

## **CHAPTER 3**

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### **SECTION 3.01 DEFINITIONS**

Unless otherwise expressly stated, the following terms shall, for the purposes of this Chapter, have the meanings indicated in this Section:

"Animal" shall mean a warm blooded animal.

"Animal Service Center" shall mean a location approved by the city to board, house, care for, impound, quarantine, or for any other circumstances which the city finds necessary.

"Animal Control Facility" shall mean a facility for impounding and quarantining cats and dogs that meets the structural and sanitary requirements established by the Texas Board of Health.

"At large" shall mean:

1. On Premises of Owner – Any dog not confined to the premises of the owner by electronic means or physical means of sufficient height, strength, length, and/or manner of construction to preclude the dog from leaving the premises of the owner. (Ord. No. 2010-07, 10/21/2010)
2. Off Premises of Owner – Any dog which is not physically and continually restrained by use of a leash or chain of proper strength and length that precludes the dog from making any unsolicited contact with any person, their clothing, their property, and/or their premises; provided, however, that any dog confined within a cage, automobile, truck, or any other vehicle of its owner shall not be deemed at large. (Ord. No. 2010-07, 10/21/2010)

"Bodily Injury" shall mean injury to a human or animal which produces pain, trauma, loss of blood or tissue, or other injury to the injured human or animal, and which further causes or reasonably should cause a human or injured animal to seek medical treatment, and shall include injury resulting from the victim, whether human or animal, attempting to escape or prevent contact with the injuring animal(s).

"Control" shall mean leashed, penned, housed, held, electronic restraints or sheltered in a closed structure.

"Court" shall mean the Municipal Court of the City of Olmos Park, Bexar County, Texas.

"Cat" shall mean both male and female of the species, *Felis catus*.

"Dog" shall mean both male and female of the species *Canis familiaris*.

"Domestic Animal" shall mean dogs or cats.

"Euthanize" shall mean to cause the death of an animal by a method which:

1. Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
2. Utilizes anesthesia produced by an agent which causes painless loss of consciousness and death following such loss of consciousness.

"Habitation" shall mean a building or structure that is used or designed to be used for the overnight accommodation of human beings and includes each separately secured or occupied portion of the structure and each structure or building connected with the structure.

"Harboring" shall mean the act of keeping and caring for an animal or of providing a premise to which the animal returns for food, shelter or care for a period of two (2) days or longer.

"He" "his" and "him" are not intended to be gender-specific, but are used for convenience only, and refer to an individual of any gender.

"Impound" shall mean to take into custody or to place in the Animal Services Center of the City or other authorized confinement area.

"Manager" shall mean the Animal Services Manager or his designee.

"Observation Period" shall mean the ten (10) days following a bite or scratch of a human by a mammal, during which the mammal's health status must be monitored.

"Other Animal" shall mean any other animal allowed which is not prohibited by city code.

"Owner" shall mean any person or persons, firm, association, partnership or corporation, owning, keeping or harboring any animal or animals.

"Premises" shall mean a tract of land and the buildings thereon.

"Primary Enclosure" shall mean any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment or hutch.

"Quarantine Period" shall mean that portion of the observation period during which a biting or scratching mammal is physically confined for observation.

"Stray" shall mean any other animal, other than a cat running free, with no physical restraint, beyond the premises of the owner, and without a valid and current rabies vaccination tag, without an animal license tag or other form of Identification.

"Support Dog" means a dog that is specifically trained or equipped to help a disabled person. This shall include the following:

"Guide Dog" - A dog trained to assist a visually impaired person.

"Hearing Dog" - A dog trained to alert a hearing impaired person to certain sounds.

"Service Dog" - A dog trained to assist a physically disabled person.

In addition, the dog must:

1. Be used by a disabled person who has satisfactorily completed a specific course of training in the use of the dog; and
2. Have been trained by a recognized organization involved in the rehabilitation of the disabled as reputable and competent to provide dogs with this type of training; and
3. Must carry an identification badge that identifies the agency that trained the dog. This badge must be attached to the dog at all times by means of a collar, harness or backpack.

"Un-owned animal" shall mean any animal for which an owner has not been identified.

"Unreasonable odor" shall mean the emission of a smell that is foul or offensive to a person of normal sensibilities

"Vaccination" shall mean an injection of a vaccine for rabies, approved by the State Veterinarian, and administered by a veterinarian licensed by the State of Texas Board of Veterinary Medical Examiners.

### **SECTION 3.02 ESTABLISHMENT OF OFFICE OF ANIMAL SERVICES MANAGER**

- A. The Chief of Police shall be and is hereby designated the Animal Services Manager for the City of Olmos Park.
- B. The Animal Services Manager shall act as the local health authority for the purposes of Chapter 826 of the Health and Safety Code of the State of Texas.
- C. The Animal Services Manager shall have the authority to appoint deputies or designees to assist him in the carrying out of his duties. Such deputies or designees shall be animal service officers of the City of Olmos Park

### **SECTION 3.03 DUTIES OF ANIMAL SERVICES MANAGER**

It shall be the duty of the Animal Services Manager and his deputies to administer and enforce all laws and regulations of the State of Texas and the City of Olmos Park pertaining to animals which authorize the local health authority or Animal Services Officers to enforce the same.

### **SECTION 3.04 AUTHORITY TO IMPOUND, EUTHANIZE, OR DESTROY ANIMALS**

In addition to the authority to impound, euthanize, or destroy animals as otherwise granted in this Chapter, the Animal Services Manager, his deputies and any peace officers are authorized to:

- A. Destroy an animal which poses an imminent danger to a person or property or a real or apparent immediate necessity exists for destruction of the animal;
- B. Impound an animal which is diseased or endangers the health of a person or another animal, or is at large;
- C. Euthanize an impounded animal at the Animal Services Center if the Manager determines that recovery of the animal from injury, disease, or sickness is unlikely; and
- D. Destroy any animal suspected of having rabies when such animal is found at large, after having made a reasonable but unsuccessful effort to capture the animal.

### **SECTION 3.05 ANIMAL NUISANCES**

The following shall constitute public nuisances when caused, allowed, maintained or suffered to exist within the corporate limits of the City of Olmos Park:

- A. Any at large animal;
- B. Any dog or cat over four (4) months of age that is not currently licensed with the City of Olmos Park and currently vaccinated against rabies;
- C. Any dog that is barking or whining with such intensity and with such continued duration, so as to annoy, distress or disturb the quiet comfort or repose of persons of normal nervous sensibilities;
- D. Any animal attacking, biting or injuring other animals or human beings without provocation;
- E. Any animal that damages or destroys property;
- F. An owner who permits animal waste to collect on his premises where an odor is produced and causes an offensive smell that is foul or offensive to a person of normal sensibilities

### **SECTION 3.06 LICENSE AND VACCINATION REQUIRED**

- A. A person commits an offense if he owns any dog, cat or ferret over four (4) months of age without having such dog, cat or ferret currently vaccinated against rabies.
- B. A person commits an offense if he owns any dog, cat or other animal over four (4) months of age without having such dog, cat or other animal currently licensed with the City of Olmos Park.
- C. A person who owns a dog commits an offense if he fails to display on such dog both a current rabies vaccination tag furnished by a veterinarian and a current license tag furnished by the City of Olmos Park.

- D. Each animal in violation of this section is a separate offense.
- E. Each day an animal is in violation of this section is a separate offense.

### **SECTION 3.07 ISSUANCE OF LICENSE**

- A. Written application for a dog or cat license and payment of the applicable annual license fee shall be made to the Animal Services Manager. The application shall include:
  - 1. The name, telephone number and address of the applicant;
  - 2. A description of the animal, including name, breed, color, gender and age;
  - 3. A currently valid rabies certificate issued by a licensed veterinarian showing that said dog or cat has been vaccinated within the preceding twelve (12) months or thirty-six (36) months ( depending on type of vaccination).
- B. The annual license fee shall be at an amount set by resolution of the City Council.
- C. Support dogs which are professionally and specifically trained to assist disabled owners shall be exempt from the license fee.
- D. If not revoked, such license will be effective for a period of one (1) year.
- E. Upon acceptance of the license application, the Animal Services Manager shall issue the owner a metal license tag stamped with an identifying number for the dog or cat. The Animal Services Manager shall also issue the owner a license certificate which identifies the animal by age, gender, breed, color, name and owner, and which states the dates of issuance and expiration of the license.
- F. In the event a license tag or license certificate is lost, the owner may obtain a duplicate tag or certificate after paying the applicable fee.

### **SECTION 3.08 IMPOUNDMENT**

- A. Any dog or cat may be impounded by the Animal Services Manager or his designee in any of the following circumstances:
  - 1. Any dog running at large stray in the City of Olmos Park;
  - 2. Any dog not having affixed to and wearing on a collar or harness a valid City license tag and a tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies;
  - 3. Any dog or cat whose license has been revoked;
  - 4. A dog or cat that is suspected of having inflicted bodily injury on any human being or animal, or poses a threat to public safety; or
  - 5. A dog or cat that has rabies or symptoms thereof, or that a person could suspect as having rabies, or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal.
- B. Disposition of Impounded dogs and cats:
  - 1. If any dog or cat impounded under this Section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall be placed for adoption or euthanized.
  - 2. If any dog or cat is impounded by the Animal Services Manager or his designee or brought to the Animal Services Center by a person other than the owner of that animal and is wearing traceable identification, is readily observable as being sterilized or de-clawed in the best judgment of the Manager or his designee, or where an owner is known, such animal shall be held at the center for a minimum of five (5) days from the time the animal enters the Animal Services Center. The Animal Service Manager or his designees shall notify the owner, when known, of the impoundment. Unless the owner has notified the Animal Services Manager or his designee in writing of his intention to claim the animal after that date, listing a date by which time that owner will reclaim the animal and satisfy all applicable fees and this arrangement has been approved by the Animal Services Manager, the animal shall be placed for adoption or euthanized after the fifth (5th) day.
  - 3. The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the Animal Services Manager of the appropriate fees.
  - 4. This subsection does not apply to any dog or cat placed in quarantine, that is the

subject of a dangerous animal complaint, or whose license has been revoked.

**SECTION 3.09 FEES**

A. All of the fees described herein shall be set by resolution of the City Council.

B. Impoundment Fees:

1. A pound fee of fifteen dollars (\$15.00) will be charged for the impoundment of all dogs and cats.

2. An additional fee of fifteen dollars (\$15.00) will be required for the second and subsequent impoundment of the same dog or cat within the preceding twelve (12) month period.

C. License or Vaccination Fee:

If license or vaccination of an impounded dog or cat is not current, the owner shall be required to pay for these items. The owner shall be given a receipt for the vaccination payment of twelve dollars (\$12.00) and, if due the license payment, and may pick up the impounded dog or cat at the animal control center by presenting the receipt.

D. Boarding Fee:

In addition to the above fee, a boarding fee of ten dollars (\$10.00) per day or part of a day will be charged and due. (amended 2010-07, 10/21/2010)

E. All veterinary and drug costs actually incurred for the care of the animal while it is in custody shall be charged to and paid by the owner.

F. Adoption Fee:

An adoption fee of one hundred dollars (\$100.00) must be paid prior to or upon adoption of any animal. The adoption fee includes payment for a rabies vaccination. (amended 2010-07, 10/21/2010)

**SECTION 3.10 ADOPTION OF DOGS OR CATS** (amended 2007-02; 08/16/2007)

The Animal Services Manager shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

The Animal Services Manager shall determine whether a dog or cat is eligible for adoption. However, determination by the Animal Service Manager shall not constitute a warranty of the health, age, or condition of the animal.

**SECTION 3.11 ANIMAL RUNNING AT LARGE**

The owner shall prohibit any dog from running free of restraints while outside the real property of its owner unless physically and continually restrained by use of a leash or chain of proper strength and length that precludes the animal from making any unsolicited contact with any person, their clothing, their property and/or their premises.

Upon conviction of an offense under this Section 3.11, the minimum and maximum penalties for violation of this Section 3.11 shall be:

1 <sup>st</sup> offense: any	minimum:	written warning plus impound fees, if any
	maximum:	\$100 fine plus impound fees, if any
2 <sup>nd</sup> offense:	minimum:	\$50 fine plus impound fees, if any
	maximum:	\$250 fine plus impound fees, if any
3 <sup>rd</sup> offense:	minimum:	\$100 fine plus impound fees, if any
	maximum:	\$250 fine plus impound fees, if any



- Health.
3. Upon the request of the owner of a dog or cat which has bitten or scratched a human, and at the sole discretion of the Animal Services Manager, the Animal Services Manager may permit home quarantine for the animal in accordance with a written home quarantine agreement.
  4. If the Animal Services Manager is in possession of a dog or cat which has bitten or scratched a human, and such animal is designated as un-owned, the Animal Services Manager may cause such animal to be euthanized, and shall submit the animal's brain to a Texas Department of Health certified laboratory for rabies diagnosis.
  5. The owner of an animal under home quarantine commits an offense if he fails to comply with any requirement contained in the home quarantine agreement.

### **SECTION 3.17 DISPOSITION OR RELEASE OF QUARANTINED ANIMAL**

- A. At the conclusion of the quarantine, the Animal Services Manager shall release the quarantined animal to its owner if a veterinarian has determined that a quarantined animal shows no clinical signs of rabies, and
- B. The owner of a quarantined animal shall pay to the Animal Services Manager or animal control facility all costs of quarantine and disposition of the animal. No quarantined animal shall be released until all fees have been paid.
- C. If the owner of an animal fails to take possession of the animal before the third day following the final day of the quarantine period, the Animal Services Manager shall at his option place the animal for adoption or cause it to be euthanized.

### **SECTION 3.18 PROHIBITED/EXOTIC ANIMALS**

- A. It shall be unlawful for any person to keep or harbor within the corporate limits of the City of Olmos Park any:
  1. Warm-blooded carnivorous animal or a species such as, but not limited to, ape, baboon, or any order primate, bear, wolf, lion, bobcat, which lives in a state of nature without the aid or care of humans, or to keep or harbor any cold-blooded carnivorous animal of a species such as, but not limited to, rattlesnake, constricting snakes, alligator, or crocodile, which ordinarily lives in a state of nature without the aid or care of humans.
  2. Livestock: defined as any or all of the following; bovines, equines, swine, goats, sheep, pigeons, poultry including turkey, ducks, geese, guineas, chickens and peafowl; cats and dogs when kept for commercial purposes, or any other animal or fowl which may cause health hazards within the meaning of this chapter.
  3. Any hybrid of an animal listed in this Section.
- B. The animals listed in section (A) are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.
- C. The following animals shall be exempt from the prohibited list: small mammals such as rabbits, ferrets, mice, rats, hamsters, gerbils, guinea pigs and any non import, non-endangered, non-protected bird and non-venomous snakes.
- D. The animal listed in section (C) are presented merely as examples, and shall not be deemed as a limitation of the class, order, family, subfamily, genus or species described.

### **SECTION 3.19 OWNERSHIP OF PROHIBITED ANIMAL**

A person commits an offense if he owns a prohibited/exotic animal that is kept within the city limits of Olmos Park.

### **SECTION 3.20 IMPOUNDMENT OF PROHIBITED/EXOTIC ANIMALS**

- A. The Animal Services Manager or his designee shall immediately impound all prohibited/exotic animals found in violation of this Chapter and place them in the Animal Services Center or other suitable facility.
- B. Any person owning a prohibited/exotic animal shall submit it to the Animal Services Manager immediately upon his request or have the animal relocated outside the city limits within allotted time given by the Animal Service Manager.
- C. A person commits an offense if he fails to submit a prohibited /exotic animal to the Animal Services Manager after having been ordered by the Animal Services Manager to do so.

- D. An order under this Section shall be in writing signed by the Animal Services Manager and served in person by the Animal Services Manager or a peace officer upon the owner of the prohibited/exotic animal.

### **SECTION 3.21 MAINTENANCE AND DISPOSITION OF PROHIBITED ANIMAL**

- A. The Animal Services Manager shall maintain any prohibited animal impounded under this Chapter for five (5) days, except:
1. If the owner of a prohibited animal signs an agreement abandoning all rights, claims or title to the animal; or
  2. If the owner of a prohibited animal requests a hearing, in which case the Animal Services Manager shall maintain the animal until the owner has exhausted his administrative remedies.
- B. Upon the signing of the agreement in (A)(1) of this Section, or upon the exhausting of administrative remedies in (A)(2) of this Section, the Animal Services Manager shall either euthanize the animal or shall sell or donate it to a suitable zoo, wildlife refuge, or other institution.
- C. The owner of a prohibited animal impounded under this Article shall be responsible for all reasonable costs associated with the impoundment, boarding, medical care and disposition of the animal unless after hearing it is determined that the animal was not a prohibited animal or was an exception to prohibited animals. Such fees shall be of a sum set by resolution of the City Council.

### **SECTION 3.22 DISPOSAL OF DEAD ANIMALS**

- A. Dead animals, excluding those intended for human or animal consumption shall be disposed of as follows:
1. Animals may be disposed of at the landfill, sold or given to a renderer, or buried in a properly zoned pet cemetery.
  2. If requested by the owner, dogs and cats will be picked up by the Animal Services Manager and disposed of at the landfill or incinerated. There shall be a fee for this service at an amount set by resolution of the City Council.
  3. The Animal Services Manager shall have the right to refuse to accept any dead animal if he determines that transporting such animal would cause a health risk to humans or to animals at the Animal Services Center.

### **SECTION 3.23 TRAPS**

- A. Live traps made available:
1. Animal live traps shall be made available to residents of the City of Olmos Park upon request.
  2. Live traps shall be returned to the city of Olmos Park within thirty (30) days of issuance.
  3. Residents will be responsible to notify the Animal Control Manager or his designees within sixteen (16) hours of the capture of a domestic or non-domestic animal.
  4. Residents shall take every measure to insure the health & safety of captured animal until retrieved by the Animal Control Manager or his designees.
  5. Resident shall be responsible for the replacement cost or repair of live trap should it become damaged or stolen while in their possession.
- B. Animal control officers shall remove the animal from the location and relocate said animal to the designated animal control facility or release location.
- C. A person commits an offense if he knowingly releases or removes an animal from a trap set by the Animal Services Manager.

### **SECTION 3.24 INTERFERING WITH MANAGER**

A person commits an offense if he knowingly prevents, interferes with, or obstructs the Animal Services Manager or his officers in the performance of their duties.

### **SECTION 3.25 DEFECATION - REMOVAL AND DISPOSAL REQUIRED; IMPLEMENTS REQUIRED**

- A. Offense: An owner or person who has care, custody or control of an animal commits an offense if he permits or by insufficient control allows an animal to defecate on private property not his own or on property located in a public place without immediately

removing and disposing of the defecation material in a sanitary and lawful manner.

- B. Offense: An owner or person who has care, custody or control of an animal commits an offense if he permits or by insufficient control allows an animal to enter or remain on private property not his own or on property located in a public place without having in his possession materials or implements that, either alone or in combination with each other, can be used immediately in a sanitary and lawful manner to remove and dispose of defecation the animal may deposit on such property.
- C. It is an exception to and a defense to prosecution under Section 3.25 (A) and (B) that:
  - 1. The animal is a police service animal under the supervision of a police officer in the performance of his official duties; or
  - 2. The animal is a "service dog" performing duties of assisting the disabled; or
  - 3. The owner of the private property has given consent or permission for the animal to defecate on his property; or
  - 4. If the retrieval of waste is inaccessible by owner.
- D. Upon conviction, the minimum penalty for violations of the above stated policy shall be:

1 <sup>st</sup> offense	written warning
2 <sup>nd</sup> offense	\$25 fine
3 <sup>rd</sup> and subsequent offenses	\$50 fine

### **SECTION 3.26 CARE AND HUMANE TREATMENT OF ANIMALS**

- A. A person commits an offense if he fails to provide an animal with sufficient food or water, adequate housing consisting of a three-sided structure with a cover or roof, shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.
- B. A person commits an offense if he beats, torments, mentally abuses, overloads, overworks, maims, disfigures, burns or scalds, mutilates or needlessly kills an animal, or if he carries or transports an animal in any vehicle or other conveyance in a cruel or inhumane manner, or if he permits any animal to remain in its own filth or if he causes any of these acts to be done.
- C. A person commits an offense if he causes, instigates, or permits any dog fight, cock fight, or other combat between animals or between animals and humans.
- D. A person commits an offense if he transports or carries on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unclosed vehicle, including but not limited to convertibles, pickup trucks, jeeps, and flatbed trucks, the animal is safely confined by a vented container or cage, by chain, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.
- E. A person commits an offense if the person leaves any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare.

### **SECTION 3.27 PENALTY**

Except as provided to the contrary in another section of this Chapter, any person adjudged guilty of an offense under this Chapter shall be guilty of a misdemeanor punishable by a fine not to exceed two thousand (\$2,000) dollars.

### **SECTION 3.28 DEFINITION OF DANGEROUS ANIMAL (Ord. 2010-15, 10/21/2010)**

Any animal owned or kept shall be determined to be dangerous if:

- (1) It makes an unprovoked attack on a person 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) It 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.

### **SECTION 3.29 INVESTIGATION, SEIZURE AND CONFINEMENT OF ALLEGED**

**DANGEROUS ANIMAL** (Ord. 2010-15, 10/21/2010)

- (a) Upon receipt of a written complaint, signed by one (1) or more individuals, the Animal Services Manager or his designee shall investigate the complaint. The complaint shall contain a description of the incident involving an alleged dangerous animal, as defined above, the date and location of the incident, the name of the owner of the animal, the address of the owner, and a description of the animal(s) involved in the incident. Said investigation may include discussing the incident with the owner or keeper of the animal. The owner or keeper of the animal shall have the right to provide an affidavit or statement concerning his own animal.
- (b) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to insure the health and safety of people and/or animals nearby, the Animal Services Manager or his designee may order the immediate seizure and impound of the animal. An administrative search warrant shall be obtained from the municipal court to enter onto private property to search for an animal which is allegedly dangerous or has been previously determined to be dangerous, if permission to enter the subject premises is denied by a person in lawful possession. If the animal cannot be safely approached, a tranquilizer projector may be used by the Animal Services Manager or his designee. The cost of tranquilizing and securing said animal(s), pending the determination hearing, shall be borne by the owner. The animal(s) involved may be confined at the facility designated by the Animal Services Manager until the dangerous animal determination hearing has been conducted, any appeal, and a final determination has been made. If an animal is determined to be dangerous, it will remain in confinement as directed by the Animal Services Manager. An animal that has been determined to be dangerous shall not be released back to the owner until the owner is able to demonstrate his ability to comply with all the requirements for dangerous animals as outlined in Section 3.33 of this Chapter.
- (c) The Animal Services Manager or his designee may impound an alleged dangerous animal if the Animal Services Manager or his designee has cause to believe that an animal is dangerous as defined above.
- (d) Within five (5) working days after impounding an alleged dangerous animal, the Animal Services Manager or his designee will notify the owner of the animal, by certified mail, return receipt requested, the reason for the allegation and all requirements for owners of an animal determined to be dangerous pursuant to this Chapter.

**SECTION 3.30 PAYMENT FOR COST OF CONFINEMENT** (Ord. 2010-15, 10/21/2010)

- (a) The owner of an animal impounded by the Animal Services Manager or his designee must pay the costs of care of the animal while it is confined prior to the release of the animal to the owner. Reasonable expenses for this care include, but are not limited to, the cost of housing, feeding, emergency veterinary medical care, immunizations, and routine veterinary medical care for the animal.
- (b) If an animal is held in impoundment for more than thirty (30) days, the owner of the animal must pay the actual costs accrued for the first thirty (30) days of impoundment, and every thirty (30) days thereafter until the matter for holding the animal has been finalized. The Animal Services Manager or his designee will mail a notice and statement of costs to the owner of the animal at the address on file with the department. All costs must be paid within a maximum of three (3) business days following the receipt of the notice and statement. If the costs have not been paid within the allotted three (3) business days, this will be considered a voluntary relinquishment of the animal by the owner and the animal shall immediately become the property of the City. Notwithstanding such voluntary relinquishment of the animal, the owner shall remain liable for all costs accrued through the date of voluntary relinquishment.
- (c) Costs must be paid to the City in cash or certified funds only.

**SECTION 3.31 DETERMINATION HEARING; NOTICE OF HEARINGS**

(Ord. 2010-15, 10/21/2010)

- (a) If an animal is alleged to be dangerous, the Animal Services Manager or his designee shall schedule a dangerous animal determination hearing. The determination hearing shall be conducted within twenty (20) working days of the date the animal is impounded for allegedly being dangerous. The owner shall be notified of said hearing by certified mail, return receipt requested. If the hearing is not conducted within twenty (20) working days of date the animal is impounded, the animal shall be deemed to be not dangerous and shall be returned immediately to the owner at no cost. Failure of the owner of the animal to appear at the determination hearing shall result in a final determination with no further appeal. The owner may be represented by counsel.
- (b) The dangerous animal determination hearing shall be conducted by a panel (the "Dangerous Animal Determination Panel") of three persons consisting of (1) the Animal Services Manager or his designee, (2) a Texas licensed veterinarian appointed by the City Council, and (3) a resident of the City appointed by the City Council. The veterinarian and the City resident shall serve terms ending on December 31 of the year in which such persons were appointed.
- (c) The Dangerous Animal Determination Panel shall determine whether, by a preponderance of the evidence, the animal is a dangerous animal as defined in this chapter, based upon evidence, affidavits, and testimony presented at the time of the hearing by the owner, witnesses to any incident which may be germane to such a determination, police, or any other person possessing information pertinent to such determination. The owner may cross examine witnesses. A record of the hearing shall be kept. The Dangerous Animal Determination Panel shall issue written factual findings and a determination as to whether the animal is dangerous within ten (10) working days after the determination hearing. The owner shall be notified of the Dangerous Animal Determination Panel's findings and determination by certified mail, return receipt requested.
- (d) The owner of the animal determined to be dangerous has the right to appeal the determination to municipal court within five (5) working days of receiving the Dangerous Animal Determination Panel's determination. Failure to appeal within the time allotted shall result in the Dangerous Animal Determination Panel's decision as being final.
- (e) In the event of an appeal, a municipal court judge shall sit as the Administrative Appeal Hearing Officer and shall conduct the appeal as a civil administrative proceeding for the purpose of reviewing the written or audio record of the hearing conducted by the Dangerous Animal Determination Panel and hearing any additional offered relevant sworn testimony and other evidence that such Administrative Appeal Hearing Panel deems useful. The Administrative Appeal Hearing Officer shall decide if the determination of the Dangerous Animal Determination Panel is supported by a preponderance of the evidence. In addition, the Administrative Appeal Hearing Officer is permitted to consider whether the animal determination hearing satisfied the requirements of due process. The Administrative Appeal Hearing Officer shall prepare a written memorandum of findings and declare the Dangerous Animal Determination Hearing Panel's ruling either affirmed or reversed.
- (f) The ruling of the municipal court judge acting as an Administrative Appeal Hearing Officer may be appealed in the manner provided for the appeal of cases from municipal court.

**SECTION 3.32 DEFENSE TO DETERMINATION OF DANGEROUS ANIMAL**

(Ord. 2010-15, 10/21/2010)

It is a defense to the determination of an animal as dangerous and to the prosecution of the owner of an animal:

- (1) If the threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;

- (2) If the person was teasing, tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal;
- (3) If the person was committing or attempting to commit a crime;
- (4) If a domestic animal was killed, that such killed domestic animal was at the time teasing, tormenting, abusing or assaulting the animal;
- (5) If the animal was protecting or defending a person within the immediate vicinity of the animal from an attack or assault;
- (6) If the animal was injured and responding to pain; or
- (7) If the animal was protecting its offspring, itself, or its kennel mates.

**SECTION 3.33 REQUIREMENTS OF DANGEROUS ANIMAL OWNERS**  
(Ord. 2010-15, 10/21/2010)

- (a) An owner of an animal determined to be dangerous by the Dangerous Animal Determination Panel or the Administrative Appeal Hearing Officer must comply with all of the following requirements before the subject animal can be released to the owner by the Animal Services Manager or his designee. The animal shall be released to the owner if a state-licensed veterinarian with a facility located within Bexar County verifies in writing, upon being contacted by a City veterinarian or the Animal Services Manager, that the owner has arranged for the required surgery of the dangerous animal to comply with this Article and a City veterinarian has implanted the required identification microchip in the animal, has inspected the residence where the animal is to be kept, and is satisfied that the following requirements, which could have already been complied with, have been complied with by the owner:
  - (1) The animal must be licensed in accordance with this Chapter and shall have twice the standard licensing fee;
  - (2) The dangerous animal shall at all times wear a collar approved by the Animal Services Manager or his designee visible at fifty (50) feet so that the animal can be identified as a dangerous animal;
  - (3) The dangerous animal must be kept in a secure enclosure that does not interfere with the public's legal access to the owner's or keeper's premises;
  - (4) The owner must present to the City a certificate of public liability insurance in the amount of One Hundred Thousand Dollars (\$100,000.00) to cover any injuries caused by the dangerous animal. The insurance shall be kept in effect continuously and shall not be cancelled unless the animal is no longer kept by the insured owner. The owner shall present a new certificate of such insurance to the City at least annually;
  - (5) The dangerous animal, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal, and the dangerous animal must be restrained by a sturdy leash six (6) feet in length;
  - (6) The owner shall post a sign on his premises warning that there is a dangerous animal on the property. This sign shall be visible and capable of being read from the public street or highway;

- (7) The owner shall authorize the Animal Services Manager or his designee to implant a microchip beneath the skin of the dangerous animal for positive identification of the animal;
- (8) The dangerous animal must be spayed or neutered;
- (9) The owner must attend a class on responsible pet ownership approved by the Animal Services Manager; and
- (10) The owner must allow an annual inspection of the residence where the animal is kept to ensure continued compliance with all requirements of this section. More frequent inspections may be conducted in response to specific complaints regarding non-compliance with this section.

- (b) If the owner of an animal determined to be dangerous is unable or unwilling to comply with the ownership requirements listed above at anytime, the animal must be euthanized (at the expense of the Owner of the animal) by an animal shelter, animal care agency or licensed veterinarian. An animal determined to be dangerous under this Chapter shall not be offered for adoption, rescue, or sale.

**SECTION 3.34 NOTIFICATION OF CHANGE OF STATUS** (Ord. 2010-15, 10/21/2010)

The owner or keeper of a dangerous animal shall notify the Animal Services Manager or his designee within twenty-four (24) hours if their dangerous animal is loose, unconfined, has attacked another animal, has attacked a person, or has died. If an owner or keeper of a dangerous animal gives the dangerous animal away, the owner or keeper shall within twenty-four (24) hours notify the Animal Services Manager or his designee that said animal has been given away and provide the Animal Services Manager or his designee the name, address, and telephone number of the new owner or keeper. Prior to taking possession of the animal, the new owner or keeper must comply with the requirements of owners of dangerous animals and provide a sworn statement to the Animal Services Manager or his designee that they will continue to comply with all of the requirements of owners of dangerous animals for as long as the owner or keeper has possession of the animal.

**SECTION 3.35 DANGEROUS ANIMAL VIOLATIONS** (Ord. 2010-15, 10/21/2010)

- (a) A person commits an offense under state law, pursuant to the Texas Health and Safety Code, if the person is the owner of a dangerous dog which makes an unprovoked attack on another person that occurs at a location other than a secure enclosure in which the dog is restrained and causes serious bodily injury to the other person.
- (b) The owner or keeper of a dangerous animal, other than a dangerous dog, which, when unprovoked, inflicts severe injury or death to a person or bites a person on public or private property while off the owner's property, shall be guilty of a misdemeanor.
- (c) It shall be a violation of this Chapter for an owner or keeper to intentionally, knowingly, or recklessly fail to prevent a dangerous animal, including a dangerous dog, from killing or wounding, or assisting in the killing or wounding of any domestic animal belonging to or in the possession of another person, or for an owner or keeper to fail to prevent a dangerous animal from attacking, assaulting, biting, or otherwise injuring any person or assisting in the attack, assault, biting, or other injury of any person whether out of or within the enclosure of the owner or keeper, and whether or not such dangerous animal was on a leash or securely muzzled or whether or not the dangerous animal escaped without the knowledge or consent of the owner or keeper. The Animal Services Manager or his designee shall seize and destroy such dangerous animal in an expeditious and humane manner. In addition, the owner or keeper shall be cited for the offense.
- (d) It shall be a violation of this Chapter for the owner or keeper of a dangerous animal to:

- (1) Fail to comply with any of the requirements of Sections 3.33, 3.34, or 3.35 as required;
  - (2) Fail to notify the department of a change of status as set out in Section 3.34; or
  - (3) Fail to keep the animal confined at no cost to the City during the hearing process.
- (e) The provisions under this Section shall not apply to any law enforcement agency where a dog is being used for law enforcement.
- (f) A rebuttable presumption shall exist that the owner or keeper knowingly allowed a dangerous animal to be kept in inadequate confinement in any criminal complaint filed under subsections (b) or (c).

**SECTION 3.36 PENALTY FOR VIOLATION** (Ord. 2010-15, 10/21/2010)

Any person or corporation who shall violate any of the provisions of Sections 3.28 through 3.35 of Chapter 3 of the Code of Ordinances of the City of Olmos Park, Texas, shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$200.00 per offense. Each day such violation exists shall constitute a separate offense.