



SPECIAL CITY COUNCIL MEETING

Tuesday, March 21, 2023 at 7:00 PM

CITY COUNCIL CHAMBERS - 120 Paint Rock Street, Eden, TX

Off: 325-869-2111 | Fax: 325-869-5075

AGENDA

1. CALL TO ORDER AND ROLL CALL

2. EXECUTIVE SESSION

The City Council for the City of Eden has the right to adjourn into executive session at any time during the course of this meeting to discuss any matter as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices, and 551.086 (Economic Development).

3. BUSINESS

Consideration and Possible Action On:

- A. Consideration of and authorization for Mayor to sign a Resolution suspending for 45 days the effective date proposed by West Texas Gas Company in its application filed on or about February 15, 2023, pursuant to section 104.301 of the Gas Utility Regulatory Act
- B. Second Hearing and adoption of an Ordinance of the City of Eden, Texas, providing for the regulating and controlling of animals, livestock, and fowl within the city limits of Eden; declaring a nuisance; providing for the licensing, registration, vaccination, and impoundment of dogs and cats; providing for requirements to control dangerous dog; providing for quarantine regulations; providing for licensing of livestock, wild or dangerous animals, and animal livestock, wild or dangerous animals and animal establishments; providing for a penalty clause; providing for a severability clause; providing for a repealing clause; and providing for an effective date
- C. Updates and possible action regarding Management, Maintenance, and Funding of Golf Course, to include consideration of any electrical estimates for the check valve
- D. Consideration of Golf Course Management Presentation by Matt Drake, Riverside Golf Course

4. ADJOURN

Notice is posted in accordance with Chapter 551 Government Code, Vernon's Texas Codes, Annotated. I certify that the above notice of meeting was posted on the bulletin board located at City of Eden City Hall on or before March 17, 2023 by 5:00 pm.

Laura Beeson, City Administrator

All agenda items listed above are eligible for discussion and action unless otherwise specifically noted.

This facility is wheelchair accessible. Accessible parking spaces are available. Requests for auxiliary aids and services must be made 48 hours prior to this meeting by calling (325) 869-2211.

AGENDA INFORMATION SHEET

AGENDA ITEM NO. _____

ACTION TO SUSPEND THE EFFECTIVE DATE PROPOSED BY WEST TEXAS GAS UTILITY, LLC (WTG) TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM FOR 45 DAYS, AND AUTHORIZE THE CITY’S CONTINUED PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE "ALLIANCE OF WTG MUNICIPALITIES"

ALLIANCE OF WEST TEXAS GAS COMPANY MUNICIPALITIES (“AWM”)

The City is a member of the Alliance of West Texas Gas Company Municipalities (“AWM”). The AWM group was organized by a number of municipalities served by West Texas Gas Company (“WTG”) and has been represented by the law firm of Herrera & Boyle, PLLC (through Mr. Alfred R. Herrera) to assist in reviewing applications to change rates submitted by WTG.

“GRIP” RATE APPLICATIONS

Under section 104.301 of the Gas Utility Regulatory Act (GURA), a gas utility is allowed to request increases in its rates to recover a return on investments it makes between rate cases. This section of GURA is commonly referred to as the “GRIP” statute (the “Gas Reliability Infrastructure Program”).

Under a decision by the Supreme Court of Texas, the Court concluded that a filing made under the GRIP statute permitted gas utilities the opportunity to recover a return on capital expenditures made during the interim period between rate cases by applying for interim rate adjustment and that proceedings under the GRIP statute did not contemplate either adjudicative hearings or substantive review of utilities' filings for interim rate adjustments. Instead, the Court concluded, the GRIP statute provides for a *ministerial* review of the utility’s filings to ensure compliance with the GRIP statute and the Railroad Commission’s rules, and that it is within the Railroad Commission’s authority to preclude cities from intervening and obtaining a hearing before the Railroad Commission.

WTG’S “GRIP” APPLICATION

On or about February 15, 2023, WTG filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program (“GRIP”). WTG’s application when approved by the Railroad Commission will result in an increase in the monthly customer charges as shown below:

Rate Schedule	Customer Charge	Proposed 2021 Interim Adjustment	Adjusted Customer Charge	Increase to Each Bill
Texas Residential	\$19.99 per meter per month	\$0.63 per meter per month	\$20.62 per meter per month	\$0.63 per meter per month
Texas Commercial, Public Authority, & Non-Profit	\$36.38 per meter per month	\$1.31 per meter per month	\$37.69 per meter per month	\$1.31 per meter per month

Note that WTG refers to its application as its “2021” interim adjustment because the increase in rates WTG presents in its application is based on capital expenditures it made from January 1, 2021 through December 31, 2021.

REVIEW AND ACTION RECOMMENDED

Although the City’s ability to review and effectuate a change in WTG’s requested increase is limited, the City should exercise due diligence with regard to rate increases by monopoly utilities who operate within its boundaries, including increases requested under the GRIP statute to ensure compliance with the requirements of that law.

To exercise its due diligence, it is necessary to suspend WTG’s proposed effective date of April 16, 2023, for forty-five days, so that the City can evaluate whether the data and calculations in WTG’s rate application are correctly done, and whether WTG’s application otherwise conforms to the requirements of the GRIP statute.

Therefore, AWM’s Special Counsel, the law firm of Herrera & Boyle, PLLC (through Alfred R. Herrera) recommends that the City adopt a resolution suspending WTG’s proposed effective date for 45 days. Assuming a proposed effective date of April 16, 2023, WTG’s proposed effective date is suspended until May 31, 2023.

The City must take action to suspend by no later than April 16, 2023.

RESOLUTION NO. _____

A RESOLUTION BY THE CITY OF _____, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF WEST TEXAS GAS COMPANY, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY'S PARTICIPATION IN A COALITION OF CITIES KNOWN AS THE "ALLIANCE OF WEST TEXAS GAS COMPANY MUNICIPALITIES;" REQUIRING THE REIMBURSEMENT OF COSTS; DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS: on or about February 15, 2023, West Texas Gas Company ("WTG") filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"), resulting in a requested increase in the monthly customer charge from \$19.99 to \$20.62 for Residential customers, and from \$36.38 to \$37.69 for non-residential customers (Commercial, Public Authority, and Non-Profit); and

WHEREAS: the City has a special responsibility to exercise due diligence with regard to rate increases of monopoly utilities who operate within its boundaries; and

WHEREAS: the application to increase rates by WTG is complex; and

WHEREAS: it is necessary to suspend the effective date for the increase in rates for forty-five days, so that the City can assure itself that the data and calculations in WTG's rate application are correctly done, and whether WTG's application otherwise conforms to the requirements of Texas Utilities Code § 104.301, commonly referred to as the GRIP statute; and

WHEREAS: the effective date proposed by WTG is April 16, 2023, but a suspension by the City will mean that the rate increase cannot go into effect prior to May 31, 2023.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS THAT:

Section 1. That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The City suspends the requested effective date by WTG for forty-five days pursuant to the authority granted the City under Section 104.301 of the Texas Utilities Code. The City finds that additional time is needed in order to review the data and calculations that provide the basis for the rate increase application, and to determine whether WTG’s application otherwise conforms to the requirements of the GRIP statute.

Section 3. The City shall continue to act jointly with other cities that are part of a coalition of cities known as the Alliance of WTG Municipalities (“AWM”).

Section 4. The City authorizes the law firm of Herrera Law & Associates, PLLC, to act on its behalf in connection with WTG’s application to increase rates.

Section 5. WTG is ordered to reimburse the City's reasonable rate case expenses incurred in response to WTG’s rate increase application within 30 days of receipt of invoices for such expenses to the extent allowed by law.

Section 6. The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 7. This resolution shall be effective immediately upon passage.

PASSED AND APPROVED this _____ day of _____ 2023.

MAYOR

ATTEST:

CITY SECRETARY

ORDINANCE NUMBER 2023-6
ANIMALS, LIVESTOCK, AND FOWL

AN ORDINANCE OF THE CITY OF EDEN, TEXAS, PROVIDING FOR THE REGULATING AND CONTROLLING OF ANIMALS, LIVESTOCK, AND FOWL WITHIN THE CITY LIMITS OF EDEN; DECLARING A NUISANCE; PROVIDING FOR THE LICENSING, REGISTRATION, VACCINATION, AND IMPOUNDMENT OF DOGS AND CATS; PROVIDING FOR REQUIREMENTS TO CONTROL DANGEROUS DOG; PROVIDING FOR QUARANTINE REGULATIONS; PROVIDING FOR LICENSING OF LIVESTOCK, WILD OR DANGEROUS ANIMALS, AND ANIMAL LIVESTOCK, WILD OR DANGEROUS ANIMALS, AND ANIMAL ESTABLISHMENTS; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALING CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1

That the Code of Ordinances of the City of Eden, Texas is hereby amended to read as follows:

ANIMALS, LIVESTOCK, AND FOWL

- | | |
|-----------|--------------------------------------|
| Art. I | In General |
| Art. II | Dogs and Cats |
| Art. III | Dangerous Dog |
| Art IV | Quarantine For Rabies Control |
| Art. V | Livestock and Poultry |
| Art. VI | Keeping Of Wild Or Dangerous Animals |
| Art. VII | Reserved |
| Art. VIII | Animal Establishments |

ARTICLE I. IN GENERAL

Sec. 3-1 - 3-9 Reserved

Sec. 3-10 DEFINITIONS COMMON TO THIS CHAPTER

Abandoned - shall mean a dog, cat, or any other animal which has been deserted by its owner, to wit, such animal has been left at an unoccupied residence, has no food nor water provided, roams at large and is not tagged nor licensed.

Animal – a living organism that feeds on organic matter, typically having specialized sense organs and nervous system and able to respond rapidly to stimuli.

Animal Control Authority - means the Animal Control Office of the City of Eden.

Animal Control Officer - shall mean any person designated by the City of Eden as an officer who is authorized to perform animal control duties under the laws of the City of Eden, Texas.

Animal Control Establishment - shall mean any pet shop, grooming shop, animal auction, performing animal exhibition, kennel, or animal shelter, except this term shall not include veterinary medical facilities, and licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provision of U.S. Public Laws 89544 and 92579.

Animal Shelter - shall mean any facility designated or recognized by the City of Eden for the purpose of impounding and caring for animals held under the authority of this Chapter and State law.

At Large - shall mean off the premises of the owner and not under the complete control, either by leash, cord, chain, or effective verbal command of the owner who is then physically present with the animal; or on the premises of the owner and not within the direct, constant, and immediate presence of a person having effective verbal command of the animal, or otherwise confined to said premises by means of a leash, cord, chain, or enclosure.

Cat - means *Felis silvestris catus*

Cruelly Treated - includes injured or tortured, seriously over-worked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

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 those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog - means *Canis lupus familiaris*.

Fowl - shall mean any bird of any kind.

Harbors or Harboring - shall mean the act of keeping or caring for an animal or of providing a premise to which the animal returns for food, shelter, or care for a period of three (3) days or more.

Humane Manner - shall mean care of an animal to include, but not limited to, adequate heat, ventilation, and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

Kennel - shall mean an establishment kept for the purpose of breeding, selling, or boarding dogs or cats or engaged in training dogs or cats.

Licenses Veterinarian - means a person licensed to practice veterinary medicine by the State Board of Veterinary Medical Examiners.

Livestock - shall be construed to mean any horses, mule, jack, jenny, cow, cattle, sheep, goat, rabbit, or pig or hog.

Neutered or Sterilization - means the surgical removal of the reproductive organs of a dog or cat to render the animal unable to reproduce.

New Owner - means a person who is legally competent to enter into a binding contract and who is adopting a dog or cat from a releasing agency.

Nuisance - shall mean a dog or cat, or other animal either licensed or unlicensed, which:

1. Molests passerby;
2. Chases passing vehicles;
3. Is not vaccinated against rabies as required by this chapter.
4. Is found to be at large.
5. Turns over garbage containers.
6. Barks, whines, or howls in an excessive, loud, continuous fashion so as to unreasonably disturb nearby persons;
7. Howls, growls, or hisses in an excessive, loud, continuous fashion so as to unreasonably disturb nearby persons;
8. Damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner;
9. Causes unsanitary, dangerous, or offensive conditions;

10. Molests, attacks, or interferes with person(s) or other domestic animals; or
11. Is without an owner.

Owner - means a person, firms, partnership, company, association, or corporation who has, harbors, keeps or causes or permits to be harbored or kept, or has in his care or who permits a dog, cat, or other animal on or about his premises for a period of three (3) days.

Person - shall mean any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Pet Shop - shall mean any person, firm partnership, corporation, or company conducting business at a properly zoned location thereafter, whether operated separately or in connections with another business enterprise other than a kennel that engages in the business of buying or selling at retail dogs or cats or other animals for profit making purposes.

Poultry - shall be construed to mean domesticated birds that are normally kept for eggs or meat. Poultry includes, but is not limited to chickens, turkeys, geese, ducks, and guineas.

Property - shall mean any object of value that a person may lawfully acquire and hold; that which may be owned as land, a residence, a vehicle, an animal, etc.

Quarantine - means strict confinement of an animal specified in an order of the board or its designee:

1. On the private premises of the animal's owner or at a facility approved by the board or its designee; and
2. Under restraint by closed cage or paddock or in any other manner approved by board rule.

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

Releasing Agency - means a public or private animal pound, shelter, or humane organization.

Residence - shall mean a house, apartment, room or duplex inhabited as the principal dwelling place of a person or persons.

Residential Building - shall mean a structure or building designed, constructed, or converted for use as a residence.

Secure Enclosure - means a fenced area or structure that is:

1. Locked;
2. Capable of preventing the entry of the general public, including children;
3. Capable of preventing the escape or release of a dog;
4. Clearly marked as containing a dangerous dog; and
5. In conformance with the requirements for enclosures established by the local animal control authority.

Stray - means roaming with no physical restraint beyond the premises of an animal's owner or keeper.

Trap - shall mean any device placed by an animal control officer, employed or used in the capture of animals which is not under the constant supervision of an officer and which functions in such a manner as to confine any animal entering same.

Vaccination - an injection of vaccine which has been approved by the United States Department of Health and Human Services.

Vicious Animal - shall mean and include any animal, wild or domestic, which demonstrates a propensity toward the unprovoked biting or attacking of animals or humans, or which demonstrates a disposition toward savagery or ferociousness toward animals or humans or which represents a physical threat to animals or humans.

Wild Animals - shall mean any non-domestic animal normally found in a natural habitat.

Sec. 3-11 NUISANCES

- A. Any dog or cat or other animal which meets the definition of a nuisance in Art. I Sec. 3-10, of this Chapter is hereby declared to be a nuisance.
- B. A dog or cat or other animal which is a nuisance may be picked up by the department of animal control.
- C. Any person who owns, keeps, or harbors a dog or cat or other animal which is declared to be a nuisance shall be guilty of a misdemeanor.

Sec. 3-12 PROCEDURES AND COURT AUTHORITY FOR ABATEMENT

- A. Upon written complaint wherein any dog or cat or other animal is alleged to be a nuisance, as defined in Art. I, Sec. 3-10 of this chapter, the municipal court of the city shall have the authority to order and hold a hearing upon giving notice to the owner of such dog or cat or other animal and if such court shall determine at such hearing that such dog or cat or other animal is vicious or dangerous to persons or animals or has bitten or attacked any person, or other animal, the court may order that such dog or cat or other animal be kept muzzled; or that same be kept within a sufficient enclosure; or that same be delivered to the pound-master and by him be destroyed; or assess a fine against the owner thereof, as provided herein; or any

combination of the foregoing.

- B. If such court shall determine that any dog or cat or other animal disturbs the peace and quiet of the neighborhood or occupant of any adjacent premises by loud, unusual or prolonged barking or howling, the court may order that such dog or cat or other animal be removed permanently beyond the city limits or delivered to the pound-master and by him be destroyed; and failure or refusal to do so within twenty-four (24) hours after receiving said order shall be deemed an offense. A substantial copy of such order for hearing detailing the time, date, place, and purpose therefore, personally delivered or enclosed in a correctly addressed envelope to such owner, postage prepaid, and deposited in the United States mail within not less than fourteen (14) days prior to the date of such hearing, shall be deemed sufficient and proper notice.
- C. Provided, however, if it appears upon trial thereof that any person attacked or bitten was trespassing upon the property of the owner or person having control of such dog or cat or other animal, or if any person attacked or bitten was provoking or teasing such dog or cat or other animal, or if such loud, unusual or prolonged barking or howling was provoked as the result of teasing or harassment by persons other than the owner, such conduct shall be a complete defense to any complaint brought hereunder.
- D. A person commits an offense if he knowingly possesses and fails to release to the animal control officer or any peace officer under his direction, a dog or cat or other animal that has been charged by sworn complaint as provided in this section.

Sec. 3-13 DESTRUCTION OF ANIMALS

- A. No person shall kill or cause to be killed any rabid animal, any animal suspected or having been exposed to rabies, or any animal which has bitten a human or

suspected of having bitten a human, except as herein provided, nor remove same from city limits without permission from the animal control department:

1. Exposed To Rabies - The carcass of any dead animal suspected of having been exposed to rabies shall upon demand be surrendered to the animal control department.
 2. Determined Rabid - The animal control department shall direct the disposition of any animal found to be infected with rabies.
 3. Surrender After Demand - No person shall fail or refuse to surrender any animal for quarantine, destruction, or disposal as required herein when demand is made therefore by the animal control department.
- B. Any animal which has been injured to the extent of broken legs, severe lacerations, internal injuries, etc., may be immediately put to death in a humane manner if, within the judgment of the director of the department of animal control, the animal is in pain or suffering, and it is the judgment of the director that the nature or extent of the injury is such that the animal cannot reasonably be expected to survive the injury.
- C. Any animal which has the mange, distemper, or any other disease which may be reasonably calculated to endanger the life and health of other animals may, in the discretion of the director or the department of animal control be humanely put to death in lieu of impoundment.
- D. Prior to any animal being put to death, pursuant to the terms of this section, the employees of the department of animal control, shall make reasonable inquiry as to the owner of said animal and, if the owner can be identified and notified, the owner shall be notified. In the event the owner shall agree to immediately proceed to the location of the animal and does so, the animal shall not be destroyed except upon permission of the owner. In the event the animal is not injured, but is infected with a disease calculated to endanger other animals, and

the ownership can be ascertained, then in that event, the animal shall not be destroyed until the owner is notified and gives his consent or refuses to immediately reclaim the animal or, if the owner is not notified, all reasonable means of notifying the owner and receiving a response within a twenty-four (24) hours period have been exhausted.

- E. The director of the department of animal control shall, in deciding whether or not the facts warrant the immediate destruction of any animal, act in a reasonable manner and according to policy and procedure established by the city manager.
- F. The City of Eden, its officers, agents, and employees shall never, in any event, be liable in damages for the destruction of any animal pursuant to the terms and provisions of this section.

Sec. 3-14. MISCELLANEOUS REGULATIONS

- A. The driver of any vehicle which collides with or strikes any domesticated animal shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible without interfering with traffic, render reasonable assistance to said animal, and then and there either locate and notify the owner of said animal or report said accident and the injury to the department of animal control, the Eden Police Department, or the local humane society. The provisions of this subsection shall not apply to any emergency vehicle or to a driver taking an ill or injured person to medical care, nor shall it require assistance to an animal if providing such assistance would place any person in damage from the animal or traffic.
- B. It shall be unlawful for any person to tamper with, destroy, damage, spring, or cause to mal-function any trap set by the department of animal control or to release any dog or cat from any such trap.
- C. No person shall set up or allow to be set up on his property, steel jaw traps, spring

traps with teeth or perforated edges on the holding mechanism, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of the trapped prey for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically deemed necessary by the department of public health in or for the control of communicable disease.

- D. This subsection is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhog; provided, that the owner is responsible for taking care that any of the above said rodent traps are not placed or used on or about his property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal or of a human. It shall be prima facie violations of his subsection that the traps prescribed herein were, in fact, set up by the person in question; no intent or further culpable mental state shall be required to prove such a prima facie violation.

- E. No person shall interfere with, hinder, or molest any agent of the animal control department in the performance of any duty of the agent, or seek to release any animal in the custody of the animal control department or its agents.

Sec. 3-15 - 3-18 RESERVED

Sec. 3-19 PENALTY FOR VIOLATION

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) no more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand dollars (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred dollars (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty

provided for the same or similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE II DOGS AND CATS

Sec. 3-20 RESERVED

Sec. 3-21. DOG AND CAT REGISTRATION, LICENSING, RABIES, VACCINATION

- A. All cats and dogs, harbored or maintained by their owners within the City of Eden shall be registered. Registration tags shall be issued under the direction of the animal control officer or any designated person assigned by the city manager. Applicants for a license shall state the following information:
 - 1. The name, address, and telephone number of the owner;
 - 2. The kind and breed of dog or cat; if known;
 - 3. The sex of the dog or cat, if neutered, so state;
 - 4. The coloration of the dog or cat and any other distinguishing characteristics; and
 - 5. Proof of vaccination.

- A. All dogs and cats presently in the City of Eden shall be registered within six (6) months of the effective date of this section. All newly acquired dogs or cats shall be registered within thirty (30) days of their acquisition. All newly born dogs or cats shall be registered within four (4) months of their birth. This requirement will not apply to a nonresident keeping a dog or cat within the corporate limits of Eden for no longer than thirty (30) days.

- B. Registration License Fee:
 - 1. License fees for un-neutered dogs or cats shall be five dollars (\$5.00) per animal.

2. License fees shall be waived for dogs serving the blind or government-owned dogs used for law enforcement. All other licensing provisions shall apply.
- D. Such license shall be valid for one (1) year and all licenses shall expire after date on which said cat or dog last received a rabies vaccination.
 - E. On or before the expiration date of the license, the City of Eden shall send a notice of expiration to the owner, indicated by the records of the city, for the annual fee. If the owner has not reported the death of the dog or cat or its removal from the city before the annual fee becomes due, he is still liable for the fee currently due.
 - F. If the owner of a dog or cat has not paid the annual license fee within thirty (30) days of the date it is due, the owner of the animal to which the fee applies may be cited in the manner set out in Art. II, Sec. 3-23 of this chapter.

Sec. 3-22. RABIES VACCINATION REQUIRED.

- A. No person shall own, keep, or harbor any dog or cat over four (4) months of age within the corporate limits of Eden unless such dog or cat is vaccinated against rabies and licensed (registered).
- B. All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest Compendium of Animal Rabies Vaccines and Recommendations for Immunization[@] published by the National Association of State Public Health Veterinarians.
- C. A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the compendium. Each owner shall also receive a durable vaccination tag indicating the year in which it was issued.

- D. The owner of any dog or cat within the city shall have said animal vaccinated against rabies by a licensed veterinarian each calendar year.

Sec. 3-23 IMPOUNDED DOGS OR CATS, ENFORCEMENT

- A. Dogs and/or cats which are a nuisance shall, if reasonably possible, be captured or taken by an animal control officer, or other designated employee of the city, if an animal control officer is not available, impounded in an animal shelter and there confined in a reasonably humane manner with necessary food and shelter. In the event of actual and immediate danger of bodily injury to any person because of dogs or cats vicious nature or actions, or in the event a dog or cat which constitutes a threat to the health of people or other dogs or cats are about to elude capture by an animal control officer, the officer shall be justified in immediately destroying the dog or cat by the use of any reasonable means available to him, without liability of any nature to the owner for the death of the cat or dog.
- B. For the purpose of enforcing this Chapter, any animal control officer or peace officer is hereby authorized to issue to any owner, or other person, who violates any provision of the Chapter, a citation which shall be dated and signed by the issuing officer. The citation shall set forth the general nature of the violation charged, and shall direct the violator to appear in the municipal court of the City of Eden, Texas, on or before a certain day. The violator shall sign the summons to indicate his agreement to appear. In the event a violator refuses to sign the agreement to appear, a peace officer may be called to the scene and, upon the continued refusal of such person to sign, may arrest such person. In those instances wherein the violator is not present, the citation may be issued, a complaint filed, and procedure followed as permitted by law.
- C. An animal control officer shall, upon observing a dog and/or cat at large, pursue said dog and/or cat and capture same if possible. If said dog and/or cat, during pursuit, goes upon private property, said officer shall continue pursuit onto said

private property. Should any dog and/or cat, after pursuit, be captured on private property, the officer shall make inquiry of anyone present on said property as to ownership. In the event ownership of the dog and/or cat is determined, said officer shall issue a citation to the owner and deliver the dog and/or cat to said person upon said person's exhibiting acceptable identification. In the event a dog and/or cat at large is captured and the owner is not located, or ownership is not determined, it shall be impounded.

- D. Unless reclaimed as herein provided, all impounded dogs and/or cats shall be kept for not less than four (4) days, the first day of which shall be the day next following the day of impoundment.
- E. If the owner of an impounded dog or cat can be readily identified, the animal control officer or his agent, shall within twenty-four (24) hours after impoundment, notify the dog's or cat's owner by telephone, if possible, or by mail if no telephone number is available.
- F. If the dog or cat is four (4) months old or older and not wearing a collar with valid rabies and license tags attached, the owner must present a certificate showing that the dog or cat has been vaccinated and licensed within the immediate preceding twelve (12) calendar months. If such a certificate of vaccination and/or the license cannot be produced, and the animal is three (3) months old or older, a warning notice shall be issued to the owner and the animal may be released to its owner on the condition that the owner shall immediately have the animal vaccinated against rabies and purchase a city license. In that event, the animal shall be vaccinated and/or licensed, as herein provided and acceptable proof thereof exhibited to the director of animal control or his agent within seventy-two (72) hours after the animal's release. If acceptable proof of vaccination and/or licensing is not presented within the seventy-two (72) hours, the director shall cause a complaint to be filed against such owner in the municipal court of the City of Eden, Texas. Animals which are not at least three (3) months of age may be

released without immediate vaccination and licensing being required. However, the department of animal control may give written notice to the person claiming said animal that proof of vaccination and licensing must be presented, as required herein, on or before a certain date. The date shall be a date estimated as falling between the third and fourth monthly anniversary of the animal=s birth. In the event such written notice is given and the proof of vaccination and licensing is not provided on or before the date⁴ stipulated, the director of the department of animal control shall cause a complaint or complaints to be filed.

- G. Any animal not reclaimed by its owner in compliance with the provisions of Sec. 3-23, (f) above, within the four (4) days excluding the day of impoundment, shall become the property of the City of Eden, and shall be either placed for adoption or humanely put to death by an animal control officer.

Sec. 3-24 IM POUND FEES

- A. The owner may reclaim his dog or cat from impoundment upon payment of an impounding fee in the sum of twenty-five dollars (\$25.00) for the first day or fraction thereof, and fifteen dollars (\$15.00) for each additional day which said dog or cat has been impounded.
- B. An impounded animal which is not claimed and redeemed by its owner within the four-day period may, if in good health and not having been observed to be vicious, be adopted by any person who pays an adoption fee of twenty-five dollars (\$25.00) and the cost of impoundment plus cost of vaccination, provided that the requirements of Sec. 3-23, (f) above must be met by such person, and provided that it shall be unlawful for any person to adopt or attempt to adopt any impounded animal in an effort to avoid or circumvent the penalties applicable to owner-violators.

Sec. 3-25 DUTY TO CONTROL

- a. Every person who owns, keeps, or is in charge of a dog or cat shall restrain the said animal at all times. No dog or fierce, dangerous, and/or vicious propensities shall be allowed upon any street, avenue, highway, alley, sidewalk, parkway, park, or other public place in the City of Eden. The animal shall be confined within a building or a secure enclosure unless such animal is securely muzzled and under the control of the owner or any other person by leash, cord, chain, or otherwise. No female dog or female cat in heat shall be allowed upon any street, avenue, highway, alley, sidewalk, parkway, park, or other public place in the City of Eden whether said animal is under the control of the owner or any other person either by lease, cord, chain, or otherwise.
- b. It shall be unlawful for any person to permit any dog or cat owned or kept by him to run at large within the City of Eden. Any cat or dog found running at large in violation of this section may be impounded and subject to the penalties imposed under Art. II., Sec. 3-23, of this chapter.

Sec. 3-26 MISCELLANEOUS REGULATIONS

- a. It shall be unlawful for any person to keep, maintain, or shelter more than three (3) dogs, plus one (1) litter to age of three (3) months within the City of Eden without a written permit. Any person desiring to keep, maintain, or shelter more than three (3) dogs plus one (1) litter to age three (3) months shall request from the director of the department of animal control a written permit to keep a specified number of dogs. The director of the department of animal control may issue such permit if he determines that such person has a proper and adequate enclosure in which to keep the dogs, and a proper and sanitary shelter for the dogs.
- b. After issuance, a permit may be revoked by the director of the department of animal control in the event either of the above criteria is not maintained, the dogs become a nuisance, the person issued the permit is convicted of any violation of this Chapter, or if any one of the dogs is on two (2) separate occasions caught by an animal control officer while at large.
- c. The provisions of this subsection shall equally apply to the keeping of cats. It is specifically provided, however, that any person may keep up to three (3) cats, plus one (1) litter to age of three (3) months, without a permit, and may with a permit, keep a larger number of cats.
- d. The fee for a permit, pursuant to this subsection shall be twenty dollars (\$20).
- e. The terms, provisions, and limitations of this subsection shall no apply to dogs or cats kept upon the business premises of any veterinarian, kennel, animal shelter, pet shop, or scientific research institution.
- f. Care of a dog or cat must include, but is not limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species and breed.
- g. The owner of every dog or cat shall be responsible for the sanitary disposal of, and shall dispose of, any faces deposited by his animal on public walks, streets, recreation areas, or upon private property not within the control, possession, or supervision of said owner.

- h. It shall be unlawful for the owner of any dog to suffer, permit, or allow such dog to be at large within the city limits.
- i. It shall be unlawful to keep, shelter, or enclose any dog or cat within any residential building or property which is not occupied as a residence by a person.
- j. A reward may be offered by the City of Eden as set by the city council to any person who shall furnish testimony or evidence leading to the conviction of any person or persons who have willfully poisoned any dog or cat within the city.
- k. It shall be the duty of every physician or other practitioner or medical facility to report to the animal control department the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

Sec. 3-27 - 3-28 Reserved

Sec. 3-29 PENALTY FOR VIOLATIONS

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) not more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand dollar (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE III DANGEROUS DOG

Sec. 3-30 Definitions

As used in this article, unless the context otherwise indicated, the following definitions shall apply:

Animal Control Authority - means a municipal or county animal control office with authority over the area where the dog is kept or a county sheriff in an area with no animal control office.

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 those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog - means *Canis lupus familiaris*.

Secured Enclosure - means a fenced area or structure that is:

1. Locked;
2. Capable of preventing the entry of the general public, including children;
3. Capable of preventing the escape or release of a dog;
4. Clearly marked as containing a dangerous dog; and
5. In conformance with the requirements for enclosures established by the local animal control authority.

Owner - means a person, firm, partnership, company, association, or corporation who owns or has custody or control of the dog

Sec. 3-31 REQUIREMENTS FOR OWNER OF DANGEROUS DOG

- A. No later than the thirtieth (30th) day after a person learns that the person is the owner of a dangerous dog, the person shall:
 1. Register the dangerous dog with the animal control authority of the City of Eden, Texas;

2. Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
 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 dangerous dog causing bodily injury to a person.
- A. For the purposes of this section, a person leans that the person is the owner of a dangerous dog when:
1. The owner knows of an attack described in V.T.C.A., H.S.C., Sec. 822.941, (2) (A); or
 2. The owner is informed by the animal control authority that the dog is dangerous.
- C. If a person reports an incident described by V.T.C.A., H.S.C., Sec. 822.041, (2) the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.
- D. An owner, not later than the thirtieth (30th) day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority to a municipal court of competent jurisdiction. An owner may appeal the decision of the municipal court in the same manner as appeal for other civil cases.

Sec. 3-32 REGISTRATION OF DANGEROUS DOG

- A. The animal control authority of the City of Eden shall annually register a dangerous dog if the owner:
1. Presents proof of:
 - A. Liability insurance or financial responsibility, as required by V.T.C.A., H.S.C., Sec. 822.042;
 - B. Current rabies vaccination of the dangerous dog; and

- C. The secure enclosure in which the dangerous dog will be kept; and
- 2. Pays an annual registration fee of \$50.00.
- 3. The animal control authority shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.
- 4. If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee of \$25.00, the animal control authority shall issue a new registration tag to be placed on the dangerous dog's collar.
- 5. An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

Sec. 3-33 ATTACK BY DANGEROUS DOG

- A. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- B. An offense under this section is a Class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor.
- C. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in V.T.C.A., H.S.C., Sec. 822.003.
- D. In addition to criminal prosecution, a person who commits an offense under this section is liable for civil penalty not to exceed \$10,000.00. An attorney having civil jurisdiction in the county or an attorney for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county or municipality.

Sec. 3-34 - 3-38 Reserved.

Sec. 3-39 VIOLATIONS AND PENALTIES

- A. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with V.T.C.A., H.S.C., Sec. 822.042.
- B. An offense under this section is a Class C misdemeanor.
- C. Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) nor more than two thousand dollars (\$2,000.00) Notwithstanding the foregoing, the two thousand dollar (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred dollars (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE. IV QUARANTINE FOR RABIES CONTROL

Sec. 3-40 Reserved

Sec. 3-41 QUARANTINE REGULATIONS

- A. Upon being presented a sworn affidavit that a dog or a cat has bitten or scratched a person, the animal control officer shall quarantine the dog or cat so identified for a period of ten (10) days.

- B. Quarantine shall be at the following places:
1. Dogs or cats of unknown ownership will be quarantined at the dog or cat shelter.
 2. A licensed veterinarian hospital at the expense of the owner, upon the owner's request.
 3. Home quarantine is permissible when the city's police authority agrees that home quarantine is warranted and believes the following requirements are satisfied:
 - i. The owner of the dog or cat is a resident of Eden and agrees to keep the dog or cat at his residence in Eden;
 - ii. The dog or cat was properly restrained at the time the bite occurred; and
 - iii. The dog or cat was properly protected by rabies vaccination.
- C. Upon the demand made by the animal control department, it shall be unlawful for the owner to fail to surrender any dog or cat which has bitten or scratched a human or which is suspected of having been exposed to rabies, for quarantine, which expenses shall be borne by the owner.
- D. The quarantined dog or cat may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth in Art. II, Sec. 3-21., upon compliance with the vaccination provisions set forth in Art. II, Sec. 3-22.
- E. When a dog or cat under quarantine, diagnosed by a licensed veterinarian as being rabid or suspected of being rabid dies while under observation, the animal control department shall immediately send the head of such dog or cat to health department for a pathological examination. The animal control department shall notify the proper health officer of reports of human contacts; and then diagnosis shall be made of the suspected dog or cat after the pathological examination has been made.

- F. When a dog or cat bites or scratches a person so that the city health officer believes that the quarantine observation period cannot be observed because of danger of developing rabies, the city health officer shall order that the animal control department immediately forward the dog's or cat's head for pathological examination.

Sec. 3-42 QUARANTINE FEES

- A. The owner of the quarantined suspect dog or cat shall pay all fees incident to the quarantine prior to release of the dog or cat from quarantine by the veterinarian with the following exceptions:
1. Should a dog or cat bite or scratch a person while such dog or cat is vaccinated against rabies and registered with the city within the twelve (12) month period immediately preceding the date of the bite or scratch incident, and is properly confined or restrained on the premises of the owner, as required by other sections of this Chapter, the person so bitten or scratched by the dog or cat shall be liable, in advance, for all fees incident to said veterinary examination and quarantine, provided the person so bitten or scratched was on the property without the actual or implied consent of the owner and person bitten demands quarantine. Otherwise, no quarantine is required, unless ordered by the animal control department in which case the dog or cat shall be quarantined at the facilities of the animal control department at no expense to the owner.
 2. Should any dog or cat bite or scratch the owner or a member of his immediate family, such dog or cat may be quarantined at the home of the owner without regard to vaccination, registration, or restraint status of said dog or cat at the time of the incident, provided the veterinary examination of said dog or cat at the beginning of the quarantine period reveals no reason to suspect the presence of rabies in said dog or cat. Should there be any doubt as to the rabies status of said dog or cat by the examining veterinarian, then quarantine shall be accomplished by one of the methods

described above, or the dog or cat destroyed as described herein. Said dog or cat must be examined at the conclusion of the quarantine by a veterinarian and all other portions of the Chapter shall apply.

- B. In the event the owner of a suspect dog or cat is unknown, said dog or cat shall be considered a stray and it shall be considered a stray and it shall be quarantined at the city pound. Should a person subsequently appear and claim said dog or cat, then said person shall be considered as the owner and liable for all fees incident to the quarantine as described herein. If all fees are not paid within three (3) days following the quarantine period at the city pound, said dog or cat may be sold or destroyed by the pound-master.

Sec. 3-43 CITY-WIDE QUARANTINE

- A. A city-wide quarantine may be invoked for a period of thirty (30) days by the city council upon the recommendation of the animal control department after it has been notified by the city health officer of a positive diagnosis of rabies of a dog or cat or after an investigation has determined the existence of immediate threat of rabies.
- B. In the event there are additional positive cases of rabies occurring within the thirty-day period of city-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.
- C. During such period of city-wide rabies quarantine, every dog or cat bitten by a rabid animal shall be dealt with in accordance with compendium of animals as advised by the city veterinarian.
- D. It shall be unlawful for any person to take or permit any dog or cat in the streets or any other public place during the period of quarantine.

Sec. 3-44 - 3-48 Reserved

Sec. 3-49 PENALTY FOR VIOLATION

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) nor more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand dollar (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred dollars (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE V LIVESTOCK AND POULTRY

Sec. 3-50 Reserved

Sec. 3-51 PERMIT REQUIRED

No person shall keep livestock or poultry within the city limits of the City of Eden, Texas, without first obtaining and thereafter keeping in force a permit allowing him to do so.

Sec. 3-52 HOGS AND PIGS PROHIBITED

- A. Hogs and pigs are specifically excluded from the permitting procedure to the City of Eden, Texas, and may not be kept within the city limits.
- B. Exceptions:
 - 1. Hogs and pigs may be allowed within the city limits when kept in association with a school program and then only kept on licensed property supervised by said school.

Sec. 3-53 REGULATIONS

Permits may be granted and allowed to remain in force only when the regulations as follow are observed:

- A. Livestock or poultry shall be kept within structures or enclosures and not permitted to run at large.
- B. To prevent the same from serving as breeding places for insects and from emitting noxious odors, manure or dung incident to the maintenance and care of the livestock or poultry shall be scraped from roosts and floors and raked from the structures or enclosures within twenty-four (24) hours after being dropped or deposited by the livestock or poultry. The manure or dung so collected shall either be placed or kept in containers that are watertight and insect-proof until removed or treated and kept treated with chemicals that will effectively repel flies and other insects.
- C. The structure or enclosure within which any livestock or poultry are confined shall not less than one hundred fifty (150) feet from any residence and three hundred (300) feet from any hotel, restaurant or other food establishment, hospital, or business establishment.
- D. The city council may make exceptions and waive the distance requirements in Sec. 3-53, (c) above, when:
 - 1. The application for permit includes:
 - i. Signed, notarized affidavits from each resident and the owner of each resident within one hundred fifty (150) feet of the enclosure of said livestock stating that they do not object to said livestock being within those boundaries of their resident; and,
 - ii. Signed, notarized affidavits from the authorized agent of each hotel, restaurant or other food establishment, hospital or business establishment within three hundred (300) feet of the enclosure of said livestock stating that they do not object to said livestock being within those boundaries of

their hotel, restaurant or other food establishment, hospital, or business establishment; and,

2. Said livestock is not in violation of any deed restriction, subdivision restriction, or zoning ordinance.

Sec. 3-54 PERMITS; APPLICATIONS; INSPECTIONS; CANCELLATIONS

The procedure and requirements for the granting and keeping in force approved permits shall be as follows, to wit:

- A. Any person desiring a permit to keep livestock or poultry within the city limits shall file an application with the city secretary on a form provided by said secretary for that purpose. Said application shall among other things call for the name and address of the applicant, estimated average number and types of livestock or poultry to be kept, description of the structures and facilities to be used for the enclosure of the livestock or poultry and for the disposal of manure and debris incident to their maintenance and care, and the distance to the adjacent residence from the outside boundaries of the structure or fence in which the livestock or poultry are to be enclosed.
- B. The application shall be accompanied by a non-refundable fee in the amount of ten dollars (\$10.00).
- C. When an application has been filed in due form, the city secretary shall turn the same over to the city health officer and/or animal control officer, who shall inspect the facilities wherein the livestock or poultry is to be kept, and prepare an opinion as to whether the same are in compliance with the regulations herein above provided.
- D. The application, with the opinion of the city health officer and/or animal control officer attached, shall then be submitted to the city council, which shall then pass on the application.
- E. The city health officer and/or animal control officer may periodically on his own

initiative, and shall upon written complaint of the Eden Police Department or any other resident of the city, make an inspection as to whether the regulations as herein-before provided are being observed. If he finds that the aforesaid regulations are violated, he shall prepare and file a statement of that effect with the city secretary. The city council shall then give ten (10) days notice by publication of hearing. If after a hearing the city council finds the aforesaid regulations have been violated, it shall then order the permit to be cancelled. In addition to the cancellation of the permit, charges may be filed in municipal court as provided in this Chapter against any person violating the terms of his portion of the Chapter.

Sec. 3-5 - 3-58 Reserved

Sec. 3-59 PENALTIES FOR VIOLATION

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) nor more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE VI KEEPING OF WILD OR DANGEROUS ANIMALS

Sec. 3-60 DEFINITIONS

For the purposes of this article, “dangerous animal” means and includes any wild mammal, reptile, or fowl which is not naturally tame or gentle but is of a wild nature or disposition and

which, because of its size, vicious nature or other characteristics would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters. The term “dangerous animal” also means and includes any domestic animal, reptile, or fowl which, because of its size or danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

Sec. 3-61 PERMIT REQUIRED

It shall be unlawful for any person to keep or maintain within any zone in the city any wild and/or dangerous animal as defined above unless a special annual permit is first obtained from the city council.

Sec. 3-62 PERMIT REQUIREMENTS

The city council shall issue a special permit for the keeping or maintenance of a wild and or dangerous animal if they find;

- A. That the animal is at all times kept or maintained in a safe manner and that it is at all times confined securely so that the keeping of such animal will not constitute a danger to human life or the property of others; and,
- B. That adequate safeguards are made to prevent unauthorized access to such animals by members of the public; and
- C. That the health or well-being of the animal is not in any way endangered by the manner of keeping or confinement; and,
- D. That the keeping of such animal does not constitute a nuisance and will not harm the surrounding neighborhood or disturb the peace and quite of the surrounding neighborhood; and,
- E. That the keeping of such animal will not create or cause offensive odors or constitute a danger to public health; and,
- F. That the quarters in which such animal is kept or confined are adequately lighted and ventilated and are so constructed that they may be kept in a clean and sanitary condition; and,

- G. That the applicant for such special permit prove his ability to respond to damages to and including the amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any one person or persons or for damage to property owners owned by any other person which may result from the ownership, keeping or maintenance of such animal.

Sec. 3-63. INSPECTIONS

Prior to the annual renewal of any special permit issued hereunder and at least once not more than six (6) months after the issuance of any such permit or after its renewal, the public health officer shall inspect the premises subject to such special permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this article. If the public health officer determines during any such inspection that any of the conditions therein specified are being violated, he shall refuse to renew any such permit or he shall revoke such special permit in the event that such violation is not corrected within such period of time as he shall direct. A fee of ten dollars (\$10.00) shall be charged for each such semiannual inspection.

Sec. 3-64 PERMIT FEES

No permit shall be issued for the keeping of dangerous animals unless all provisions of this article are complied with and a fee of fifteen dollars (\$15.00) is paid to the City of Eden. Permit fees shall be paid annually on or before the start of the license year.

Sec. 3-65 LIMIT ON NUMBER OF WILD AND/OR DANGEROUS ANIMALS

In no event shall a permit be issued for the keeping of more than two (2) wild and/or dangerous animals at any single location.

Sec. 3-66 EXCEPTIONS

The provisions of this article shall not apply to the keeping of dangerous animals in the following cases:

- A. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public where they are kept as live specimens for the public to view, or for the purpose of instruction or study.
- B. The keeping of such animals for exhibition to the public by a circus, carnival or other exhibit show.
- C. The keeping of such animals in a bona fide licensed veterinary hospital for treatment.
- D. Dangerous or poisonous reptiles may be maintained by bona fide educational or medical institutions for the purpose of instruction or study provided such reptiles are securely confined and are properly cared for in a manner set as satisfactory to the public health officer.

Sec. 3-67 - 3.68 Reserved

Sec.-69 PENALTY FOR VIOLATION

Any person who violates any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand dollar (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred dollars (\$500.00) rather than two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

ARTICLE VI Sec. 3-70 - 3-79 Reserved

ARTICLE VIII ANIMAL ESTABLISHMENTS

Sec. 3-80 Reserved

Sec. 3-81 PERMIT REQUIRED

No person shall operate an animal establishment without first obtaining a permit in compliance with this section. The permit period shall begin the first day of the fiscal year and shall be valid for one (1) year. Renewal applications for permits may be made within sixty (60) days prior to the expiration date. Application for permit to establish a new breeding animal establishment under the provisions of this section may be made at any time. Annual permits shall be issued upon payment of the following applicable fee:

1. For each kennel authorized to house less than ten (10) dogs or cats \$100
2. For each kennel authorized to house eleven (11) but not more than Twenty 20) dogs or cats \$200
3. For each kennel authorized to house twenty-one (21) or more dogs or cats \$500
4. For each pet shop \$500
5. For other animal establishments \$500

Sec. 3-82 PERMIT CONDITIONS

- A. A person who maintains a kennel of four (4) dogs or cats for breeding purposes may pay an annual permit fee. Every facility regulated by this section shall be considered a separate enterprise, in compliance with zoning regulations.
- B. Under the provisions of this section, no permit fee shall be reported to the city within sixty (60) days, whereupon reclassification and appropriate adjustment of the permit fee shall be made.
- C. Failure to comply with the provisions of this section is subject to a fine.
- D. The City of Eden may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this section, the regulations promulgated by the City of Eden or any other law governing the protection and keeping of animals.

- E. If an applicant is shown to have withheld or falsified any material information on the application, the City of Eden may refuse to issue or may revoke a permit or license.
- F. It shall be a condition of issuance of any permit for an animal establishment that the City of Eden shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, the City of Eden shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not re-apply for a period of at least thirty (30) days. Each re-application shall disclose any previous denial or revocation.

Sec. 3-83 - 3-88 Reserved

Sec. 3-89 PENALTIES FOR VIOLATION

Any person who violates any of the provisions of this Article shall upon conviction thereof, be fined in any sum not less than fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000.00). Notwithstanding the foregoing, the two thousand dollar (\$2,000.00) maximum fine hereunder shall only apply if the violation is a violation of a provision governing fire safety, zoning, or public health and sanitation, including dumping of refuse; if the provision does not govern fire safety, zoning, or public health and sanitation, including dumping of refuse, the maximum permissible fine shall be five hundred dollars (\$500.00) rather than the two thousand dollars (\$2,000.00); provided further, no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of this state. A separate offense shall be deemed committed on each day any violation occurs or continues.

SECTION 2 SEVERABILITY PROVISIONS

If, for any reason, any section, paragraph, subdivision, clause, phrase, or provision of this ordinance shall be invalid, it shall not affect any valid provision of this, or any other ordinance, of the City of Eden to which these rules and regulations apply.

SECTION 3 REPEALED PROVISIONS

Animal Control and Animal Nuisance, which includes the ordinances dated 7-10-84, and 8-14-84 is hereby repealed and declared null and void.

SECTION 4 EFFECTIVE DATE

This ordinance will hereby become effective upon thirty (30) days after its passage by the City Council of the City of Eden, Texas.

FIRST READING by the City Council of the City of Eden, this the 14th day of March, 2023

PASSED AND APPROVED by the City Council of the City of Eden this, the 11th day of April, 2023.

SIGNED:

Agapito Torres, Mayor

ATTEST:

Laura Beeson, City Secretary