

CITY OF COMO
ORDINANCE NO. 2011-09

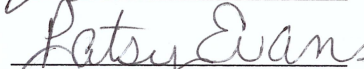
**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
COMO, TEXAS, DEFINING CERTAIN TERMS; PROHIBITING
VARIOUS ACTS; DECLARING VARIOUS ACTS BY PERSONS A
NUISANCE; DECLARING VARIOUS ACTS BY ANIMALS A
NUISANCE; ESTABLISHING MINIMUM STANDARDS FOR THE
KEEPING OF ANIMALS; ESTABLISHING NOTICE PROVISIONS
FOR VIOLATIONS; ADOPTING REMEDIES FOR FAILURE TO
ABATE NUISANCES; PROVIDING PENALTIES AND FINES FOR
VIOLATIONS; REGULATING THE IMPOUNDMENT OF
ANIMALS; PROVIDING FOR THE HUMANE DISPOSITION OF
UNCLAIMED ANIMALS; AND REPEALING PRIOR
ORDINANCES.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMO, TEXAS

SECTION 1: The City Ordinance currently in affect with the City of Como
(2011-09) is hereby amended to ORDINANCE NUMBER 2017-19

PASSED AND APPROVED 3-14-17

 Mayor

 Commissioner

 Commissioner

Attest:


City Secretary

CITY ORDINANCE NO. 2011-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMO, TEXAS, DEFINING CERTAIN TERMS; PROHIBITING VARIOUS ACTS; DECLARING VARIOUS ACTS BY PERSONS A NUISANCE; DECLARING VARIOUS ACTS BY ANIMALS A NUISANCE; ESTABLISHING MINIMUM STANDARDS FOR THE KEEPING OF ANIMALS; ESTABLISHING NOTICE PROVISIONS FOR VIOLATIONS; ADOPTING REMEDIES FOR FAILURE TO ABATE NUISANCES; PROVIDING PENALTIES AND FINES FOR VIOLATIONS; REGULATING THE IMPOUNDMENT OF ANIMALS; PROVIDING FOR THE HUMANE DISPOSITION OF UNCLAIMED ANIMALS; AND REPEALING PRIOR ORDINANCES.

WHEREAS, the City Council recognizes that the negligent care of animals is a threat to the public health, safety and welfare;

WHEREAS, the City Council believes that it is the duty of government, particularly in an urban environment, to protect the health, safety, and welfare of individuals from acts considered to constitute public nuisances;

WHEREAS, it is City Council's purpose to safeguard the health and well-being of animals by prohibiting certain acts and establishing minimum standards for the care and maintenance of animals;

WHEREAS, the City Council recognizes the invaluable contributions made by animals to mankind's welfare throughout human history;

WHEREAS, the City Council determines that mankind's domestication of animals places upon all individuals, but particularly owners, the responsibility and duty to appropriately care and nurture animals;

WHEREAS, Subchapter B, Chapter 821, Texas Health and Safety Code, provides for the disposition of cruelly treated animals;

WHEREAS, Section 826.015 of the Texas Health and Safety Code authorizes local governments, including municipalities, to develop and implement local rabies control programs;

WHEREAS, Subchapters B and C, Chapter 54, Texas Local Government Code, provides remedies for the violation of health and safety ordinances and grants the City the authority to enforce health and safety ordinances through various means;

WHEREAS, Subchapter A, Chapter 217, Texas Local Government Code, provides for municipal regulation of nuisances and authorizes the City to abate and remove a nuisance and punish by fine the person responsible for the nuisance, define and declare what constitutes a nuisance and authorize abatement of the nuisance, and abate in any manner considered expedient any nuisance that may injure or affect the public health;

WHEREAS, Section 51.012, Texas Local Government Code, authorizes the City to adopt an ordinance, act, regulation, or law, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality.

WHEREAS, Section 54.001, Texas Local Government Code, authorizes the City to enforce each ordinance and to impose, as punishment, a fine or penalty for the violation of a rule or ordinance; and

WHEREAS, Section 826.033 of the Texas Health and Safety Code authorizes a municipality to require dogs or cats to be restrained by its owner, declare a public nuisance stray dogs and cats, detain and impound unrestrained dogs and cats, set a period of impoundment, set fees for impoundment, and provide for the humane disposition of unclaimed stray dogs and cats.

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

Article 1. General Provisions

Section 1.01. Definitions

(A) “Animal” means any warm-blooded vertebrate creature, domestic or wild, excluding the human species.

(B) “Animal Control Facility” means the designated facility operated by the City for the impounding of animals.

(C) “Animal Control Officer” means the designated person authorized by the State of Texas or the City of Como, who is qualified to perform such duties under the laws of the State of Texas and the ordinances of the City of Como.

(D) “Animal exhibition” means a circus, carnival, or event owning or maintaining animals for purposes of displaying or performing in exhibitions of temporary duration where attendance of the general public is solicited, operating under a contract, lease, special event permit, or otherwise approved by the City.

(E) “Animal Nuisance” means a public nuisance by the acts of animals or the manner in which the animal is maintained.

(F) “Astray” or “Stray” means any animal running free or otherwise without physical or other restraint outside the boundaries of the real property of the animal owner.

(G) "Cat" means any domesticated member of the family felis catus.

(H) "Cruelly treated" or "Cruelty" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

(I) "dangerous" or "vicious" dog shall include any or all of the following, except police dogs or guard dogs acting under the supervision of a police officer or certified trained dog handler, or seeing-eye dogs:

1. Any dog which bites , inflicts injury, assaults or otherwise attacks a human being or a domestic animal without provocation; or

2. Any dog which, without provocation, approaches in a threatening or terrorizing manner, any person or domestic animal upon the streets, sidewalks or any public grounds or places; or

3. Any dog which is trained to attack or cause injury or to otherwise endanger the safety of human beings or domestic animals, or any dog which has a history of attacking or propensity to attack people or domestic animals without provocation.

(J) "Dog" means a domesticated member of the family canidae, but shall not include a wolf, jackal, fox, or other wild animal of this family.

(K) "Dog Kennel" Any lot, enclosure, premises, structure or building, except a veterinary hospital whereon or wherein more than two dogs over the age of four months are kept or maintained for any purpose whatsoever.

(L) "Dog License/Tag" means a metal tag, of a design prescribed by the City Administrator, issued for the current calendar year and bearing the dog's annual license number.

(M) "Domesticated animal" means one that is tame by nature, or from time immemorial has been accustomed to the association of human beings, or by human industry has been subjected to human will, and has no disposition to escape human dominion. It is one that is normally born and raised in captivity.

(N) "Fowl" means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

(O) "Impound" means the placing of an animal in the City's animal control facility , or the taking into custody of an animal for purposes of transportation to the City's animal control facility, or impounded by a certified impounder and placed in their facility.

(P) "Livestock" means any horse, swine, cattle, sheep, goat, mule, jack, jenny, emu, ostrich or rhea.

(Q) "Owner" means any person, corporation, partnership, trust, or association or other entity owning, keeping, or harboring an animal or who has possession or control or has the responsibility to control an animal.

(R) "Person" means any individual, corporation, partnership, trust, association or other legal entity.

(S) "Public Nuisance" Any animal or animal's which:

(1) Interfere with passersby or passing vehicle.

(2) Attack another animal causing serious injury resulting in more than \$500.00 in veterinary care costs or death.

(3) Trespass on school grounds.

(4) Are at large.

(5) Damage private or public property.

(6) Have bitten or scratched a person while at large.

(T) "Qualified researcher" means an individual conducting research projects, scientific, or academic investigation with respect to a wild animal owned or maintained on the premises of a bona fide research institution as defined hereinabove.

(U) "Quarantine" means strict confinement or isolation of an animal under restraint by closed cage or paddock suspected of carrying an infectious or contagious disease.

(V) "Reptile" means any cold-blooded vertebrate of the class reptila, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

(W) "Research institution" means a permanent state-accredited or licensed academic institution which owns or maintains captive wild animals under the direction of a professional staff and provides its collection of animals with appropriate care for the purpose of education, research, or scientific study.

(X) "Restrain" or "restraint" means:

(1) contained or confined on the premises of the owner within a fence or enclosure; or

- (2) fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or
- (3) under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or
- (4) on or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out; or
- (5) at heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command;

(Y) "Rabies" means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal and/or including the condition commonly known as rabies.

(Z) "Zoo, zoological park or animal park" means an institution which owns and maintains captive wild animals and under the direction of a professional staff, provides its collection with appropriate care and exhibits them in an aesthetic manner to the public on a regularly scheduled basis for the purposes of education, conservation, scientific study and recreation, and which is accredited by the American Zoological Association.

Section 1.02. Animal Control Facility; Care of Animals

(A) The Animal Control Facility of the City of Como's choice, under the supervision of the City Administrator or his authorized designee, is hereby maintained and designated for the confinement of all animals found astray or found in violation of any of the provisions of this ordinance.

(B) The animal control facility shall be kept in a sanitary condition and all animals taken up and impounded therein shall be properly fed, watered, housed and otherwise cared for while confined in such facility and kennels and shall be in, all respects, humanely treated while so confined.

Section 1.03. Citations; interference or false reports unlawful

(A) Whenever an animal, reptile, or other living creature is found in violation of this ordinance and when ownership is known to an Animal Control Officer, a peace officer or other authorized official, such person enforcing this ordinance may elect, in lieu of or in addition to impounding such animal, to issue a citation to the owner, harborer, or other person in control of the animal which shall require the person to appear in the Como Municipal Court to answer a charge of violation of this ordinance.

(B) The signature of the owner, harbinger or other person in control on a citation shall constitute only a promise to appear at the appointed date and shall not be construed as an admission of guilt.

(C) It is unlawful for any person, upon being issued a citation for violation of this ordinance, to fail to provide proof of identification, or provide a false name, address, or other false information concerning an animal or its ownership to an Animal Control Officer or other enforcing official.

(D) It is unlawful for any person to interfere with, hinder or obstruct an Animal Control Officer or other official engaged in the enforcement of this ordinance, including but not limited to the failure to release an animal for impoundment or any manner of interference with such impoundment.

(E) It is unlawful for any person to make a false report or complaint concerning a violation of this ordinance to the Animal Control Officer or to any other enforcing official.

Article 2. General Penalties; Remedies

Section 2.01. Criminal Penalties; Injunctive Relief

(A) Criminal Penalty. If it is found that a person has violated any provision of this ordinance, then upon conviction a person shall be fined an amount not less than twenty five dollars (\$25.00) and not more than five hundred dollars (\$500.00) except that, in the event a person has once previously been convicted under this ordinance, the person shall be fined an amount not less than fifty dollars (\$50.00) and shall be fined not more than five hundred dollars (\$500.00) for a third conviction and for each conviction thereafter.

(B) Nothing in this ordinance shall limit the remedies available to the City in seeking to enforce the provisions of this ordinance.

(C) Each day's violation of the provisions of this ordinance shall constitute a separate offense.

(D) Where it is deemed necessary by the City Administrator or the animal control supervisor, the City Attorney is hereby empowered to secure injunctive relief to enforce the provisions of this ordinance. This remedy shall be in addition to, and not in lieu of, the criminal penalties provided for in the section.

Section 2.02. Abatement; Authority to Impound

(A) Unless indicated otherwise, the animal control officer, a peace officer, or any other person authorized to enforce this ordinance is hereby authorized to:

- (1) Impound any stray animal or reptile found running astray within the City limits, or any animal or reptile being kept in violation of this ordinance;
- (2) Impound any animal or reptile which is diseased and endangers thereby the health of a person or another animal or reptile;
- (3) Impound any animal or reptile which has bitten a human or which has acted in a vicious manner as described herein;
- (4) Destroy humanely, an animal or reptile posing an imminent danger to persons or property under circumstances of emergency, or an animal or reptile that has bitten or scratched a person above the shoulders; or
- (5) Impound for treatment or, in the alternative, humanely destroy an animal or reptile that is injured to a degree presenting little or no likelihood of recovery.

(B) Animal control officers or other authorized enforcement officers shall have the power to immediately abate animal or public nuisances and seize or impound such animals or reptiles as follows:

- (1) on public property, in all cases;
- (2) on private property, in all cases where the consent of the owner or possessor of the land is given; and
- (3) on private property, in all cases where is animal is free of restraint and the animal or reptile has access to ingress and egress from the private property and the animal control officer reasonably believes that the animal or reptile may become a stray if not seized or impounded.

(C) Notice; Cure. Animal control officers or other law enforcement officers authorized by Section 2.02(B)(3) to seize and impound animals or reptiles and in all other cases constituting a public nuisance shall, prior to seizing or impounding an animal or reptile, provide notice to the owner and an opportunity to voluntarily come into compliance with the provisions of this ordinance.

- (1) An animal owner or any adult occupant of the premises identified in said notice shall abate the described animal or public nuisance on the premises within ten (10) days from the date of notice.
- (2) Delivery of the notice shall be accomplished either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous manner on the main entrance fence gate of the premises or main entrance door of the structure of the premises, or by certified mail, return receipt requested.

(3) After proper notice, the animal or public nuisance may be abated by the animal control officer or other authorized persons by seizing and impounding any animal or reptile remaining in violation of this ordinance.

(D) In all cases where an animal or reptile is seized or impounded, the animal control officer or other law enforcement officer shall leave a written notice either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous manner on the main entrance fence gate of the premises or main entrance door of the structure of the premises stating the violation or reason for seizure or impoundment, the address where the animal or reptile will be impounded, the hours when the animal or reptile may be reclaimed by the owner, and the maximum length of time the animal or reptile will be held by the City.

(E) Any animal or reptile which has been seized or impounded under the provisions of this ordinance may be reclaimed by its owner upon presentation to the City Clerk sufficient evidence of ownership and payment of thirty-five dollars (\$35.00) plus ten dollars (\$10.00) per day for each day of confinement or any amount charged by the impounding authority. All fees are to be paid by cash, check, or money order payable to the City of Como, Texas.

(F) If an animal or reptile running astray is found upon the premises of any person, the owner or occupant thereof shall have the right to confine the animal temporarily in humane fashion pending notification and response by the Animal Control Officer, peace officer, or other authority.

Section 2.03. Euthanasia of Impounded Animals

(A) The City of Como, Texas and the animal control facility the City of Como has an agreement with shall have authority to humanely destroy any animal or reptile impounded whose retention has exceeded seven (7) business days and whose retention may be detrimental to the health and welfare of other animals within the facility or in the community, or to the public at large.

Article 3. General Prohibited Acts

Section 3.01. Limitation on number of dogs and cats; exceptions

(A) Keeping of dog kennels are prohibited

The keeping of any dog kennel in the Corporate City limits of Como, Texas is hereby prohibited and declared to be a nuisance.

(B) It is unlawful for any person to own or keep more than:

(1) Five (5) dogs or cats or combination of both on any one-half acre or less lot, tract, or parcel of land, provided the dogs are enclosed within a secure corral located on the

premises at least 75 feet from any dwelling or business owned or occupied by any person other than the dog owner;

(C) Exceptions:

- (1) Veterinary clinic, animal hospital, or similar facility;
- (2) Animal shelter or adoption facility;
- (3) A pet shop;
- (4) Performing animal exhibition; or
- (5) Litters up to twelve (12) weeks old.

(D) Every yard, shed, pen or other structure used for the storage or shelter of animals shall be cleaned and maintained so as to prevent the escape of noxious odors or substances to adjacent properties or the creation of any health hazard or nuisance to adjacent property owners, and allowing such a violation is hereby declared a public nuisance.

(E) All dogs or cats exceeding the maximum number allowed by this article within the City limits are hereby declared a public nuisance.

Section 3.02. Stray animals unlawful; declared a nuisance

(A) It is unlawful for any person, without regard to mental state, to suffer or permit any animal to run astray within the City limits.

(B) Any and all animals running astray within the City limits are hereby declared a public nuisance.

(C) It shall be the duty of every person to report to the City Clerk, within 24 hours of becoming or being made aware of the animal's presence, the presence and description of any stolen, stray, or lost animals which appear at or take shelter at such person's property.

Section 3.03. Keeping of livestock and fowl prohibited; exceptions

(A) Livestock. It is unlawful to own, keep, or harbor, any livestock within the City limits except as follows:

- (1) Numerical limitation. In the Como city limits, no more than one livestock animal per 5000 square feet.
- (2) Restraint. The acreage on which such livestock are maintained must be enclosed by a fence of sufficient height, strength, and construction to keep such livestock from escaping from the premises;

(3) Pens and structures. All livestock kept under this section shall be provided a stable, shed, pen, or other structure of adequate size for the storage, shelter, and safekeeping of such animals; and

(4) Location of pens and structures. Every such stable, shed, pen, or other structure for the storage, shelter, and safekeeping of livestock shall be at least one hundred (100) feet from any property line.

(B) Fowl. It is unlawful to own, keep, or harbor any fowl within the City limits except as follows:

(1) Numerical limitation. In an area zoned agriculture, no more than two (2) fowl may be kept per acre. In all other zoning districts, no more than two (2) fowl may be kept per household regardless of lot size;

(2) Restraint. All fowl kept under this section shall be confined in a pen, coop, or other structure sufficient to prevent their escape; and

(3) Location of pens and structures: Every such pen, coop or other structure required for the confinement of fowl under this section shall be located at least fifty (50) feet from any property line.

(C) Sanitation requirements. Every such stable, shed, pen or other structure used for the storage or shelter of livestock or fowl under this section shall be cleaned and maintained so as to prevent the escape of noxious odors or substances to adjacent properties or the creation of any health hazard or nuisance to adjacent property owners.

(D) The prohibitions and restrictions set out in this section shall not apply to:

(1) A zoo, zoological park or animal park;

(2) An accredited research institution;

(3) A qualified researcher utilizing such livestock or fowl in connection with defined research objectives;

(4) An animal exhibition operating under a contract, lease, or special event permit, or otherwise duly approved by the City;

(5) Someone lawfully engaged in the transport of livestock or fowl in an enclosed vehicle in accordance with state law;

(6) Someone engaged in the transport or receipt of livestock or fowl for processing in connection with the operation of a cattle auction, slaughterhouse or like facility; or

- (7) An animal shelter, veterinary clinic or similar facility for the treatment and temporary shelter of animals in connection therewith.

Section 3.04. Sale of diseased animals or reptiles prohibited

- (A) It is unlawful for any person to knowingly sell, barter, or otherwise transfer for use, retention, or resale as a pet any animal or reptile which has a disease or internal parasite.
- (B) It is an affirmative defense to prosecution under subpart (A) that the seller or transferor provided to the transferee at the time of such sale or transfer a certificate from a licensed veterinarian attesting that the veterinarian had examined the animal or reptile within thirty (30) days prior to such sale or transfer and found the animal or reptile to be free of disease or parasites.

Section 3.05. Trapping prohibited; impoundment of traps; exceptions.

- (A) It is unlawful for any person to set or place any trap designed for trapping animals in any street, alley, park, or other public place within the City limits.
- (B) It is unlawful for any person to set or place any steel-jawed or tooth-jawed trap upon private premises within the City.
- (C) Any traps mentioned in this section, when found within the City limits, are hereby declared to be abandoned property and a public nuisance and any peace officer or Animal Control Officer is hereby authorized to impound and process the same as abandoned property and a public nuisance in accordance with state law and this ordinance.
- (D) This section shall not apply to any peace officer, Animal Control Officer, or authorized person engaged in the performance of their duties within the City limits.

Section 3.06. Slaughtering Livestock

- (A) It shall be unlawful for any person to wound or kill any livestock, whether wild or domestic, in any public place within the City.

Section 3.07. Flooring Standards

- (A) It shall be unlawful to house any animal on a surface that permits the feet or any portion of the foot to pass through any opening. All floors must be constructed in a manner and of sufficient material that protects the animal's feet and legs from injury.

Section 3.08. Leashes Required

- (A) It shall be unlawful for any person to walk an animal without a leash restraint, or to walk or take any animal onto the yards or driveways of property not owned, leased, or occupied by the animal owner for any purpose without the consent of the property owner. The animal owner or

keeper shall keep the animal in the public right-of-way, and shall carry an appropriate container and implement for the sanitary removal of the animal's fecal matter from public sidewalks and public right-of-ways adjacent to any property with a structure or other improvement thereon.

Section 3.09. Abandoning Animals or Reptiles; Nuisance declared

(A) It shall be unlawful for any person to abandon, discard, dump, or leave behind any animal within the City.

(B) All animals abandoned, discarded, dumped, or left behind within the City limits are hereby declared a public nuisance.

Section 3.10. Nuisance by an animal.

(A) The damaging, soiling, defiling, urinating or defecating upon, or repeatedly trespassing upon property other than its owners. Excessive, continuous, or unreasonable, unwarranted whining, howling, barking or annoying noise making so as to disturb the peace and repose of persons living or working nearby. Molesting, threatening, attacking or interfering with persons on private or public property, chasing motor vehicles or bicycles, attacking other domestic animals, or disturbing or turning over garbage or trash containers, or causing unsanitary conditions or odors on or about the premises of its owner by urination or defecation.

Section 3.11. Dangerous or Viscous dogs

(A) Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete and absolute control. If a guard dog is to be maintained in a building, or adjoining fenced area, of a business after work hours, then the Fire Department, EMS and police Department must be notified in writing. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal. In all cases at least one (1) warning sign shall be conspicuously posted.

Section 3.12. Interference with impoundment; violation

(A) It shall be a violation of this ordinance to interfere with the impounding of any animal subject to this ordinance, including, but not limited to, removing or retrieving any animal

from any City owned and operated animal trap or from any City authorized facility, without proper authorization.

Section 3.13 Keeping of bees prohibited.

(A) The keeping of bees or the operating of an apiary within the city limits is hereby declared a nuisance and is hereby prohibited and made unlawful.

(B) Any person who causes, suffers, or permits the keeping of bees or the operating of an apiary within the city limits shall be deemed guilty of an offense.

© This section shall not be construed to prohibit the keeping of bees enclosed in cases, bottles, boxes, or other similar enclosures for shipping, exhibitions, or demonstration purposes.

Article 4. Cruelly Treated Animals or Reptiles

Section 4.01. Cruelty Prohibited

(A) Cruelty to any animal, whether livestock, non-livestock or reptile, excluding uncaptured wild living creatures, is a violation of the Texas Penal Code and is punishable in accordance with state law.

(B) It shall be a violation of this ordinance for any person to intentionally, knowingly, or recklessly beat, cruelly treat, overload, overwork, or otherwise abuse any uncaptured wild living creature anywhere within the City limits.

(C) Animal Control Officers, peace officers, and other persons duly authorized to enforce this ordinance shall liberally utilize the authority granted by the Texas Health and Safety Code § 821.022 to seize and impound any animal or reptile that has been or is being cruelly treated.

Section 4.02. Seizure and Impoundment of Cruelly Treated Animal or Reptile

(A) If an Animal Control Officer, peace officer or any person who has responsibility for animal control has reason to believe that an animal or reptile has been or is being cruelly treated, that person may apply to a justice court or magistrate in Hopkins County or to the Como Municipal Court for a warrant to seize the animal or reptile.

(1) In this subsection, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or associate judges of statutory probate courts, or judges or associate judges of district courts that give

preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

(B) On a showing of probable cause to believe that the animal or reptile has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate court to determine whether the animal or reptile has been cruelly treated.

(C) The officer executing the warrant shall cause the animal or reptile to be impounded and shall give written notice to the owner of the animal or reptile of the time and place of the hearing.

Article 5. Rabies Control

Section 5.01. Purpose

(A) It is the purpose of this article to liberally implement and adopt Chapter 826 of the Texas Health and Safety Code.

Section 5.02. Requirements; Violations

(A) It shall be unlawful for any person to own, keep, or harbor any dog or cat within the City limits unless such dog or cat is annually immunized against rabies.

(B) Every person owning, keeping, or harboring any dog or cat immunized against rabies shall procure valid written proof, signed by the veterinarian that administered the vaccine, of such immunization upon demand made by a peace officer, the Animal Control Officer, or any other duly authorized individual.

(C) It shall be unlawful for any person to fail to exhibit valid written proof of immunization against rabies, upon demand made by a peace officer, the Animal Control Officer, or any other duly authorized individual enforcing this ordinance.

(D) Each veterinarian or other person giving a rabies immunization shot shall keep a list with all the license information required on all vaccinations given.

Section 5.03. Impoundment, quarantine of rabid animals

(A) A person who knows of an animal bite or scratch that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the City of Como or the City of Como Police Department.

(1) The report must include:

(a) the name and address of the victim and of the animal's owner, if known;
and

- (b) any other information that may help in locating the victim or animal.
- (B) An animal control officer shall investigate a report filed under this section.
- (C) Pursuant to state law, animal control officers are authorized to impound and/or quarantine an animal when there is probable cause to believe that a person may have been exposed to rabies.
- (D) A quarantined animal with rabies or rabies symptoms shall be confined in an authorized facility or a veterinary hospital and disposition shall be made in accordance with state law.
- (E) The animal control officer or designee shall follow the State of Texas confinement and safety procedures. A licensed veterinarian shall make a determination of whether or not the animal is free of rabies pursuant to state law.
- (F) Exception.
 - (1) In this section, "handler or rider" and "police service animal" have the meanings assigned by Section 38.151, Penal Code.
 - (2) A police service animal is exempt from the quarantine requirement of this article if the animal bites a person while the animal is under routine veterinary care or while the animal is being used for law enforcement, corrections, prison or jail security, or investigative purposes. If after biting the person the animal exhibits any abnormal behavior, the law enforcement agency and the animal's handler or rider shall make the animal available within a reasonable time for testing by the local health authority.

Section 6.03. Exceptions

- (A) This Article shall not apply to:
 - (1) Any dog under three (3) months of age;
 - (2) Dogs owned by nonresidents whose presence within the City will not exceed fourteen (14) days;
 - (3) Any dog brought within the City for the purposes of dog show or exhibitions, provided that no dog shall remain within the City for more than three (3) days prior to any show or exhibition nor more than three (3) days after any show or exhibition;
 - (4) Veterinary hospitals; or
 - (5) Law enforcement agency dogs.

Article 7. Miscellaneous Provisions

Section 7.01. Severability

(A) Should any section, clause, sentence, or provision of this code be held illegal, unenforceable, or invalid in whole or in part by a final judgment of a court of competent jurisdiction, such judgment shall not effect or invalidate any other or remaining provision of this code, which shall be treated as having been duly legislated without inclusion of such illegal, invalid, or unenforceable section, clause, sentence or provision.

Section 7.02. Administrative Liability

(A) No officer, attorney, agent, or employee of the city shall render himself or herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted and performed in good faith in the discharge of his or her duties under this ordinance so long as such officer, agent, or employee is acting within the scope of his or her official capacity. Any suit brought against any attorney, officer, agent, or employee of the City acting within his or her official capacity and scope, as a result of any act required or permitted and performed in good faith in the discharge of duties under this ordinance shall be defended by the City attorney until the final determination of the proceedings therein.

Section 7.03. Repealing Clause

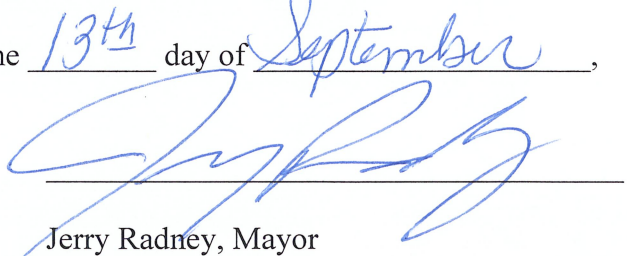
(A) All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

(B) This ordinance fully replaces and repeals the provisions of Ordinance No. 95-1 and all amendments thereof.

Section 7.04. Effective date and Publication

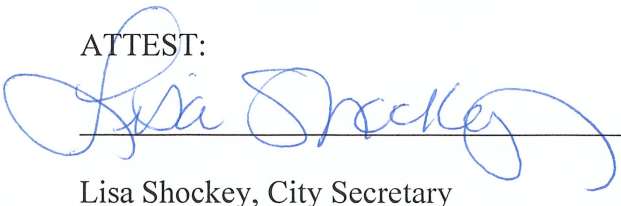
(A) This ordinance will take effect upon passage by the Como City council .

PASSED, APPROVED AND ADOPTED on the 13th day of September, 2011.



Jerry Radney, Mayor

ATTEST:



Lisa Shockey, City Secretary

