

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S CODE OF ORDINANCES, ORDINANCE NO. 06-03-31, AS AMENDED, CHAPTER 14 (ANIMALS), SECTIONS 14-3 (DEFINITIONS), 14-6 (QUARANTINE PROCEDURE FOR SUSPECTED BITING / SCRATCHING DOMESTIC DOGS, CATS AND FERRETS), 14-9 (ANIMAL NUISANCES), 14-10 (PROTECTION OF ANIMALS), 14-14 (IMPOUNDMENT FEES), 14-17 (FOWL), 14-19 (TREATMENT OF ANIMALS), 14-20 (ANIMAL TRAPS) AND 14-21 (ENFORCEMENT); DEFINING CERTAIN ADDITIONAL TERMS TO AID IN APPLYING CHAPTER 14 (ANIMALS); MODIFYING THE QUARANTINE PROCEDURE FOR SUSPECTED BITING / SCRATCHING DOMESTIC DOGS, CATS AND FERRETS; PROHIBITING THE SLAUGHTERING OR KILLING OF AN ANIMAL IN PUBLIC VIEW; ESTABLISHING A PERMITTING AND INSPECTION PROGRAM FOR RETAIL ANIMAL STORES, INCLUDING PERMIT REQUIREMENTS, AN EFFECTIVE DATE, ENFORCEMENT PROVISIONS AND APPEAL PROCEDURES; MODIFYING THE ADMINISTRATIVE FEE FOR ANIMAL IMPOUNDMENTS; MODIFYING THE NUMBER OF GALLINACEOUS FOWL THAT MAY BE KEPT OR HARBORED IN ONE PRIMARY ENCLOSURE; PROHIBITING CERTAIN TYPES OF ANIMAL TETHERING; ESTABLISHING REGULATIONS ON ANIMAL TRAPS PLACED BY ANIMAL CONTROL AT THE REQUEST OF A PROPERTY OWNER OR RESIDENT; PROHIBITING INTERFERENCE WITH OFFICIALS ADMINISTERING CHAPTER 14 (ANIMALS) AND THE MAKING OF FALSE STATEMENTS; PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE, PENALTY CLAUSE AND AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.**

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Frisco, Texas ("Frisco") to amend Chapter 14 (Animals), Sections 14-3 (Definitions), 14-6 (Quarantine Procedure for Suspected Biting/Scratching Domestic Dogs, Cats and Ferrets), 14-9 (Animal Nuisances), 14-10 (Protection of Animals), 14-14 (Impoundment Fees), 14-17 (Fowl), 14-19 (Treatment of Animals), 14-20 (Animal Traps) and 14-21 (Enforcement) of Frisco's Code of Ordinances, Ordinance No. 06-03-31, as amended ("Code of Ordinances"), as set forth below; and

WHEREAS, the City Council has investigated and determined that it is necessary to amend the Code of Ordinances as set forth below to, among other things, define certain additional terms to aid in applying Chapter 14 (Animals); modify the quarantine procedure for suspected biting/scratching domestic dogs, cats and ferrets; prohibit the slaughtering or killing of animals in public view; establish a permitting and inspection program for retail animal stores, including permit requirements, an effective date, enforcement provisions and appeal procedures; modify the administrative fee for animal impoundments; modify the number of gallinaceous fowl

that may be kept or harbored in one primary enclosure; prohibit certain types of animal tethering; establish regulations on animal traps placed by Animal Control at the request of a property owner or resident; and prohibit interference with officials administering Chapter 14 (Animals) and the making of false statements; and

WHEREAS, the City Council finds that it is necessary and in the public interest to ensure the health and humane treatment of animals offered for sale at retail animal stores in Frisco;

WHEREAS, the City Council finds that the retail animal store permit and inspection program is intended to ensure that animals offered for retail sale are provided with adequate housing, sanitation, nutrition, water, and veterinary care and are protected from extreme conditions and mistreatment; and

WHEREAS, the City Council finds that it is in the best interest of Frisco and its citizens to amend the Code of Ordinances as set forth below to promote the public health, safety and welfare.

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

**SECTION 1:** Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2:** Amendment to the Code of Ordinances, Chapter 14 (Animals), Sections 14-3 (Definitions), 14-6 (Quarantine Procedure for Suspected Biting/Scratching Domestic Dogs, Cats and Ferrets), 14-9 (Animal Nuisances), 14-10 (Protection of Animals), 14-14 (Impoundment Fees), 14-17 (Fowl), 14-19 (Treatment of Animals), 14-20 (Animal Traps) and 14-21 (Enforcement). The Code of Ordinances, Chapter 14 (Animals), Sections 14-3 (Definitions), 14-6 (Quarantine Procedure for Suspected Biting/Scratching Domestic Dogs, Cats and Ferrets), 14-9 (Animal Nuisances), 14-10 (Protection of Animals), 14-14 (Impoundment Fees), 14-17 (Fowl), 14-19 (Treatment of Animals), 14-20 (Animal Traps) and 14-21 (Enforcement), are hereby amended as follows<sup>1</sup>:

## **“CHAPTER 14. ANIMALS**

### **Sec. 14-3      Definitions**

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Animal Control: The director of the development services department, or his/her designee, of the City of Frisco, or its designee, as determined by the city manager of the City of Frisco.

Animal Control Officer: Any person designated by the city manager or the director of the development services department through written agreement or

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<sup>1</sup> For the sake of clarity, certain deletions are evidenced by ~~striketrough~~.

otherwise, to enforce the provisions of this chapter and who is authorized to receive reports of animal bites, investigate bite reports, administer euthanasia, ensure quarantine of suspected rabid animals, and otherwise carry out local, state and/or federal laws relating to animals, including, without limitation, rabies control and eradication.

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*Gallinaceous fowl*: Fowl of or relating to an order (Galliformes) of heavy-bodied largely terrestrial birds including pheasants, turkeys, grouse and the common domestic chicken.

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*Humane trap*: Any trap designed to capture an animal without injuring the animal.

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*Local Rabies Control Authority (LRCA)*: Animal Control or his/her designee shall serve as the local rabies control authority (LRCA). He/she shall be authorized to enforce this chapter, receive reports of animal bites/scratches, investigate bite/scratch reports, ensure quarantine of possible rabid animals, ensure quarantine of biting/scratching animals, and otherwise carry out provisions of the Texas Health and Safety Code, Chapter 826, as it currently exists or may be amended, to control and eradicate rabies.

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*Microchip / microchip implant*: A passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip implant shall contain a unique and original number that can be read by an electronic scanning device for purposes of animal identification and recovery by the animal's owner. The microchip implant shall be supplied with an exterior collar-type tag to provide an external means of notifying others that the animal has been implanted with a microchip.

*Microchip reader*: An electronic scanner with an operating frequency that detects a microchip that has been implanted in an animal and that displays the number of the microchip implant to its operator. The microchip reader shall be of a type that activates and displays the number of a microchip implant manufactured by multiple vendors.

*Notice*: Providing written notice by personal service, certified mail (return receipt requested), or a notice left at the entrance to the premise where an animal is harbored.

Notify and notification: Unless otherwise provided in this chapter, a requirement to notify Animal Control means to contact Animal Control by telephone at (972) 292-5303. Notification shall be made immediately, but only as soon as can be done safely.

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Retail animal store: A place of business or residence at which the seller, buyer and the animal available for sale are physically present so that every buyer may personally observe the animal prior to purchasing and/or taking custody of that animal after purchase, and where animals are sold or offered for sale, at retail, for use as pets. In addition to persons or entities that meet these criteria, the term *retail animal store* also includes any place of business or residence that qualifies as a “retail pet store” under the federal Animal Welfare Act. Such definition excludes the following:

- (1) Establishments or persons who deal in dogs used for hunting, security or breeding purposes;
- (2) Establishments or persons exhibiting, selling or offering to exhibit or sell any wild or exotic or other nonpet species of warmblooded animals (except birds), such as skunks, raccoons, nonhuman primates, squirrels, ocelots, foxes, coyotes, etc.;
- (3) Any establishment or person selling warmblooded animals (except birds and laboratory rats and mice) for research or exhibition purposes;
- (4) Any establishment wholesaling any animals (except birds, rats and mice); and
- (5) Any establishment exhibiting pet animals in a room that is separate from or adjacent to the retail animal store, or in an outside area, or anywhere off the retail animal store premises.

Service animal: An animal qualified as a “service animal” under the federal Americans with Disabilities Act.

Shelter: A structure that is capable of providing cover and protection from the weather. At a minimum, a shelter must have three (3) sides, a top, a bottom and must be adequately ventilated; it must have bedding material; and it must be large enough so that the animal can enter, stand, turn around, and lie down.

Small Livestock: All types of domesticated swine, sheep, lambs, goats, and other animals of the same approximate size and weight or deemed as such by Animal Control to be small livestock.

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Tether: Any leash, chain, cord, rope or other means of restraining an animal or the act of chaining, tying, fastening or otherwise securing an animal to a fixed point so that it can move or range only within certain limits.

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**Sec. 14-6      Quarantine Procedure for Suspected Biting/Scratching Domestic Dogs, Cats and Ferrets**

- (a)      Procedure. When a domestic dog, domestic cat or domestic ferret that is suspected of biting/scratching a human being is identified, the owner or custodian of the domestic dog, domestic cat or domestic ferret is required to produce the animal to Animal Control for two hundred, forty (240) hours confinement in a primary enclosure at the owner's expense. Refusal to produce said biting/scratching animal to Animal Control constitutes a violation of this section and each day of such refusal constitutes a separate and individual violation. The two hundred forty (240) hour observation period will begin on the day when the bite/scratch incident occurs. The biting/scratching animal must be placed in the custody of Animal Control at the Animal Control facilities specified for this purpose, or at a private veterinary facility designated by the TDSHS for quarantine at the owner's expense. However, the owner of the biting/scratching animal may request permission from Animal Control for home quarantine if the following criteria can be met:
- (1)      The animal must be placed in a primary enclosure to prevent exit, entry and contact by any persons or animals by the biting/scratching animal at the home of the animal's owner, and must be inspected and approved by the LRCA, or his/her designee.
  - (2)      The animal is currently vaccinated against rabies, unless the animal is under four (4) months of age in which case Animal Control and the LRCA may grant home quarantine.
  - (3)      Animal Control, the LRCA, or his/her designee, or a valid State-licensed veterinarian must observe the animal at least on the first (1<sup>st</sup>) and last day of the home quarantine observation period. If the animal becomes ill during the observation period, Animal Control and the LRCA, or his/her designee, must be notified immediately by the animal's owner, veterinarian, or person having possession of the animal. At the end of the home quarantine observation period, the animal's owner may request a written release.
  - (4)      The animal was not at large at the time of the bite/scratch incident as defined in section 14-3 above.

- (5) If the biting/scratching animal cannot be maintained in a primary enclosure during the quarantine period, it shall be humanely euthanized and the head/brain submitted to a State certified laboratory for rabies diagnosis.
- (b) Exemption: At the discretion of the LRCA, currently vaccinated service animals and police dogs may not be required to be placed in quarantine during the observation period, unless otherwise directed by a licensed veterinarian.

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#### **Sec. 14-9 Animal Nuisances**

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- (i) It shall be unlawful and constitute a public nuisance to slaughter or kill an animal in public view.

#### **Sec. 14-10 Protection of Animals**

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- (e) Retail Animal Store Permit.
  - (1) Permit Required. A person wishing to operate a Retail Animal Store in the City of Frisco must apply for and receive a Retail Animal Store Permit. A Retail Animal Store Permit shall be issued by the development services department if the requisite fee is paid and the Retail Animal Store meets each of the following requirements, as determined by Animal Control's inspection of the Retail Animal Store:
    - a. Cold and hot water and disinfecting/sanitizing chemicals appropriate for washing and disinfecting primary enclosures must be easily accessible to all parts of the animal housing areas;
    - b. Fresh water must be available and accessible to all animals at all times. Water, food and waste containers are to be cleaned and disinfected each day. All water containers must be removable for cleaning and mounted, placed, or weighted so that the animal cannot turn them over;
    - c. The ambient temperature in animal housing areas must be maintained between 60°F and 79°F at all times. The temperature and humidity in individual primary enclosures

must be maintained at levels that are healthful for the species of animals being housed, and adequate ventilation must be maintained in all animal housing areas at all times;

- d. Each primary enclosure must be of sufficient size so that the animal has, at a minimum, room to stand, turn, and lie down in a natural position. Each primary enclosure must be constructed of a nonporous material for easy cleaning and disinfecting. Each primary enclosure must be thoroughly cleaned and disinfected each day. Each primary enclosure must be locked or otherwise secured to prevent the escape of any animal being kept therein. Injured or ill animals must be kept isolated from healthy animals;
- e. Feeding records must be maintained on a daily basis to ensure that all animals are fed a proper and nutritious diet specific to each animal's needs. The daily feeding records must be maintained or posted in a readily accessible location. All veterinarians' orders must be in writing and kept on record and available for inspection during regular business hours. In general, all animals under six (6) months of age are to be fed at least two (2) times per 24-hour period, or as advised by a veterinarian, and all other animals must be fed at least one (1) time per 24-hour period, or as advised by a veterinarian. Food for each animal must be served in a clean dish constructed or mounted so that the animal cannot easily tip it over and must be removable for cleaning. Disposable feeding dishes are acceptable for one-time use only. Animals that do not require daily feedings are exempt from the daily feeding requirement; however, feeding records shall be maintained and the animal shall be kept in a healthful condition;
- f. Each bird must have sufficient room to stand upright without touching the top of its primary enclosure and to spread its wings fully without touching the side of its enclosure. Each bird must have access to a perch that is placed horizontal to other perches in the same enclosure and must be of adequate size for the species being housed. The primary enclosure must be sufficiently ventilated. Birds must be housed in primary enclosures with other birds of similar size such that the largest bird does not exceed twice the weight of the smallest bird in a single primary enclosure. There must be clean water and suitable food available to each bird at all times, and all troughs or other receptacles must be easily accessible to each bird and placed so that each bird cannot turn them over or defile

their contents. Injured, diseased, or dead birds must be immediately removed from housing areas holding healthy birds;

- g. Sufficient clean and dry bedding must be provided to meet the needs of each individual animal;
- h. All animals must be fed and watered and all primary enclosures must be cleaned and disinfected daily, including Sundays and holidays;
- i. Proof of current rabies vaccinations must be maintained for all dogs, cats, and ferrets four (4) months of age or older;
- j. Written procedures must be in place to notify Animal Control of any local rabies control incident as required by law;

(2) Effective Date. A Retail Animal Store which is in operation on the effective date of this subsection (e) shall have until April 1, 2016 to obtain the permit required by this subsection (e).

(3) Enforcement.

- a. A person commits an offense if he/she transfers ownership or offers to transfer ownership of any animal without first obtaining a Retail Animal Store Permit.
  - i. It is an affirmative defense to prosecution under subsection a. if the transfer of ownership or offer to transfer ownership of the animal was a private sale between two individuals outside of the context of a Retail Animal Store.
- b. A person commits an offense if he/she holds a permit issued under this subsection (e) and refuses access, upon request of Animal Control, to any portion of the premises that house or are used to service the animals, equipment, and any required registrations, veterinary records, feeding logs or permits during regular business hours.
- c. A person commits an offense if he/she holds a permit issued under this subsection (e) and fails to meet the requirements set forth in subsection (e)(1). Each separate violation shall constitute a separate offense.

(4) Revocation, Denial and Appeal.



- a. Animal Control is entitled to revoke or refuse to issue a permit required by this subsection (e) if the permit holder or applicant:
  - i. fails to meet the requirements set forth in subsection (e)(1);
  - ii. refuses to permit inspection of any portion of the premises that house or are used to service animals, equipment, and any required registrations, veterinary records, feeding logs or permits during regular business hours; or
  - iii. otherwise violates this subsection (e).
- b. The denial or revocation of a permit may be appealed to the Board of Adjustment. The appeal must be submitted in writing to the Board of Adjustment within ten (10) calendar days of the decision to deny or revoke a permit. Board of Adjustment shall hold a hearing at a reasonable time and place of its designation within ten (10) calendar days of the notice of appeal being received. The Board of Adjustment's decision shall be final.
  - i. All appeals under this subsection b. shall be governed by the following process:
    - 1. The written notice of appeal shall state the grounds for the appeal.
    - 2. The permit holder or applicant shall be provided at least seven (7) calendar days' notice of the meeting at which the appeal will be considered unless such notice is waived in writing by both the permit holder or applicant and the City.
  - ii. The permit holder or applicant may reapply for a new permit at any time.

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#### **Sec. 14-14 Impoundment Fees**

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- (8) Impound administrative fee: Animals that are impounded by the City of Frisco at the Collin County Animal Shelter shall be

charged an administrative fee that is set and collected by the Collin County Animal Shelter.

~~Impound Administrative Fee~~

~~Beginning October 1, 2011: \$25.00~~

~~Beginning April 1, 2012: \$50.00~~

~~Beginning October 1, 2010: \$75.00~~

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**Sec. 14-17 Fowl**

- (a) It shall be unlawful for any owner or custodian of gallinaceous fowl to keep or harbor more than 12 gallinaceous fowl in one enclosure, none of which may be male.
  - (1) It shall be an affirmative defense to prosecution under subsection (a) for an owner or custodian of gallinaceous fowl to keep or harbor male gallinaceous fowl if the premises where such male gallinaceous fowl are kept or harbored is one acre or more in size.

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**Sec. 14-19 Treatment of Animals**

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- (7) Tethering Animals.
  - a. A person commits an offense if he/she tethers an animal to a stationary object for any length of time.
    - i. It shall be an affirmative defense to prosecution under subsection a. if the animal is tethered on the owner/custodian's property or as part of a lawful City-sponsored event, veterinary treatment, grooming, training, law enforcement activity, or when needed to protect the safety or welfare of a person or animal, provided that all of the following conditions are met:
      - 1. The animal's owner/custodian maintains continuous, direct physical control of the animal throughout the period of restraint;

2. The tether is attached to a properly fitting collar or harness and is not wrapped around the animal's neck. Choke or prong-type collars shall not be used;
  3. The tether is designed and placed in a manner to prevent entanglement or injury; and
  4. The tether does not allow the animal to move outside the owner/custodian's property or to come within ten (10) feet of public property if tethered outside of a fenced area.
- ii. It shall be an affirmative defense to prosecution under subsection a. if the tether includes a "skyline"-type aerial trolley consisting of a line that is strung between two (2) fixed points that are at least twenty (20) feet apart with a down line that is at least five (5) feet in length provided that the conditions of subsections i.2 through i.4 are met and the animal is enclosed behind a fence of adequate size and strength capable of preventing the general public, including children, or other animals from entering the area.

#### **Sec. 14-20 Animal Traps**

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- (c) Animal Control traps placed at a site at the request of a property owner or resident are the responsibility of the property owner or resident. The property owner or resident shall check all such traps at least once each day. The property owner or resident shall contact Animal Control within 24 hours after the property owner or resident becomes aware that an animal has been captured. The property owner or resident shall be responsible for caring for any captured animal until the animal is removed by Animal Control. In the event that a trap placed by Animal Control is damaged or lost, the property owner or resident shall reimburse the City of Frisco for the cost of the trap and shall pay any other costs incurred as a result of the damaged or lost trap.

#### **Sec. 14-21 Enforcement**

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- (f) It shall be unlawful for any person to prevent, interfere with, obstruct, or give false information to Animal Control or any City-authorized person or City-authorized agent who is in the lawful discharge of his/her duties under this chapter or other local, state or federal law.

...

- (j) It shall be unlawful for any person to claim or disclaim ownership of an animal that he/she knows is false.
- (k) It shall be unlawful for any person to report a violation of this chapter or other local, state or federal law that he/she knows is false.
- (l) It shall be unlawful for any person to knowingly make, convey or cause to be imparted or conveyed false statements in an application submitted under this chapter, or to furnish, present or exhibit any fictitious or false documentation submitted under this chapter.”

**SECTION 3: Penalty.** Any person, firm, entity or corporation violating any provision of this Ordinance, as it exists or may be amended, shall be guilty of a misdemeanor, and on conviction, shall be fined in an amount not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day’s violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

**SECTION 4: Savings/Repealing.** The Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent prosecution from being commenced for any violation occurring prior to the repeal of the ordinance. Any remaining portions of conflicting ordinances shall remain in full force and effect.

**SECTION 5: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

**SECTION 6: Effective Date.** This Ordinance shall be effective immediately upon its passage and publication as required by law and the City Charter.

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**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS** on this 6th day of October, 2015.

*Maher Maso*

Maher Maso, Mayor

**ATTESTED AND  
CORRECTLY RECORDED:**

*Jenny Page*  
Jenny Page, City Secretary



**APPROVED AS TO FORM:**

*Ryan D. Pittman*

Abernathy, Roeder, Boyd & Hullett, P.C.  
Ryan D. Pittman, City Attorneys