

Ordinance No. 2648

AN ORDINANCE OF THE CITY OF TERRELL, KAUFMAN COUNTY, TEXAS AMENDING CHAPTER 3, ANIMAL CONTROL OF THE REVISED CODE OF ORDINANCES OF THE CITY OF TERRELL BY AMENDING SECTION 19: DANGEROUS/VICIOUS ANIMAL COMPLAINTS AND BY ADDING SECTION 20: APPEALS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL TEXAS:

ARTICLE I.

That the Revised Code of Ordinances of the City of Terrell, Chapter 3, Animal Control, Section 19 shall be deleted in its entirety and replaced with the following and, further, that Section 20 be added as follows:

Section 19: Dangerous/Vicious Animal Complaints

- A. Should any person desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with a police officer or an animal control officer of the city as follows:
1. Name, address and telephone number of complainant and any witnesses;
 2. Date, time and location of any incident involving the animal;
 3. Description of the animal;
 4. Name address and telephone number of the animal's owner if known;
 5. A statement describing in detail the facts upon which such complaint is based; and
 6. A statement describing in detail any incidents where the animal has exhibited dangerous or vicious propensities in the past if known.
- B. After a sworn complaint is filed, if the complaint alleges an unprovoked attack on a human or against another animal, it shall be referred for disposition to the clerk of the Municipal Court who shall set a time and place for a hearing not to exceed twenty (20) days from the time the complaint is received. The clerk of the Municipal Court and/or the animal control officer shall give notice of the hearing to the animal's owner at least ten (10) days prior to the hearing date. After the

owner of the animal is notified, the owner shall keep such animal at the animal shelter or at a veterinarian's clinic whose facility is located within the city limits of Terrell until the Municipal Court hold such hearing. After the owner of the animal receives notice, the animal control officer shall impound the animal specified in the complaint if such animal is found at large.

- C. The Judge of the Municipal Court shall receive testimony at the hearing to determine if the animal specified in the complaint is a dangerous animal and should be permanently removed from the city or destroyed for the protection of the public health, safety and welfare of the citizens of the city. In order to determine if any of the above actions are necessary, the Judge of the Municipal Court must find the following facts to be true:
1. The animal is a dangerous animal;
 2. The removal or destruction of the animal is necessary to preserve and protect the public health, safety and welfare of the citizens of the city.
- D. If the Judge of the Municipal Court orders the destruction or removal of the animal and the owner was not present at the hearing, the owner shall be given notice of the decision. If removal or destruction of the animal is not ordered, the animal control officer shall return the animal to the owner upon payment of all applicable fees. If the Judge of the Municipal Court orders the animal to be permanently removed from the city, he shall allow the owner ten (10) days to do so. The owner shall furnish the Municipal Court evidence of such permanent removal within ten (10) days thereof. In the event the animal has been ordered to be permanently removed from the city and the owner has done so, it shall be unlawful for the animal to be allowed back into the city for any purpose. The decision of the Judge of the Municipal Court shall be final provided that such decision has not been appealed.
- E. A person commits an offense if he knowingly possesses and fails to release to the animal control officer or a veterinarian, as approved by animal control, an animal that has been charged by sworn complaint as specified above and whose destruction or removal has been ordered by the Judge of the Municipal Court.
- F. If the complaint alleges only dangerous propensities against the animal, the Judge of the Municipal Court, shall receive testimony at the hearing to determine if the animal specified in the complaint is a vicious animal and should be properly registered as a vicious animal, be properly restrained within a fenced area of sufficient height and strength to prevent the animal from escaping, require the owner to keep and maintain liability insurance in an amount sufficient to cover any injuries that may occur as a result of owning, keeping or harboring said vicious animal, or require that the vicious animal be permanently removed from the city or, in the alternative, destroyed for the protection of the public health,

safety and welfare of the citizens of the city. In order to determine if any of the above actions are necessary, the Judge of the Municipal Court must find the following facts to be true:

1. The animal has dangerous propensities;
 2. The confinement, special registration, liability insurance requirement and/or removal or destruction of the animal is necessary to preserve and protect the public health, safety and welfare of the citizens of the city.
- G. If the Judge of the Municipal Court orders the confinement, destruction or removal of the animal and the owner was not present at the hearing, the owner shall be given notice of the decision. If removal or destruction of the animal is not ordered, the animal control officer shall return the animal to the owner upon payment of all applicable fees. If the Judge of the Municipal Court orders the animal to be confined or removed from the city, he shall allow the owner ten (10) days to do so. The owner shall furnish the Judge of the Municipal Court, or his designee, evidence of such confinement within a fenced area in the manner described above or removal as the case may be within ten (10) days thereof. In the event the animal has been ordered to be properly confined within a fenced area in the manner described above or to be removed from the city and the owner has done so, it shall be unlawful for the animal to be outside the above described fenced area or to be allowed back into the city, as the case may be, for any purpose.
- H. A person commits an offense if he knowingly possesses and fails to release to the animal control officer or a veterinarian, as approved by animal control, an animal that has been charged by sworn complaint as specified above and whose confinement, destruction or removal has been ordered by the Judge of the Municipal Court provided that such confinement, destruction or removal has not been appealed.

Section 20: Appeals

- A. Under the provisions of Section 822.0424 of the Texas Health and Safety Code the decision of the Judge of the Municipal Court under Section 19 above may be appealed to a County Court At Law of Kaufman County. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the decision of the Judge of the Municipal Court is issued, the appellant must file a notice of appeal with the Clerk of the Municipal Court and, if required, post an appeal bond in an amount to be determined by the Judge of the Municipal Court in accordance with paragraph B below.
- B. Under the provisions of Section 822.0423 of the Texas Health and Safety Code, the Judge of the Municipal Court, in assessing the amount of an appeal bond shall, in addition to the normal costs for such an appeal, determine the estimated costs to

the city for housing and caring for the animal during the appeal process and shall set the appeal bond in an amount that is adequate to cover all additional estimated costs.

ARTICLE II.

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE III.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted without such unconstitutional phrase, clause, sentence, paragraph or section.

ARTICLE IV.

This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

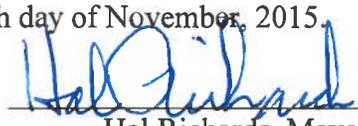
PASSED AND APPROVED on first reading this the 3rd day of November, 2015.

PASSED AND ADOPTED on second reading this the 17th day of November, 2015.

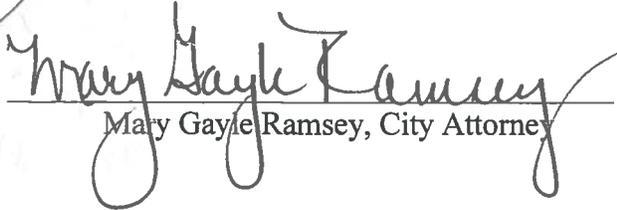
Attest:



John Rounsavall, City Secretary



Hal Richards, Mayor



Mary Gayle Ramsey, City Attorney