maintained any barn, corral, pen, or other enclosure for the keeping of livestock to fail to keep the premises free and clear from all stagnant water, slops, filth, manure, odors, mire, and unsanitary or unsightly conditions so that the same shall not become foul or offensive to the adjacent neighbors or dangerous to the public health.
- (E) *Running At Large Prohibited.* It shall be the duty of the Animal Control Officer/Police Officer to cause to be confined any and all horses, mules, jacks, jennets, cattle, sheep, goats, and swine that may be found running at large upon any street, alley, or other public place in the municipality and cause the same to be placed and kept in a secure enclosure to be provided for that purpose until the same are disposed of in the manner hereinafter provided. He or she shall immediately after confining such animal notify the owner thereof, if known to him or her, or post written notices at three or more public places in the municipality, describing therein the marks, brands, color, and other description of such

animal and giving notice that the same will be sold five days after the date of such notice unless the owner shall come forward and reclaim the same.

## **SECTION 19. IMPOUNDMENT OF ANIMALS**

### **IMPOUNDMENT OF ANIMALS GENERALLY.**

(A) Any animal found in violation of any provision of this chapter or any animal that is treated in a cruel or inhumane manner may be impounded by the municipality and placed in an animal shelter or veterinary hospital. Any such animal shall be held for at least three days, before any measure of disposition of such animal shall be taken. Unless there is reason to believe that it has an owner, any impounded animal, dangerous or wild, may be immediately disposed of as may be deemed appropriate.

(B) A reasonable effort will be made by the Animal Control Officer/Police Officer to contact the owner of any impounded animal which is wearing a license tag. However, the ultimate responsibility for location of an impounded animal is that of the owner.

### **RECLAIMING IMPOUNDED ANIMAL; FEES.**

(A) The owner of any dog or cat impounded may redeem such dog or cat at any time prior to the sale or destruction by the payment of any fees charged by the Animal Shelter or place of impoundment. At any time after the expiration of the period of time for redemption of impounded dogs or cats as herein provided, the Animal Control Officer or any of his or her deputies or a police officer, without further notice or without advertising in any manner, shall sell at private sale or public auction any dog or cat not redeemed or reclaimed. All dogs or cats impounded and not redeemed, reclaimed, or sold after the period of time for redemption has expired shall be destroyed by the Animal Control Officer or any of his or her deputies or a police officer.

(B) The owner of any livestock, swine, or other animal impounded may redeem such animal at any time prior to sale or destruction by the payment of any fees charged by the Animal Shelter or place of impoundment, plus any feeding or other expenses incurred during the impoundment.

(C) The disposition of any animals impounded on grounds of cruel or inhumane treatment shall be determined by the court of jurisdiction.

(D) It shall be the duty of the Animal Control Officer, or any of his or her deputies, or any police officer to remit all moneys collected under the terms of this chapter to the Municipal Secretary.

### **UNCLAIMED ANIMALS.**

(A) *Dogs.* If not redeemed within six days from the date of impounding, a licensed dog shall be disposed of by sale or destruction. If there is no license tag for the current year attached to any dog impounded and if such dog has not been redeemed by its owner within three days from the time of impounding, such dog shall be destroyed or sold.

(B) *Livestock and swine.* Any livestock or swine found running at large within the municipality may be sold if not redeemed within five days.

(C) *Other animals.* Any other animal, except dangerous and wild animals, not reclaimed by the owner may be humanely euthanized after being impounded for three days.

(D) *Wild animals.* Wild animals may be taken to some point which is a substantial distance from the municipality and released into the wild or may be humanely euthanized at the discretion of the Animal Control Officer.

(E) *Generally.* Any impounded animal may be given up for adoption or given to a nonprofit humane organization after the impoundment period. Any person desiring to adopt an impounded animal shall pay the daily impoundment fee and licensing and rabies vaccination fees, if required, prior to the release of the animal.

**SECTION 20. PENALTY FOR VIOLATION OF ORDINANCE.**

Any person, firm or corporation violating any provisions or terms of this ordinance shall, upon conviction, be subject to a fine of not less than \$10.00 nor more than \$500.00, and shall further be subject to civil penalties pursuant to Tex. Loc. Gov't Code § 54.017.

**SECTION 21.**

If any Section or part of any Section or paragraph of this Ordinance is declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other Section or Sections or part of a Section or paragraph for this Ordinance.

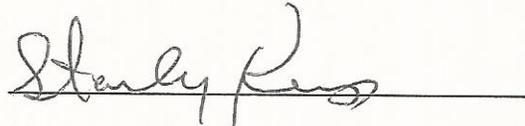
**SECTION 22.**

The City Council of the City of Tioga declares that this Ordinance be in full force and effect after its passage.

**SECTION 23.**

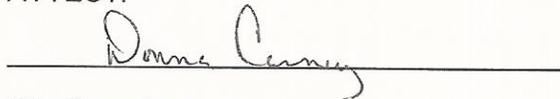
All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

PASSED ON THIS 12<sup>th</sup> DAY OF SEPTEMBER, 2011.



Mayor

ATTEST:



City Secretary