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ORDINANCE NO. 78193

AN ORDINANCE OF THE CITY OF PELICAN BAY, TEXAS  
ESTABLISHING REGULATIONS CONCERNING ANIMALS; RABIES  
CONTROL; LIMITING LOCATION AND NUMBERS OF ANIMALS;  
PROVIDING FOR IMPOUNDMENT AND IMPOUNDMENT FEES;  
DEFINING AND PROHIBITING VICIOUS ANIMALS; PROHIBITING  
ANIMALS AND FOWL FROM RUNNING AT LARGE; PROVIDING  
FOR DESTRUCTION OF ANIMALS; ESTABLISHING A PENALTY  
AND PROVIDING FOR PUBLICATION.

WHEREAS, the Pelican Bay City Council has received recommendations from its city staff  
for revisions to its Ordinances dealing with animal control and finds that such  
revisions are necessary for the public peace and for the public health and safety  
of persons within its corporate limits; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELICAN BAY,  
TEXAS:**

**SECTION 1. DEFINITIONS.**

When used in this Ordinance, the following words and terms, unless the context  
indicates a different meaning, shall be interpreted as follows:

Section 1.1 *Animal Control Officer*: A person designated to receive reports  
of animals at large, animal bites and to investigate bite reports,  
insure quarantine of possibly rabid animals and otherwise carry  
out provisions of the Texas law pertaining to control eradication  
of rabies.

Section 1.2 *Cat*: Shall mean any live or dead cat (*felis catus*).

Section 1.3 *City*: City of Pelican Bay, Texas

Section 1.4 *Currently Vaccinated*: Means vaccinated and satisfying the  
following criteria:

- a. The animal must have been at least three(3) months of  
age at the time of vaccination.
- b. At least 30 days have elapsed since the initial  
vaccination.

2 c. Not more than twelve (12) months have elapsed since  
4 the most recent vaccination.

6 Section 1.5 *Dog*: Shall mean any live or dead dog (*canis familiaris*).

8 Section 1.6 *Domestic animal*: Shall include all species of animals  
10 commonly and universally accepted as being domesticated.

12 Section 1.7 *Harboring*: The act of keeping and caring for an animal or  
14 providing a place to which the animal returns for food, shelter or  
16 care.

18 Section 1.8 *Kennel*: Shall mean (1) any building, lot, or premises where four  
20 (4) or more dogs or cats at least eight weeks of age are kept; and  
22 (2) any building, lot, or premises where dogs or cats are housed  
24 or accepted for boarding, for which remuneration is received.

26 Section 1.9 *Miniature Swine*: Any member of the swine family which has,  
28 through selective breeding, been genetically manipulated so as  
30 to attain a maximum height of twenty four (24) inches at the  
32 shoulder and a maximum weight of one hundred (100) pounds.

34 Section 1.10 *Owner*: Any person, firm or corporation who has right of  
36 property in an animal or who harbors an animal or allows an  
38 animal to remain about his premises.

40 Section 1.11 *Pet Animal*: Shall include dogs, cats, rabbits, rodents, birds,  
42 miniature swine, reptiles, and any other species of animals  
44 which is sold or retained as a household pet, but shall not  
include skunks, primates and any other species of wild, exotic or  
carnivorous animal that may be further restricted in this law.

Section 1.12 *Running at Large*: Shall mean not completely confined by a  
building, wall, or fence of sufficient strength or construction to  
restrain the animal, except when such animal is either on a leash  
or held in the hands of the owner, keeper, or under direct  
supervision of the owner within the limits of the owner's private  
property. An animal within an automobile or other vehicle of its  
owner, shall not be deemed "running at large".

Section 1.13 *Stray Animal*: Any animal for which there is not an identifiable  
owner or harborer.

2 Section 1.14 *Vaccinated*: Means properly injected with a rabies vaccine  
4 licensed for use in that species by the United States Department  
6 of Agriculture and administered by a veterinarian licensed to  
practice in the State of Texas.

8 Section 1.15 *Vicious Animal*: Shall mean any individual animal of any  
10 species that has, on two previous occasions without provocation,  
12 attacked or bitten any person or other animal, or an individual  
14 animal which the local health authority has reason to believe has  
a dangerous disposition, or any species of animal which the local  
health authority or Animal Control Officer has reason to believe  
has a disposition likely to be harmful to humans or other  
animals.

16 Section 1.16 *Wild Animal*: Shall include all species of animals which  
18 commonly exist in a natural unconfined state and are usually not  
20 domesticated. This shall apply regardless of state or duration of  
captivity.

## 22 SECTION 2. RABIES CONTROL.

24 Section 2.1 Vaccinations: Every owner of a dog or cat three months of age  
26 or older shall have such animal vaccinated against rabies. All  
28 dogs or cats vaccinated at three months of age or older shall be  
30 re-vaccinated at one year of age and annually thereafter. Any  
32 person moving into the City from a location outside of the City  
shall comply with this Ordinance within ten (10) days after  
34 having moved into the City. If the dog or cat has inflicted a bite  
on any person or another animal within the last ten (10) days, the  
owner of said dog or cat shall report such fact to the  
veterinarian, and no rabies vaccine shall be administered until  
after the ten (10) day observation period.

36 Section 2.2 Certificate of Vaccination: Upon vaccination, the veterinarian  
38 shall execute and furnish to the owner of the dog or cat as  
40 evidence thereof, a certificate upon a form furnished by the  
veterinarian. The veterinarian shall retain a duplicate copy of  
such certificate. Such certificate shall contain the following  
information:

- 42 a. The name, address, and telephone number of the owner  
44 of the vaccinated dog or cat;
- b. The date of vaccination;

- c. The type of rabies vaccine used;
- d. The year and number of rabies tag; and
- e. The breed, age, color and sex of the vaccinated dog or cat.

Section 2.3 Rabies Tags: Concurrent with the issuance and delivery of the certificate of vaccination referred to in Section 2.2, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing veterinarian and his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times.

Section 2.4 Duplicate Tags: In the event of loss or destruction of the original tag provided in Section.2.3, the owner of the dog shall obtain a duplicate tag. Vaccination certificates (and tags) shall be valid only for the animal for which it was originally issued.

Section 2.5 Proof: It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Ordinance.

Section 2.6 Harboring Unvaccinated Animals: It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

Section 2.7 Animals Exposed to Rabies: Any person having knowledge of the existence of any animal known to have been, or suspected of being, exposed to rabies must immediately report such knowledge to the City, giving any information which may be required. For any animal known to have been, or suspected of being, exposed to rabies, the following rules must apply:

- a. Animals having a current vaccination must be re-vaccinated immediately and confined according to the method prescribed by the City for not less than 90 days.
- b. Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, he may, at his expense and in a manner

2 prescribed by the City, confine said animal. Such animal  
4 must be vaccinated immediately following exposure and  
6 quarantined for not less than six (6) months. A re-  
vaccination shall be done one (1) month prior to release  
from quarantine.

8 **SECTION 3. SWINE.**

10 Section 3.1 It shall be unlawful to keep more than two (2) miniature swine  
12 per household or business. The miniature swine may be of any  
age. Under no circumstances may a person keep more than two  
(2) miniature swine per household or business.

14 Section 3.2 All miniature swine must be either spayed or neutered. Under  
16 no circumstances may a person engage in the propagation or  
breeding of miniature swine within the city limits of Pelican  
Bay.

18 Section 3.3 It shall be unlawful for any person to keep or maintain miniature  
20 swine outdoors. A person may permit miniature swine outdoors  
22 for brief periods. But not to exceed one (1) hour per occurrence  
24 as necessary for exercise or for elimination of waste, as long as  
the animal is wearing a collar or harness with an attached metal  
26 vaccination tag. The outdoor area used for exercise or for the  
elimination of waste must be a secure area from which the swine  
may not escape. Miniature swine are subject to all other sections  
of this Ordinance, including sections on restraint of animals.

28 Section 3.4 It shall be unlawful for any person to keep or maintain miniature  
30 swine unless the swine have received annual vaccinations  
32 against Ersipelas, Parvo Virus and Leptospirosis. The first  
inoculations for such diseases must be received before the  
34 animal is four (4) months of age. The owners of all miniature  
swine must forward to the City a health certificate from a  
36 licensed veterinarian within fourteen (14) days of vaccination.  
Such certificate shall contain the following information: Name,  
38 address, driver's license number and telephone number of the  
owner.

40 Section 3.5 Except for miniature swine as defined and as specifically  
42 permitted herein, it shall be unlawful for any person to keep  
swine within the City.

2                   **SECTION 4. REPORTING ANIMAL BITES FROM ANIMALS SUSCEPTIBLE TO**  
4                   **RABIES: RELATED PROCEDURES.**

6                   Section 4.1     Any person having knowledge of an animal bite to a human will  
8                   report the incident to the City as soon as possible, but not later  
10                  than twenty-four (24) hours from the time of the incident.

12                  Section 4.2     The owner of the biting animal will place that animal in  
14                  quarantine as prescribed in Article 2.4 under the supervision of  
16                  the City.

18                  Section 4.3     The local health authority will investigate each bite incident,  
20                  utilizing standardized reporting forms provided by the Texas  
22                  Department of Health.

24                  Section 4.4     Human bites from rodents, rabbits, birds and reptiles are  
26                  excluded from the reporting requirements of this Section.

28                   **SECTION 5. QUARANTINE PROCEDURES FOR ANIMALS.**

30                  Section 5.1     When a dog or cat which has bitten a human has been identified,  
32                  the owner will be required to produce the animal for ten (10)  
34                  days' confinement at the owner's expense. Refusal to produce  
36                  said dog or cat constitutes a violation of this section and each  
38                  day of such refusal constitutes a separate and individual  
40                  violation. The ten (10) day observation period will begin on the  
42                  day of the bite incident. The animal must be placed in the  
44                  animal control facilities specified for this purpose, if available.  
                  However, the owner of the animal may request permission from  
                  the City for home quarantine if the following criteria can be met:

- a.     Secure facilities must be available at the home of the animal's owner and must be approved by the City.
- b.     The animal is currently vaccinated against rabies.
- c.     The Animal Control Officer of the City 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 City 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.

- 2 d. The animal was not in violation of any laws at the time  
4 of the bite.  
6 e. If the biting animal cannot be maintained in secure  
8 quarantine, it shall be humanely destroyed and the brain  
submitted to a Texas Department of Health certified  
laboratory for rabies diagnosis.

10 Section 5.2 It shall be unlawful for any person to interrupt the ten (10) day  
12 observation period.

14 Section 5.3 No wild animal will be placed in quarantine. All wild animals  
16 involved in biting incidents will be humanely killed in such a  
18 manner that the brain is not mutilated. The brain shall be  
submitted to Texas Department of Health certified laboratory for  
rabies diagnosis.

20 **SECTION 6. DESTRUCTION OF UNCONTROLLABLE, UNCAPTURABLE  
OR VICIOUS ANIMALS AND/OR FOWL.**

22 Section 6.1 Notwithstanding anything to the contrary in this chapter, the  
24 Animal Control Officer or any police officer may kill any animal  
26 which is uncontrollable, uncapturable, or vicious if the animal  
constitutes a threat to the safety of any person, including the  
police officer or Animal Control Officer, and may kill any fowl  
running at large if uncapturable.

28 **SECTION 7. RUNNING AT LARGE.**

30 Section 7.1 It shall be unlawful for any dog or other animal or fowl  
32 possessed, kept, or harbored, to run at large, as is defined in  
Section 1.12 of this Ordinance.

34 Section 7.2 The Animal Control Officer is authorized to impound such  
36 animals and fowl running at large and may impound a dog or cat  
38 under conditions specified in Section 1.13 of this ordinance, or  
40 when he has received a complaint that the dog or cat has caused  
a nuisance or hazard to the health or welfare of human or animal  
42 population.





2 seven thousand five hundred (7,500) square feet for one (1) such  
4 animal, and seven thousand five hundred (7,500) additional  
6 square feet for each additional animal. It shall be unlawful to  
8 keep, possess or maintain any horse, mule, donkey, cow, calf,  
10 steer, bull, sheep, ram, ewe, lamb, goat, billy, nanny, or kid, or  
12 any emu, ostrich, or rhea within one hundred (100) feet of any  
14 residence or building used for human habitation (other than that  
16 of the keeper or owner of such animal), any restaurant, cafe, or  
18 other public eating place or any church, school or hospital. If  
20 such animal is kept in or confined by any building or structure  
22 such as a stable, barn, shed, pen, or fence, such distance of 100  
24 feet shall be measured in a straight line from the nearest point of  
26 such building or structure, to the nearest point of such residence  
28 or building used for human habitation, restraint, cafe other  
30 public eating place or church, school, or hospital.

18 Section 8.7

- 20 a. It shall be unlawful to keep, possesses, or maintain any  
22 rabbit, guinea pig, pigeon, chicken, turkey, goose, duck,  
24 pea-fowl, or other fowl in any pen, enclosure or other  
26 structure within fifty (50) feet of any residence, church,  
28 school, hospital, convalescent home, or nursing home,  
30 other than the residence of the keeper, possessor or  
32 owner of such animal or fowl, such distance of (50) fifty  
34 feet to be measured in a straight line from the nearest  
36 point of any pen, enclosure or other structure in which  
38 such fowl or animal is kept to the nearest point of such  
40 residence, church, school convalescent home or nursing  
42 home.
- 44 b. All litter and droppings from any animal or fowl shall be  
collected daily in a container or receptacle of such type  
that when closed is rat proof and fly tight, and after each  
collection, such container or receptacle shall be kept  
closed and rat proof, and fly tight, and such keeper shall  
maintain such container or receptacle in such condition  
as to prevent the escape of odor from such litter or  
droppings so collected shall be disposed of in such a way  
as not to permit fly breeding.

42 SECTION 9. KENNELS.

44 Section 9.1

No person shall construct or maintain any dog kennel within  
three hundred (300) feet of a structure which is used as a  
habitation and which is located on another persons property.

2 Section 9.2 No person shall construct or maintain any dog or cat kennel  
4 closer that one hundred (100) feet from premises which are  
zoned as residential or which are used for residential purposes.

6 Section 9.3 Distances in this Section shall be measured as follows:

8 a. For the purpose of subsection 9.1 hereof, measurement of the  
10 three hundred (300) foot distance shall be in a straight line  
12 without regard to intervening structures or objects, from the  
nearest portion of an existing habitation to the nearest portion of  
the kennel.

14 b. For the purpose of subsection.9.2 hereof, measurement of the  
16 one hundred (100) foot distance shall be made in a straight line  
18 without regard to intervening structures of objects, from the  
20 nearest portion of the property line of a residentially zoned  
property or premises used for residential purposes, to the nearest  
portion of the kennel.

22 Section 9.4 No person shall keep, house or maintain more than three (3)  
24 dogs or three (3) cats at the person's residence without a valid  
permit issued by the City to do so.

26 Section 9.5 No person shall operate or maintain any dog kennel without first  
28 securing a permit therefor from the city secretary; identifying the  
location and paying a \$25.00 fee therefor.

## 30 SECTION 10. PROHIBITED ANIMALS.

32 Section 10.1 It shall be unlawful to color, dye, stain, or otherwise change the  
34 natural color of any chickens, ducklings, other fowl, or rabbits,  
or to possess for the purpose of sale or to be given away, any of  
the above mentioned animals which have been so colored.

36 Section 10.2 It shall be unlawful to keep any wild animal inside the City.

38 Section 10.3 It shall be unlawful to release or to allow to run-at-large any  
40 wild or vicious animal.

## 42 SECTION 11. VICIOUS ANIMALS.

44 Section 11.1 Any vicious animal found running-at-large may be destroyed by  
any Peace Officer or Animal Control Officer in the interest of  
public safety.

2 Section 11.2 The Animal Control Officer may order any owner or person  
4 having care, custody or control of any vicious animal to take  
6 such animal permanently from the City. This animal must be  
8 removed immediately following receipt of such an order, even  
10 if an appeal is initiated. This order may be appealed in writing  
12 within ten (10) days to the Municipal Court Judge. The Judge  
14 may uphold, reverse or modify the Animal Control Officer's  
order, and may stipulate restrictions on the animal as a condition  
to allowing the animal to remain in the City. If the Judge  
upholds the Animal Control Officer's order, the owner or person  
having care, custody or control shall not bring the animal back  
inside the City limits.

16 Section 11.3 If the owner or person having care, custody or control of a  
18 vicious animal fails to remove such animal as provided for in  
Subsections 11.1 and.11.2 of this Section, such animal may be  
impounded and/or destroyed.

20 Section 11.4 The owner or person having care, custody or control of a vicious  
22 animal must report the disposition and relocation of such animal  
24 to the Animal Control Officer in writing, within (10) ten days  
26 after the expiration date for removal of such animal from the  
City. Each day thereafter such information is not provided shall  
constitute a separate offense.

28 Section 11.5 The Animal Control Officer shall be authorized to obtain a  
30 search and seizure warrant if there is a reason to believe that an  
animal ordered removed from the City for being vicious has not  
been so removed.

32 **SECTION 12. IMPOUNDMENT.**

34 Section 12.1 The following animals may be impounded:

- 36 a. Cats and dogs not exhibiting evidence of being  
38 vaccinated as described in Section 2.  
40 b. Any animal infected or kept under conditions which  
could endanger the public or animal health.  
42 c. Any animal that is kept in violation of Section.8.  
44 d. Any animal running-at-large as prohibited by Section 7.

- e. Any animal treated in a manner determined by the Animal Control Officer to be cruel or inhumane.
- f. Any animal that has bitten a human being or needs to be placed under observation for rabies determination, as determined by the local health authority.
- g. Any animal violating any provision of this Ordinance.

Section 12.2 If any of the animals named in this Ordinance are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify the Animal Control Officer to come and impound such animal. When so notified, it shall be the duty of the Animal Control Officer to have such animal impounded as herein provided.

Section 12.3 Reasonable effort shall be made by the Animal Control Officer to contact the owner of any animal impounded which is wearing a current vaccination tag; however, final responsibility for location of an impounded animal is that of the owner.

Section 12.4 The owner can resume possession of any impounded animal upon payment of impoundment fees, and any veterinary bills incurred by the Animal Control Officer for the welfare of the animal, and upon compliance with the vaccination and registration provisions of this Ordinance, except where prohibited in Sections 12.5 and 12.6 of this Ordinance.

Section 12.5 Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by a court of competent jurisdiction.

Section 12.6 If any animal is being held under quarantine or observation for rabies, the owner shall not be entitled to possession until it has been released from quarantine.

Section 12.7 The City Administrator shall select and establish a place for impounding all animals impounded under any provision of this Ordinance.

Section 12.8 Any animal, except vicious or wild animals not reclaimed by the owner, may be humanely euthanized after being impounded for three (3) days.

2                   Section 12.9   Any impounded vicious or wild animal, unless there is reason to  
4   believe that it has an owner, may be immediately disposed of as  
  may be deemed appropriate by the Animal Control Officer.

6                   Section 12.10   Any nursing baby animal impounded without the mother, or  
8   where the mother cannot or refuses to provide nutritious milk,  
  may be immediately euthanized to prevent further suffering.

10                  Section 12.11   Any impounded animal that appears to be suffering from  
12   extreme injury or illness may be euthanized or given to a non-  
14   profit humane organization for the purpose of veterinary medical  
  care, as determined by the Animal Control Officer.

16                   **SECTION 13. IMPOUNDMENT FEES.**

18                  Section 13.1   Impoundment fees shall be:  
20   \$25.00 outside city limits;  
22   \$15.00 for the first impoundment in twelve (12) months;  
24   \$20.00 for the second impoundment in twelve (12) months;  
  \$25.00 for the third impoundment in twelve (12) months; and  
  \$30.00 for the fourth impoundment in twelve (12) months.

26                  Section 13.2   A daily handling fee of \$5.00 shall be charged after the first day  
28   for every day, or fraction thereof, that an animal is at the animal  
  shelter.

30                  Section 13.3   The owner of any cat or dog held in quarantine for observation  
32   purposes shall be charged \$10.00 for every day or fraction of a  
  day an animal is at the animal shelter. This is in addition to any  
  impoundment fee.

34                   **SECTION 14. ENFORCEMENT.**

36                  Section 14.1   The Animal Control Officer and any police officer shall have the  
38   authority to issue citations for any violation of this Chapter.

40                  Section 14.2   If the person being cited is not present, the City or the Animal  
42   Control Officer may send the citation to the alleged offender by  
  registered or certified mail.

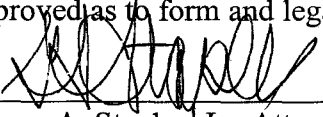
44                  Section 14.3   It shall be unlawful for any person to interfere with the City  
  Animal Control Officer in the performance of his or her duties.”



2 ATTEST:

4 \_\_\_\_\_  
Nancy Nold, City Secretary

6 Approved as to form and legality:

8   
10 \_\_\_\_\_  
George A. Staples, Jr., Attorney