

ORDINANCE NO. 19-06

AN ORDINANCE OF THE CITY OF MARFA, TEXAS, PROVIDING FOR THE CONTROL OF ANIMALS; REPEALING ORDINANCE NUMBERS 95-19 AND 98-04; PROVIDING AN EFFECTIVE DATE AND A SEVERABILITY CLAUSE.

WHEREAS, the City of Marfa, Texas seeks to provide comprehensive rules and regulations for the control of animals within the city limits; and

WHEREAS, pursuant to the authority vested by the Texas Local Government Code Section 51.051 and the Texas Health & Safety Code Section 122.005 (a)(3), Chapters 821, 822 and 826, the City Council of the City of Marfa has determined that the following rules and regulations should be adopted; and

WHEREAS, the City Council of the City of Marfa has further determined that Ordinance Numbers 95-19 and 98-04 be repealed and replaced in their entirety with this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marfa, Texas:

That the following rules and regulations be, and the same are hereby adopted, as the animal control regulations for the City of Marfa:

**ARTICLE I. - IN GENERAL**

**Sec. 1-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Altered animal* means an animal having been spayed or neutered.

*Animal* means any living vertebrate creature except human beings and with the exclusion of fish, amphibians, reptiles, caged birds and small rodents when kept as pets in a private residence, or enclosed in a commercial enclosure. The word "animal" shall mean only a mammal when referring specifically to the control of rabies.

*Animal control officer* or *ACO* means a duly authorized person responsible for the enforcement of this chapter including peace officers.

*Animal shelter* means any premises designated or operated by the city for the purpose of impounding and caring for animals under the authority of this chapter.

*Attack* means definite vigorous, aggressive action by any animal directly against a person or other animal which results in the infliction of bodily injury, or the threat of bodily injury, by such animal to a person or other animal.

*Bee, beekeeping and bee hives* means any of numerous hairy-bodied insects including social and solitary species, the cultivation of bees on any commercial scale for the production of honey or bees, and a hive is a manmade receptacle that houses a swarm of bees.

*Bite* means an abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by the mouth of any animal.

*City or City of Marfa* means officials of the City of Marfa including, but not limited to, the city manager, the animal control officer, the code officer, and any City of Marfa peace officer.

*Collar* means a band, chain, harness or other suitable device worn about the neck of an animal to which a current rabies vaccination registration tag can be affixed.

*Continual noise or frequent or long continued noise* means noise pollution, unwanted or excessive sound, a nuisance that interferes with activities, for example owning an animal that causes frequent or long-continued noise, by barking or howling, that disturbs the comfort of any person.

*Current vaccination* means vaccinated and satisfying the following:

- (1) The animal must have been at least three months of age at the time of vaccination.
- (2) At least 30 days have elapsed since the initial vaccination.
- (3) Not more than 12 months have elapsed since the most recent vaccination.

*Dangerous animal* means any animal that:

- (1) Has inflicted bodily injury on a human being without provocation;
- (2) Has injured or killed a domestic animal without provocation; or
- (3) Has been previously found to be potentially dangerous, the owner having received notice of such and the animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

*Potentially dangerous animal* means any animal that when unprovoked:

- (1) Inflicts injury on a human or a domestic animal; or
- (2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
- (3) Has a known propensity, tendency, or disposition to attack, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

*Dangerous dog* means a dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and such acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

*Dilapidated* means a building, structure or material that has fallen into partial ruin by neglect or misuse or into a condition of partial decay.

*Dog* means any member of the *canis familiaris* species.

*Domestic animals* means animal species which generally have their breeding controlled by people and which by their long association with people have been developed into breeds or types for specific uses by people.

*Domesticated* means a tame animal that is subject to the dominion and control of an owner and accustomed to living in or near human habitation without requiring extraordinary restraint or unreasonably disturbing such human habitation.

*Dwelling* means any building or portion thereof which is designed and used for residential purposes. An attached garage shall be deemed to be part of a dwelling.

*Enclosed structure* means a building or other similar structure that is fully enclosed with a roof in place to provide a degree of protection, and does not include a yard or fence.

*Euthanasia* means putting to death of an animal in a manner and method which does not cause pain or distress nor take longer than one minute to effect unconsciousness or death, and is in compliance with the provisions of V.T.C.A., Health and Safety Code ch. 823. Shooting firearms into a pen or enclosure containing multiple animals is prohibited by the Texas Health and Safety Code and shall not satisfy the requirement under the definition of euthanasia or humane destruction of animals. Lethal injection and efficiently operating carbon monoxide chambers shall, throughout this chapter, be presumed to be the method of euthanasia employed by the city.

*Euthanize* means to kill in a humane manner.

*Exotic animal* means any animal that is not livestock or a domesticated animal and includes, but is not limited to, no matter how well-trained: all alligators and crocodiles; all bears; all cats other than the commonly accepted domesticated cats, including but not limited to cheetah, leopard, lion, lynx, panther, cougar, mountain lion, bobcat, and tiger; all dogs other than domesticated dogs, including but not limited to wolf, part wolf, fox, part fox, coyote, and part coyote; all porcupines; all nonhuman primates; all raccoons; all skunks; all venomous fish and piranha; all venomous snakes and lizards; and all weasels other than ferrets.

*Exposed to rabies* means an animal which has been exposed to rabies if it has been bitten by another animal or has been in contact with any animal known to be or suspected of being infected with rabies.

*Feral animal* means formerly domesticated animals and their offspring which have roamed at large for a sufficient period of time and with sufficient success at survival as to be deemed no longer domesticated.

*Fowl* means any domesticated bird used as food by people, such as chickens, ducks, turkeys, geese, guinea fowl, peafowl or pigeons.

*Horse* means any member of the equine family.

*Humanely destroy* means to cause the death of an animal by a method which:

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

*Keep or harbor* means to have charge, custody or control of an animal or fowl, or permitting the animal or fowl to habitually remain or be lodged or fed within the house, store, yard, enclosure or place of the owner or occupant of the premises.

*Kennel* means any premises on which four or more dogs or four or more cats, four months of age or older, are kept and where the business of buying, selling, breeding, grooming, training or boarding of dogs or cats is conducted. The term "kennel" does not include veterinary hospitals or humane societies.

*Large livestock animal* means cattle, horses, mules, beasts of burden, or any other similar domesticated animal.

*Leash* means a cord, strap, etc., for controlling or leading a dog or other animal, also known as a lead. The term leash does not include an electronic leash of any type, which is not authorized for use as a lead or restraint under this Ordinance. Electronic leashes may only be used on one's own property for training purposes.

*License, registration or permit* means a printed authorization issued by the city allowing the holder to keep the animal described within the corporate limits.

*Livestock* means domestic animals of the equine, bovine, ovine, caprine or porcine genera.

*Motor vehicle* means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires, including an electric bicycle or an electric personal assistive mobility device.

*Nuisance* means disturbing the peace, emitting noxious or offensive odors or otherwise endangering or being offensive to the environment of the city.

*Own* means to own, keep, harbor or have charge, custody or control of an animal or fowl.

*Owner* means any person who owns, harbors, keeps or causes or permits to be harbored or kept, or has in his care, an animal or bird on or about his premises or any person keeping, harboring, having charge or control of, or permitting to habitually be or remain on such person's premises any animal for a period of six consecutive days or more.

*Pet animal* means dogs, cats, birds, guinea pigs, hamsters, mice, snakes, iguana and turtles. Pet animal shall also include any domesticated animal that a person owns or that is sold or offered for sale for the purpose of being kept indoors as household pets.

*Quarantine* means to place an animal in a secure enclosure which precludes physical contact with any other animal.

*Rabies* means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

*Restrained or confined* means an animal restricted to the property of the owner or under the direct physical control of a competent person.

*Retail sale* means the business of selling pet animals directly to consumers of the public.

*Run at large* means free of physical restraint beyond an enclosed or fenced area; includes any animal that is not under the actual control of its owner; and any cat which does not display a rabies or license tag on collar or harness or which is unconfined.

*Small livestock animal* means swine, sheep, goats or any other domesticated or wild animal of smaller stature, except pet animals or fowl.

*Stray* means any animal running free with no physical restraint beyond the premises of the owner.

*Swine* means any member of the Suidae species.

*Unaltered animal* means an animal that has not been spayed or neutered.

*Vaccination* means the inoculation of an animal with a vaccine that is licensed by the United States Department of Agriculture, and which is administered by a veterinarian for the purpose of immunizing the animal against rabies.

*Veterinarian* means a veterinarian holding a current and valid license to practice veterinary medicine in the state.

*Wild animal* means any non-domestic animal.

#### Sec. 1-2. - Penalty for violations.

Any person upon whom a duty is placed by the provisions of this chapter who, after due process of law, shall be found to fail, neglect or refuse to perform such duty, or who shall violate any of the provisions of this chapter, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not to exceed \$500.00. A separate offense may be cited each day during or on which a violation occurs or continues.

If any person is found guilty of violating any provision of this Ordinance, he or she may be liable for denial, suspension or revocation of a license, variance and/or permit provided by this Ordinance and issued by the City. Upon denial, suspension or revocation the animal's owner shall have ten (10) working days to correct the violation or remove the animal from the City. If the violation is not corrected and the animal is not removed from the City within ten (10) working days, then the ACO shall remove the animal and impound it. After impoundment the owner shall have ten (10) more working days to correct the violation. If the owner does not correct the violation then the animal will be deemed abandoned and will be disposed of in

accordance with this Ordinance, and the animal's owner shall reimburse the City for all costs of impoundment and related expenses.

The penalties provided in this section shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter.

**Sec. 1-3. - Enforcement.**

- (a) The enforcement of the provisions of this chapter shall be the responsibility of the duly authorized animal control officer (ACO) or any peace officer.
- (b) The animal control officer or any peace officer shall be authorized to issue warnings and citations upon forms prescribed by the city to persons and to owners of animals found to be in violation of the provisions of this chapter.
- (c) Upon presentation of the appropriate credentials, the animal control officer shall be authorized to enter upon private property for the purposes of enforcing the provisions of this chapter at all reasonable times, including entry into enclosed and fenced yards; however, such entry shall not include entry into a private residence or a secure building. When the animal control officer has commenced pursuit of a stray animal, he may follow the animal onto any closed or unenclosed private property for the purpose of apprehending the animal as soon as possible. The officer shall not enter a private residence for the purpose of enforcing the provisions of this chapter without first receiving permission from a lawful adult occupant of the residence or being authorized to inspect such residence by a magistrate or by order of a court of competent jurisdiction upon showing of a probable violation of this title.
- (d) The animal control officer shall receive, investigate and take proper action on all animal bite reports, reports of suspected rabid animals; reports of rabid animals; unrestrained, unvaccinated or unlicensed animals; animals impounded, animals released, animals euthanized, applications for kennel registrations and all such other duties as may be assigned, and shall keep accurate detailed records of all such activities for the period required by city records retention policies.
- (e) It shall be unlawful for an unauthorized person to enter by any means or make an opening into any animal control vehicle or facility of the city where animals are kept.

**Sec. 1-4. - Interference with capture of animals or fowl.**

It shall be unlawful for any person to hinder, delay, interfere with or obstruct any duly authorized animal control officer or assistants of the city while engaged in capturing, securing or taking to the animal shelter any animals or fowl subject to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal shelter, ambulance, wagon or other vehicle used for the collecting or conveying of animals or fowl to the shelter.

**Sec. 1-5. - Records required.**

It shall be the duty of the animal control officer to keep, or cause to be kept, accurate records pertaining to bite incidents and investigations thereof, impoundments and dispositions thereof, and any other information as deemed necessary.

**Sec. 1-6. - Abandoning.**

It shall be unlawful for any person to abandon or dump any animal within the incorporated limits of the city. Abandonment shall mean leaving an animal for a period in excess of 24 hours without making appropriate provisions for the feeding, watering and care of such animal. If an animal is restrained or confined without food, water or proper care, the city may enter upon any property where the animal is restrained or confined and supply it the necessary food, water and care so long as it remains there.

**Sec. 1-7. - Report of animals at large.**

Every person is encouraged to report immediately to the animal control officer the location and description of any animal in violation of section 1-6.

**Sec. 1-8. - City-sponsored clinics authorized.**

The chief of police is authorized to arrange for city sponsored rabies vaccination-registration clinics as deemed necessary.

**Sec. 1-9. - Service dogs.**

Any dog trained to guide, serve, or assist any person with a total or partial disability shall be admitted to any public place or vehicle which the person with a total or partial disability has the lawful right to enter when accompanying the person with a total or partial disability, and if currently vaccinated and registered.

**Secs. 1-10—1-40. - Reserved.**

**ARTICLE II. - KEEPING ANIMALS**

**DIVISION 1. - GENERALLY**

**Sec. 1-41. - Standards.**

(a) **Requirements for outside dogs—Confinement requirements for dogs kept outdoors.** An owner of a dog commits an offense if the fenced yard, or other pen or structure, used as the primary living area for the dog to regularly eat, sleep, drink and eliminate is not:

- (1) At least 150 square feet for each dog six months of age or older;
- (2) Designed, constructed, and composed of material sufficient to prevent the dog's escape; and
- (3) Designed in a manner that provides the dog access to the inside of a dog house, building, or shelter that meets all requirements of subsection (a)(4) of this section.
- (4) A dog house or other building or shelter for a dog must:
  - a. Have a weatherproof top, bottom and sides;
  - b. Have an opening on no more than one side that allows the dog to remain dry and provides adequate shade during daylight hours to prevent overheating and discomfort to the dog;
  - c. Have a floor that is level and dry;

- d. Be free from cracks, depressions, and rough areas that might be conducive to insects, parasites, and other pests;
  - e. Be of adequate size to allow the dog to stand erect with the dog's head up, to turn around easily, and to sit and lie down in a comfortable and normal position;
  - f. Have sufficient clean and dry bedding material or other means of protection from the weather that will allow the dog to retain body heat when the weather is colder than what a dog of that breed and condition can tolerate;
  - g. Provide suitable means for the prompt elimination of excess liquids;
  - h. Be structurally sound, maintained in good repair, and constructed with material that protects the dog from injury; and
  - i. Allows the dog in and out.
- (b) No person having charge or custody of an animal shall place or confine an animal or allow an animal to be placed or confined or to remain in a motor vehicle or trailer under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or water, or other such circumstances as may be reasonably expected to cause suffering, disability or death of such animal.
- (c) Subject to Sec. 1-60 herein, owners of animals shall keep such animals restrained at all times within the city. An animal shall be deemed restrained when it is confined on the premises of the owner within a secure fence or enclosure; confined by means of a collar or harness attached to a pulley or trolley system or as specified in Section 1-60 (b) (5)a herein, anchored securely to the owner's property for less than three (3) hours during any 24 hour period so as to keep the animal on the premises and out of reach of the public right-of-way (sidewalks, alleys and streets) as specified by Sec. 1-60; within a vehicle being driven or parked; or under the direct physical control of a competent person by means of a secure leash not over six feet in length or similar secure device.
- (d) The owner shall keep the pen or enclosure in such a manner as not to give off odors offensive to persons residing in the vicinity, or to breed or attract flies, mosquitoes or other noxious insects, or in any manner to endanger the public health or safety, or create a public nuisance.
- (e) The owner of any large or small livestock animal shall keep all pens, enclosures and shelter structures wherein such animals or fowl are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any large or small livestock animal or fowl shall not allow offal, manure and waste material of such animal to accumulate or remain in the pens, enclosures and shelter areas, excluding pasture acreage, in any manner which is conducive to the breeding or attraction of flies, mosquitoes or other noxious insects or in any manner which endangers the public health or safety, or which creates an unhealthy environment. The maintenance or permitting of the conditions in this section on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any large or small livestock animal or fowl shall in a sanitary manner remove or dispose of all offal, manure and waste material accumulating from such animal or fowl as needed to ensure sanitary conditions and no less frequently than every 72 hours.
- (f) Feed troughs shall be provided for the feeding of vegetables, meat, scraps or garbage, and such feeding shall be done only in containers or on an impervious platform.
- (g) Watering troughs or tanks shall be provided which shall be equipped with adequate facilities for draining the overflow so as to prevent the breeding of flies, mosquitoes or other insects.
- (h) No putrescible material shall be allowed to accumulate on the premises, and all such material used as feed which is unconsumed shall be removed daily and disposed of by burial or other means approved by the animal control officer.

**Sec. 1-42. - Public nuisances designated.**

The following shall be considered a public nuisance and unlawful:

- (1) The keeping of any animal which causes excessive or incessant noise by barking or howling which disturbs the comfort and repose of any person or persons of ordinary sensibilities in the vicinity. Proof of such disturbance shall be provided to the ACO for further investigation.
- (2) The keeping of any animal in such a manner as to endanger the public health or as to disturb neighbors by the accumulation of droppings and putrescible materials which cause foul and offensive odors.
- (3) The keeping of any animal which deposits body wastes upon or destroys by chewing, scratching, digging or otherwise, property other than that of the owner of such animal. Proof of such destruction shall be provided to the ACO for further investigation.
- (4) Feral cat feeding. It shall be unlawful to provide food, water or other forms of substance to any feral cat or feral cat colony within the city limits of Marfa without permission from the City of Marfa ACO. In order for permission to be granted, proof of current participation in the Responsible Ownership of Marfa Pets (ROMP) Managed Feral Cat Colony Program must be provided to the ACO upon request.
- (5) If any person shall feed feral cats without city permission outside the ROMP Managed Feral Cat Colony Program or shall refuse to permit the ACO to impound a feral cat, then these actions shall be deemed evidence of keeping under this section, and such keeper can be subject to a citation.

No person owning or keeping any cat shall permit such animal to:

- a. Substantially damage property other than the property of the owner or keeper; or
- b. Cause an unsanitary, dangerous or unreasonably offensive condition. Violation of such provision shall be a violation which may result in a citation.

**Definitions**

"Feral cat" means a domestic cat who has been born and raised without contact with humans, or a cat who has not had contact with humans for a significant period of time and has become unsocialized. It can also mean a free-roaming domestic cat which is not owned.

"Keeper" means any person or organization, harboring, regularly feeding or having in his or her possession any feral cat without a city permit. A person becomes a "keeper" when any person has possession of or control over the animal and has fed the cat for three or more consecutive days without a permit. Also, a "keeper" can be any individual who permits a cat to habitually be or remain on or be lodged or fed within such persons property or premises.

- (5) All animal pens, stables or enclosures in which any animal may be kept or confined, which from use have become offensive.
- (6) Any animal not meeting the designated requirements for restraint.
- (7) For any person owning, possessing, harboring or having care, charge, control or custody of any dog not to remove any feces left by that dog on any sidewalk, gutter, street, public park or other public area. Dog waste shall be immediately removed by placing said matter in a sealable container and thereafter disposing of it in a trash receptacle, sanitary disposal unit or other closed or sealed refuse container. This subsection shall not apply to visually impaired persons who have the charge, control, or use of a guide dog. Any complaint made to the ACO against a pet owner under this subsection shall be accompanied by proof of said infraction.

**Sec. 1-43. - Keeping swine.**

No person shall keep within the city any hog, sow, or pig (excluding such animals being lawfully and justly registered as livestock exhibition animals and potbellied pigs) without proper and valid permit. The



owner of any exhibition swine must, upon request, provide the animal control officer with proper documentation from the sponsor organization showing the registration number, registration tattoos and other distinguishing marks used for identification purposes. This documentation must also contain the current address and name of the exhibitor, the exhibitor's signature and the validation chair's signature. The owner must at no time feed vegetation or garbage which shall produce noxious odors, flies, fly larvae or other nuisances caused by the failure to keep such premises in a sanitary condition. The owner must also remove all manure or droppings from the pen or enclosure so as to prevent the breeding of flies and the migration of fly larvae into the soil.

**Sec. 1-44. - Restrictions on size and location of area for keeping horses and other large animals.**

- (a) Except for pasturage, it shall be unlawful to keep and maintain any mule, donkey, horse, mare, colt, bull, cow, calf, cattle or livestock at a distance closer than 50 feet from any building located on adjoining property that is used for human habitation.
- (b) The minimum pen size in which any large animal is kept shall be the area set forth in table I.

**TABLE I**

Number of Large Animals	Minimum Enclosure Required (sq. ft.)
1	800
2	1,600
Each additional over 2	600

**Sec. 1-45. - Standing bulls, stallions or jacks at stud.**

It shall be unlawful for the owner or harbinger of any bull, stallion or jack to permit or cause to be permitted the standing of any such bull, stallion or jack at stud within the city limits, unless the standing is in an enclosed structure.

**Sec. 1-46. - Dogs and cats to be vaccinated; encouraged to be neutered/spayed.**

- (a) **Rabies vaccination.** No person shall own, keep or harbor within the city limits any dog or cat four months of age or older unless such dog has a current rabies vaccination, and cat has current rabies and distemper vaccinations. The dog or cat must be revaccinated before the expiration of the first and each subsequent current vaccination period. Official rabies vaccination certificates issued by the vaccinating veterinarian shall contain certain standard information as designated by the state department of health. Information required is as follows:

- (1) Owner's name and telephone number.

- (2) Animal identification: Species, sex, age (three months to 12 months or older), size (pounds), predominant breed and colors.
- (3) Date vaccinated.
- (4) Rabies tag number.
- (5) Veterinarian's signature and license number.

Any person establishing residence within the City shall comply with the vaccination requirements of this Ordinance within sixty (60) days of establishing such residence. Should the vaccination and registration requirements set forth in this section be performed by the City or a City department or employee, the owner of such animal shall be responsible for such license and vaccination costs.

**(b) Dog and cat neutering/spaying.**

- (1) Owners of all cats and dogs living within the city limits of Marfa are encouraged to have their pets neutered or spayed.
- (2) All cats and dogs who enter the shelter whether stray or surrendered may, at the sole discretion of the City, be neutered or spayed prior to their return to their owner or placement for adoption. A fee will be included in the impound fee or adoption fee to cover the cost of the neutering/spaying.

**Sec. 1-47. - Dogs and cats excepted from vaccination.**

Vaccination will not be required for any dog or cat when the following document is filed, approved and accepted by the animal control officer: a certificate from a veterinarian that such dog or cat should not be inoculated with rabies vaccine and the valid medical reasons therefor.

**Sec. 1-48. - Registration of dogs and cats.**

No owner shall have within the city limits any dog or cat four months of age or older unless such dog or cat is currently registered with the city. Written application shall be made upon a printed city application form and shall state the name, address and telephone number of the owner, the name of the dog or cat, the species or predominant breed, color, age and sex and the date of the most recently administered rabies vaccination (dog) or rabies and distemper vaccinations (cat). The owner must exhibit a current certificate of vaccination issued by a licensed veterinarian in order to register a dog or cat with the city. Upon approval of the application for registration and payment of the required fee of \$5.00 by the owner of each dog or cat, the city will issue a serially numbered, durable license tag for each registered dog or cat. Such tag shall be securely attached to a collar or harness worn by each dog or cat. Each registration shall be valid for a period of three (3) years from the most recent date of administration of a rabies vaccination. A vaccination certificate or registration tag shall only be used for the animal which it was issued for. If there is a change in ownership of a registered dog or cat, the new owner shall have the registration transferred to his name. Transfer applications shall be made at the city office with proof of rabies vaccination (dog) or rabies and distemper vaccinations (cat), along with a \$5.00 fee for such transfer. If a license tag is lost or destroyed, the owner shall apply to the city for a replacement tag at no charge. Fee-exempt registrations may be issued for the following:

- (1) Police or sheriff department's dog.
- (2) Service dogs trained to lead or serve persons with a total or partial disability.
- (3) Animals other than dogs that are vaccinated against rabies.
- (4) Animals adopted through the Marfa Animal Shelter.

**Sec. 1-49. - Finders of lost dogs and cats; responsibility to report.**

- (a) Any person who finds and harbors a dog or cat without knowing the dog or cat owner's identity shall notify the animal control officer and furnish a description of the dog or cat.
- (b) The finder of the dog or cat may surrender the animal to the animal control officer, or upon approval of the animal control officer may keep the animal in his possession, subject to surrender upon demand of the animal control officer when the correct owner is identified or for reasons of public health and safety.

**Sec. 1-50. - Dead animals; duty to remove.**

If any animals or fowl shall die in the possession of any person in this city, it shall be the duty of such person to cause the same to be at once removed to a site approved by the city and buried or otherwise disposed of. If the animal is registered with the City, then the owner shall notify the ACO of the animal's passing. If the owner or person having charge of a dog, cat, or fowl shall neglect or refuse to remove the body within 24 hours after the death, then the city may cause the dead dog, cat, or fowl to be removed free of charge as a service. The City shall not be responsible for the removal or disposal of deceased livestock of any kind.

**Sec. 1-51. - Cruelty to animals.**

The city will investigate all cases of alleged cruelty to animals and appropriate city citation(s) and/or criminal charges may be filed under the provisions of the Penal Code of the State of Texas, including but not limited to §42.09 (Cruelty to Livestock Animals) and §42.092 (Cruelty to Non-Livestock Animals).

Cruelty to animals may include (but not be limited to) the following:

- (1) *Physical abuse.* It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance, poison or attempt to poison or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious or trespassing animals;
- (2) *Physically mistreat or neglect.* It shall be unlawful for any person to knowingly, intentionally or recklessly cause or allow any animal to endure unreasonable pain, suffering or injury;
- (3) *By action or omission, a person:*
  - (a) Docks the tail or removes the dew claws of an animal over five (5) days of age, or crops the ears of an animal of any age, unless he or she is licensed to practice veterinary medicine in the State of Texas;
  - (b) Transfers ownership or otherwise physically removes from its mother any dog, cat, ferret, or rabbit less than six (6) weeks old, or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
  - (c) Dyes or otherwise artificially colors any animal;
  - (d) Abandons any animal that he or she has possession of at the animal shelter, any other business, on public property, or with any other person that has not agreed to be responsible for the care of the animal;
  - (e) Fails to notify the police or ACO when any motor vehicle that he or she is in control of strikes an animal;

- (f) Euthanizes his or her own animal in a manner other than as defined in this Ordinance;
- (g) Places or confines an animal, or allows the animal to be placed or confined in a motor vehicle or trailer under conditions which may endanger the health of the animal due to temperature, lack of food or water, or under other circumstances which may cause bodily injury to or death of the animal;
- (h) Causes, allows, or permits any animal to remain in its own filth;
- (i) Owns any animal having an infestation of ticks, fleas, or other parasites which has not been treated by a veterinarian or with appropriate commercially available treatments;
- (j) Owns any animal having any obvious illness, or injury, or any communicable illness transmittable to animal or human without having followed a proper treatment regimen for the infestation or illness;
- (k) Causes, allows, or trains any animal to fight another animal; is in possession of any animal fighting paraphernalia or training equipment;
- (l) Fails to provide, at all times, any animal under his care with adequate wholesome food, potable water, and shelter;
- (m) Mutilates any dead animal for reasons other than food preparation or taxidermy. Dissection in compliance with medical or veterinary research, medical or veterinary necropsy, and bona fide educational use of dead animals shall not be considered mutilation;
- (n) Attaches a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
- (o) Displays, transfers ownership or offers to transfer ownership of any turtle with a carapace of less than four (4) inches in length.

**Sec. 1-52. - Keeping of wild animals and exotic animals.**

It shall be unlawful to harbor or keep any wild animal without a valid city wild animal permit authorized under section 1-93 herein, excluding such animals in the possession of a publicly or privately owned zoo maintained or operated by a nonprofit organization or government entity, publicly or privately maintained circus, traveling show or rodeo which does not remain in the city longer than 30 days in each calendar year, or excluding hospitals or clinics operated by licensed veterinarians, and wildlife rehabilitators and falconers holding current licenses issued by the state parks and wildlife department and the United States Fish and Wildlife Service.

It shall be unlawful for any person to own, keep or maintain any animal defined as an exotic animal within the limits of the city unless duly authorized or licensed as required under state and federal law and permitted under this Code.

**Sec. 1-53. - Importation of certain animals.**

The following animals, because they have a high probability of carrying rabies and constitute a danger to public health if brought into Texas, will be excluded from importation as domestic pets:

- (1) Skunk (*Mephitis mephitis*, *Spilogale putorius*, *Spilogale gracilis*, *Mephitis macroura*, *Conepatus mesoleucus*, *Conepatus leuconotus*).
- (2) Fox (*Vulpes fulva*).
- (3) Raccoon (*Procyon lotor*).
- (4) Ringtail (*Bassariscus astutus*).
- (5) Bobcat (*Lynx rufus*).
- (6) Coyote (*Canis latrans*).
- (7) Marten (*Martes martes*).

These animals may be imported if they are destined for a research institute or public display as in zoos or organized entertainment units (circus).

#### Sec. 1-54. - Molesting animals.

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate any animal that is confined. Bestiality of any sort shall be subject to Texas Penal Code §21.09 and prosecuted to the full extent of the law.

#### Sec. 1-55. - Trapping.

It shall be unlawful to set or cause to be set a snare trap, metal spring trap or connebear-type trap within the city limits.

#### Sec. 1-56. - Animal fights.

It shall be unlawful for any person or persons within the limits of the city to set dogs or other animals or fowl to fighting, by agreement or otherwise, or in any manner to urge, forward or encourage the fighting.

#### Sec. 1-57. - Animal control violation; citation.

Whenever a police officer or animal control officer of the city shall observe any violation of this chapter, it shall be such officer's duty to issue an animal control citation or warning to the appropriate person. At the time of the commission of the alleged violation, the accused may be served with a printed notice requiring him to make such appearance on or before the date specified. Such notice shall further notify the accused that he or she must appear at such court during the hours fixed by the judge of the municipal court as shown on such notice and, upon direct refusal or failure to appear after a show-cause hearing, a warrant shall be issued for his or her arrest.

#### Sec. 1-58. - Animal protection.

A person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence leaves an animal unattended in any standing or parked vehicle in such a way as to endanger the animal's physical health, safety or immediate welfare.

In the event that a person is found guilty of this offense, the municipal court shall, in addition to any fine and court costs assessed, assess any and all fees and expenses incurred pursuant to the provisions set out in this ordinance.

In the event that an animal is left unattended in any standing or parked vehicle in such a way as to endanger the animal's physical health, safety or immediate welfare, an animal control officer or police officer shall make a reasonable attempt to locate the owner or person in control of the vehicle. In the event that the owner of the vehicle cannot be located after reasonable attempt, an animal control officer or police officer is authorized to use reasonable force and measures to remove the animal from the vehicle to secure the animal's physical health and safety. An animal removed from a vehicle under these circumstances shall be taken to the city animal shelter, or to a veterinarian if the animal is determined to be in physical distress, and a written notice shall be attached to the vehicle by the animal control officer or police officer advising that of the telephone number and address of the location from which the animal may be claimed. The city shall have no responsibility for any damage sustained to a vehicle in the course of securing the safety of an animal under this section.

#### Sec. 1-59. - Transporting Animals.

A person commits an offense if he intentionally, knowingly, recklessly or with criminal negligence transports an animal in a motor vehicle, trailer or other means of transportation in a cruel, inhumane or unsafe manner.

#### Sec. 1-60. - Tethering of animals; unlawful restraint of a dog.

- (a) *Tethering of animals; chains prohibited.* The City of Marfa prohibits tethering a dog to a stationary object, but allows a dog to be tethered no longer than is necessary for a person to complete a temporary task that requires the dog to be restrained for a reasonable period. A 90-day grace period after adoption and publication of this Ordinance will be granted to Marfa residents before citations for tethering will be issued, in order to give individuals currently tethering an opportunity to construct a fence or pulley system as authorized by this Ordinance.

A person commits an offense if he tethers or otherwise secures an animal by or under any of the following methods or circumstances, no matter the length of time:

- (1) To tether any animal with a chain;
- (2) To tether an animal in such a way that it is capable of moving within 15 feet of any public right-of-way, park, or other public land, including sidewalks, or within five feet of any privately or commercially owned property line when such tether or line is stretched to its full length;
- (3) To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food and/or water or otherwise create an unsafe or unhealthy situation;
- (4) To tether any animal in a manner whereby the animal is subject to harassment by people, stings or bites from outdoor insects or attacks by other animals;
- (5) To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving its owner's property;
- (6) To fail to remove waste from the area within which the animal is tethered on a reasonable basis so as to avoid a health hazard;
- (7) To tether any animal without using a properly fitted collar or harness which prevents the tether from being directly wrapped around the animal's neck;
- (8) To tether with a choke-type or pinch-type collar of any sort; is forbidden, when animal is tethered.
- (9) To tether any animal in such a manner as to permit the animal to leave the owner's property.

(b) *Unlawful restraint of a dog.* An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

- (1) Between the hours of 10:00 p.m. and 6:00 a.m.
- (2) Within 500 feet of the premises of a school; or
- (3) In the case of extreme weather conditions, including conditions in which:
  - a. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
  - b. A heat advisory has been issued by a local or state authority or jurisdiction; or
  - c. A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service or other weather spotting service.
- (4) In this section, a tether unreasonably limits a dog's movement if the tether:
  - a. Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
  - b. Is a length shorter than the greater of:
    1. Five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
    2. Ten feet.
  - c. Is in an unsafe condition; or
  - d. Causes injury to the dog.
- (5) Exceptions. For this section does not apply to:
  - a. A dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type or improperly fitted collar;
  - b. A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state or local authority or jurisdiction;
  - c. A dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
  - d. A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;
  - e. A dog restrained while the owner is engaged in conduct directly related to the business of sheepherding or herding cattle or livestock; or
  - f. A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural product: if the restraint is reasonably necessary for the safety of the dog.

(6) A peace officer or animal control officer who has probable cause to believe that an owner is violating this subchapter shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.

(7) A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.

(8) A person commits an offense if the person violates this subchapter and previously has been convicted of an offense under this subchapter. An offense under this subsection is a Class B misdemeanor.

(9) If a person fails to comply with this subchapter with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

**Sec. 1-61. - Restriction on numbers and types of animals; companion animal hoarding; prohibition of animals at large and menacing animals.**

The animal control officer (supervisor of animal services) shall be the final authority in determining how many animals or household pets shall be allowed in an apartment, mobile home, house or yard, considering the provisions under section 1-41: (providing food, water, adequate shelter and protection from weather, veterinary care and humane care and treatment), the amount of space allocated for each animal, mistreatment of any animal and further considering the companion animals' and owners' health, safety and well-being. Should the animal control officer determine that the number of animals is a health or safety risk, the ACO has the authority to remove the animals, immediately, from the residence for the well-being of the animal(s) and the owner(s).

(1) Companion animal hoarding. A person is in violation of this section if they:

- a. Possess a large number of companion animals;
- b. Fail to or are unable to provide what he or she is required to provide under section 1-41 of this chapter (food, water, adequate shelter and protection from weather, veterinary care and humane care and treatment);
- c. Keep the companion animals in a severely overcrowded environment; and
- d. Display an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals' and owners' health and well-being.

Secs. 1-62—1-80. - Reserved.

**DIVISION 2. - PERMITS**

**Sec. 1-81. - Large livestock animal permit requirements.**

It shall be unlawful to keep any large livestock animal within the limits of the city without having procured a permit for the animal and without adhering to the requirements described in section 1-44.

**Sec. 1-82. - Small livestock animal and fowl permit requirements (excluding dogs, cats and household pets).**

(a) It shall be unlawful for any person to keep or harbor small livestock animals or fowl, without a permit, in numbers equal to or greater than the minimum provided in table II. This section does not apply to the keeping of dogs, cats or other household pets.

Table II

Sheep and goats	400 square feet per animal
Ratites	400 square feet, (Ratites include per animal emu and ostrich)
Other	Check with ACO



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- (b) It shall be unlawful for any person to keep or harbor small livestock animals or fowl within pens, enclosures or shelters closer than 50 feet from a neighboring residence.
- (c) Pasturage provided for the animals, in addition to enclosures meeting the requirements in subsection (b) of this section, may extend to the full extent of the animal owner's property.

**Sec. 1-83. - Calculating maximums; exclusions.**

In calculating the maximum numbers of animals per pen, the number shall not include:

- (1) Large livestock animals and large fowl under the age of 180 days if the animal's biological parent is lawfully kept upon the premises.
- (2) Small livestock animals under the age of 60 days or kept within a dwelling.
- (3) Fowl under the age of 30 days or kept within a dwelling.

**Sec. 1-84. - Standards for animal pens, enclosures and shelters.**

Animal pens, enclosures, and shelters shall be constructed in a sturdy manner, shall be made of materials that are of good and durable quality, and shall be maintained in good condition and working order. This section shall also apply to the pens, enclosures, and shelters of existing permitted animals. A permit shall not be issued or renewed unless the city is satisfied with the quality of the construction materials and methods and with the level of maintenance.

**Sec. 1-85. - Application for permit (excluding cats, dogs and household pets).**

Application for a permit to keep any large or small livestock animals or fowl shall be made to the city, in writing, upon forms provided for that purpose by the animal control officer or city manager for the city. Such application shall contain the following information in addition to such other information as the animal control officer or city manager may desire:

- (1) Name and residence of the applicant;
- (2) Location of premises where large or small livestock animals or fowl are to be kept;
- (3) Species of large or small livestock animals or fowl to be kept;
- (4) Number of large or small livestock animals or fowl to be kept;
- (5) Statement of method in which all manure and waste material accumulating from such large or small livestock animals or fowl will be sanitarly disposed of;
- (6) An attached diagram or plat of the premises, showing dimensions of the premises, the location and dimensions of the enclosure, corral, pen or shelter, and the distance from residence buildings and property lot line, either on the same lot or on adjacent property.

**Sec. 1-86. - Issuance of permit for large and small livestock animals and fowl (excluding cats, dogs and household pets).**

Prior to the issuance of any permit for the keeping of large or small livestock animals or fowl, the animal control officer or designee shall investigate the application for the permit and determine whether such premises conform to the requirements of this chapter and other ordinances of the city with respect to zoning and building regulations, sanitation and location of enclosures and shelters. No permit shall be issued by the city until proper facilities are provided for the care and protection of the large or small livestock animals or fowl to be cared for on the premises and the location of the premises is deemed to be proper and suitable for the keeping of such large or small livestock animals or fowl and the application has been approved as to proper zoning.

The animal control officer shall verify his or her approval or disapproval of the application and shall issue or refuse the permit accordingly. The animal control office may take into consideration an applicant's prior violation of this ordinance, when reviewing the application. The permit may include reasonable conditions determined by the animal control officer to be necessary to prevent a nuisance, such as the number and kind of animals or birds to be kept. All conditions of a permit are subject to review and revision by the animal control officer.

**Sec. 1-87. - Refusal to issue a permit.**

The action of the animal control officer shall be final unless the applicant shall within ten days after refusal to grant such permit, file a written appeal with the city secretary addressed to the city manager, requesting review. Should the city manager concur in the decision of the animal control officer, that decision shall be final unless the applicant shall within ten days after concurrence file a written appeal with the city secretary addressed to the city council requesting a review of the decision of the animal control officer and the city manager.

Prior to the consideration of any appeal, the City Council shall hold a public hearing on the proposed permit denial, and shall notify all adjoining landowners and residents of the time, date, and place of the public hearing.

**Sec. 1-88. - Revocation and suspension of permit.**

Any permit issued under this ordinance shall be subject to revocation or suspension by the city for violation by the permittee of any of the provisions of this or other ordinances of the city with respect to the keeping of large or small animals or fowl. A permittee whose permit has been suspended must cure the violations within 72 hours in order to prevent revocation of the permit.

The appeal procedure for revocation or suspension of this permit shall be the same as stated in section 1-87 for refusal to grant a permit.

**Sec. 1-89. - Large and small livestock animals or fowl; permit renewal, amendment.**

A permit to keep a large and small livestock animal or fowl shall be renewed annually by the last day of the same month in which it was issued the previous year by payment of the appropriate fee. If the ownership of the place in which the animals are kept is changed, the permit may be changed accordingly upon written verified application and payment of a fee of \$10.00 for amending the permit. The fee assessed in this section is to pay part of the cost of enforcing this ordinance.

**Sec. 1-90. - Display of permit numbers.**

Each permittee shall permanently display the permit number on a display board or sign approved by animal control officials, not less than four inches in size, where such animals are kept so that such permit number is clearly visible from the street or alley nearest to the enclosure.

**Sec. 1-91. - Permit and inspection fees.**

Before any permit to keep any large or small livestock animal or fowl, the applicant shall pay an initial inspection and permit fee of \$25.00 for each large or small livestock animal and/or a \$25.00 permit fee to cover all fowl on the applicant's property. Permit renewal shall cost \$10.00 per animal permit or fowl permit. No permits shall be renewed if there have been violations of the permit requirements. Where permits have been suspended or there have been violations of the permit requirements, the owner shall be required to submit for a new permit and investigation of the premises.

**Sec. 1-92. - Large and small livestock animal permit fee exemptions.**

Large and small livestock animals, to be utilized for exhibit purposes by members of any FHA or 4H Club, are subject to large and small livestock animal permit requirements, but may be exempt from permit fees. Permits shall be required to ensure compliance with all applicable sections of this ordinance. The owner(s) shall present the animal control officer with documentation from the organization indicating that the animal is for exhibit purposes in order to request a fee waiver.

**Sec. 1-93. - Permit required for exotic animals.**

No person shall keep within the city any wild or exotic species of animal or bird, warm or cold blooded, unless a permit is obtained from the animal control officer. A special permit may be obtained if all conditions, regulations and rules are met by applicant as determined by the animal control officer. No owner shall be issued a special permit if there is any concern about the health and safety of the community or its citizens by granting such permit. A permit, if granted, is valid for one year from the date of issuance and must be renewed annually. If granted, such permit may be revoked at any time as deemed necessary as determined by any animal control officer.

**Secs. 1-94—1-115. - Reserved.**

**DIVISION 3. - RESTRAINT; IMPOUNDMENT**

**Sec. 1-116. - Restraint of animals and birds.**

Subject to Section 1-60 herein, every person owning or having charge, care, custody or control of any domestic animal or bird shall keep such animal or bird under his or her control by means of physical restraint as follows:

- (1) Confined on the premises of the owner within a fence or enclosure.
- (2) Restrained to a running line, pulley, or trolley system that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, or choke-type, or improperly fitted collar.

- (3) Under the control of a person by a leash.
- (4) On or within a motor vehicle being driven or parked, or on or within any other form of transportation.
- (5) The living area for each animal being kept confined or restrained shall have adequate drainage such that the animal shall be free to walk or lie down without coming in contact with standing water or excrement.
- (6) If any animal is temporarily restrained in accordance with Section 1-60, such restraint shall be designed and placed to prevent choking or strangulation or entanglement with other objects. Such restraint shall not be less than ten (10) feet in length.
- (7) If any animal is kept in an enclosure, the enclosure shall be constructed of material, and in a manner to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition as specified herein.

Any domestic animal, including dog(s), cats(s), or bird(s), found to be in violation of this section may be seized and impounded by the animal control officer, in accordance with the requirements of this ordinance and the Texas Health and Safety Code, and the owner cited for violation of this Ordinance.

**Sec. 1-117. - Running at large prohibited.**

No person keeping or harboring any animal or fowl shall permit such animal or fowl, except pigeons, to go loose or run at large in any of the public ways of the city or upon the property of another, except in enclosures on the private property owned or leased by the person keeping or harboring such animal or fowl. Any unidentifiable or unidentified animal not wearing a collar displaying a rabies vaccination tag will be considered stray or feral, and shall be subject to animal control, and the owner subject to a citation.

**Sec. 1-118. - Impoundment and destruction.**

- (a) Any animal found to be in noncompliance with the provisions of this ordinance shall be impounded by the city. In lieu of impoundment, the known owner(s) of such animals may be issued a citation by the city that shall require the owner to make an appearance in municipal court within ten days to answer a charge of a violation of the provisions of this ordinance.
- (b) Reasonable efforts shall be made by the city to promptly notify by telephone or personal contact the owner of any animal impounded, and any animals who are not neutered or spayed may be neutered or spayed, at the sole discretion of the city, with costs to be paid by the owner(s).
- (c) Animals impounded by the city shall be redeemed by the owner upon correction of the reason for such impoundment and the payment of all fees and penalties or upon order of the municipal court unless such animals are being held in quarantine or observation for a bite incident, have been or are under suspicion of having been exposed to rabies, or are being held on a complaint filed against the owner for violation of this ordinance in the municipal court of the city. Animals eligible for redemption, if not redeemed within ten days of impoundment become the property of the city. Such animals may be euthanized or the ownership of such animals may be transferred to any competent person; provided, the animals have no history of exposure to zoonotic diseases, are in apparent good health, have no history of biting or attacking a person or other domestic animal, are currently vaccinated against rabies (dogs) and vaccinated against rabies and distemper (cats), are four months of age or older, and the person applying for ownership pays all required fees.
- (d) Any animal impounded and suffering from serious injuries, in apparent great pain or having a disease which would endanger the public health may be euthanized after reasonable efforts to locate the owner have failed and there is no apparent reason for allowing the continued suffering of the animal. Animals

may be disposed of prior to 72 hours from the time of impoundment, if upon notification of impoundment, the owner states he does not wish to redeem the animal and releases the animal in writing to the sole jurisdiction of the animal control officer.

- (e) No person shall leave any animal at the animal shelter except when an animal services officer is available to accept the animal.

**Sec. 1-119. - Redemption of impounded animals.**

- (a) The owner shall be entitled to resume possession of any impounded animal upon payment of the impoundment and daily board fees and neuter/spay fees (if applicable) and compliance with vaccination-registration requirements; provided application for such possession, with payment of all required fees, is made within 72 hours after impoundment, or within such time after impoundment as may be agreed to by the animal control officer and such owner, if such agreement is made within such 72-hour period and such additional time does not exceed ten days total impoundment time (exclusive of quarantine time, if applicable).
- (b) Adoption, spaying and neutering:
  - (1) The owner or adopting person of any dog or cat shall be required to obtain a license tag for such dog or cat at the time of redemption or adoption.
  - (2) The adopting person shall comply with all the adoption conditions and surgery conditions for the adopted animal as set forth in the contract.
  - (3) Prior to adoption, all animals adopted from the shelter are required to be spayed or neutered and vaccinated as required herein.
- (c) The owner shall not be entitled to possession of any animal held under quarantine or observation for rabies until a written release is obtained by the observing veterinarian and until all fees have been paid. The payment of such fees may be deferred until the animal is eligible for release.
- (d) Any dog or cat impounded and not reclaimed by the owner within five days may be humanely destroyed. If the animal control officer determines that any unclaimed dog or cat is reasonably healthy, currently vaccinated against rabies, and should not constitute a threat to public or animal health of the community, the animal control officer may offer such dog or cat for adoption. If not adopted, the animal may be humanely destroyed or transferred to another animal shelter or non-profit organization for the benefit and welfare of animals.
- (e) The animal control officer shall approve all applications for adoption of unclaimed animals. Adopted animals must comply with all registration and vaccination provisions of this chapter. If any impounded animal, other than a dog or cat, is not claimed by the owner within seven days, the animal shall be held for such time as the animal control officer deems reasonable, considering the animal's probable value, condition of health and suitability for use. Upon expiration of such reasonable time, the animal control officer may offer the animal, if suitable, to be adopted or utilize any other process of disposition authorized by statute.

**Sec. 1-120. - Fees.** All fees will be established by the Marfa City Council and attached to this Ordinance as Exhibit "A". The schedule of fees may be obtained from the animal control officer, the police department, or city hall.

**Secs. 1-121—1-145. - Reserved.**

**ARTICLE III. - RABIES CONTROL**

**Sec. 1-146. - Vaccination; report of infection.**

- (a) The owner of any dog or cat shall have such dog or cat vaccinated against rabies by a licensed veterinarian by the time such dog or cat is four months of age and must maintain current vaccination of the animal. Any licensed veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of the animal a vaccination certificate showing the owner's name, address and telephone number, the species, sex, size in pounds, predominant breed and color of the animal, the vaccine used, the date vaccinated, the rabies tag number and the veterinarian's signature and license number.
- (b) Any person having knowledge of an animal suspected of being infected with rabies shall immediately notify the city.

**Sec. 1-147. - Reports of human exposure to rabies.**

- (a) Any person having knowledge of a dog or cat bite inflicted upon an individual, or any animal bite inflicted upon an individual that the person could reasonably foresee as capable of transmitting rabies shall immediately report the incident to the city. Such report shall include, if known, the name and address of the bite victim, the name and address of the owner of the dog, cat or other animal, a description of the biting dog, cat or other animal, the date of the incident and any other information which may aid in locating the bite victim and the biting dog, cat or other animal.
- (b) Every physician or other medical practitioner shall report the names and address of any person treated for an animal bite to the city.
- (c) Any dog or cat which is currently vaccinated against rabies and which bites any person or domestic animal shall be placed in quarantine, except as noted in subsection (e) of this section, within a quarantine facility registered with the state department of health for a period of ten days. The ten-day quarantine period shall commence with the date of the bite. Upon request of the owner of such dog or cat, the city may permit home quarantine if secure facilities for containing the animal are available at the residence of the owner and approved by the city, if the animal was not in violation of any laws at the time of the bite and if the city observes the animal on at least the first and last days of the quarantine period.
- (d) Any dog or cat which is not currently vaccinated against rabies and which bites any person or domestic animal shall be placed in quarantine, except as noted in subsection (e) of this section, within a quarantine facility registered with the state department of health for a period of ten days. The ten-day quarantine period shall commence with the date of the bite.
- (e) Any dog or cat which bites any person or domestic animal and for which the owner cannot be located, any dog or cat which develops signs indicative of rabies during the ten-day quarantine period, and any dog deemed a hazard to public health and safety shall be euthanized and the brain submitted to a laboratory certified by the state department of health for rabies diagnosis.
- (f) Any animal, other than a dog or cat, which bites a person or domestic animal and which could reasonably be suspected of transmitting rabies shall be immediately euthanized and the brain submitted to a laboratory certified by the state department of health for rabies diagnosis.
- (g) The animal control officer shall investigate each bite incident, utilizing standardized reporting forms provided by the state department of health. If a local health authority or medical facility receives such bite report, they shall immediately relay the report to the city animal control officer and be guided by such officer's instructions as to impoundment and restraint as deemed necessary by that officer.
- (h) All quarantine and related fees shall be the responsibility of the owner. Any owner who has an animal which is placed into quarantine shall be responsible for the following fees:
  - (1) Dogs, cats and other animals for which a specific fee is not shown, \$25.00 per quarantine day.

Animals may be quarantined at local veterinary facility or other appropriate quarantine facility and such costs may exceed those stated immediately hereinabove.

**Sec. 1-148. - Report of rabies suspects, quarantine method and testing.**

- (a) It shall be the duty of every veterinarian to report immediately to the animal control officer his diagnosis of any animal observed by him as a rabies suspect and to make disposition of such confirmed cases of rabies as provided in this article.
- (b) When a dog or cat which has bitten a human has been identified, the owner will be required to place the animal in quarantine. The ten-day observation period will begin on the day of the bite incident. The animal must be placed in either the animal control facility or a facility specified for this purpose, if available. The owner of an animal to be quarantined may request permission from the animal control officer for home quarantine if the following criteria can be met:
  - (1) Secure facilities must be available at the home of the animal's owner, and must be approved by the animal control officer.
  - (2) The animal is currently vaccinated against rabies.
  - (3) The animal control officer or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the animal control officer must be notified by the person having possession of the animal. At the end of the observation period the release from quarantine must be accomplished in writing.
  - (4) The animal is not in violation of any laws at the time of the bite.

No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a state department of health certified laboratory for rabies diagnosis.

- (c) All related fees incurred in relation to this section shall be the responsibility of the owner.

**Sec. 1-149. - Quarantine of animals suspected of rabies.**

- (a) Any animal having rabies or under suspicion of having rabies or having bitten a human or other animal shall be immediately confined by the owner. The owner must immediately notify the animal control officer of where the animal is confined and the reason. The owner shall not permit the animal to come in contact with any other person or animal until the animal is released from quarantine. The animal control officer shall order any animal biting a human or other animal to be placed in quarantine. The owner shall surrender possession of the animal to the animal control officer on demand for supervised quarantine. The ten-day observation period will begin on the day of the bite incident. The quarantine period shall be for not less than ten days immediately following the time of the bite incident and shall be under the supervision of a veterinarian.
- (b) The owner must notify the animal control officer of the veterinarian supervising the quarantine. If the animal becomes ill during the observation period, the owner must notify the animal control officer and supervising veterinarian immediately.
- (c) A release from quarantine may be issued by the veterinarian if no signs of rabies have been observed during the quarantine period. Any quarantined animal may be released to the owner upon official written release authorized by a veterinarian and upon payment of all fees incurred. The payment of such fees may be deferred until the animal is eligible for release.
- (d) The violation of quarantine by any person shall be just cause for seizure and impoundment of the quarantined animal by the animal control officer.

- (e) Any currently vaccinated and registered guard dog or police dog involved in a bite incident while in the expressed performance of guard or police duties shall be allowed to continue on duty under quarantine. It shall be the responsibility of the owner to have the dog observed during the quarantine and released from quarantine by a veterinarian.

**Sec. 1-150. - Handling of animals exposed to rabies.**

- (a) Any animal exposed to rabies shall be handled in the following manner:
  - (1) Humane destruction with notification to, or under supervision of, the animal control officer;
  - (2) If not currently vaccinated, placed in quarantine for at least 10 days immediately following the date of the exposure. The animal shall be vaccinated prior to release; or
  - (3) If currently vaccinated, immediately placed in quarantine for at least ten (10) days immediately following the date of the exposure.
- (b) No person shall fail or refuse to surrender an animal for supervised quarantine or humane destruction as required in this section for rabies control when demand therefor is made by the animal control officer.
- (c) Any person having possession of or responsibility for any quarantined animal shall immediately notify the animal control officer if such animal escapes, or becomes or appears to become sick or dies, and in case of death of the animal while under quarantine, shall immediately surrender the dead body to the animal control officer for diagnostic purposes.
- (d) No animal shall be released until all fees are paid in accordance with sections 1-118—1-120.

**Sec. 1-151. - Supervision of destruction of animal suspected of rabies.**

The animal control officer shall direct the disposition of any animal found to be or suspected of being rabid.

**Sec. 1-152. - Surrender of carcass of animal suspected of rabies.**

The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the animal control officer.

**Sec. 1-153. – Rabies Control Expenses.**

All costs incurred in relation to the control of rabies shall be the responsibility of the owner.

**Secs. 1-154—1-185. - Reserved.**

**ARTICLE IV. - DANGEROUS ANIMALS**

**Sec. 1-186. - Dangerous dogs and animals deemed hazardous to public health and safety.**



- (a) It shall be unlawful for any person to own, keep or harbor any dangerous or vicious animal within the city; provided, this section shall not apply to animals under the control of a law enforcement or military agency. For the purpose of this chapter, a dog may be declared dangerous by an animal control officer after an attack that causes bodily injury or after an action by the dog which causes one to reasonably believe that the dog would attack and cause bodily injury.
- (b) If the dog is determined to be dangerous, the owner must within thirty (30) days:
  - (1) Register the dog with the animal control officer for a \$100.00 fee, which shall include the cost of the issuance of a "Dangerous Dog Collar" which shall be worn by the dangerous dog at all times and "Dangerous Dog" signs which shall be posted prominently on the boundaries of the dangerous dog's enclosure so that any passersby will be on notice of the dog's location.
  - (2) Restrain the dog at all times on a leash in the immediate control of a person or in a secure enclosure.
  - (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control officer. Subsequent proof of insurance must be provided to the ACO upon registration and all annual renewals of a dangerous dog thereafter.
- (c) The animal control officer may cause the muzzling, secure confinement, removal from the city or humane destruction of any animal for any of the following reasons:
  - (1) Whenever an animal has committed an unprovoked attack upon any person or animal on more than one occasion.
  - (2) Whenever a lawful patron or visitor of a business is jeopardized by a guard dog which is not securely confined during hours such business is open to the public.
- (d) Any dog which by an attack and regardless of circumstances causes the death of a person or domestic animal, shall be deemed hazardous to public health and safety.
- (e) The owner of any dog deemed to be a dangerous dog or a hazard to public health and safety shall be held liable for all medical expenses and all other legally allowable damages incurred as a result of an attack by such dog upon a person.
- (f) The owner of any dog deemed to be a dangerous dog or a hazard to public health and safety shall be held liable for all veterinary medical expenses and all other legally allowable damages incurred as a result of an attack by such dog upon an owned domestic animal.
- (g) Any dog deemed to be a hazard to public health and safety shall be surrendered by the owner of such dog immediately upon demand to the city for euthanization or shall be delivered by the owner of such dog to a licensed veterinarian for euthanization, and the owner shall deliver a statement of euthanasia by the veterinarian to the city within 24 hours of receipt of request for the dog by the city.
- (h) Any dog maintained as a guard dog for purposes of property protection by the owner of such dog at a recognized business establishment that bites or threatens to bite any person on the property of the business establishment at times other than the normal posted hours of operation of the business establishment shall not be considered a hazard to public health and safety, provided such dog is physically and securely confined to the boundaries of the property of the business establishment.
- (i) *Dangerous or hazardous dog removal fee.* Any person given the option of removing a dangerous or hazardous dog from within the city limits instead of being humanely destroyed shall pay a fee of \$100.00 in addition to all other assessed fees involving the dangerous animal.

Sec. 1-187. - Keeping of honey bees.

It shall be unlawful for any person to keep or raise aggressive honeybees [within] the city limits. Any person found keeping "Africanized" or otherwise aggressive honeybees or aggressive honeybee hive within the city limits will be subject to citation for each day the violation remains uncorrected or unabated. Said bees and hive(s) will be destroyed and/or abated at owner's expense including any costs associated with removal and cleanup of bees and hive(s).

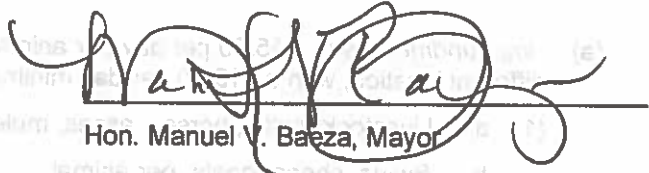
Secs. 1-188—1-220. - Reserved.

## ARTICLE V. - KENNELS

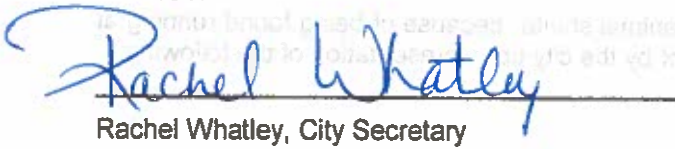
Sec. 1-221. - Permit for kennels, raisers or breeders of dogs, cats or other animals; selling of animals.

- (a) Kennels, raisers and breeders of dogs, cats or other animals shall make application with the animal control officer or any duly authorized representative of the city for permission to keep or harbor in excess of four but not more than 12 dogs, cats or other animals or a combination thereof beyond the normal weaning age on any premises used or zoned for residential purposes. The animal control officer may issue a permit for one year to the applicant upon the following information being satisfied:
- (1) Name of applicant, with permanent residence.
  - (2) The maximum number of dogs, cats or other animals to be kept or housed.
  - (3) The purpose for keeping or harboring the dogs, cats or other animals.
  - (4) The dogs, cats or other animals are to be housed in cages or pens inside the residence or a completely enclosed structure.
  - (5) The dogs, cats or other animals are kept or harbored so as to not be a nuisance or detriment to any adjoining or adjacent neighbors.
  - (6) The dogs, cats or other animals shall not bark or howl or create noises that cause the peace and quiet of the neighborhood or the adjacent premises to be disturbed.
  - (7) The cages or pens are to be maintained in a sanitary condition so as not to create any hazards to the general health and welfare of the community.
  - (8) The applicant shall furnish a drawing showing the dimensions of the lot, dwelling, fenced yard and other enclosed areas of the parcel of land that the permit is being requested for.
  - (9) The enclosed parcel of land that the dogs, cats or other animals to be kept or housed on shall have a minimum of 100 square feet per animal over the normal weaning age.
  - (10) The enclosed area in which the animals are to be housed shall be of adequate size, height and structure to prevent running at large.
  - (11) Permit and inspection fee shall be **\$200.00** for the initial inspection and permit application, and renewable at **\$200.00** per year so long as the permittee remains in compliance with requirements of this section and has no violations of such requirements. This permit will allow the selling of only those animals that are raised at the permitted premises.
- (b) All pet dealers (commercial, raiser or itinerant) shall be required to present each purchaser of an animal a veterinary certification stating that the animal is free from disease or parasites.
- (c) In order to prevent the spread of rabies, any person who is giving away puppies, kittens, or other young animals must secure a Kennel Permit from the ACO under this section. **The fee for this permit shall be \$10.00, or may be waived by the ACO under exceptional circumstances.**

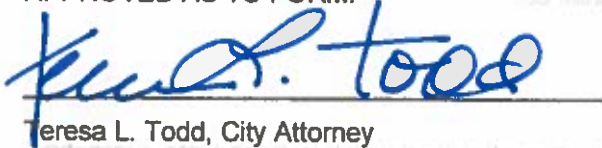
APPROVED and ADOPTED on this the 13<sup>th</sup> day of August, 2019 by the Marfa City Council.

  
Hon. Manuel V. Baeza, Mayor

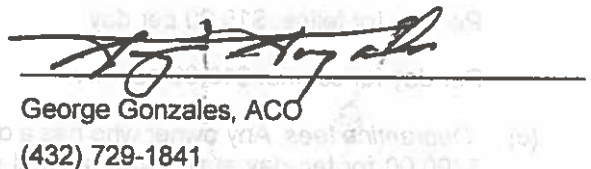
ATTEST:

  
Rachel Whatley, City Secretary

APPROVED AS TO FORM:

  
Teresa L. Todd, City Attorney

AGREED:

  
George Gonzales, ACO  
(432) 729-1841

## Exhibit "A"

### Fee Schedule

- (a) **Impoundment fees.** \$15.00 per day per animal. If large animal, whatever boarding fees are at a different location, with a \$15.00 per day minimum.
- (1) a. Livestock (cattle, horses, asses, mules) per animal.
  - b. Swine, sheep, goats, per animal.
  - (2) Fowl and rabbits, per animal.
  - (3) Any dog or cat held or impounded in the animal shelter because of being found running at large shall be released to the owner thereof by the city upon presentation of the following:
    - a. Proof of ownership of such animal;
    - b. Payment of the daily boarding cost;
    - c. If applicable, payment of any spaying or neutering fee:
- (b) **Board fees.** Each day shall begin at 12:01 a.m. and the fee shall be charged for any portion of any day (same as impound fees). Board fees shall be:  
Per day for feline: \$15.00 per day.  
Per day for canine: \$15.00 per day.
- (c) **Quarantine fees.** Any owner who has a dog, cat, or small animal which is placed into quarantine: \$200.00 for ten-day stay. Large animal quarantine fees would depend on the particular facility used to quarantine, and would be directly payable to the facility or owner.
- (1) Livestock such as cattle, horses, asses, mules, swine, sheep and goats, per quarantine day.
  - (2) Fowl and rabbits, per quarantine day.
  - (3) Dogs, cats and other animals per quarantine day.
- (d) **Adoption fees.** Fees for the adoption of any animal from the animal control shelter shall be per animal: \$25.00 (unless special event/advertised otherwise). This reduced fee is made possible by the generous donations of local individuals who cover the cost of immunizations and spaying/neutering of all animals adopted from the Marfa Animal Shelter.
- (e) **Euthanasia fees.** Charges resulting from the humane destruction of any dog or cat: \$100.00. Euthanization of any other animal or livestock animal shall require the owner to contract privately with a veterinarian and pay the applicable euthanization fees directly.
- (f) **Voluntary pick up fee is \$15.00.** Any citizen who no longer wishes to possess or own any animal may contact the animal control officer. The animal control officer will then pick up and hold such animal until which time that animal can be adopted or must be destroyed.
- (g) **Dog and cat registration fee.**  
Registration fee: \$5.00  
Replacement license: \$3.00.

Registration is required for animals kept within city limits. For issuance of registration, the owner must show proof of current rabies vaccination (for dog) and/or proof of current rabies and distemper vaccinations (cats).

If an animal is registered on the same day it receives vaccinations (for example, at the annual City of Marfa Rabies Clinic) then the registration will be for a full three-year period. If an animal is registered with proof of required vaccinations that were administered on an earlier date, then the registration shall expire on the same date as the expiration of the applicable vaccination(s).

- (h) *Retention of fees.* All fees resulting from impoundment, board and care, registration of animals, the permitting of livestock and fowl received by the city are used to help defray the expenses of the enforcement of this ordinance.

**EXHIBIT "B"**

**LINKS OF INTEREST**

<http://www.rompmarfa.org/>

<https://www.grandcompanions.org/>

<https://www.alpinehumanesociety.org>

**LOCAL VETERINARIANS**

**COMMUNITY WATCH LIST OF DANGEROUS DOGS**

**DVD/VIDEO: DON SULLIVAN'S "SECRETS TO TRAINING THE PERFECT DOG"**

FROM CDC (whose motto is "Saving Lives Protecting People"): <https://www.cdc.gov/features/dog-bite-prevention/index.html>

<https://www.animalbehaviorcollege.com/blog/why-dogs-act-aggressively-toward-people-and-other-dogs/>

**ANIMAL RIGHTS LAWS:**

<https://www.dshs.texas.gov/idcu/health/zoonosis/education/training/aco/manual/information/BASCruel.pdf>

<http://www.jgradyrandlepc.com/local-governmental-entities/texas-cities-dog-friendly-ordinances/>

<https://www.animallaw.info/article/overview-texas-animal-cruelty-laws>

[http://www.texas-city-tx.org/upload/page/0188/docs/animal\\_control\\_2015.pdf](http://www.texas-city-tx.org/upload/page/0188/docs/animal_control_2015.pdf)

<https://cityofirving.org/146/Codes-and-Forms>

<http://fortworthtexas.gov/animals/laws/>

<https://www.whitehousetx.org/city-services/animal-control/code-enforcement/>

<http://www.houstonspca.org/cruelty-and-rescue/>

<https://www.nolo.com/legal-encyclopedia/free-books/dog-book/chapter13-3.html>

<http://www.wagshopeandhealing.org/animal-cruelty-resources>

[https://www.news-journal.com/features/lifestyle/animal-activism-rewarding-endeavor/article\\_ffea303c-0fa9-55ef-bea0-fa43bcf4d49b.html](https://www.news-journal.com/features/lifestyle/animal-activism-rewarding-endeavor/article_ffea303c-0fa9-55ef-bea0-fa43bcf4d49b.html)

[http://www.ruralplanning.org/assets/code\\_enforcement-web.pdf](http://www.ruralplanning.org/assets/code_enforcement-web.pdf)

