

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF GARRETT, TEXAS PROVIDING FOR ANIMAL CONTROL; ESTABLISHING DEFINITIONS; PROHIBITING RUNNING AT LARGE AND THE AUTHORITY TO IMPOUND; REQUIRING VACCINATIONS FOR DOGS AND CATS; ESTABLISHING IMPOUNDMENT, ESTABLISHING IMPOUNDMENT FEES AND ADOPTION PROCEDURES FOR DOGS AND CATS; REQUIRING AND ESTABLISHING RABIES CONTROL AND ANIMAL QUARANTINE; PROHIBITING ANIMAL NUISANCES; ESTABLISHING LIVESTOCK AND MINIATURE LIVESTOCK REGULATIONS; INSTITUTING PERMITTING, CONTROL OF AND GUIDELINES FOR THE KEEPING OF NONPOISONOUS REPTILES AND OTHER ANIMALS, FOWL AND RABBITS; REQUIRING SANITARY CONDITIONS FOR KEEPING ANIMALS; ESTABLISHING PROHIBITED ANIMALS, DANGEROUS ANIMAL AND THE ALLOWED NUMBER OF ANIMALS; REGULATING THE SLAUGHTER OF ANIMALS; PROVIDING ENFORCEMENT, PENALTIES, AUTHORITY TO ISSUE CITATIONS AND PROHIBITING INTERFERENCE WITH THE ANIMAL CONTROL OFFICER; REPEALING ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SAVINGS CLAUSE AND DECLARING AN EFFECTIVE DATE AFTER PUBLICATION.

WHEREAS, the City of Garrett, Texas (“the City”) is a home-rule municipality organized under the laws of the State of Texas; and

WHEREAS, the City Council of the City of Garrett (“the City Council”) has the authority and power to adopt and amend ordinances that regulate animals within the City’s incorporated limits; and

WHEREAS, it is the intent of the City Council of the City to provide animal regulations in accordance with the City Comprehensive Plan; and

WHEREAS, the City Council has investigated and determined that it is advantageous, beneficial, and in the best interest of the public health, safety, and welfare to adopt the animal control regulations set forth herein.

**Section 1 – Definitions**

- (A) **Abandon** means leaving an animal in any place without providing reasonable and necessary care including, but not limited to, air, food, water, or protection from heat, cold or other elements of nature.
- (B) **Administrative Review Board** means a board comprised of the Mayor, the Police Chief and Public Works Director or the designated representative of any of those officials.
- (C) **Animal** means any living creature, including, but not limited to, dogs, cats, rabbits, sheep,

goats, cows, horses, birds, fish, mammals, reptiles, insects, fowl and livestock, but specifically excluding human beings.

- (D) **Animal Control** means the Animal Control Division of the City.
- (E) **Animal Control Officer** means any person employed by or designated by the Supervisor of Animal Control to enforce the provisions of this article.
- (F) **Animal Shelter** means a facility operated or contracted by the City for the purpose of impounding or caring for animals held under the authority of this article or state law.
- (G) **Veterinarian** means a veterinarian, licensed in the state, and employed or designated by the City to serve as its veterinarian. The city veterinarian may vary on a case-by-case basis and be selected or appointed by the Supervisor of Animal Control at his or her discretion.
- (H) **Colony** means a hive or apiary and its equipment and appurtenances including bees, combs, honey, pollen and brood.
- (I) **Commercial Stable** means a facility where a fee is charged to house, pasture or rent horses or other livestock.
- (J) **Cruel or inhumane treatment** means beating or torturing an animal, cruelly confining or transporting an animal, tormenting, seriously overloading, seriously overworking, abusing or starving an animal, or the prolonged tethering of an animal. (L)
- (K) **Dangerous Animal** means any animal of any species that has: (1) With or without provocation, on two or more occasions attacked or bitten any person or other animal; (2) With or without provocation, bitten any person or other animal causing death or serious bodily injury; (3) Been trapped as part of a feral group of animals and is likely to cause injury if handled by an employee of Animal Control; (4) An unconfined animal that attacks a restrained animal within immediate proximity of a human; (5) A confined animal that digs, chews, or tears through an enclosure in attempt to attack a human or another animal; or (4) By its acts or conduct exhibited dangerous propensities.
- (L) **Dangerous Propensities** means any one, or a combination of, the animal behaviors of biting, snarling, charging aggressively toward a person or another animal, growling with curled lips, popping of teeth, or barking with raised hackles.
- (M) **Enclosure** means any structure or device used to immediately restrict any animal or animals to a limited amount of space, such as a fence, room, pen, run, cage, compartment, or hutch.
- (N) **Excessive animals** mean an accumulation of animals which, the number, types and sizes of animals being kept, the number of violations and the validity of complaints against the animals, the owner's ability to provide care, the distance from neighboring properties, and other factors of care, results in an animal nuisance or endangers the health of any person or animal.
- (O) **Excessive fleas or ticks** mean the presence of fleas or ticks in a quantity that does or may pose a threat to public health.
- (P) **Exotic Animals** include nonnative species of animal, including, but not limited to, nonpoisonous reptiles which, when mature, are over six feet in length, ostriches, any member of the Ratite family or exotic livestock as defined by the state animal health commission.
- (Q) **Fowl** shall mean a domesticated bird, including, but not limited to chickens, ducks, geese, swans, guinea fowl, turkeys or peafowl.
- (R) **Large Livestock** means and includes: (1) Horses or any member of the domesticated equine family, including, but not limited to, mules, donkeys, ponies; (2) Cattle or any member of the bovine family; and (3) Llamas and any members of the camelidea family.
- (S) **Miniature Livestock** means and includes swine, sheep, goats and horses that have been

specifically bred to be significantly smaller at maturity than all other breeds of similar animals. Miniature livestock includes, but is not limited to, potbellied pigs, pygmy goats, and miniature horses.

- (T) **Nuisance** means and includes anything that is offensive, annoying, obnoxious, or injurious to the community at large (public nuisance) or to an individual.
- (U) **Other Animal** means animals other than dogs, cats, exotic animals, fowl, large livestock, miniature livestock, pigeons, small livestock, ferrets, or wild animals.
- (V) **Owner** means any person: (1) Having title to an animal; (2) Who has custody or possession of an animal (whether temporary or permanent); or (3) Who harbors, keeps, causes or permits an animal to remain on or about the premises under the person's control.
- (W) **Running-At-Large** means an animal that is not completely confined by an enclosure of sufficient strength or construction to restrain the animal.
- (X) **Small Livestock** means all types of domesticated swine, sheep and goats other than miniature livestock.
- (Y) **Supervisor** means the person designated by the City to supervise the division of Animal Control and, unless otherwise provided, includes a person designated by the City Manager to fulfill such functions in the absence or disability of the supervisor.
- (Z) **Wild Animal** means unless certified by Animal Services for medical, biological, herpetological or other scientific research or study: (1) Any poisonous or dangerous reptile. (2) Any animal normally found in a wild state and not normally capable of being domesticated, including, but not limited to, raccoons, skunks, foxes, leopards, panthers, tigers, lions, bears and lynx and includes offspring of domesticated canine and wild canine cross-breeds such as coyote or wolf hybrids. (3) Any animal identified within Texas Parks and Wildlife Code, Chapters 63 thru 68. (4) Any animal not found within the aforementioned codes that is not indigenous to the State of Texas or otherwise set forth in this ordinance.
- (AA) **Zoonotic Disease** means an illness which is of animal origin and usually causes illness to other animals, but which can be transmitted to, and cause illness in, humans.

## **Section 2 – Running at large prohibited; authority to impound**

- (A) It shall be unlawful for any owner of an animal, to cause, permit or allow the animal to run at large.
- (B) Any Animal Control Officer, or any Police Officer is authorized to, and may impound an animal found running at large.
- (C) It is an affirmative defense to a prosecution under subsection (A) of this section if: (1) At the time of the offense, the animal was on a leash held by a person or under the actual, physical control of a person who possesses sufficient strength to control the animal while the animal is not leashed; or (2) At the time of the offense the animal was engaged in bona fide training exercises under the direct supervision of the person training the animal.

## **Section 3 – Dogs and cats; animal vaccination**

- (A) Vaccination of dogs and cats required; paper certificates.
  - (1) All dogs and cats must be vaccinated for rabies between the ages of twelve (12) weeks and sixteen (16) weeks.
  - (2) All dogs and cats shall either:

- (a) Receive a rabies vaccine annually; or
- (b) Receive an initial rabies vaccine; receive a booster rabies vaccine within the twelve-month period following the initial vaccination; and be revaccinated at least once every three years thereafter with a vaccine approved as a three-year vaccine.

(3) All vaccines administered under this section shall be licensed for use in that species by the U.S. Department of Agriculture and administered by a duly authorized veterinarian. A paper certificate must be issued upon each vaccination stating the name of the owner, the address of the owner, a description of the dog or cat, the date of the vaccination, the date the vaccination expires, the administering veterinarian's signature and license number, and the kind of vaccine used.

(4) Animal owners shall provide proof of current rabies vaccination for any animal required to be vaccinated under this article upon request by the Animal Control Officer or their designee.

#### **Section 4 – Impoundment**

- (A) Animals subject to impoundment. The following animals may be impounded:
  - (1) Any animal infected with a zoonotic disease including, but not limited to, any animal suspected of having been infected by rabies or exposed to rabies;
  - (2) Any animal that creates a nuisance;
  - (3) Any animal running at large;
  - (4) Any animal kept under conditions or treated in a manner which the Animal Control Officer has reasonable cause to believe is cruel or inhumane;
  - (5) Any animal that has bitten a person;
  - (6) Any animal violating any other provision of this article.
- (B) Right of property owner to confine or trap; notification of Animal Control. The owner or occupant of a premise may confine or trap, in a humane manner as approved by the Animal Control Officer, any animal habitually and without consent found upon the premises of such owner or occupant. After confining or trapping an animal, the person confining or trapping the animal shall promptly notify the Animal Control Officer.  
It shall be a violation for any person to confine or trap an animal without notifying the Animal Control Officer.
- (C) Interfering with humane trapping. A person commits an offense if the person interferes with humane confinement or trapping as authorized by this section. Interference includes, but is not limited to, removing cages, releasing confined or trapped animals, removing bait, disabling trap release devices or destroying traps.
- (D) Notification of animal owner of impoundment. The Animal Control Officer shall make reasonable effort to contact the owner of any impounded animal that is wearing a current vaccination or identification tag; provided, however, that responsibility for locating an impounded animal is that of the owner.
- (E) Reclaiming impounded animals generally. Unless otherwise provided in this section, the owner of an impounded animal may regain possession upon payment of impoundment fees, handling fees and any veterinarian bills incurred by Animal Control for the welfare of the animal and upon compliance with vaccination provisions of this article. If the owner cannot provide proof of a current rabies vaccination, the impounded animal must be revaccinated prior to release. The fee for rabies vaccination shall be set by the veterinarian. Additional

fees may be charged if emergency veterinary services are rendered. Animals less than 12 weeks of age will not require a rabies vaccination prior to release from the animal shelter.

- (F) Reclaiming animals impounded for mistreatment. Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by the Animal Control Officer. Upon completion of an investigation by the Animal Control Officer the owner may be found responsible for veterinarian fees, impoundment fees, and/or shelter fees.
- (G) Reclaiming animals under rabies quarantine. If an animal is being held under quarantine or observation for rabies, the owner shall not be entitled to regain possession until the animal has been released by the Animal Control Officer. If the owner of an animal under rabies quarantine has not been identified during the ten-day observation period, the animal may be humanely euthanized, released for adoption or otherwise disposed of as may be deemed appropriate by the Animal Control Officer.
- (H) Disposition of unclaimed animals generally. Any animal not reclaimed by the owner, other than dangerous or wild animals, may be humanely euthanized after being impounded according to animal shelter policies.
- (I) Disposition of impounded wild animals. Any impounded wild animal, unless there is reason to believe that it has an owner, may be immediately humanely euthanized or otherwise disposed of as may be deemed appropriate by the Animal Control Officer.
- (J) Disposition of nursing baby animals. If a nursing baby animal has been impounded without the mother, or if the mother cannot or refuses to provide nutritious milk, then the animal may be immediately euthanized to prevent further suffering.
- (K) Adoption of impounded cats or dogs authorized. Any impounded cat or dog may be released for adoption according to animal shelter policies.
- (L) Disposition of animal upon direction of owner. An owner may authorize the adoption of an unwanted animal prior to the expiration of the designated day by signing a waiver to that effect in a form to be provided by Animal Control. An owner who does not desire to regain possession of an impounded animal may, upon signing a waiver in a form provided by Animal Control, allow the animal to be immediately euthanized in a humane manner. An owner of an animal that has bitten or scratched a human may authorize the animal to be humanely euthanized and tested for rabies. The owner shall pay a shipping and testing fee established by the Animal Control Officer.
- (M) Disposition of injured or ill animals. An impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a nonprofit humane organization or animal rescue club for the purpose of veterinary medical care, as determined by the Animal Control Officer. The Animal Control Officer shall make reasonable efforts to contact the owner of any injured or ill animal that is wearing a current vaccination or identification tag prior to making a disposition of the animal. A veterinarian shall have authority to treat or euthanize animals held at the shelter as necessary to prevent the spread of disease in the event of a communicable zoonotic disease outbreak.

## **Section 5 – Impoundment fees; adoption procedure for dogs and cats**

- (A) Impoundment fees generally. Impoundment fees shall be paid to the Animal Control before recovering an animal from the animal shelter and shall be as follows:
  - (1) Class A, dogs and cats, each dog or cat: Spayed or neutered  
1<sup>st</sup> Impoundment \$100.00 and each thereafter

Unspayed or unneutered

1<sup>st</sup> Impoundment \$125.00 and each thereafter

Dogs and cats under the age of six (6) months shall be charged the sterilized dog or cat impoundment fee. Animals may be exempted from sterilization upon written recommendation from a licensed veterinarian that such alternatives would be harmful or dangerous to the animal; owners of such animals shall be charged the lower impoundment fees for sterilized animals. Owners shall provide proof of spay or neutering from a veterinarian clinic at the request of the Animal Control Officer.

(2) Class B, small or miniature livestock; such as goats, sheep, pigs, calves, foals, and animals of the same approximate size and weight, each animal:

1<sup>st</sup> Impoundment \$100.00

2<sup>nd</sup> Impoundment \$125.00

3<sup>rd</sup> Impoundment \$150.00

4<sup>th</sup> Impoundment and all impoundments thereafter \$175.00

(3) Class C, large livestock; such as cattle, horses, ponies, mules, and animals of the size and weight, each animal:

1<sup>st</sup> Impoundment \$150.00

2<sup>nd</sup> Impoundment \$175.00

3<sup>rd</sup> Impoundment \$200.00

4<sup>th</sup> Impoundment and all impoundments thereafter \$225.00

(4) Class D, wild animals, and large exotics, each animal:

1<sup>st</sup> Impoundment \$200.00

2<sup>nd</sup> Impoundment seized and disposition determined by the Animal Control Officer.

(5) Class E, domestic fowl, small exotic animals or other small mammals, such as ferrets, rabbits and hedgehogs, each animal:

1<sup>st</sup> Impoundment \$25.00

2<sup>nd</sup> Impoundment \$35.00

3<sup>rd</sup> Impoundment \$45.00

4<sup>th</sup> Impoundment and all impoundments thereafter \$55.00

Disposition of Animals not listed above will be at the discretion of the Animal Control Officer.

(B) Daily handling and Quarantine fees. A daily handling fee or quarantine fee shall be charged for every day, or fraction thereof, that an animal is at the animal shelter. Daily handling or quarantine fees shall be based upon the class of animal enumerated in subsection (A) above and shall be paid in addition to impoundment fees. Daily handling fees shall be set by the animal shelter and paid to the animal shelter before recovering an impounded animal.

Impoundment fees may be waived on a case by case basis upon the discretion of the Animal Control Officer.

## **Section 6 – Rabies control and animal quarantine**

- (A) Designation of LRCA; authority to quarantine. The Animal Control Officer is hereby designated as the Local Rabies Control Authority (“LRCA”) and shall be responsible for enforcing rabies control measures as provided in this chapter and in chapter 826, Texas Health and Safety Code. (2) The LRCA may order the quarantine of any animal that has bitten or scratched a person or another animal or that is suspected of having a zoonotic disease.
- (B) Any warm-blooded animal that bites or scratches a person or another animal, or that is suspected of having rabies or other zoonotic disease, shall be immediately confined by the owner, who shall promptly notify Animal Control of the place where the animal is confined and the reason for the confinement. During the confinement, except for care and feeding of the animal, the owner shall not allow the animal to come into contact with any other person or animal. The owner shall surrender possession of the animal to Animal Control when supervised quarantine is prescribed. Supervised quarantine shall be carried out at the animal shelter, at a veterinary hospital approved by the LRCA, or by another method of adequate confinement approved by the LRCA. The quarantine shall be for a period of not less than ten (10) days and shall be conducted under the supervision of a veterinarian or the LRCA. A release from quarantine may be issued if no signs of rabies or other disease have been observed during the quarantine period. If an animal is quarantined other than at the animal shelter, the owner shall immediately provide Animal Control with the name, address, and phone number of the person or veterinarian supervising the quarantine. If the LRCA approves quarantine other than in the animal shelter or at a veterinary hospital, the owner shall be responsible for confining the animal. Quarantine other than in the animal shelter or at a veterinary hospital may be authorized by the Animal Control Officer if the bite victim approves and if the owner was in compliance with all applicable local laws and regulations including, but not limited to, having a current rabies vaccination for the animal.
- (C) Violation of the quarantine, cause for seizure and impoundment. The violation of quarantine by an owner shall be just cause for seizure and impoundment of the quarantined animal by Animal Control. It shall be unlawful for any person to interrupt the observation period.
- (D) Investigation of animal bite reports; killing of biting animal prohibited. All animal bite reports shall be investigated by the Animal Control Officer. Without permission of the LRCA, it shall be unlawful for any person to kill or remove from the city limits any animal that has bitten a person or other animal or that has been placed under quarantine, except when immediately necessary to protect the life or health of a person or other animal.
- (E) Reporting of animal bites. The owner of an animal that has bitten another person and a person who has been bitten by an animal shall report the bite incident to Animal Control immediately, but in no case more than 24 hours after the incident.
- (F) Authority to direct disposition of suspected rabid animals. The LRCA shall direct the disposition of any animal suspected of being rabid or having any other zoonotic disease considered to be a hazard to any other animal or person.
- (G) Surrender of dead animal carcasses suspected of rabies. The carcass of any dead animal

exposed to rabies or suspected of having been rabid shall, upon demand, be surrendered to Animal Control.

- (H) Manner of disposing of animals exposed to rabies. At the time an animal has been potentially exposed to rabies through a contact with another animal, the owner of the exposed animal shall promptly notify Animal Control of the place where such animal is confined and the reason therefore. During the confinement, except for care and feeding of the animal, the owner shall not allow the animal to come into contact with any other person or animal. An animal exposed to rabies shall be: (1) Humanely destroyed, with notification to, or under supervision of, Animal Control; (2) If not currently vaccinated, quarantined in a veterinary hospital or the animal shelter for at least ninety (90) days immediately following the date of the exposure; or (3) If currently vaccinated, immediately revaccinated and quarantined in a veterinary hospital or the animal shelter for at least forty-five (45) days immediately following the date of exposure.

The quarantine periods established above may be shortened or lengthened by the LRCA if recommended or required by the state department of state health services.

- (I) Refusal to surrender animal, on demand, for rabies control purposes. An owner commits an offense, if the owner fails or refuses to surrender an animal for supervised quarantine or humane destruction, as required herein for rabies control, when demand therefor is made by the LRCA.
- (J) Notification to Animal Control upon escape, sickness or death of quarantined animal. The owner of a quarantined animal shall immediately notify Animal Control if such animal escapes, becomes or appears to become sick, or dies. In case of death of the animal while under quarantine, the owner shall immediately surrender the dead animal to the Animal Control Officer for diagnostic purposes.
- (K) Voluntary release of animal for euthanasia. An owner may request that his/her animal that has bitten or scratched a human be euthanized and tested for rabies. The owner shall pay a shipping and testing fee established by the Animal Control Officer.
- (L) Daily handling and Quarantine fees. A daily handling fee or quarantine fee shall be charged for every day, or fraction thereof, that an animal is at the animal shelter. Daily handling or quarantine fees shall be based upon the class of animal enumerated in subsection (A) above and shall be paid in addition to impoundment fees. Daily handling fees shall be set by the animal shelter and paid to the animal shelter before recovering an impounded animal.

## **Section 7 – Animal nuisance prohibited**

It shall be unlawful:

- (1) For an owner to keep an animal in such a manner as to endanger the public health or to unreasonably annoy a person who occupies a nearby property by causing or allowing the accumulation of animal wastes which cause foul or offensive odors or flies.
- (2) For an owner to cause or allow an animal enclosure to become offensive to a person of ordinary sensibilities.
- (3) For an owner to keep or cause to be kept bees in such a manner or condition as to be unhealthy or offensive to others.
- (4) For an owner to keep an animal in such a manner that the animal, by its acts or conduct, exhibits dangerous propensities or creates a reasonable fear of bodily injury to neighboring persons of ordinary sensibilities.
- (5) For an owner to keep an animal which, by unreasonable habitual noisemaking,



violates any City ordinance regarding noise control.

- (6) For an owner to cause or allow a dog to evacuate feces on a private or public place other than the property of the owner and thereafter fail or refuse to remove and properly dispose of such waste.
- (7) To cause or allow property occupied by the owner of an animal to harbor excessive fleas or ticks.
- (8) To possess, sell, harbor, or convey an exotic or wild animal.
- (9) To provide food, shelter or water to feral or wild animals in a manner that creates an unreasonable nuisance to a neighboring person due to the presence of said feral or wild animals.
- (10) To intentionally, knowingly, recklessly or negligently release or abandon any animal, or allow any animal to stray from the owners' property.

### **Section 8 – Livestock regulations**

- (A) It shall be unlawful to possess, harbor or keep swine within the City limits except in a zoning district where expressly allowed. Educational agriculture projects for persons enrolled in higher education may be an exception if authorized by the Animal Control Officer. Potbellied pigs are an exception to this section.
- (B) It shall be unlawful to possess, harbor, or keep either small or large livestock on the premises of any residential dwelling having an area less than 1/2 acre without obtaining a permit from the Animal Control Officer. It shall be unlawful to keep any small or large livestock within the City limits in a manner that creates an unreasonable nuisance for a person occupying an adjoining property.
- (C) All livestock shall be kept in a contained fenced area reasonably suitable for the particular type of livestock owned. When small and large livestock are quartered together the fencing suitable for small livestock will apply. Suitable fencing may be determined by the fences ability to secure the animal and may be at the discretion of the Animal Control Officer. The fencing prescribed by the Animal Control Officer may be appealed to the Administrative Review Board.
- (D) It shall be unlawful to possess, harbor or keep any small or large livestock in such a manner that the livestock will be quartered closer than one hundred (100) feet from any residential dwelling unit, other than those of the owner or keeper.
- (E) The Animal Control Officer may authorize the possession or keeping of livestock on a case-by-case basis provided that the number of livestock is not in excess and the owner demonstrates an ability to properly care for, restrain, and enclose such animal, and the animal does not appear to pose a threat to the public health, safety, or welfare.

### **Section 9 – Miniature livestock regulations**

- (A) It shall be unlawful to possess, harbor, or keep miniature livestock on the premises of any residential dwelling having an area less than 1/2 acre without obtaining a permit from the Animal Control Officer. It shall be unlawful to keep any miniature livestock within the City limits in a manner that creates an unreasonable nuisance for a person occupying an adjoining property.
- (B) In addition to other generally applicable requirements, the owner of a potbellied pig shall comply with the following standards:

- (1) Each potbellied pig shall be vaccinated against erysipelas annually;
  - (2) Enclosures shall be maintained in good condition and shall be at least 42 inches in height;
  - (3) A potbellied pig allowed outside the owner's enclosure shall be kept on a leash;
  - (4) Any enclosure for a potbellied pig shall be located so that no potbellied pig shall be kept or maintained closer than thirty (30) feet from the nearest residential dwelling other than that of the owner.
- (C) In addition to other generally applicable requirements, the owner of a pygmy goat shall comply with the following standards: (1) Enclosures shall be maintained in good condition and shall be constructed to the standards required for small livestock; (2) A pygmy goat allowed outside the owner's enclosure shall be kept on a leash; (3) Any enclosure for a pygmy goat shall be located so that no pygmy goat shall be kept or maintained closer than thirty (30) feet from the nearest residential dwelling other than that of the owner.
- (D) In addition to other generally applicable requirements, the owner of a miniature horse shall comply with the following standards:
- (1) Enclosures shall be maintained in good condition and shall be constructed to the standards required for small livestock;
  - (2) Each miniature horse shall be vaccinated annually against both the Eastern and Western equine encephalitis virus, tetanus, and rabies;
  - (3) A miniature horse allowed outside the owner's enclosure shall be kept on a halter and lead, or the appropriate tack to remain under the owner or handler's control;
  - (4) Any enclosure for a miniature horse shall be located so that no miniature horse shall be kept or maintained closer than thirty (30) feet from the nearest residential dwelling other than that of the owner.
- (E) The Animal Control Officer may authorize the possession or keeping of miniature livestock on a case-by- case basis provided that the number of miniature livestock is not in excess and the owner demonstrates an ability to properly care for, restrain, and enclose such animal, and the animal does not appear to pose a threat to the public health, safety or welfare.

## **Section 10 – Rabbits**

- (A) It shall be unlawful to possess, harbor, or keep more than four (4) rabbits over the age of two (2) months on the premises of any residential dwelling having an area less than 1/2 acre without obtaining a permit from the Animal Control Officer. It shall be unlawful to keep rabbits within the City limits in a manner that creates an unreasonable nuisance for a person occupying an adjoining property.
- (B) Rabbits shall be kept in an enclosure that is located at least thirty (30) feet from any residential dwelling, other than that of the owner. Rabbit enclosures shall be of a design which prohibits an excessive amount of feces from accumulating in any area. In areas zoned for agricultural use, an enclosure may not be required however it is a violation for the owner of the rabbits to negligently allow the rabbits to stray to the property of anyone else.
- (C) The Animal Control Officer may authorize the possession or keeping of rabbits on a case-by-case basis provided that the number of rabbits is not in excess and the owner demonstrates an ability to properly care for, restrain, and enclose such animal, and the animal does not appear to pose a threat to the public health, safety or welfare.

## **Section 11 – Nonpoisonous reptiles and other animals**

- (A) It shall be unlawful to possess, harbor, or keep more than four (4) nonpoisonous reptiles per household except by permit from the Animal Control Officer.
- (B) It shall be unlawful to possess, harbor, or keep a nonpoisonous reptile that does or may exceed six feet in length at maturity. In addition to other generally applicable requirements, the owner of a reptile covered by this subsection shall comply with the following standards:
  - (1) The cage or container housing a reptile covered by this subsection shall be of a material and construction to allow for proper care of each reptile and which will minimize the likelihood of escape; and
  - (2) Reptiles covered by this subsection shall be kept indoors only unless the animal is being transported for veterinary care.
- (C) The Animal Control Officer may authorize the possession or keeping of nonpoisonous reptiles and other animals on a case-by-case basis provided that the number of animals is not in excess and the owner demonstrates an ability to properly care for, restrain, and enclose such animal, and the animal does not appear to pose a threat to the public health, safety or welfare.

### **Section 12 – Fowl**

- (A) It shall be unlawful to possess, harbor, or keep more than four (4) fowl on the premises of any residential dwelling having an area less than 1/2 acre without obtaining a permit from the Animal Control Officer. It shall be unlawful to keep any fowl within the City limits in a manner that creates an unreasonable nuisance for a person occupying an adjoining property.
- (B) Fowl shall be kept in an enclosure that is located at least thirty (30) feet from any residential dwelling, other than that of the owner. In areas zoned for agricultural use, an enclosure may not be required however it is a violation for the owner of the fowl to negligently allow the fowl to stray to the property of anyone else.
- (C) The Supervisor of Animal Control may authorize the possession or keeping of fowl or peacock on a case-by-case basis provided that the number of fowl is not in excess and the owner demonstrates an ability to properly care for, restrain, and enclose such animal, and the animal does not appear to pose a threat to the public health, safety or welfare.

### **Section 13 – Permits**

- (A) A person seeking a permit to keep any animal, nonpoisonous reptile, dangerous animal, or to operate a commercial business covered by this article shall fully and truthfully complete an application in a form provided by the Animal Control Officer and shall pay the required application fee. Registration fees for permit-required animals, dangerous animals, or nonpoisonous reptiles shall be included in the \$25.00 permit fee.

- (B) Permits are not transferable from one person to another or from one address to another address. A permit shall be valid for one year from the date of issuance unless sooner revoked or terminated under the provisions of this article.
- (C) The Animal Control Officer may impose specific conditions on a permit in order to obtain compliance with all applicable provisions of this article.
- (D) For serious or repeated violations of any of the requirements of the animal ordinance, this article, or for interference with the local health authority, or their designee, in the performance of their duties, a permit issued under this article may be revoked. Prior to such action, the Animal Control Officer shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising the permit holder of the permit holder's right to a hearing before the Administrative Review Board. Requests for a hearing shall be made to the City Secretary within five (5) days following service of the notice of revocation. If the owner fails to request a hearing within five (5) days, the permit is revoked. If a hearing is timely requested prior to the revocation of the permit, the owner may keep any permitted animals (other than an animal suspected of biting a person) until the Administrative Review hearing is completed.
- (E) A person whose application for a permit under this article is denied by the Animal Control Officer may appeal the denial to the Administrative Review Board.
- (F) The hearings provided for in this section shall be held before, and decided by the Administrative Review Board at a time and place designated by the board. Based upon the evidence presented at the hearing, the Administrative Review Board shall make a finding and may sustain, modify, or rescind the decision forming the basis of the hearing.

Permit fees may be waived at the discretion of the Animal Control Officer.

#### **Section 14 – Sanitary conditions for keeping animals**

- (A) The owner of an animal shall keep all yards, pens, stables, cages and other enclosures in which an animal is confined in such a manner so 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 in any manner which endangers the public health or safety or which creates an unreasonable amount of public nuisance.
- (B) Unless otherwise specified in this article, the owner of an animal shall comply with the following general sanitary regulations: (1) Fecal material shall be removed from yards, pens, stables, cages and other enclosures at a frequency corresponding to the number, size and breed of the animal so enclosed. Fecal material shall be disposed of in a sanitary manner; (2) Mound storage of fecal material for small or large livestock between such removals shall be utilized only if measures are taken to protect against the breeding of flies and to prevent migration of fly larvae (maggots) into the surrounding soil; (3) The feeding of vegetables, meats, scraps, or garbage shall be done only in impervious containers or on an impervious platform; (4) Watering troughs or tanks shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies; (5) No putrescible material shall be allowed to accumulate on the premises, and all such material used for feed which is unconsumed shall be removed and disposed of by burial or other sanitary manner; (6) Tethered animals shall be tethered in a manner as to prevent the animal from reaching any point less than five (5) feet from an adjoining property line when the tether is fully extended;

(7) Tethered animals shall be tethered in a manner as to prevent the animal from reaching any point less than thirty (30) feet from any adjoining dwelling, other than that of the owner, when the tether is fully extended.

### **Section 15 – Pet and animal care regulations**

(A) Provision of food, shelter and care generally. An owner shall provide the owner's animals with sufficient, good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

**Exception:** The owner of large livestock shall be exempt from providing shelter and protection from the weather for large livestock they own if the Animal Control Officer deems that the large livestock are provided adequate care.

(B) Abandonment: No owner of an animal shall abandon such animal.

(C) Striking with a vehicle: Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible, and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained or located, the person shall at once report the accident to Animal Control or the Police Department.

(D) Transporting animals: No owner shall transport an animal in an open vehicle (motorcycle, convertible, pickup, truck, open sport utility vehicle, flatbed trailer, or flatbed truck) unless the animal is safely enclosed in a vented container or is confined by a chain, rope, or other device in a manner that prevents the animal from falling or jumping from the vehicle or strangling on the tethering device.

(E) Leaving animals in parked vehicles: It shall be unlawful to leave an animal in a standing or parked vehicle without providing the animal with adequate water, air and protection from heat or cold. An animal left under such conditions may be impounded.

(F) Leaving animals unattended: No owner shall keep, harbor, or allow an animal to remain unattended at any place that has not been occupied by a human within the last 72 hours. No person shall keep, harbor, or allow an animal to remain at a residential dwelling that does not have electric and water service. It shall be an affirmative defense to prosecution under this subsection if the owner has arranged for regular care and feeding of the animal during the owner's absence at a residential dwelling that has functional electric and water service.

(G) Keeping bees: A person who keeps or harbors bees shall: (1) Maintain each colony in a healthy state; (2) Maintain the grounds near each hive in a sanitary manner; (3) Ensure that a convenient source of water is available to each colony at all times; (4) Mark each hive with the name and telephone number of the beekeeper, unless the owner's residence is on the property; and (5) Provide an enclosure surrounding the apiary sufficient to prevent small children or animals from accessing the hives. The Animal Control Officer shall have the authority to require a person to reduce the number of hives in an apiary to a number which will abate a nuisance.

(H) Capturing waterfowl: No person shall apprehend or collect fowl from any body of water in the City limits without permission from the Animal Control Officer. The owner of a private body of water may collect his own fowl without permission of Animal Control.

(I) Tethering animals: It shall be unlawful for an owner to tie an animal to a stationary object for a prolonged period of time in a manner or in a location so as to create a danger to the health, safety, or welfare of the animal or to any person. An animal tied for a prolonged period of time must be in an enclosure.

- (J) Maintenance of enclosures: An owner shall maintain all enclosures for the owner's animals in a state of good repair and in such a manner as to prevent the animal so enclosed from escaping or running at large.
- (K) Coloring animals: It shall be unlawful to color, dye, stain, or otherwise change the natural color of baby chickens, ducklings, other fowl, or rabbits, or to possess, for the purpose of sale or to be given away, any such animal that has been so colored.
- (L) Trapping and poisoning: It shall be unlawful to trap or poison an animal without permission issued by the Animal Control Officer. It is an affirmative defense to prosecution under this subsection that such activities were carried out by: (1) A state wildlife damage control specialist; (2) A licensed pest control applicator; (3) A person lawfully using a registered pest control agent on property under that person's care, custody or control; (4) An employee of Animal Control.
- (M) Animal graffiti: It shall be unlawful to mark or physically alter the appearance of any animal using paint or any similar product. It is an affirmative defense to prosecution under this subsection if such markings are not physically harmful to the animal; and
  - (1) Are part of a temporary costume; or
  - (2) The results of a dog grooming procedure.
- (N) Cruelty to animals: A person commits an offense if the person intentionally or knowingly:
  - (1) Tortures, kills, or injures an animal, provided that regular care or euthanasia in an animal shelter or veterinary clinic is not considered a violation of this section;
  - (2) Fails to provide reasonable care to an animal including, but not limited to, food, water, care, or shelter to an animal in the person's custody;
  - (3) Causes one animal to fight with another animal, regardless if the animals are of a similar or different breed;
  - (4) Tethers an animal in a manner that causes injury or for a prolonged period of time.

### **Section 16 – Prohibited animals**

- (A) It shall be unlawful to keep, harbor, sell, transfer, convey or release any of the following: (1) A wild animal identified in Texas Parks and Wildlife Code, Chapters 63 thru 68; (2) An animal that is not indigenous to the State of Texas; (2) An exotic animal, except as otherwise provided in this article; (3) An animal that has been declared dangerous and the owner has been found not to be in compliance with the Section regarding dangerous animals.
- (B) It shall be an affirmative defense to prosecution under this section if the owner of an animal prohibited by this section is a zoological park, educational institution, licensed veterinarian providing care to an injured or ill prohibited animal, or state or federally approved wildlife rehabilitation facility.
- (C) Search and seizure warrants authorized. The Animal Control Officer or a Police Officer is authorized to obtain a search and seizure warrant if the supervisor has probable cause to believe that a person is in violation of this section.

### **Section 17 – Dangerous animals**

- (A) The Municipal Court may determine that a dog is a dangerous animal in compliance with Texas Health and Safety Code 822.0422; or (1) The Animal Control Officer or any Citizen

may file a sworn report describing a dangerous dog incident with the Court. The sworn report shall present probable cause that the dog described in the report committed an unprovoked attack on a person, domestic fowl, or domestic animal. The Animal Control Officer shall furnish a written notice to the owner of the animal, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the animal immediately to the Animal Control Officer upon receiving the notice, provided that the Animal Control Officer may, in his discretion, accept proof that the animal is impounded with a licensed veterinarian according to the terms of this Article. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing. Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Control Officer or physically attached to the main door of the known residence of the owner. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address; or (2) The Animal Control Officer may determine that a dog is a dangerous animal after investigation of a dangerous animal incident. The Animal Control Officer shall furnish written notice to the owner of the animal as identified in the complaint to inform the owner that a dangerous animal report has been filed or received. The owner will have five (5) calendar days from the date the owner is notified to provide the Animal Control Officer information regarding the report. The Animal Control Officer may consider additional information from other sources in the course of the investigation. If, after investigating a dangerous animal report, the Animal Control finds that the dog is a dangerous animal, the Animal Control Officer shall provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal and shall have attached to it a copy of this Section. Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Control Officer or physically attached to the main door of the known residence of the owner. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address. An owner, not later than ten (10) calendar days after the date the owner is notified that an animal owned by him is a dangerous animal, may appeal the determination of the Animal Control Officer to the City Municipal Court. An owner may appeal the decision of the Municipal Court to a County Court-at-Law, in the same manner as an appeal of a civil case.

- (B) An animal deemed dangerous under this section shall not be released from the animal shelter until the owner has provided a plan for securing or relocation of the animal and the secured area is inspected and approved by the Animal Control Officer. A permit for a dangerous

animal may be issued after approval of the Animal Control Officer at the expense of the owner.

- (C) Authority to require removal from City; appeals from orders of removal. The Animal Control Officer may order the owner of any dangerous animal to immediately remove the animal permanently from the City limits. If so ordered, the animal shall be removed immediately following receipt of the order, even if an appeal is initiated. The owner may appeal the order in writing within ten (10) days of the date of the order to the Administrative Review Board. The board may uphold, reverse or modify the order of the Animal Control Officer and may stipulate restrictions on the animal as a condition to allowing the animal to remain in the City. If the board upholds the order of the Animal Control Officer, the owner shall not bring the animal back inside the City limits. The Animal Control Officer, in lieu of ordering the removal of the animal from the City, may require the owner to take corrective actions which will ensure the safety, peace, and repose of neighboring residents.
- (D) Failure to remove; grounds for impoundment or destruction. If the owner of a dangerous animal fails or refuses to remove the animal or returns the animal to the City, the animal may be impounded or destroyed by the Animal Control Officer.
- (E) Authority to destroy if found running at large. Any dangerous animal found running at large may be destroyed by any Peace Officer or Animal Control Officer in the interest of public safety.
- (F) Search and seizure warrants authorized. The Animal Control Officer or a Police Officer is authorized to obtain a search and seizure warrant if the supervisor has probable cause to believe that an animal ordered removed from the City as a dangerous animal has not been so removed.

Animals impounded or destroyed in accordance with this section shall be at the expense of the owner.

### **Section 18 – Allowed numbers of animals (excessive animals)**

- (A) It is unlawful for any household to own or keep more than four (4) dogs or four (4) cats upon any private premises within the City limits subject to the following exceptions; (1) State licensed Veterinary clinic, or state licensed animal shelter; (2) Litters up to twelve (12) weeks old; (3) Commercial Pet shop approved by the Animal Control Officer; (4) By permit from the Animal Control Officer.
- (B) If an owner has violated any provision of this article more than two times in a twelve-month period, and if the Animal Control Officer determines, based upon the following criteria, that those violations are a result of excessive animals, the owner shall reduce the maximum number of animals to the number prescribed by the Animal Control Officer. A person commits an offense if the person possesses, harbors, or keeps any number of animals in excess of the number prescribed by the Animal Control Officer.
- (C) In making a determination of excessive animals, the Animal Control Officer shall consider the following factors: (1) The size of the property at which the animals are being kept which may include, but is not limited to, the size of any dwelling in which the animals are being kept; (2) The number of animals present; (3) The size of each animal; (4) The apparent physical health of each animal; (5) The type of each animal; (6) The owner's apparent ability to provide care for each animal; (7) The distance of the owner's property from neighboring properties; (8) The history and validity of animal nuisance complaints from neighboring residents; (9) The expressed zoning of the property.



- (D) A person who has been ordered to reduce the number of animals to the number prescribed by the Animal Control Officer may appeal the reduction to the Administrative Review Board. If so ordered, the animal number shall be reduced following receipt of the order, even if an appeal is initiated.
- (E) The hearings provided for in this section shall be held before and decided by the Administrative Review Board at a time and place designated by the board. Based upon the evidence presented at the hearing, the Administrative Review Board shall make a finding and may sustain, modify, or rescind the decision forming the basis of the hearing.
- (F) Search and seizure warrants authorized. The Animal Control Officer or a Police Officer is authorized to obtain a search and seizure warrant if the supervisor has probable cause to believe that a person is in violation of this section.

### **Section 19 – Slaughter of animals**

- (A) It shall be unlawful to kill, butcher, skin, or defeather an animal in a public place or in any place visible from an adjoining property or public place.
- (B) It is a defense to prosecution under subsection (A) above that the animal was killed or slaughtered: (1) In a slaughterhouse or in a food processing establishment, as defined in this article, that is operating in compliance with all applicable City ordinances and state and federal laws; or (2) The person killing the animal was a Police Officer or Animal Control Officer acting in official duties; or (3) A person protecting themselves or others from bodily injury of the animal; or (4) an act of religion or recognized religious ceremony.

### **Section 20 – Enforcement and penalties for violations of this article; authority to issue citations; interference with Animal Control Officer**

- (A) Complaints for violations of this Article can be made with the Animal Control Officer, or the Garrett Police Department. If a violation of this Article is not occurring during the Animal Control Officer or Police Officers presence the complaining party will have the right to file a report and sign a complaint to be brought before the Municipal Court.
- (B) The Supervisor of Animal Control, a Police Officer, and/or any Animal Control Officer acting under the direction of the supervisor is authorized to enforce the provisions of this article. A Police Officer, Animal Control Officer, or Code Enforcement is authorized to issue citations for a violation of this article.
- (C) It shall be unlawful for any person to interfere with an Animal Control Officer, Code Enforcement Officer, or Police Officer in the performance of the duties of the Animal Control Officer.
- (D) Citations not to exceed \$500.00 may be issued to enforce any or each violation of this ordinance and animals may be impounded or seized at the discretion of the Supervisor of Animal Control, a Police Officer, and/or any Animal Control Officer acting under the direction of the supervisor for any violation of the ordinance. Any and all court cost, veterinarian fees, impoundment fees, quarantine fees, shelter fees, vaccination fees, rabies testing fees; any and all other fees not listed may be the responsibility of the owner. The Animal Control Officer may waive any fees or fines on a case-by-case basis at his or her discretion.

**Section 21 – Repealing Ordinances in Conflict**

All ordinances and parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

**Section 22 – Savings Clause**

It is hereby declared to be the intention of the City Council of the City of Garrett, that the sections, paragraphs, sentences clauses and phrases of the ordinance are severable and if any phrase, clause, sentence, paragraph or section of the ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, sentences, paragraphs or section of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause sentence, paragraph or section.

**Section 23 – Recitals**

That all recitals contained in this Ordinance are fully incorporated herein as if fully written.

**Section 24 – Publication**

That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

**PASSED AND APPROVED THIS THE \_\_\_ DAY OF MAY 2018.**

APPROVED:

By: \_\_\_\_\_  
Matthew Newsom, Mayor

ATTEST:

By: \_\_\_\_\_  
Judy Braddock, City Secretary