ORDINANCE NO. 2016-21

REVISING AND REPLACING ANIMAL CONTROL ORDINANCE NO. 99-16 PASSED BY THE CITY COUNCIL ON NOVEMBER 16, 1999, AND CH. 94: ANIMALS OF ORDINANCE NO. 2011-09 S1 AND ANY AMENDMENTS THERETO; PROVIDING FOR THE CONTROL OF ANIMALS IN THE CITY OF CANTON, TEXAS; PROVIDING FOR CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE OR TRADE IN THE CITY OF CANTON, TEXAS; PROHIBITING INHUMANE TREATMENT OF ANIMALS; PROHIBITING CUSTODY OF DANGEROUS AND VICIOUS ANIMALS; PROHIBITING TETHERING OF ANIMALS; PROVIDING FOR IMPOUNDMENT OF ANIMALS; DECLARING CERTAIN ANIMAL-RELATED NUISANCES; LIMITING THE NUMBER OF CATS AND DOGS PER RESIDENCE; PROHIBITING MAINTAINING LIVESTOCK; PROVIDING FOR RABIES CONTROL; AMENDING FEES AND PENALTIES; AND PROVIDING FOR ADOPTION OF ANIMALS.

WHEREAS the City Council of the City of Canton, Texas, finds that the care and treatment of animals offered for sale or trade within the corporate city limits of the City of Canton, Texas, constitutes inhumane treatment to animals and creates a nuisance and a health hazard to its citizens; and

That minimum standards for care and treatment of animals within the corporate city limits of Canton, Texas are necessary to protect the public;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

SECTION I. DEFINITIONS

When used in this Ordinance the following words and terms unless the context indicates a different meaning, shall be interpreted as follows;

A. Abandonment – abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person

B. Animal - Any warm-blooded vertebrate creature, domestic or wild, excluding the human species.

C. Animal Control Officer - any person designated by the Supervisor of Animal Control, the City Council, or the Chief of Police, to enforce the provisions of this ordinance.

D. Cat - a domestic feline of either sex, including one neutered or sterilized.

E. Dangerous Animal

1. Any animal which because of its physical nature and vicious propensity is capable of inflicting serious physical harm or death to

human beings and would constitute a danger to human life or property;or

2. Any animal which has behaved in such manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or bite human beings or other animals;

3. Any animal certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life, animal life, or property upon the basis of a reasonable medical probability; or

4. Any animal that commits an unprovoked attack on a person or animal on public or private property. An "unprovoked" attack by an animal shall mean that the animal was not hit, kicked, or struck with an object or part of a person's body nor was any part of the animal's body pulled, pinched, or squeezed by a person; or

5. Any individual domestic animal of any species that has on a previous occasion or occasions, without provocation, attacked any person or other domestic animal.

F. Dog - a domestic canine of either sex, including one neutered or sterilized.

G. Domestic Animal – dog, cat. Does not include hybrid animals resulting from crossing wild with domestic species.

H. Harboring - the act of keeping and caring for an animal or of providing a premise to which the animal returns regularly.

I. Livestock – any domestic animal, except a house pet, including, but not limited to, cattle, cows, horses, sheep, swine, goats, chickens, ducks, turkeys or geese

J. Local Health Authority - the reporting agent or his designee for the purposes of rabies control, whose duties consist of the following:

1. receiving reports of animal bites and scratches to humans;

2. receiving reports of suspected rabid animals;

3. investigation of reported animals bites and scratches and suspected rabid animals;

4. ordering quarantine, if appropriate, of any animal which may have exposed an individual to rabies or which may be rabid;

5. enforcement of all ordinances and/or rules of the City pertaining to rabies and animal control;

6. enforcement of the provisions of state law and administrative rules of the Texas Board of Health pertaining to rabies and animal control.

K. Owner - any person, firm, or corporation having title to any animal; or who has, harbors, or keeps, or who causes or permits to be harbored or kept, an animal in his or her care, or who permits an animal to remain on or about his or her premises.

L. Rabies Vaccination - the vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the Texas Department of Health and administered by a veterinarian licensed by the State of Texas.

M. Run at Large - not completely confined by a building, wall, or fence of sufficient strength or construction to restrain the animal except when such animal is either on a leash or held in the hands of the owner or keeper, or under supervision of the owner within the limits of the owner's private property. An animal not under restraint and intruding upon the property of a person other than its owner shall be termed "running at large." An animal within an automobile or other vehicle of its owner shall not be deemed "running at large."

N. Service Animal –

1. Any guide dog, signal dog or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, and assisting non-ambulatory persons by pulling a wheelchair or fetching dropped items; and

2. Any trained animal used by a governmental agency in police and rescue work

O. Stray Animal - any animal for which there is not an identifiable owner or harborer or any animal which does not exhibit evidence of vaccination and/or license.

P. Supervisor of Animal Control - the person appointed by the Chief of Police with approval of the City Manager to supervise all aspects of animal control.

Q. Wild Animal - any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state and not normally capable of being domesticated, including, but not limited to, skunks, foxes, leopards, panthers, tigers, lions, and lynx, unless certified for medical, biological, herpetological or other scientific research or study.

SECTION II. ENFORCEMENT

A. Enforcement of this ordinance shall be the responsibility of the Supervisor of Animal Control, of any Animal Control Officer, and the Local Health Authority.

B. The Local Health Authority, any Animal Control Officer, the Chief of Police or any officer employed by him, and the City Building Inspector shall have the authority to issue citations for any violation of this ordinance. If the person being cited is not present, the Animal Control Officer may send the citation to the alleged offender by registered or certified mail.

C. It shall be unlawful for any person to interfere with, hinder or obstruct an animal control officer, peace officer or other official engaged in the enforcement of this ordinance, including but not limited to the failure to release an animal for impoundment or any manner of interference with such impoundment.

D. Enforcement officers are authorized to pursue animals running at large onto private property while enforcing the provisions of this chapter.

E. Any dangerous animal or animal with dangerous propensities running at large may be destroyed by the Animal Control Officer or any police officer in the interest of public safety.

SECTION III. RUNNING AT LARGE

A. It shall be unlawful for any person who owns, harbors or keeps any animal within the corporate limits of the City of Canton, Texas, to permit that animal to run at large, as defined in this ordinance. A stray dog, cat or other animal running at large is hereby declared to be a public nuisance.

B. The Supervisor of Animal Control or any person acting under his supervision is authorized to impound such animals running at large, and to enter upon privately-owned property for that purpose.

SECTION IV. CARE AND TREATMENT OF ANIMALS OFFERED FOR SALE OR TRADE

A. All persons offering animals for sale and/or trade within the corporate city limits of Canton, Texas, shall comply with the following provisions for the care and treatment of such animals:

1. Feed and Water:

a. Water and food shall be free of contamination, and receptacles shall be clean and sanitary.

b. Water shall be available at all times, and containers shall be

filled as needed.

c. Adequate supplies of food shall be provided to all animals.

2. Shelter, Sanitation and Health:

a. Shelter, as the term is used in this subsection, shall include any type of cage, coop, enclosure, confinement, pen, and/or containment area used to confine, contain, display, enclose or control any animal offered for sale or trade.

b. Cage, as the term is used in this subsection, is defined as a structure of wire, bars: confining animals; any open work frame or structure.

c. Pen, as the term is used in this subsection, is defined as a small enclosure for domestic animals; any small enclosure.

d. All shelters shall be maintained in a sanitary condition.

e. All shelters must provide sufficient space for each animal to stand, turn around, sit and lie in a comfortable and normal position.

f. All shelters must be constructed in such a manner so as to protect the animals' feet and legs from injury.

g. All shelters must be constructed in such a manner as to protect the animals from any form of overheating, cold or inclement weather, must provide adequate ventilation, and must enable the animals to remain dry and clean. Cages, pens, crates, coops or other similar containments must be elevated from the ground. All non-hooved animals shall be elevated at least two inches above the ground.

h. All shelters must provide convenient access to food and water receptacles.

i. Excreta shall be promptly removed from all shelters as often as necessary to prevent contamination of the inhabitants and to reduce disease, hazards and odors.

j. No animal shall be offered for sale which is known or suspected to be sick or unhealthy. All sick or injured animals shall be promptly removed from the grounds by the owner or any person left in charge of the animal. If the owner, or person in charge of the animal, fails to remove the animal, an Animal Control Officer may impound the animal in accordance with the provisions of Section VII of this ordinance.

k. All animals younger than six (6) weeks old must be

accompanied by their mothers.

l. Any animal which appears to overpower or cause injury to another animal in a commonly confined shelter shall be removed by the owner or any person left in charge of the animal. Any injured animal shall be removed from the common confinement by the owner or person left in charge of the animal, and such person or owner shall seek veterinarian treatment for the animal, if necessary. If the owner, or person in charge of the animal, fails to remove the animal, an Animal Control Officer may impound the animal in accordance with the provisions of Section 6 of this ordinance.

m. No animals shall receive any behavior-altering drugs either before or during the period of time offered for sale or trade.

n. The owner, or person left in charge of the animal, must comply with the applicable provisions regarding Rabies Control in Section IX of this ordinance. The owner, or any person left in charge of the animal must possess a valid vaccination certificate which has not expired and which is signed by a veterinarian licensed by the State of Texas.

o. Any person offering animals for sale or trade must comply with Section XI of this ordinance relating to Reporting Bites from Animals Susceptible to Rabies and Related Procedures.

p. Any person offering animals for sale or trade must present a vaccination record at the time of exchange.

q. Selling or trading animals are prohibited on city or state right-of-ways.

3. Transporting Animals

a. The following provisions shall be applicable to all persons upon both arrival and departure into the corporate city limits of Canton, Texas:

(1) Animals shall be transported in crates, containers, coops, cages, boxes with adequate ventilation or other similar containments.

(2) Transporting animals in open vehicles is prohibited.

(3) No person shall transport or retain animals in bags, sacks, or any other inhumane manner.

(4) Any type of containment used for transporting animals shall enable the animal to travel standing or sitting in a natural position without undue restraints. Each

containment must have sufficient space to enable the animals to move around. If travel time is one hour or longer, enough space shall be provided for the animals to lie down.

(5) The flooring of any such transportation containments must be constructed in such a manner that the legs and feet of the animals will not be entangled or injured.

(6) Animals shall not be transported with legs or mouths tied or bound

4. Miscellaneous provisions

a. Brutal, inhumane treatment of any animal is prohibited. This includes, but is not limited to, hitting, slapping, kicking, dragging (with ropes, wires or hands), tying too close together, or to trees, or to vehicles to prevent lying down or reaching water, or tying with tight collars or ropes or wires or tying an animal's feet together.

b. During the period of time animals are offered for sale or trade, performing animal mutilations, such as cropping ears and docking tails, is prohibited.

c. Abandonment of an animal is strictly prohibited.

d. Treatment of Live Birds:

In addition to all other applicable provisions of Section IV herein, all persons offering Live Birds for sale or trade must comply with the following:

(1) The person shall immediately place the birds in coops, crates, or cages that are made of open slats or wire on at least three sides and that are of a height so that the birds can stand upright without touching the top.

(2) The person shall keep clean water and suitable food in troughs or other receptacles in the coops, crates, or cages. The troughs or other receptacles must be easily accessible to the confined birds and must be placed so that the birds cannot defile their contents.

(3) The person shall keep the coops, crates, or cages in a clean and wholesome condition and may place in each coop, crate, or cage only the number of birds that have room to move around and to stand without crowding one another.

(4) The person may not expose the birds to undue heat or cold and shall immediately remove all injured, diseased, or dead birds from the coops, crates, or cages.

(5) Small birds, such as canaries and finches, must be provided with enough perches that they are not forced to hang onto the sides and roofs of their cages.

e. Encouraging or instigating fighting between two or more animals is strictly prohibited.

f. Dangerous animals, as defined in Section I herein, are prohibited.

g. Stray animals and animals running at large, as defined in Section I shall be impounded by a local Animal Control Officer in accordance with the applicable provisions of Section VII herein.

h. The person who is in control of, or in charge of an animal, regardless of whether or not he is the owner, shall be responsible for compliance with Section IV. Furthermore, if conditions exist which violate this ordinance, and the owner of the animal is absent, then the person in control of, or in charge of, the animal shall receive the citation for noncompliance.

i. Animals which have in any way been subjected to artificial color or dye are prohibited.

j. It is within the power and complete discretion of the Animal Control Officer to make a judgment as to whether an act or situation involving an animal is cruel and inhumane, and to take appropriate action in accordance with this ordinance.

SECTION V. <u>KEEPING OF DANGEROUS / VICIOUS ANIMALS</u>

A. No person shall own or harbor a vicious animal within the city; such an animal shall be impounded as a public nuisance.

B. If impoundment of said vicious animal is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harborer. If an attempt is made to impound a vicious animal from the premises of the owner or harborer and the impoundment cannot be made with safety, the owner or harborer will be given twenty-four (24) hours' notice that if said animal is not surrendered to the animal control center for impoundment, within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the vicious animal may be destroyed during an attempt to impound, if impoundment cannot be made with safety, wherever the impoundment is

attempted. Notice under this section may be verbal or in writing. A written notice left at the entrance to the premises where the vicious animal is harbored will be considered valid notice under this section.

C. Vicious animal is defined as:

1. Any animal that when provoked, inflicts severe injury or death to a person, or bites or attacks a person on public or private property: or

2. Any animal that has killed or severely injured a domestic animal without provocation while off the owner's property.

D. Declaration of a vicious animal:

1. An animal is automatically declared to be a vicious animal under the above definitions.

2. An Animal Control Officer may declare an animal to be vicious with evidence under above subsections.

E. Other definitions. May be vicious or potentially dangerous animal means:

1. Any animal which, when unprovoked, chases or approaches a person upon the streets, sidewalks, or any public or private property in an apparent attitude of attack such that the person reasonably believes that the animal will cause physical injury to the person: or

2. Any individual animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of persons or domestic animals.

F. Declaration of a potentially dangerous animal can be defined under the above definitions and an Animal Control Officer may declare animal to be potentially dangerous with evidence.

G. The Animal Control Officer may order the owner of any dangerous animal to immediately and permanently remove the animal from the city limits. If so ordered, the animal shall be removed immediately following receipt of the order, even if the order is appealed.

H. If the Animal Control Officer finds that an animal is a dangerous animal, but further finds that, under the circumstances of the case, it is appropriate to allow the animal to remain in the city conditioned on the animal owner's compliance with Subsection K below, which will ensure the safety, pace and repose of residents, the Animal Control Officer may so order.

I. The owner may appeal in writing an order issued under this section to the Municipal Court of the City within ten (10) days of the date of the order. The Municipal Court may affirm or reverse the order of the Animal Control Officer; or, in cases in which the Animal Control Officer has

ordered the animal removed from the City, the Municipal Court may, if the Municipal Court finds it appropriate under the circumstances, modify the order to allow the animal to remain in the City conditioned on the animal owner's compliance with Subsection K below, which will ensure the safety, peace and repose of residents. If the Municipal Court affirms the order of the Animal Control Officer to remove the animal, the owner is prohibited from bringing the animal back or allowing it to be brought back inside the city limits.

J. If the municipal court upholds the determination of vicious animal the court shall order the animal to be euthanized.

K. If the municipal court finds the animal not vicious but potentially dangerous, the animal shall be returned to the owner provided all requirements are met and costs are reimbursed to the city for boarding and medical attention while in custody. The following requirements must also be met within fifteen (15) working days:

1. The animal must be licensed

2. The animal must be kept in a proper enclosure

3. The owner must present a certificate of liability insurance in the amount of one hundred thousand dollars ($100,000)

4. The owner must provide the animal with a fluorescent yellow collar to be worn at all times and be visible fifty (50) feet in normal daylight for identification purposes.

5. When the potentially dangerous animal is taken outside the enclosure, it 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 other animal; and the animal must be restrained by a substantial chain or cable leash having a minimum tensile strength of one thousand (1,000) pounds and not to exceed six (6) feet in length.

6. The owner shall post a sign on his/her premises warning that there is a potentially dangerous animal on the property. The sign shall be visible and capable of being read from the public street or highway.

7. The animal must be spayed or neutered.

8. The owner must register the animal and pay an annual fee of fifty dollars ($50.00) each January to the animal control officer or police department.

L. If the owner of the potentially dangerous animal does not comply with the above requirements the animal shall be euthanized.

M. The owner of an animal declared to be vicious under these laws shall be

subject to a fine of not less than two hundred dollars ($200.00) but not more than two thousand dollars (2,000.00).

N. The owner of an animal declared to be potentially dangerous is subject to fines of not less than two hundred dollars ($200.00) but not more than two thousand dollars ($2,000.00) if violations are committed or if animal has killed or wounded another animal or person.

SECTION VI. TETHERING

A. It is unlawful for a person to restrain a dog with a chain or tether unless the person is holding the chain or tether.

B. It is an affirmative defense to a violation of the above subsection that the restraint:

1. Is required to protect the safety or welfare of a person or the dog, if the dog's owner remains with the dog throughout the period of restraint; or

2. While the dog is within the owner's direct physical control; and while the dog is prevented from being within fifteen (15) feet from the edge of any public street or sidewalk.

C. The prohibition of Subsection VI.A does not apply to a temporary restraint during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity.

D. An offense under this section is a Class C misdemeanor. If a person fails to comply with this section with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense. The penalty for violation of this section shall be between one dollar ($1.00) and two thousand dollars ($2,000.00) for each offense, for each violation, for each separate day, for each dog.

E. Hand-held leashes shall not prohibit a person from walking a dog with a hand-held leash.

SECTION VII. IMPOUNDMENT AND DIVESTITURE OF OWNERSHIP

A. The following animals may be impounded:

1. Cats and dogs not exhibiting evidence of current vaccination;

2. Any animal infected or kept under conditions which could endanger the public or animal health;

3. Any animal that creates a nuisance;

4. Any animal running at large;

5. Any animal treated in a manner determined by the Supervisor of Animal Control to be cruel or inhumane;

6. Any animal that has bitten a human being or other animal, or which needs to be placed under observation for rabies determination, as determined by an Animal Control Officer or otherwise as specified in this ordinance;

7. Any animal violating any provision of this ordinance.

B. If any of the animals named in this ordinance are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify an Animal Control Officer to come and impound such animal. When so notified, it shall be the duty of an Animal Control Officer or someone acting under his authority to have such animal impounded as herein provided.

C. Reasonable effort shall be made by an Animal Control Officer to contact the owner of any animal impounded; however, final responsibility for location of an impounded animal is that of the owner.

D. The owner can resume possession of any impounded animal upon payment of impoundment fees, handing fees, and any veterinarian bills incurred by the Animal Control for the welfare of the animal, and upon compliance with vaccination provisions and license requirements of this code, except where prohibited by other provisions of this ordinance.

E. Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by the court of proper jurisdiction.

F. If any animal is being held under quarantine or observation for rabies, the owner shall not be entitled to possession until it has been released from quarantine.

G. The impoundment of dogs and cats that have inflicted human bites shall be for a period of ten (10) days for observation and shall not be terminated until consent from the local Health Authority is secured or as in accordance with Section XI of this ordinance;

H. The place for impoundment of all animals impounded under any provision of this ordinance shall be as determined by the City Council of the City of Canton, Texas, or the Animal Control Supervisor.

I. Any nursing animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately euthanized to prevent further suffering. Notwithstanding anything herein to the contrary, ownership of any animal that meets the definition in this section shall be deemed to be transferred to the City of Canton, Texas upon completion of the impoundment paperwork by the Supervisor of Animal Control or his/her designee.

J. Any impounded dangerous or wild animal, unless there is reason to believe that it has an owner, may be immediately disposed of as may be deemed appropriate by the Supervisor of Animal Control. Notwithstanding anything herein to the contrary, ownership of any animal that meets the definition in this section shall be deemed to be transferred to the City of Canton, Texas upon completion of the impoundment paperwork by the Supervisor of Animal Control or his/her designee.

K. Any impounded cat or dog not under quarantine may be given up for adoption after seventy-two (72) hours. Notwithstanding anything herein to the contrary, ownership of any animal that meets the definition in this section shall be deemed to be transferred to the City of Canton, Texas by operation of law upon seventy-two (72) hours after the animal is impounded.

L. An owner who no longer wishes responsibility for an animal, or who believes the animal to be in an ill or injured condition, may sign a written waiver supplied by Animal Control allowing the animal to be immediately euthanized in a humane manner, provided that no warm-blooded animal that has bitten a human being shall be euthanized before authorization is obtained from the Local Health Officer. Signature of such waiver shall transfer ownership of the animal to the City of Canton, Texas immediately upon signature of the waiver and acceptance by the Supervisor of Animal Control or his/her designee.

M. Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of the treatment and/or impoundment.

N. As soon as practicable after impoundment of a tagged animal, if the owner of the impounded dog or cat is known, notice by personal service or certified mail shall be given to him or her. Any impounded dog or cat which is tagged in accordance with Section X of this Ordinance may be redeemed by the owner upon payment of the impoundment fee, care and feeding charges and such other costs as set by the City Council. If such animal is not redeemed within seventy-two (72) hours, and after reasonable effort has been made to locate its owner, it shall be considered abandoned, ownership of the animal shall be deemed to have been transferred to the City of Canton, Texas and the animal may be placed for adoption subject to payment of the impoundment fee, care and feeding charges, veterinary charges, and such other costs as set by the City Council; or the animal may be humanely euthanized in accordance with state requirements and those of the City Animal Shelter.

O. As soon as practicable after impoundment of an unlicensed animal, if the owner of the impounded animal is known, notice by personal service or certified mail shall be given to him or her. Any impounded animal, except a vicious or wild animal, may be redeemed upon payment of all fees including care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the City Council. If such animal is not redeemed within seventy-two (72) hours, it shall be deemed abandoned, ownership of the animal shall be deemed to have been transferred to the City of Canton, Texas and the animal may be placed for adoption subject to payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges and such other costs set by the City Council, or said animal may be humanely euthanized in accordance with State requirements and those of the City Animal Shelter. If any impounded animal appears to be either seriously ill or injured in such a manner as to render treatment impractical, ownership of the animal shall be transferred to the City of Canton, Texas immediately effective upon completion of paperwork by the Animal Control staff, and the animal may be humanely euthanized before the end of the seventy-two (72) hour waiting period to end its suffering; or, the animal may be given to a non-profit humane organization for the purposes of treatment.

P. If a complaint has been filed in Municipal Court in the City of Canton against the owner of an impounded animal for violation of this ordinance, the animal shall not be released except on the order of the Court, which may also direct the owner to pay any penalties for violation of this ordinance in addition to all impoundment fees. The court may, upon making a finding that such animal is vicious or that it represents a clear and present danger or nuisance to the citizens or other animals in the community, order said animal to be euthanized in humane manner. Surrender of an animal by the owner thereof to the Animal Control Officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation or violations of this ordinance.

Q. Treatment of Impounded Animals:

1. A person who impounds or causes the impoundment of an animal under state law or municipal ordinance shall supply the animal with sufficient wholesome food and water during its confinement.

2. If an impounded animal continues to be without necessary food and water for more than twelve (12) successive hours, any person may enter the pound or corral as often as necessary to supply the animal with necessary food and water. That person may recover the reasonable cost of the food and water from the owner of the animal. The animal is not exempt from levy and sale on execution of a judgment issued to recover those costs.

SECTION VIII. <u>MISCELLANEOUS OFFENSES</u>

A. The following shall be considered a public nuisance and shall be unlawful:

1. The keeping of any animal, which because of frequent or recurring barking or noise, shall disturb any person of ordinary sensibilities in the vicinity;

2. The keeping of any animal in such a manner as (a) to endanger the public health; (b) to annoy neighbors by the accumulation of animal wastes which cause foul and offensive odors; (c) to be considered a hazard to any other animal or human being; or (d) to permit the animal's continued presence on the premises of another;

3. All animal pens, stables or enclosures in which any animal may be kept or confined which, from use, have become offensive to a person of ordinary sensibilities.

B. It shall be unlawful for any person to commit or cause to be committed any act of cruelty, harassment, or torture to any animal, or to intentionally cause such animal to be mutilated or inhumanely killed. Ownership of the animal, or the commission of such acts of cruelty on private property, shall not be justifiable defenses for violation of this section.

C. It shall be unlawful for any person to poison any domestic animal or to distribute poison or toxicant on public or private property in any manner whatsoever with the intent of poisoning any domestic animal.

D. It shall be unlawful for any person to willfully abandon any animal; or to withhold food or water from any animal such that its health is endangered, or that it is caused to suffer unduly.

E. It shall be unlawful for any person to cause, instigate or encourage any dog or other animal to fight with another of its own species or with another of a different species. It shall be unlawful for any person to train or keep any dog or other animal for the purpose of or to maintain a place where any dog or other animal is permitted to fight for exhibition, wager, or sport.

F. The owner or person in possession of animals shall keep yard, pens and enclosures in which such animals are confined in such manner as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects or to in any manner, endanger the public health or safety or create a public nuisance.

G. Any un-spayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, so constructed that no other dog or cat may gain access to the confined animal. Owners who do not comply shall be ordered to remove the animal in heat to a boarding kennel, veterinary hospital or animal shelter. All expenses

incurred as a result of the confinement shall be paid by the owner. Failure to comply with the removal order of the Animal Control Officer shall be a violation of this ordinance and the dog or cat will then be impounded in accordance with this ordinance.

H. A person commits an offense if the person intentionally, knowingly or recklessly: (1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal or (2) fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody; or (3) transports or confines an animal in a cruel manner.. (Texas Penal Code 42.092)

SECTION IX. ANIMALS PROHIBITED

A. It shall be unlawful for any person to import, offer for sale, keep, maintain, or harbor in the City of Canton, any wild animal, including but not limited to monkey, or other nonhuman primate, skunk, raccoon, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, panther, bear, wolf, coyote, fox or other carnivorous animal. Hybrid animals, resulting from crossing wild with domestic species, are also prohibited. Any poisonous or venomous biting or injecting species of amphibian, arachnid or reptile, including snakes, shall also be prohibited. Snakes not indigenous to this state are prohibited.

B. It is hereby prohibited and it shall be unlawful for any person to import, offer for sale or trade, keep, maintain, or harbor in the City of Canton a native or foreign species or subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Department of the Interior or the Texas Department of Parks and Wildlife.

C. This Section shall not apply to:

1. A bona fide publicly or privately owned zoological park;

2. A bona fide research institution using animals for scientific research;

3. A circus duly authorized to do business in the City of Canton.

D. The keeping of an unlimited number of dogs and cats in the City for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance.

The provisions of this section shall not apply to any establishment wherein dogs or cats are kept for breeding, sale, sporting purposes or boarding.

1. A person commits an offense if he harbors more than two dogs, cats, or any combination of dogs and cats on the premises of a

dwelling unit that shares a common wall with another dwelling unit.

2. A person commits an offense if he harbors more than four dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit.

E. Chickens

1. One chicken (hen) is allowed per one-eighth of acre of land up to a maximum of six. Roosters are prohibited.

2. All chickens shall be kept in a pen, coop or enclosure located at least thirty feet from any residential dwelling, other than that of the owner. Such enclosure shall be a minimum of fifteen (15) feet from any property line.

3. All pens, coops or enclosures shall be cleaned and disinfected with sufficient frequency to prevent any unsanitary conditions, or failing to store the waste from such animals in a fly-proof container and remove the waste from the City on a weekly basis.

4. All coops or pens must be a minimum of at least three square feet of floor space per chicken.

5. It is unlawful for a person to permit, suffer or allow any carrion to be used for the feed for any chickens.

6. It is unlawful for a person to permit, suffer or allow any chicken owned, kept or possessed by him or under his control to wander in or upon or invade the premises of any other person.

F. Except as otherwise provided herein, no person shall keep within the City any cattle, cows, horses, sheep, swine, goats, ducks, turkeys, geese, or other livestock.

This provision shall not apply in areas of the City which consist of five or more acres of land and zoned agricultural <u>or</u> in First Monday Business A-2. Nor shall it apply to livestock brought into the City for the purposes of slaughter or shipping out of the City.

SECTION X. <u>RABIES CONTROL</u>

The following provisions are in accordance with and intended in furtherance of the Rabies Control Act of 1981, Article 4477- 6a, V.T.C.A. and the rules enacted by the Texas Board of Health pursuant to Article 4477-6a, Section 2.01(f), V.T.C.A., entitled "Rabies Control and Eradication, 169.21-169.33 which provisions are hereby adopted.

A. For the City of Canton, the Local Health Authority and or Local Health Officer shall be the Chief of Police or his designee.

B. Every owner of a dog or cat four (4) months of age or older shall have such animal vaccinated against rabies. Annual re-vaccination shall be required within each subsequent twelve (12) month interval thereafter. Any person moving into the City of Canton from a location outside of the City shall comply with this ordinance within ten (10) days after having moved within the corporate city limits. This ten (10) day grace period shall not apply to persons offering animals for sale or trade, and such persons must be in compliance with all applicable provisions of this Section.

C. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat, as evidence thereof, a certificate upon a form furnished by the veterinarian. The veterinarian shall retain his copy for a minimum period of three (3) years from date of issuance. Such certificate shall contain the following information:

1. Owner's name, address, and telephone number;

2. animal identification: species, age, sex, size (in pounds), predominant breed and colors;

3. vaccine used, producer, expiration date, and serial number;

4. date vaccinated;

5. rabies tag number;

6. veterinarian's signature and license number

D. Concurrent with the issuance and delivery of the certificate of vaccination referred to in Section 10.3, the owner of any dog shall cause to be attached to the collar or harness of the vaccinated dog 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 address.

E. In the event of loss or destruction of the original tag provided in Section X, the owner of the dog shall obtain a duplicate tag.

F. It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or to refuse to exhibit his or her copy of the certificate of vaccination upon demand to any person charged with the enforcement of this ordinance.

G. It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

H. Any person having knowledge of the existence of any animal known to have been, or suspected of being exposed to rabies must immediately report such knowledge to the Local Health Authority giving him any

information which he may require. As to any animal known to have been, or suspected of being exposed to rabies, the following rules must apply:

1. Unvaccinated animals which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues should be:

   (a) Humanely killed; or

   (b) If sufficient justification for preserving the animal exists, the exposed animal should be immediately vaccinated against rabies, placed in strict isolation for six (6) months and given a booster vaccination one (1) month prior to release from isolation.

2. Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal should be:

   (a) Humanely killed; or

   (b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination and placed in strict isolation for three months.

3. These provisions apply only to domestic animals for which an approved rabies vaccine is available.

I. It shall be unlawful for any person to make use of a stolen, counterfeit or forged rabies vaccination certificate, vaccination tag, or other type license as may be required by this ordinance.

J. It shall be unlawful for any person to use any rabies tag for any dog or cat other than the dog or cat for which such tag was originally issued.

SECTION XI. <u>REPORTING BITES FROM ANIMALS SUSCEPTIBLE TO RABIES; RELATED PROCEDURES</u>

A. Any person having knowledge that an animal has bitten a human shall immediately report the incident to the Local Health Authority. Every physician or other medical practitioner who treats a person or persons for such bites shall, within twelve (12) hours, report such treatment to the Local Health Authority, or his agent, giving name, age, sex, and precise location of the bitten person or persons and such other information as the Local Health Authority may require;

B. Humans bitten by birds and reptiles are excluded from the reporting requirements of this Section.

C. Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall

immediately report that incident to the Local Health Authority, or his or her agent, stating precisely where such animal may be found. If a known or suspected rabid animal bites or attacks a domestic animal, such incident shall also be reported as required above.

D. Any dog or cat which has bitten a person shall be observed for a period of ten (10) days from the date of the bite. The procedure and place of observation shall be designated by the Local Health Authority. If the dog or cat is not allowed an at-home quarantine, confinement shall be by impoundment in the City Animal Shelter, or at any veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. Stray dogs or cats whose owners cannot be located shall be confined in the City Animal Shelter or another veterinary hospital. The owner of any dog or cat that has been reported to have inflicted a bite on any person or animal, or to have been exposed to rabies, shall on demand produce said dog or cat for impoundment, as prescribed in this section. Refusal to produce said dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation. At no time shall a dog or cat be allowed an at-home quarantine if it is in violation of any provision of this ordinance.

E. When an animal bites or scratches a person under conditions presenting a substantial probability that the animal was infected with rabies, the Local Health Officer may, upon his or her finding that the quarantine period should not be observed because of the danger of developing rabies, order the immediate destruction of the animal and cause its head to be forwarded to the state department of health resources for pathological testing.

F. Violation of animal quarantine requirement. It shall be unlawful for any person to fail or refuse to quarantine or present for quarantine any animal which is required or ordered to be quarantined pursuant to the provisions of this chapter.

G. It shall be unlawful for any person to remove from any place of confinement any animal which has been confined as authorized, without the consent of the Local Health Authority.

H. In addition to citation for violation of the preceding subpart, the Local Health Officer is hereby authorized to pursue, in conjunction with the City Attorney, such civil remedies as he or she deems appropriate to achieve compliance with the foregoing impoundment and quarantine requirements.

I. Procedures concerning bites from other animals shall be discussed with the Local Health Authority, Animal Control Officer, or the Texas Department of Health for proper disposition. Any wild animal which has bitten a person should be caught and killed and the brain immediately submitted to a qualified laboratory for rabies examination. An exception to this rule may be allowed for large, exotic, or valuable zoo species, which, by reason of their close confinement, would be unlikely rabies

vectors. Birds and reptiles are not considered to be transmitters of the rabies virus and should not be submitted for laboratory examination for rabies.

SECTION XII. IMPOUNDMENT FEES

A. The following fee schedule is hereby adopted and approved by the City Council of the City of Canton on October 18, 2016,

Impoundment fee - unrestrained dog or cat without vaccination tag or license attached:	
1st & 2nd offenses	$ 30.00
3rd and subsequent offenses	$ 60.00
Impoundment fee - unrestrained dog or cat displaying evidence of vaccination or registration	
1st & 2nd offenses	$ 25.00
3rd and subsequent offenses	$ 50.00
Impoundment fee - livestock	
1st & 2nd offenses	$ 35.00
3rd and subsequent offenses	$ 70.00
Impoundment Fee – After Business Hours	$ 60.00
Daily Boarding fee – dog, cat or chicken	$ 10.00
10-day Quarantine / Boarding fee – dog or cat	$100.00
Adoption fee – dog or cat	$ 35.00 (includes microchip)
Adoption fee – chicken	$ 5.00
Euthanasia / Disposal Fee	$ 40.00
Surrenders (inside city limits)	
1st adult animal	$ 20.00
Each additional adult animal	$ 10.00
Puppies / Kittens	$5.00 each
Surrenders (outside city limits)	
Adult	$30.00 each
Puppies / Kittens	$ 10.00

B. The City Manager of the City of Canton will establish a schedule of fines

for the violation of any provisions of any sections of this ordinance for review and approval by the City Council and said fine schedule will be subject to proper implementation or enforcement of the provisions contained herein. Fees are subject to change.

C. Before issuing a citation for a violation of this ordinance, any officer authorized to issue such citation may give an oral warning, or issue a written warning ticket. If the person or persons receiving the oral warning or warning ticket do not discontinue the violation, a citation for ordinance violation shall be issued to the violator. If it appears necessary to make an arrest to preserve the public peace or safety, a police officer may make an arrest for violation of this ordinance, with or without a previous oral warning or warning ticket.

Any person found guilty of permitting a nuisance to exist as set out in this ordinance shall be fined:

1. not less than $5 nor more than $100 for the first offense;

2. not less than $15 nor more than $500 for the second offense within a consecutive 12-month period;

3. not less than $50 nor more than $500 for the third offense within a consecutive 12-month period;

4. not less than $150 nor more than $500 for the fourth offense within a consecutive 12-month period; and/or

5. ordered to remove such animal permanently from the City within 24 hours of such order

Any person found guilty of keeping or maintaining a vicious dog as defined herein may be:

1. fined not less than $15 nor more than $500; and/or

2. ordered to remove such animal permanently from the City within 24 hours of such order or within 24 hours after the rabies observation period has expired, if applicable.

D. Any person who violates any of the provisions of Section X of this ordinance shall be subject to a fine not to exceed ONE THOUSAND AND NO/100 DOLLARS ($1,000.00).

E. Abandonment of a domestic animal is a Class A misdemeanor. (Penal Code 42.09 and 42.092). (Animal as defined under the Penal Code means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal).

F. In addition to any other fines, fees or penalties provided in Section 12

herein, failure to comply with any of the provisions of Section _____ shall be cause for the Animal Control Officer, or any person designated to enforce this ordinance, to have the noncomplying animals removed from sale area, and impounded in accordance with the provisions of Section 7.

G. Any person found guilty of violating any other provisions of this ordinance shall be fined not less than $10 nor more than $500 for each offense. A separate offense shall be held to have been committed each day that such violation shall occur or continue as may be determined by the Municipal Judge or appropriate authority.

H. It shall be the duty of the Local Health Authority of the City of Canton to maintain such records as deemed necessary to the enforcement of all provisions of this ordinance and have those records available for display to the City Council, or to the public at any time during regular business hours of the Canton Police Department.

SECTION XIII. IMMUNITY FROM DAMAGES

Any animal control officer, supervisor of animal control, local health officer, police officer, or persons acting under their direction shall not be held to answer or be liable for damages in any action brought by the registered owner, or other person legally entitled to the possession of an animal when the animal is impounded, euthanized or otherwise disposed of in accordance with this ordinance.

SECTION XIV. ADOPTIONS

A. An individual may adopt a dog or cat from the City Animal Shelter under the following conditions:

1. the animal has been classified as adoptable by the Supervisor of Animal Control;

2. the prospective adopter has proper facilities to care for the animal;

3. the prospective adopter obtains the necessary vaccinations;

4. the prospective adopter pays the applicable fee of $35.00 for a dog or a cat; and

5. the prospective adopter agrees to have the animal neutered, if male, or spayed, if female, and to have the animal vaccinated for rabies at the time of adoption, at adopter's expense. In the event the dog or cat is, at the time of adoption, in the opinion of the veterinarian, too young to be neutered or spayed, the adopter shall deposit the fee therefor and agree to return the animal to be neutered or spayed within thirty (30) days after attaining an age fixed by the veterinarian at the time of adoption. The Supervisor of Animal Control shall have the right to immediate return of the animal to the animal shelter upon failure of the adopter to present the animal to be neutered or spayed

within the thirty (30) day period fixed by the veterinarian.

B. The Supervisor of Animal Control may refuse to allow a person to adopt a cat or dog when he has reason to believe the person seeking adoption:

1. would not have proper facilities to contain or care for the animal as required by this ordinance; or

2. wants the dog or cat for the purpose of resale for purposes other than pet ownership; or

3. would maintain the cat or dog so that it would be a hazard to humans or other animals.

SECTION XV. SAVINGS CLAUSE

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

SECTION XVI. CONFLICT CLAUSE

That all ordinances, or parts of ordinances, in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION XVII. EFFECTIVE DATE

This Ordinance shall take effect from and after its publication one time in the official publication of the City of Canton, Texas, which publication shall contain the caption stating in summary the purpose of the ordinance and the penalty for violation thereof.

PASSED, ADOPTED AND APPROVED on the 18th day of October, 2016.

Lou Ann Everett

Lou Ann Everett, Mayor

ATTEST:

Debra Johnson

Debra Johnson, City Secretary

CITY OF CANTON, TEXAS