

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF KYLE, TEXAS CODE OF ORDINANCES AMENDING CHAPTER 5, ANIMALS, ARTICLE III. ANIMAL PROTECTION AND ARTICLE IX. ANIMAL CARE AND CONTROL; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Kyle, Texas (hereinafter “City Council”) has investigated and determined that it would be advantageous and beneficial to the City of Kyle, Texas (hereinafter “City”) to establish comprehensive rules and regulations for animal control in the City; and

**WHEREAS**, the proper care, regulation and control of animals is necessary for the health, safety and quality of life of the citizens of the City; and

**WHEREAS**, the City Council finds that the City has become increasingly populous and the setting of traps in the City is endangering citizens and their pets; and

**WHEREAS**, the establishment of reasonable requirements for the care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public; and

**WHEREAS**, upon review of all things considered, including the recommendations of staff, the City Council deems it in the best interest of the health, safety and quality of life of the citizens of the City to amend Chapter 5, Animals, of the City of Kyle Code of Ordinances.

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

**SECTION 1. AMENDMENT.** That the Code of Ordinances of the City of Kyle, Texas is hereby amended by amending Chapter 5, “Animals,” Article III, “Animal Protection,” which shall hereinafter read as follows:

**CHAPTER 5 - ANIMALS**

**ARTICLE III. – ANIMAL PROTECTION**

**Sec. 5-77. – Trapping and shooting.**

- (a) *General prohibition.* It shall be unlawful for any person, other than animal control officers, to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed, leg hold trap, or any other trapping device, not to include live traps and rodent traps including “live traps” unless it is loaned to the person by the animal control division,

for the capture of any animal. This subsection is not intended to prohibit the prudent use of traps on one's own property to control rodents.

(b) Use of live traps. Consistent with the provisions herein, the animal control division is authorized to utilize humane "live traps" and may conduct trapping operations ~~or~~ **and** provide ~~or authorize~~ such devices' use to property owners as may be needed throughout the city. **The citizen is allowed to use their own live traps to trap on their property and is responsible for the humane treatment of the animal consistent with state law.**

(c) Loan of live traps. Live traps may be loaned to citizens within the city limits by the animal control division for no more than fourteen (14) days. The citizen shall sign a trap agreement prior to the loaning of a live trap. If the trap is damaged, lost, or stolen while in the citizen's possession, The citizen shall pay the city a fee of \$50.

(~~d~~b) *Hunting prohibited.* It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the city. It shall be unlawful for any person to hunt, shoot or kill, within the city, any domestic bird, animal, mammal, reptile or pet that is not owned by such person. Except this subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit the animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

(~~e~~e) *Domestic animals.* It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the city. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit the animal control division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

**SECTION 2. AMENDMENT.** That the Code of Ordinances of the City of Kyle, Texas is hereby amended by amending Chapter 5, "Animals," Article IV, "Animal Protection," which shall hereinafter read as follows:

## **CHAPTER 5 - ANIMALS**

### **ARTICLE IV. – RABIES CONTROL**

#### **Sec. 5-185. - License required.**

(a) *License issuance.* All animals four months of age or older which are kept, harbored or maintained within the corporate limits of the city shall be licensed. Licenses shall be provided by the animal control officer or his agents, the Kyle Police Department Records Division and Veterinary Clinics approved by the Kyle Police Department, upon payment of the required fee for each animal. Before a city license will be issued for a cat or dog, the owner must present a current certificate from a licensed veterinarian showing that such cat or dog has been vaccinated for rabies. The owner shall state his name and address, and the breed, color and sex of the animal to be licensed. Such license shall be valid for one year

from date of issuance. Any owner previously found to be a habitual offender and having previously had their license revoked under section 5-186 may be deemed not eligible for current licensure. Appeals of such ineligibility shall be those procedures set out under section 5-186 for revocations.

- (b) *Tag and collar.* Upon payment of the license fee, where applicable, the city shall issue to the owner a license certificate and metal tag having stamped thereon the number corresponding with the number of the certificate. Such tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal control officer or his agent, [the Kyle Police Department Records Division](#), upon presentation of the receipt showing the payment of license fee for the calendar year. Tags shall not be transferable from one animal to another, and no refunds shall be made.
- (c) *Livestock; miniature livestock.* All livestock and miniature livestock shall be tagged or tattooed and the tag or tattoo will be the identifying tag required to be worn and will be shown on the license.

**Sec. 5-186. - Revocation of license, notice of hearing and appeals.**

- (a) The chief of police may revoke any license after a hearing where an affirmative finding on any one or more of the following fact issues:
  - (1) That impoundment of the animal by the city more than two times during a 12-month period has occurred;
  - (2) That more than two final convictions of a person for violating this chapter when such convictions relate to the animal being considered for revocation of its license certificate have been entered into the official court docket;
  - (3) Any combination of subsections (a)(1) and (2) of this section, totaling three incidents; or
  - (4) Upon a determination that the animal is a nonregisterable dangerous animal, as defined in section 5-112.
- (b) Notice of revocation hearing setting the hearing date no sooner than ten days from the service or certified mailing shall be served in person to the owner or such notice deemed served when made by certified letter, return receipt requested, and addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.
- (c) Upon revoking the license of any animal, the animal control officer shall notify the owner of the animal of such action in writing. Written notification shall be deemed made when a certified letter, return receipt requested, addressed to the last known mailing address of the animal's owner and deposited in the U.S. mail.
- (d) Upon the expiration of ten days after written notification of revocation is deposited in the U.S. mail, as provided in subsection (c) of this section, no animal which has had its license revoked shall be kept, maintained or harbored within the city limits and each 24-hour period shall constitute a separate violation.
- (e) Upon revocation of a license, owner of animal with revoked license shall notify the animal control officer of the location to which the animal is being removed.

- (f) Appeals of revocation hearing findings must be filed with the city manager within ten days of receiving notice of the action. Such notices shall be written without want of form but must include the statement "notice of appeal of decision of the chief of police in revocation hearing," contain a statement of the reasons for the appeal, and signed by the animal owner making the appeal. The city manager or designee shall hear the appeal. At the hearing the formal rules of evidence do not apply. The hearing officer shall make his decision on the basis of preponderance of the evidence presented. The hearing officer may affirm, reverse, or modify the action of the chief, however a decision must be rendered within 60 days after the appeal. The decision of the hearing officer is final.

**SECTION 5. REPEALING CLAUSE.** The remainder of Chapter 5 in the City's Code of Ordinances remains unchanged. The Code of the City of Kyle, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION 6. SAVINGS CLAUSE.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict with all remaining portions not conflicting being saved from repeal herein.

**SECTION 7. SEVERABILITY CLAUSE.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

**SECTION 8. PUBLICATION.** It is hereby found and determined that the meeting at which this ordinance was passed was open to the public as required by Section 551.001 et seq., Texas Government Code and that advance public notice of the time, place and purpose of said meeting was given.

**SECTION 9. EFFECTIVE DATE.** The Ordinance shall take effect immediately upon its second reading as required by the City Charter, Section 3.11 and the publication of the caption of said ordinance as the law in such cases provides.

**PRESENTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.**

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**R. Todd Webster, Mayor**

**ATTEST:**

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**Jennifer Vetrano, City Secretary**

**APPROVED AS TO LEGAL FORM:**

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**Frank Garza, City Attorney**