



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL AGENDA
REGULAR MEETING
THURSDAY, SEPTEMBER 8, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

Topic: Regular City Council Meeting

Date and Time: September 8, 2022 at 7:00 p.m. (Central Time)

Join Zoom Meeting:

Video Participation: Join Zoom Meeting

<https://zoom.us>

Meeting ID: 956 855 1663 and Passcode: 1955

1. **Call Meeting to Order**
2. **Invocation and Pledge of Allegiance to the Flag**
3. **Mission Statement**

"The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner."
4. **Roll Call**
5. **Citizen Participation**

Citizens Participation Is For The City Council To Receive Information On Issues That May Be Of Concern To The Public. Citizens Participation Is Limited To Five (5) Minutes. A Purpose Of The Open Meetings Act Is To Insure That The Public Is Always Given Notice Of The Items That Will Be Discussed By The Council. Should A Member Of The Public Bring An Item To The Council For Which The Subject Was Not Posted On The Agenda For The Meeting, The Council May Receive The Information, But Cannot Discuss Or Act Upon It At The Meeting.

6. Consideration Of And Action On Minutes

- a. Regular Minutes – August 25, 2022

7. Presentation

- a. Presentation And Discussion On 2022 Pool Season

8. Discussion And Possible Action

- a. Discussion And Possible Action To Award A Bid For The Alan Shepard Road Reconstruction And Sewer Replacement Project
- b. Discussion And Possible Action To Award A Bid For The Ackerman Road Phase II Project
- c. Discussion And Possible Action On Ordinance No. O-2022-917 For A Specific Use Permit For The Property Located At CB 4018G (SPRINGFIELD INDUSTRIAL PARK), LOTS 6 And 7, Otherwise Known As 0 Springfield Road, Kirby, TX 78219, Which Is Zoned Light Industrial (LI) To Be Used For The Following Purpose: Constructing Offices And Warehouses To Rent To Different Trades. This Is The First Reading.
- d. Discussion And Possible Action On An Agreement With Speed 21 For Use Of Friendship Park For Sports Camps And Related Events.
- e. Discussion And Possible Action To Accept The Resignation of John Houlton From Crime Control And Prevention District Board
- f. Discussion And Possible Action On Economic Development Budget Allocation For Fiscal Year 2022-2023
- g. Discussion And Direction On Following Robert's Rules OF Order In City Council Meetings
- h. Discussion And Possible Action On Ordinance No. O-2022-915 An Ordinance Of The City Of Kirby, Texas Repealing Existing Chapter 91 Of The Code Of Ordinances And Adopting A New Chapter 91 Entitled "Animals" To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers, Microchipping,

Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation. This Is The Second Reading.

- i. Discussion And Possible Action On Ordinance No. O-2022-916; Authorizing The Use Of Parks And Recreation Areas Owned And Controlled By The City Of Kirby; Regulating Possession And Consumption Of Alcoholic Beverages In Such Parks; Stating The Policies And Regulations Governing The Use Of Such Park, Establishing A Curfew For Parks Usage. This Is The Second Reading.
- j. Discussion And Possible Action To Appoint A Member To The Planning And Zoning Commission For A Term That Expires August 2024.
- k. Discussion And Possible Action On A Request For The City To Allow Use Of Friendship Park For The Juventud Que Adora Texas on October 31, 2022

9. City Manager Announcements

- a. Announcements On City Events And Items Of Community Interest.

10. Request And Announcements

- a. Requests By Mayor And Council Members For Items To Be Placed On Future City Council Agendas And Announcements On City Events/Community Interest

11. Adjournment

Monique L. Vernon
City Manager

Patty Cox, TRMC
City Secretary

The City Council reserves the right to adjourn into executive session at any time to discuss any of the matters listed on this agenda if authorized by Texas Government Code Section 551.071, Consultation with Attorney, Texas Government Code Section 551.072, Deliberations about Real Property, Texas Government Code Section 551.074, Personnel Matters, and Texas Government Code Section 551.076, Security Devices or Security Audits.

This meeting is wheelchair parking accessible at the main entrance located at 112 Bauman. Auxiliary services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours prior to the meeting) by calling 210/661-3198 or Relay Texas 800/735-2989 (hearing/speech impaired assistance)

DATE OF POSTING: September 2, 2022
TIME OF POSTING: 6:45 P.M.
DATE REMOVED



Kimberly McGehee Aldrich, Mayor

Sylvia Apodaca
Christopher Garza
Janeshia Grider

Mike Martin
Susan Street
Debbie Walczyk

**CITY COUNCIL MINUTES
REGULAR MEETING
THURSDAY, AUGUST 25, 2022 – 7:00 P.M.
CITY HALL COUNCIL CHAMBER
112 BAUMAN, KIRBY, TX 78219**

This meeting will also be held by videoconference call. The location where a quorum of the governmental body will be physically present is City Hall, City Council Chambers at 112 Bauman Street, Kirby, Texas 78219 and it is the intent to have a quorum present at that location and for the member of the governmental body presiding over the meeting to be physically present at that location. A member of the public may testify from a remote location by videoconference at:

1. Call Meeting to Order

Mayor Aldrich called the meeting to order at 7:00 P.M.

2. Invocation and Pledge of Allegiance to the Flag

Mayor Aldrich led the invocation and pledge of allegiance to the flag.

3. Mission Statement

“The City of Kirby is dedicated to delivering excellent municipal services to our community in a fiscally responsible manner.”

4. Roll Call

PRESENT

Mayor Aldrich
Council Member Apodaca

ABSENT

Mayor Pro-Tem Grider

Council Member Garza (participated via ZOOM)

Council Member Martin

Council Member Street

Council Member Walczyk

5. Citizen Participation

1. Cindy Eckert – She was concerned about the lights and noise coming from the business. The tow truck company back gate is by her driveway. She urged Council to vote no.
2. Mary Hernandez – Her backyard is behind this land. The applicant said the building will be beautiful. She said his current location has junk cars. Lots of children meet their parents on Pageland and this could be a safety issue.
3. Jessica Pope – She thanked Council for their prayers. She spoke about the safety for the children walking back and forth to Hopkins Elementary. She did not support the tow truck use because of safety concerns.
4. Wendy Holden – Trying to keep children safe and the tow truck company across the street from the school is terrifying. This is not the proper location for the tow truck company.
5. Rosario Ortiz – We need to protect our children. Why is the applicant going to use bullet proof glass? She asked what is going to happen? The business will be across street where bullets will be flying where our children are. We cannot allow that to happen.
6. Lisa Pierce – She provided an overview of the Ordinance Review Committee and scope of the intent of the Committee. She supported having Council liaison for the Committee. Also, the Committee should deter from creating ordinances. She thanked the council for serving City of Kirby citizens.
7. Rochelle Tolliver – The towing service reminded her about her neighborhood issues. Two neighbors have moved because of the problems. Only two homeowners are left. They have tenants in there playing loud music. There are diesel trucks and loud cars coming through all the time. She inquired about services to help senior citizens.
8. Priscilla Romero – She is concerned about the safety of her children because of the tow truck company. She has children attending Hopkins Elementary. When a company talks about installing bullet proof glass it's because they are protecting themselves.

9. Jessica Pope – She informed Council she did not receive a letter notifying her about the Planning and Zoning meeting. Also, the PTO President didn't receive letter of notification and neither did other employees of Judson ISD. She spoke about a fence request that was denied previously.
10. Jerry Pecina – He questioned the purpose of bullet proof glass. Why bring in something bad; we don't need that. He was concerned the houses in the area would be shot at.
11. Abby Wilcox – City Secretary read Ms. Wilcox's email. She asked how the City plans to address the safety concerns of small children who walk home. How will this benefit the company and the City?
12. Sabrina Khounnorath – City Secretary read Ms. Khounnorath's email. She is a concerned parent and resident of Kirby for 30 years. She is concerned about the safety of children who cross the street. Beside the physical aspect of it being an eye sore, our children's environment should not be surrounded by entities that can impose any type of negativity. It does not give off the right impression for a "safe school zone." Hopkins Elementary has been standing strong for decades and she asked that Council to please do all we can to preserve the safety of our community and school.
13. Linda Khounnorath – City Secretary read Ms. Khounnorath's email. She has been a resident of Kirby since 1990. Her best memories were from elementary school. Back then we would walk at the end of the year to Kirby City Park. Her daughter attended Hopkins Elementary and her nephews attend now. We love the close-knit relationships of the teachers and staff within our community.

The crossing guard made sure their babies got on campus safety. She feels the towing company being built across the street would be a definite eye sore. She could only imagine the dangers that they would encounter with the vehicles/parts that are towed and left in that field. We want a welcoming environment for our students and their families.

6. Presentation

a. Proclamation National Payroll Week

Mayor Aldrich read the Proclamation and presented to Ms. Denise Kelley.

b. Recognition Of Sponsors And Report On 2022 Fireworks In The Park Event

City Manager Vernon formally recognized the companies who contributed to the event: HEB, Republic Services, Hayden Paving, Inc., RRG, Linebarger, Marsh McLennan Agency, Bain Medina Bain, Langley & Banack, CPS Energy, and Astound. There was revenue generated from parking fees and vendors.

c. Introduction Of New City Employees

City Manager Vernon introduced Frank Salazar – Public Works Director; Mariana Ramirez – Court Clerk and Honey Ernest – Kennel Tech.

7. Consideration Of And Action On Minutes

a. Regular Minutes – August 11, 2022

Council Member Apodaca moved to approve the Regular Minutes – August 11, 2022; seconded by Council Member Walczyk. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

8. Public Hearing

a. Public Hearing On A Request For A Specific Use Permit For The Property Located At CB 4018G (SPRINGFIELD INDUSTRIAL PARK), LOTS 6 And 7, Otherwise Known As 0 Springfield Road, Kirby, TX 78219, Which Is Zoned Light Industrial (LI) To Be Used For The Following Purpose: Constructing Offices And Warehouses To Rent To Different Trades.

Mayor Aldrich opened the Public Hearing at 7:47 P.M.

There were no proponents or opponents to speak. Mayor Aldrich closed the Public Hearing at 7:49 P.M.

b. Public Hearing On A Request For A Specific Use Permit For Property Zoned Commercial Office And Retail (C-2) To Be Used For A Vehicle Storage Facility And Towing Company. Located At CB 5098J BLK LOT 1 MCGAUGHY SUBD, Otherwise Known As 0 Ackerman Ln., Kirby, TX 78219.

Mayor Aldrich opened the Public Hearing at 7:49 P.M. and read a letter she was provided a few minutes earlier by the City Secretary from the applicant, Roger Barrientes. Mr. Barrientes withdrew his application for the request for a Specific Use Permit for property zoned Commercial Office and Retail (C-2) to be used for a vehicle storage facility and towing company. Located at CB 5098J BLK LOT 1 MCGAUGHY SUBD, otherwise known as 0 Ackerman Ln., Kirby, TX 78219.

Mayor Aldrich closed the Public Hearing at 7:50 P.M.

9. Discussion And Possible Action

- a. Discussion And Possible Action On A Request For A Specific Use Permit For The Property Located At CB 4018G (SPRINGFIELD INDUSTRIAL PARK), LOTS 6 And 7, Otherwise Known As 0 Springfield Road, Kirby, TX 78219, Which Is Zoned Light Industrial (LI) To Be Used For The Following Purpose: Constructing Offices And Warehouses To Rent To Different Trades.

Council Member Walczyk said she is concerned about the types of businesses he will lease to.

Council Member Garza inquired about sales tax and City Manager said the City will receive sales tax.

Council Member Martin moved to approve the Specific Use Permit for the property located at CB 4018G (SPRINGFIELD INDUSTRIAL PARK), LOTS 6 and 7, otherwise known as 0 Springfield Road, Kirby, TX 78219, which is zoned Light Industrial (LI) to be used for the following purpose: constructing offices and warehouses to rent to different trades; seconded by Council Member Garza. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- b. Discussion And Possible Action On A Request For A Specific Use Permit For Property Zoned Commercial Office And Retail (C-2) To Be Used For A Vehicle Storage Facility And Towing Company. Located At CB 5098J BLK LOT 1 MCGAUGHY SUBD, Otherwise Known As 0 Ackerman Ln., Kirby, TX 78219.

The application for request for a Specific Use Permit for property zoned Commercial Office and Retail (C-2) to be used for a vehicle storage facility and towing company. Located at CB 5098J BLK LOT 1 MCGAUGHY SUBD, otherwise known as 0 Ackerman Ln., Kirby, TX 78219

Mr. Barrientos withdrew his application. There was no action taken.

- c. Presentation, Discussion And Possible Action On Kirby Well Site Improvements

City Manager Vernon provided background information on the SCADA system. A Microcom representative provided a cost estimate. She explained the process the company uses to set up the system, funding and functions of the system. This is an advanced system and the cost is \$65,996 plus \$16,000 to install. She reached out to another company, but they are not taking new customers at this time.

Council inquired about the optional equipment and what is included, also where will the system be set up.

City Manager Vernon stated she would like to add this to FY 2022-2023 Budget.

Council Member Walczyk moved to table this discussion to the next meeting at which time we should make a decision for our Budget.

City Manager Vernon stated action is not required tonight, this can be discussed at the next meeting.

Council Member Walczyk withdrew her motion.

- d. Discussion And Possible Action On Establishing An American Rescue Plan Act (ARPA) Funded Water Rebate Program For City Of Kirby Account Holders

City Manager Vernon said Mayor Pro-Tem Grider initially requested this item.

Council discussed the amount for the rebate and when to apply the rebate to the accounts. There was discussion about applying to new accounts, only accounts during the pandemic or all Kirby account holders.

Council Member Street moved to accept the water rebate program for the City of Kirby account holders at \$75.00 credit on October 15, 2022; seconded by Council Member Garza. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- e. Discussion And Possible Action On Ordinance No. O-2022-915 An Ordinance Of The City Of Kirby, Texas Repealing Existing Chapter 91 Of The Code Of Ordinances And Adopting A New Chapter 91 Entitled "Animals" To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers, Microchipping, Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation. This Is The First Reading.

Chief Cardona explained that Ordinance No. O-2022-915 repeals the existing Chapter 91 of the Code of Ordinances and adopts a new Chapter 91 entitled "Animals" to set out provisions as to animals. She identified all the changes. She answered questions and clarified sections. She will change page 38 Rabies #7, microchip take place of license.

Council Member Street moved to accept Ordinance No. O-2022-915 An Ordinance Of The City Of Kirby, Texas Repealing Existing Chapter 91 Of The Code Of Ordinances And Adopting A

New Chapter 91 Entitled "Animals" To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers, Microchipping, Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation with changes; seconded by Council Member Apodaca. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- f. Discussion And Possible Action On Ordinance No. O-2022-916; Authorizing The Use Of Parks And Recreation Areas Owned And Controlled By The City Of Kirby; Regulating Possession And Consumption Of Alcoholic Beverages In Such Parks; Stating The Policies And Regulations Governing The Use Of Such Park, Establishing A Curfew For Parks Usage. This Is The First Reading.

Council discussed changes to the Ordinance. Section B. FEES change the last sentence to and citizens alike unless it is a city event sanctioned or approved by City Council. The fees will apply to everyone.

Council Member Walczyk moved to accept Ordinance No. O-2022-916; authorizing the use of parks and recreation areas owned and controlled by the City of Kirby; regulating possession and consumption of alcoholic beverages in such parks; stating the policies and regulations governing the use of such park, establishing a curfew for parks usage with changes; seconded by Council Member Street. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- g. Discussion And Possible Action On A Policy, Process And Procedure For Reimbursing Expenses To City Council Members

Council discussed the policy submitted by Council Member Street.

City Manager Vernon explained that currently there is not a line item for reimbursing expenses to City Council Members. Tonight, Council needs to vote whether to use this.

Council Member Street moved to allow Kat McGarrity to speak; seconded by Council Member Walczyk. The motion carried with a 6-0 vote.

Kat McGarrity asked if this is for one time or max?

Mayor Aldrich said \$300 max.

Council Member Street moved to accept the Council Reimbursement Policy stating if a Council Member or group of Council Members wish to put on an event and use City funds for

reimbursement, the event must be voted on and approved by City Council. Each Council Member cannot exceed the individual amount determined annually by Council and noted in the annual budgeted line item "City Council Event," which would be the total budgeted amount divided by seven (7). Example: \$2,100 allotted to City Council Events on the annual budget divided by seven equals \$300 possible reimbursement to any one Council Member for the fiscal year. Unused funds would remain in the budget; seconded by Council Member Walczyk. The motion carried with a 5-1 vote.

AYES: 5

NAYES: 1 (Mayor Aldrich)

h. Discussion And Possible Action To Change The November And December 2022 Regular Council Meeting Dates

City Manager Vernon said Mayor Pro-Tem Grider requested this item.

Council discussed the dates and Council Member Apodaca moved to change the meeting dates in November to November 3 and 16 and December dates to December 1 and 15, 2022. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

i. Discussion And Possible Action On Ordinance No. O-2022-914 An Ordinance Amending the 2021-2022 Municipal Budgets Of The City Of Kirby. This Is the First Reading.

Council Member Street moved to discuss item "n." before discussing item "i."; seconded by Council Member Garza. The motion carried with a 6-0 vote.

Council discussed item "i." after discussing item "n."

Council Member Garza said he didn't have time to review this item, he received it yesterday.

Mayor Aldrich said if not approved tonight there will not be funds to attend Texas Municipal League Annual Conference in San Antonio. City Manager Vernon said currently there are enough funds for one person to attend.

Council discussed the 2021 – 2022 Budget amendments. They discussed funds that would allow all Council Members to attend and purchase a sewer machine.

Council Member Street moved to accept the budget amendment with the change for Council attending TML and the purchase of a sewer machine in the amount of \$85,000 for the 2021-2022 Budget Amendment; seconded by Council Member Martin. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- j. Discussion And Possible Action To Dispense With The Second Reading Of Ordinance No. O-2022-914 So That Ordinance No. O-2022-914 Becomes Effective Immediately.

Council Member Street moved to dispense with the second reading of Ordinance No. O-2022-914 so that Ordinance No. O-2022-914 becomes effective immediately; seconded by Council Member Apodaca. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- k. Discussion And Possible Action To Appoint Members To The Planning And Zoning Commission For Terms That Expire August 2024.

Council Member Street moved to appoint Alexandra Ebert to the Planning and Zoning Commission for a term that expires August 2024; seconded by Council Member Martin. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- l. Discussion And Possible Action To Appoint Alternate Members To The Building And Standards Commission For Terms That Expire October 1, 2023.

Council Member Street asked Richard Bundick why he wants to be on Building and Standards Commission.

Mr. Bundick replied he has lived in Kirby all of his life and he is interested in the City.

Council Member Martin moved to appoint Richard Bundick to alternate member to the Building and Standards Commission for a term that expires October 1, 2023; seconded by Council Member Martin. The motion carried with a 6-0 vote.

AYES: 6

NAYES: 0

- m. Discussion And Possible Action To Negotiate An Agreement With Speed 21 For Use Of Friendship Park

City Manager Vernon said Mr. Hemphill submitted a letter for use of Friendship Park.

Mr. Hemphill provided an overview for use of Friendship Park.

Mr. Hemphill would like to use the back area where the Spartans used to rent, he signed up 125-300 individuals, free camp, non-profit, Monday – Thursday, Saturday and Sunday, \$650 per year, no conflict with baseball and basketball, might require security, traffic control in December event.

City Manager Vernon will draft a contract with this information and bring back to Council.

n. Discussion And Possible Action To Select Council Members To Attend The 2022 Texas Municipal League Annual Conference To Be Held October 5-7, 2022

Council discussed attending the 2022 Texas Municipal League Annual Conference to be held October 5-7, 2022

There was discussion about funding for all Council Members to attend because the event is in San Antonio and there will not be housing and travel expenses.

Council Member Garza moved to allow all Council Members to attend the 2022 TML in San Antonio; seconded by Council Member Street. The motion carried with a 5-1 vote.

AYES: 5

NAYES: 1 (Mayor Aldrich)

o. Reports By Council Liaisons

1. Animal Advisory Committee – Council Member Walczyk

Council Member Walczyk they are meeting on September 29th.

2. Beautification And Recycle Committee – Mayor Pro-Tem Grider

Mayor Pro-Tem Grider was not present.

3. Building And Standards Commission – Council Member Martin

Council Member Martin said there was nothing to report.

4. Crime Control And Prevention District – Council Member Garza

Council Member Garza provided an update.

5. Economic Development Committee Council Member Apodaca

Council Member Apodaca provided an update.

6. Planning And Zoning Commission – Mayor Aldrich

Mayor Aldrich provided an update.

7. Senior Center Corporation Board – Council Member Street

Council Member Street provided an update.

10. City Manager Announcements

a. Announcements On City Events And Items Of Community Interest.

City Manager Vernon announced three City events: pool season is coming to an end on September 5, 2022. The Annual Garage Sale is September 2nd – 4th; Curbside Brush and Bulk Pick-up is September 5 – 23, 2022. This year there are three sectors, and National Night Out is October 4th, 6:00 P.M. – 8:00 P.M. at Friendship Park.

11. Request And Announcements

a. Requests By Mayor And Council Members For Items To Be Placed On Future City Council Agendas And Announcements On City Events/Community Interest

Council Member Street said August 13 was the pool party and it was a blast. She thanked the volunteers and everyone who helped. She thanked the employees who come to work. An item for the agenda – which sections of Roberts Rules will we use.

Council Member Garza said he wanted to clear the air about the umbrellas. He said he purchased them. The only Council Member he spoke with about them was Council Member Street. He thanked everyone who made the pool party a success. These events are needed. He thanked everyone who attended and spoke tonight.

Council Member Walczyk thanked the citizens who came out and spoke. She thanked the Fire Chief Hilburn and Police Chief Cardona for their Onboard Session. For the agenda – information for Code of Ethics and Code of Conduct for all Committees, Boards and Commissions.

Council Member Apodaca thanked the residents for attending the meeting. She asked Judson ISD families to contact Police Chief and Superintendent of District. We don't want to forget what happened in Uvalde. We need to protect our children.

Council Member Martin thanked everyone for staying with us. He thanked for all they do. Starfire bridge is starting to sink also some of the other Bexar County bridges.

Mayor Aldrich said National Night Out is October 4, 2022 at Friendship Park. Asked staff to follow up on Rochelle Tolliver's issue on Landis. She said there's an area on Binz Engleman

Road near VFW that has a dip along the center line. She expressed her appreciation for the employees and welcomed Frank.

12. Adjournment

The meeting adjourned at 10:11 P.M.

Kimberly Aldrich, Mayor

ATTEST

Patty Cox, City Secretary, TRMC

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input checked="" type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 7 a.

7. Presentation

Presentation And Discussion On 2022 Pool Season

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input checked="" type="checkbox"/>	WORKSHOP

CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. a.

8. Discussion And Possible Action

Discussion And Possible Action To Award A Bid For The Alan Shepard Road
Reconstruction And Sewer Replacement Project

Bain Medina Bain will be present to answer questions and make a recommendation for award.

The City received seven bids for this project.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. b.

8. Discussion And Possible Action

Discussion And Possible Action To Award A Bid For The Ackerman Road Phase II Project

The City received eight bids for this project.

Bain Medina Bain will be present to answer questions and make a recommendation.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8.c.

8. Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2022-917 For A Specific Use Permit For The Property Located At CB 4018G (SPRINGFIELD INDUSTRIAL PARK), LOTS 6 And 7, Otherwise Known As 0 Springfield Road, Kirby, TX 78219, Which Is Zoned Light Industrial (LI) To Be Used For The Following Purpose: Constructing Offices And Warehouses To Rent To Different Trades. This Is The First Reading.

Jorge Garcia, applicant/owner, is requesting specific use for lots 6 & 7 on Springfield Road to construct offices and warehouses to rent to different trades. Six new buildings will be constructed. A site plan is included in your packet. This property is zoned light industrial and there is a requirement that any new development has to submit a Specific Use Permit for approval. The property can be used for any purpose authorized in a "C-1" Commercial Office and Retail District and a "C-2" Commercial District and for industrial purposes not requiring any state or federal regulatory permit for air or wastewater discharges.

On August 25, 2022 Council voted in favor of the Specific Use Permit.

Mr. Garcia has been notified that his attendance is needed because Council will be discussing and possibly adding stipulations for the use of the property.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KIRBY, TEXAS, TO GRANT SPECIFIC USE PERMIT #2022-033 FOR USE OF THE PROPERTY AT 0 SPRINGFIELD ROAD, LOTS 6 AND 7, KIRBY, TEXAS TO BE USED FOR THE FOLLOWING PURPOSE: CONSTRUCTING OFFICES AND WAREHOUSES TO RENT TO DIFFERENT TRADES.

WHEREAS, Jorge Garcia, the owner of the property located at 0 Springfield Road, Lots 6 and 7, Kirby, Texas, being the property covered by Bexar Appraisal District Property ID number 1286026 and 128607 (the "Property") has requested that a Specific Use Permit be granted for use of the Property -

WHEREAS, the Planning and Zoning Commission of the City of Kirby has recommended to the City Council that the Specific Use Permit be granted for use of the Property for the purpose of constructing offices and warehouses to rent to different trades.

WHEREAS, the City Council of the City of Kirby has conducted a public hearing on the requested Specific Use Permit and finds that it is appropriate to grant a Specific Use Permit for use of the Property for the purpose of constructing offices and warehouses to rent to different trades. Also, further provided that the applicant for such Specific Use Permit signs a sworn statement accepting and agreeing to be bound by and comply with the terms of such Special Use Permit.

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

Section 1. Specific Use Permit #2022-033 for use of the property located at 0 Springfield Road, Lots 6 and 7, Kirby, Texas, being the property covered by Bexar Appraisal District Property ID number 1286026 and 128027 purpose of constructing offices and warehouses to rent to different trades. Also, further provided that the applicant for such Specific Use Permit signs a sworn statement accepting and agreeing to be bound by and comply with the terms of such Special Use Permit.

Section 2. This ordinance shall be effective upon adoption on second reading.

PASSED on first reading on the 8th day of September 2022.

PASSED AND ADOPTED on second reading on the 22nd day of September, 2022

Kim Aldrich, Mayor

ATTEST:

Patty Cox, City Secretary

<input type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input checked="" type="checkbox"/>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. d.

8. Discussion And Possible Action

Discussion And Possible Action On An Agreement With Speed 21 For Use Of
Friendship Park For Sports Camps And Related Events.

Mr. Devan Hemphill is requesting a two year agreement for his organization to use the football field area. He is willing to pay \$650.00 a year. A draft agreement is included.

Proposal for Friendship Park

Hello Kirby Board Members,

I am Coach Devan Hemphill, the president of Speed21 Sports Training Camps. I intend on using the location to provide the community of Kirby with different resources as far as outside fitness and sports training. I have done several FREE football camps over the past 4 and half years for youth ages 5-18. Largest camp I've had, I partnered with SAPOA and fed 125 youth and had over 35 volunteer coaches.

I currently coordinate an Allstar game that I would like to relocate practices to location which would bring people from all over San Antonio. Last year we had 355 student athletes and 84 volunteer coaches. This December will be the 4th year of having this event, which is a Christmas Toy Drive.

I am also part owner of Texas Top Prospects, which is an NCAA accredited company. TTP has combines for middle and high school student-athletes to prepare them for competing for their colligate future. We provide the community with laser testing in 40 yd dash, "L Drill", and pro shuttle as well as college recruiting. Through TTP, we have 7v7 that will be competing in TIFL this spring.

All these services would be available to the community of Kirby. I would like to create more events, but I would need to have the space. I would also like to do some events with and for the church, fire, and police department. You can also check out my website at www.Speed21Presents.com to see more of the events I have done as well as the exposure that I would bring to the area to support the growth of the student-athletes in the area.

I am currently employed as the PE teacher at San Antonio Prep which is located on Foster and Summerfest Dr. I am the Athletics Coordinator as well and would like to utilize all our field sports for that location. 80% of our students at SA Prep live in the Kirby/ Sunrise area, so I would like for us to stay in the area.

Unfortunately, the summer heat has made our field unsafe for our student-athletes. We have 3 football teams, two soccer teams, 3 basketball teams, and we are looking to add baseball and softball, but we would need to support of Kirby via Friendship Park to make this vision a reality. By having our home games at Friendship Park, would like to add some entertainment for the community to come see and our football program is very entertaining.

Thanks for your time,

Devan Hemphill

LEASE AGREEMENT

This Lease Agreement is made by and between the City of Kirby (hereinafter called "City") and Speed21 Sports Training Camps. (hereinafter called "Tenant").

1. Lease: City hereby leases to Tenant a tract of land owned by the City of Kirby and located within the corporate limits of the City and described as follows:

Fields located at 5745 Binz Engleman CB 5092 P-13B ABS 134

2. Use: Tenant may use the Property for the purpose of conducting athletic functions sponsored by Tenant to include outside fitness and training camps.

The City has the right to schedule events and functions throughout the year and will give the Tenant a notice in advance of one month. The City will not schedule events or functions on a date that interferes with a previously scheduled Speed21 event.

It is the desire of the City that as many children as possible have the opportunity to participate in the athletic programs of the Tenant. It is therefore agreed that the Tenant will market and recruit to children in and around Kirby.

It is expressly understood and agreed that Tenant shall indemnify and hold City harmless from any liability for payment of any obligations due to any improvements or other things placed in or upon said Premises by Tenant. Tenant shall not encumber, in any manner, nor permit a lien of any type to be placed on said Premises, and Tenant agrees to indemnify and hold harmless City concerning any such financial obligations, liens, or encumbrances of any kind.

3. Term and Utilities: The term of this Lease is for 2 years beginning September 8, 2022 and terminating September 8, 2024, provided that City may at any time terminate this Lease and take possession of the Property without being guilty in any manner of trespass; and every claim for damages for and by reason of such re-entry are hereby expressly waived by Tenant. It is understood that if the City terminates this Agreement for any reason, Tenant shall be given a hearing before the City Council prior to the effective date of such action to discuss such termination.

4. Rent: Tenant shall pay City rent in the amount of \$650 per year, payable annually on or before September 15th of each year during the term of this Lease.

5. Improvements to Property: It is further agreed that the City Council shall gave the right to approve all plans and specifications before any improvements are made to the Property by Tenant, other than normal maintenance, and Tenant shall submit all such plans and specifications to the City Council for review and approval. Upon termination or expiration of this Agreement, Tenant shall have the right to remove all physical improvements placed upon the Property by Tenant, provided that Tenant shall repair any damage to the Premises resulting from said

7. Equal Opportunity: It is agreed and understood between the parties hereto that the Premises owned by the City are the subject of the contract and that in the conduct of Tenant's operation

thereon, discrimination on account of race, color, sex, religion, age, disability, or national origin, directly or indirectly, is strictly prohibited.

8. Maintenance and Responsibility:

a) It is understood that the Tenant will maintain in a good condition all property furnished to it by the City and further that Tenant will maintain the Premises herein demised in a condition satisfactory to City. Tenant will ensure trash and rubbish are cleaned up after each event. The City water the football fields every Monday and Thursday weather permitting will mow the fields regularly. Tenant will notify the City if any maintenance is required.

b) In return for services rendered by Tenant to the youth of City, City will provide such maintenance that requires the use of heavy equipment. Such equipment shall be operated ONLY by a City employee and such maintenance shall be authorized by the City Manager ONLY, and scheduled by his/her designated representative. Other maintenance by City shall be at the discretion of the City Council upon written request by the City Manager.

9. Advertising: All advertising rules as outlined in the City of Kirby Code of Ordinances shall be followed.

10. Annual Report and Financial Statement: It is agreed that the Tenant shall furnish to City, through the City Manager, a financial statement of the past year's operation (revenue and expenses) by September 30th of each year

k. A complete inventory of all Greater Northeast Little League equipment used within the concession stand

The League Treasurer must, upon written request by the City Manager, furnish the League Bank balance within ten (10) days of such written request.

11. Insurance and Indemnification: As a condition precedent to the use of the Premises, Tenant agrees to indemnify and hold harmless City, its officials, employees, and agents from and against any and all costs, claims, and damages (including attorney's fees) that may be caused by the use of said Property, and shall protect and indemnify City from any and all claims costs, expenses, judgments, and causes of action arising out of the use of said Property, and shall defend (through legal counsel acceptable to the City) any litigation arising in connection with such use, all at Tenant's sole cost and expense. In addition, Tenant agrees to obtain an insurance policy protecting City from any liability and to have City named as co-insured in said policy. Such policy shall be for not less than \$500,000.00 per person for bodily injuries, not less than \$50,000.00 for property damage, and an aggregate limit of not less than \$1,000,000.00 per occurrence. Proof of payment of premium for said policy (and evidence of the existence of said policy) shall be delivered to and kept by the City Secretary of City and such insurance policy shall be maintained in full force by Tenant so long as this Agreement is in effect.

12. Non-Profit Status: The Tenant shall have on file at City Hall a completed of non-profit civic organization status.

13. Subleases: Tenant may not assign its rights under this lease or sublease the Property without the prior express consent of the City Council of City as evidenced by a resolution or ordinance adopted at a regular or special meeting of the City Council of Kirby.

14. Severability: Each section, subsection, provision, requirement, regulation or restriction established by this Agreement is hereby declared to be independent, and the holding of any part to be unconstitutional, invalid, or ineffective for any cause, shall not affect or render invalid this agreement or amendments hereto as a whole or any part thereof, except the particular part so declared to be invalid.

15. Entire Agreement: This Agreement constitutes the entire agreement between the City and the Tenant concerning lease of the Property.

16. Amendments: This Agreement may be amended only by a written amendment executed on behalf of the parties hereto.

17. Counterparts: This Agreement may be executed in counterparts which, when taken together, constitute one and the same agreement.

18. Facsimiles: This Agreement may be executed by a facsimile signature or a signature transmitted by facsimile and such signature shall be considered the same as an original signature for all purposes.

This Agreement is dated this 8th day of September 2022.

CITY OF KIRBY

By: _____

Name: _____

Title: _____

Speed21 Sports Training Camps

By: _____

Name: _____

Title: _____

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. e.

8. Discussion And Possible Action

Discussion And Possible Action To Accept The Resignation of John Houlton From
Crime Control And Prevention District Board

Mr. Houlton resigned from the Board effective August 29, 2022. His letter is included along with a current roster.

Monique Vernon

From: Teresa Wagner
Sent: Friday, August 26, 2022 3:17 PM
To: John Houlton
Subject: RE: Board Position Resignation

Thank you Sir

From: John Houlton <j.houlton@yahoo.com>
Sent: Friday, August 26, 2022 3:12 PM
To: Teresa Wagner <twagner@cityofkirby.org>
Subject: Board Position Resignation

Greetings,

As my term is due to expire in September 2022 and as I will not be seeking to renew my position on the board, I am submitting my resignation from the board effective

08/29/2022

I greatly appreciate the opportunity to help serve the City of Kirby and especially the Kirby Police Department.

Regards

John HOULTON

Sent from John's iPhone

Total Control Panel

[Login](#)

To: twagner@cityofkirby.org

[Remove](#) this sender from my allow list

From: j.houlton@yahoo.com

You received this message because the sender is on your allow list.

KIRBY CRIME CONTROL AND PREVENTION DISTRICT

MEMBERS

NAME	TERM	TERM END	ROLL
OPEN SEAT	2 YRS	SEPT. 30, 2022	
D. FAULKNER	2 YRS	SEPT. 30, 2023	VICE PRESIDENT BOND END 07/19/2023
H. SHAW	2 YRS	SEPT. 30, 2022	MEMBER PLACE 1 BOND END 01/19/2024
J. Bogardus	2 YRS	SEPT. 30, 2023	MEMBER PLACE 2 BOND END 06/28/2025
P. MANN	2 YRS	SEPT. 30, 2022	MEMBER PLACE 3 BOND END 01/19/2024
S. FAULKNER	2 YRS	SEPT. 30, 2023	MEMBER PLACE 4 BOND END 11/08/2024
K. THULEEN	2 YRS	SEPT. 30, 2022	MEMBER PLACE 5 BOND END 06/10/2025
C. Garza			CITY COUNCIL LIAISON

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. f.

8. Discussion And Possible Action

Discussion And Possible Action On Economic Development Budget Allocation For
Fiscal Year 2022-2023

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. g.

8. Discussion And Possible Action

Discussion And Direction On Following Robert's Rules Of Order In City Council Meetings

Council Member Street requested this item.

Each Council Member was provided a copy of Robert's Rules of Order In Brief.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
AGENDA ITEM SUMMARY**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. h.

8. Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2022-915 An Ordinance Of The City Of Kirby, Texas Repealing Existing Chapter 91 Of The Code Of Ordinances And Adopting A New Chapter 91 Entitled "Animals" To Set Out Provisions As To Animals, Including An Animal Shelter, Animal Control Officers, Microchipping, Animal Bites And Animal Care, Spaying And Neutering, Rabies Control, Adoption Of Animals, Fees, Enforcement, And Related Matters, And Setting A Fine Not To Exceed The Amounts Set Out In Section 10.99 Of The Code Of Ordinances For Each Violation. This Is The Second Reading.

The first reading was approved on August 25, 2022. A copy is included.

ORDINANCE NO. O-2022-91549-865

AN ORDINANCE OF THE CITY OF KIRBY, TEXAS REPEALING EXISTING CHAPTER 91 OF THE CODE OF ORDINANCES AND ADOPTING A NEW CHAPTER 91 ENTITLED "ANIMALS" TO SET OUT PROVISIONS AS TO ANIMALS, INCLUDING AN ANIMAL SHELTER, ANIMAL CONTROL OFFICERS, MICROCHIPPING, ANIMAL BITES AND ANIMAL CARE, SPAYING AND NEUTERING, RABIES CONTROL, ADOPTION OF ANIMALS, FEES, ENFORCEMENT, AND RELATED MATTERS, AND SETTING A FINE NOT TO EXCEED THE AMOUNTS SET OUT IN SECTION 10.99 OF THE CODE OF ORDINANCES FOR EACH VIOLATION

WHEREAS, the City Council of the City of Kirby, Texas, previously adopted an ordinance or ordinances regulating animals within the City, said ordinance or ordinances being codified as Chapter 91 of the Code of Ordinances of the City; and

WHEREAS, the City Council of the City of Kirby, Texas believes that Chapter 91 of the Code of Ordinances should be repealed and replaced by a new Chapter 91 of the Code of Ordinances to provide rules and regulations regarding animals.

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

Section 1. Chapter 91 of the Code of Ordinances is hereby repealed.

Section 2. A new Chapter 91 of the Code of Ordinances is hereby adopted to read as follows:

ARTICLE I

Section 91.1 Definitions

The following definitions shall apply in the interpretation and enforcement of this Chapter

Abandoned Animal: An animal that has been abandoned while in a person's custody without making reasonable arrangements for assumption of custody by another person. This definition shall include all animals abandoned on city property (whether owned or stray) or at the shelter when shelter staff is not present to assume custody of the animal and to animals who are not reclaimed by their owner within five (5) days of being notified of the animal's impoundment.

Animal: Any mammal, reptile or bird, domestic or wild.

Animal Control Officer: Person designated and duly sworn by the City as an enforcement officer who is qualified to perform such duties under the laws of the City and of the State and who holds a Basic Animal Control Officer Certification.

Animal Services Manager: The City Manager or designee will be the supervisor of all animal services activities.

Animal Shelter: Any facility operated by the City or its authorized agents for the purpose of impounding, quarantining or caring for animals held under the authority of this Chapter.

At Large: Any dog not under restraint of a person by a leash who is capable of control of the animal on or off the premises of the owner.

Auctions: Place or facility where animals are regularly bought, sold, or traded except for those facilities otherwise deemed in this Code. This term does not apply to individual sales of animals by private owners.

Bite: Puncturing or tearing of the skin by an animal's teeth that could result in the exchange of blood and saliva.

Cat: Any *Felis Catus*

Cat Colony: A colony of free-roaming (homeless, stray, wild or untamed) cats that has been registered with the department and is maintained by a colony caretaker (who provides food, water and shelter).

Circus: Commercial variety show featuring animal acts for public entertainment.

City: The City of Kirby

City Veterinarian: Person or persons contracted by the City of Kirby and who are licensed to practice veterinary medicine in the State of Texas.

Commercial Animal Establishment: Pet shop, grooming shop, guard dog, or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

Commercial Property: A tract of land and or building zoned for or utilized for commercial or business uses in the City limits including temporary commercial sites.

Confined: A situation by which an animal is effectively prevented from being free to roam or run at large.

Custodian: A person or agency that feeds, shelters, harbors or has possession or control or responsibility to control an animal.

Dangerous Animal: Any animal that attacks, bites or injures human beings or domesticated animals without provocation or which because of temperament, conditioning or training has a known propensity to attack, bite, or injure human beings or domesticated animals or an individual animal which the local health authority or municipal court judge has reason to believe has a dangerous disposition likely to be harmful to humans or other animals.

Dog: Any *Canis Familiaris*, including hybrids.

Domestic Animal: Any animal normally adapted to live in intimate association with humans or for the advantage of humans, and commonly kept as pets, including but not limited to, domestic cats and dogs, domestic ferrets, rabbits, and domestic fowl and small animals.

Domesticated Cat: A cat that is socialized to humans and is appropriate as a companion to humans.

Domestic Fowl: Birds of a breed developed or kept for the purpose of meat production, egg laying, or purely for ornament or show, including but not limited to ducks, geese, chickens, turkeys, partridges, parakeets and pigeons.

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Ear Tipping: A straight line cut of the tip of the left ear of a cat while the cat is anesthetized to identify the cat as altered.

Euthanasia: The act of inducing the painless death of an animal for reasons assumed to be merciful. An easy or painless death.

Exotic Animals: Animals that are not livestock or typical domestic animals including but not limited to the following; pythons, boa constrictor, non-poisonous spiders, scorpions, or lizards.

Exotic Bird: Any member of the Class Aves, such as parrots, that are not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof, but does not include domestic poultry,

Feral: Any domestic animal that has escaped domestication and reverted back to a wild state.

Feral Cat: A cat that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication. The usually and consistent temperament of a feral cat is extreme fear and resistance to contact with humans. Feral cats are completely or substantially unsocialized to humans.

Feral Cat Caregiver: A volunteer, uncompensated person who agrees to facilitate the trap, neuter and return program in accordance with this chapter and any rules and regulations established by the Animal Services Department.

Feral Cat Colony: A group of cats that congregates, more or less, together as a unit. Although not every cat in a colony may be feral, any non-feral cats that congregate with a colony shall be deemed a part of it.

Fowl: A bird of any kind, domestic or wild, cock or hen, *Gallus Gallus*.

Foster: To provide care or nurture animals until a suitable home can be found in accordance with guidelines set by the Animal Services Department.

Grooming Shop: Commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard Dog: Any professionally trained dog that will detect and warn its handler that an intruder is present in or near an area that is being secured. Any dog that is utilized to protect commercial property.

Guard Dog Permits: Issued for each commercial establishment where guard dogs are to be used or where guard dogs are kept or boarded.

Guard Dog Training Center: Commercial property where guard dogs are to be used or where guard dogs are to be kept, boarded, bred, sold, let to hire or trained for a fee for guard dog purposes.

Handler: Any person who is responsible for and capable of controlling the actions of a guard dog or training or transporting a guard dog.

High Risk Animal: Animals which have a high probability of transmitting rabies, including skunks, bats, raccoons, coyotes, and species of foxes indigenous to North America.

Housing Facility: Any room, building, or area used to contain a primary enclosure or enclosures.

Humanely Killed: To cause the death of an animal by a method which rapidly produces unconsciousness and death without visible evidence of pain or distress or utilizes anesthesia produced by an agent which causes painless loss of consciousness and death following such loss of consciousness.

Hybrid: Any offspring of two animals of different species.

Kennel or Cattery: Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs and cats and or a facility for keeping more than three (3) animals of the same species.

Impoundment: The collecting or confining of an animal due to City Ordinance Violation.

Isolation: The separation of animals exposed or potentially exposed to rabies or other diseases.

Licensed Veterinarian: A veterinarian licensed to practice veterinary medicine by the State Board of Veterinary Medical Examiners.

Livestock: An animal raised for human consumption, e.g., goats, cows, pigs, poultry, sheep, or an equine animal.

Livestock; Shall mean any equine, hog, sheep, goat, llama, or any bovine species.

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Local Health Authority: The officer designated by the City Council under Texas Health and Safety Code Chapter 826 as amended from time to time.

LRCA: Local Rabies Control Authority

Microchip: ~~A tiny transponder possessing a unique identification number that can be injected or inserted just under the skin of a pet to assist in identification if the pet is lost or stolen.~~

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Nondomestic Animal: ~~Includes all animal other than domestic cats and dogs, domestic ferrets, livestock, rabbits and domestic fowl.~~

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Owner: Person who feeds harbors an animal(s) for more than seventy-two (72) hours without the presence of that animal being recorded in the records of the Shelter as a stray animal. Persons caring for an animal at the request of an owner are not included in the definition of owner, but are required to keep the animal in compliance with this Code. An owner does not include a feral cat caregiver participating in an authorized trap, neuter and return program.

Performing Animal Exhibitions: Spectacle, display, act, or event other than circuses and rodeos in which animals are used and shall include animal amusement vendors such as, but not limited to, pony rides, petting zoos, commercial horseback pictures, etc.

Pet or Companion Animal: A domestic or tamed animal kept for pleasure rather than utility.

Pet Shop: Business establishment, sole proprietor, partnership or corporation, whether licensed or not by the City, where two (2) or more species of animals, including dogs, cats, fish, birds, reptiles, or rodents are kept for sale or commercial barter.

Positive Control: Confined to a quarantine facility where the animal cannot make physical contact with other animals or humans other than a licensed veterinarian, Animal Control Officer, or other facility operator.

Possible Exposure to Rabies: A bite received from any warm-blooded animal, animal to human or animal to animal, is reason to suspect exposure to rabies.

Poultry: Any species of domesticated birds commonly kept for eggs and or meat.

Prohibited animals shall mean:

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- (1) Any ape or other non-human primate;
- (2) Any member of the genus Canis including wolf, hybrid wolf, coyote, jackal or fox, and similar species except Canis Familiaris;
- (3) Any member of the genus Felis including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except Felis domesticus;
- (4) Mustelids; other than the domestic ferret (Mustela putorius furo);
- (5) Skunk;
- (6) Crocodile, alligator, caiman or related species;
- (7) Swine;
- (8) Ostrich or any other Ratites;
- (9) Bear; and
- (10) All other mammals that live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

Provocation: Any purposeful act that causes an animal to bite scratch or attack in protection of itself or its owner or its owner's premises. Entrance in any manner into an area where an

animal is properly under restraint in compliance with City ordinances would be considered provocation irrespective of the reason for such entrance.

Public Nuisance: Any animal, livestock or wildlife that unreasonably annoy humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens other than their owners to enjoyment of life or property. The term Public Nuisance Animal shall mean and include, but is not limited to any animal that:

- a) is repeatedly at large or stray;
- b) damages the property or anyone other than its owner's;
- c) molests or intimidates pedestrians or passersby;
- d) trespasses on school grounds;
- e) chases vehicles;
- f) excessively makes disturbing noises including but not limited to continued repeated howling, barking, whining or other utterances causing unreasonable annoyance disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- g) causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- h) causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- i) is offensive or dangerous to the public health safety or welfare by virtue of the number and or type of animals maintained; or
- j) attacks other domestic animals or humans.

Quarantine: Strict confinement for the purpose of preventing the spread of disease under restraint by closed cage or padlock or in any other manner approved by the local health authority on the private premises of the animal s owner or at a facility approved by the Texas Department of Health.

Quarantine Period: That portion of the observation period during which an animal is physically confined for observation as provided for under the quarantine method and testing section of this Chapter.

Rabies: An acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Rabies Vaccination: A protective inoculation given under the direction of a licensed veterinarian with a rabies vaccine recognized and approved by the U.S. Department of

Agriculture Bureau of Animal Industry given in an amount sufficient to provide immunity and satisfies the requirement of State law.

Registered Microchip: An identification chip implanted under the skin of an animal for the purpose of identifying its owner or keeper which has been registered with a microchip registration company with current ownership information to include the current owner's or keeper's name, address, and telephone number (if available), and the description of the animal.

Responsible Person: A person to who commands an animal in question is obedient, and who is capable of controlling the animal if the animal should fail to obey such commands.

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Restraint: A chain, rope, tether, leash, cable or other device that attaches an animal to a stationary object or trolley system or a substantial fence or pen.

Riding School or Stable: A place that has available for hire, boarding and/or riding instruction any horse, pony, donkey, mule, or burro or any place that regularly buys, sells or trains the above animals, including a racetrack, trotting track, or rodeo.

Roosts: Bars where domestic fowl perch at night inside a coop and run.

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Rooster: The male of any type of domestic fowl.

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Run at Large: A dog found to be free of restraint, meaning off a leash while outside the boundaries of the real property of the owner.

Scratch: A scrape left by the claws or nails of an animal that is of sufficient severity to break the skin and draw blood.

Service Animal: An animal having special training to assist or aid a person with disabilities. Emotional support animals are not classified as a service animal. All service animals must have a valid certificate to be considered a service animal. The only animal classified as a service animal is a canine. The only animals allowed to be classified as emotional support animals are canine, feline, and miniature horse.

Severe Injury: Any physical injury that results in death, broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

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Shelter: Clean and sturdy structure with a roof and three (3) sides and a fourth side allowing access that is protected from the elements and a floor that is elevated enough to keep the shelter dry. A shelter shall provide protection from rain, hail, sleet, snow, and subfreezing temperatures and must be large enough to allow the dog or animal to stand erect, sit, turn around and lie down in a normal manner.

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Sick Animal: Any animal that appears to be suffering from an infectious, contagious or communicable disease or that is showing evidence of a physical disorder or traumatic injury or that has an elevated temperature.

Small Animal: Rabbits, guinea pigs, domestic mice, rats, hamsters, hedgehogs, gerbils, etc.

State: The State of Texas

Stray Animal: Any domestic animal running free or at large with no physical restraint.

Sterilization: The neutering (surgical removal) or chemical zeutering of the reproductive organs of an animal to render the animal unable to reproduce.

Trap, Neuter and Return Program: A nonlethal, humane alternative to deal with the stray cats which are captured, altered and returned back to their location in order to encourage the stabilization of the free-roaming cat population in the City.

Trapped Animal: Any animal caught or taken in, as if in a trap or snare, by skill, craft, or trickery.

Un-owned Animal: Animal for which an owner has not been identified.

Unprovoked Animal Attack: An offensive attack by an animal that excludes circumstances in which immediately prior to the attack, and while properly confined and restrained:

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(a) The animal was taunted, teased, or abused or otherwise assaulted by a person(s) or another animal- this includes being hit, kicked or struck, pulled, pinched, stepped on, squeezed, or bit by a person or other animal with any object or body part.

(b) While properly restrained, the animal was defending or protecting a person(s) or property from a person(s) or another animal trespassing or committing a crime on the premises or property occupied by the owner.

I The animal was protecting itself or its offspring.

~~**Unrestrained:** Not restrained by leash, lead or physical restraint or by a substantial fence or pen.~~

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Unrestrained: A situation where an animal is found to be without physical restraint provided in the form of a barrier such as a fence, tether or leash providing positive control of the animal and inhibiting the animal from getting off the occupant's property or away from physical control by the owner/keeper.

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Utility: Kept for the production of a useful product or for its skill rather than for show or as a pet.

Vaccination Certificate: A document showing on its face that the animal described thereon has received a current inoculation in an amount sufficient to produce an immunity that satisfies the requirement of State law. It must show the date of the inoculation, duration of immunity approved for that vaccine, the name and address of the animal's owner, all other information required by State law and signed by a licensed veterinarian.

Veterinarian: Person licensed to practice veterinary medicine in the State.

Veterinary Hospital: Establishment maintained and operated by a licensed veterinarian(s) for surgery, diagnosis and treatment of diseases and injuries of animals.

Wild Animals: Any non-domestic, tamed animal, including, but not limited to, wolves, coyotes, panthers, lions, bobcats, cougars, black footed ferrets, skunks, armadillos, poisonous reptiles, raccoons, monkeys, non-human primates, and any other animal typically found in a zoo except the for the following:

- a) domestic dogs
- b) domestic cats
- c) livestock
- d) poultry

Wildlife: Any animal that typically occurs naturally in the wild state.

Wild State: Living in its original natural condition, not domesticated, regardless of state or duration of captivity.

Zoo or Zoological Park: Facility other than pet shops or kennels displaying or exhibiting one or more species of non-domesticated animals.

ARTICLE II ANIMAL SHELTER/ANIMAL CONTROL OFFICER

Section 91.2 Animal Shelter

There shall be erected and maintained under the supervision of the City Manager or designee a suitable building and kennels to be known as the animal shelter for the confinement of all animals seized impounded or surrendered pursuant to the provisions of this Chapter. The animal facility shall be kept in a sanitary condition and all animals taken up and impounded therein shall be properly fed and provided water. All animals shall be treated in a humane manner while under the custody of the Shelter Facility. The Animal Services Department is hereby designated as the Health Authority for the purpose of this Chapter. General Shelter procedures are as follows;

- a) Impounded animals with visible identification or a microchip or that have a collar shall be held no less than 120 hours. Any animal not reclaimed by its owner within 120 hours shall become the property of the City and shall become available for adoption in a suitable home or humanely euthanized.
- b) Impounded animals without visible identification or a microchip or that do not have a collar shall be held no less than 72 hours. Any animal not reclaimed by its owner within 72 hours shall become the property of the City and shall become available for adoption in a suitable home or humanely euthanized.
- c) Wild or feral cats or dogs may be held for 0 to 72 hours at the discretion of the Animal Services Department. Wild or feral cats will be entered into the trap, neuter and return program at the end of the impoundment period or upon arrival at the facility at the designation of the Animal Services Department.

- d) Sick or injured animals wearing no apparent identification through which ownership can be determined may be kept 0 to 72 hours at the discretion of the Animal Services Department.
- e) If by a license tag or other means the owner of an impounded animal can be identified, the Facility shall immediately upon impoundment notify the owner by direct contact, telephone, mail or other reasonable means.
- f) An owner reclaiming an impounded animal shall pay all impoundment fees, boarding fees and microchipping fees according to the fee schedule. An owner will also be responsible for reimbursing the City for any veterinary costs incurred by reason of their animal's impoundment (i.e., vaccines given, exam fees, diagnostic tests performed, etc.) If no proof of a current rabies vaccination can be produced, the Animal Control Officer may issue a citation for violation of this law. Impoundment fees will increase with each impoundment occurring within a twelve (12) month period.

Section 91.3 Animal Control Officer

- a) The office of Animal Control Officer is hereby created to capture unrestrained dogs and nuisance animals and confine them in a humane manner at the Facility.
- b) The Animal Control Officer is hereby empowered during the performance of his or her duties to capture, impound and quarantine any livestock, fowl, dogs or other domestic and non-domestic animals found running at large or stray or creating a public nuisance within the City limits and to enforce all provisions of this Chapter. Cats that are sexually intact (not spayed or neutered) shall not be permitted to roam unsupervised. (See OWNER – if feed 72 hours you are responsible.)
- c) Animals that pose a threat to public health and safety, any wild animal kept illegally or animals that have been cruelly treated or abused shall be impounded by the Animal Control Officer.
- d) The Animal Control Officer may issue a citation to the known owner of an animal found to be at large. A person who is convicted of owning an animal at large shall pay a fine as established by the City Municipal Court. Subsequent convictions of this subsection within a twelve (12) month period shall increase from the minimum applicable fine.
- e) For purposes of discharging the duties imposed by the provisions of this Chapter or other applicable laws and to enforce the same duly authorized representatives or employees of the City may enter upon private property to the full extent permitted by law, which shall include but not limited to; entry upon private unfenced property when in pursuit of any animal which he she has reason to believe is subject to impoundment pursuant to the provisions of this Chapter or other applicable laws.

ARTICLE III MICROCHIPPING/PERMITS

Section 91.4 Dog and Cat Microchip Required

a) The known owner of any dog or cat must apply for and pay a Microchip fee required by the City for each dog or cat before the animal attains four (4) months of age. The microchip may be purchased at the Kirby Animal Services located at 5503 Duffek Drive. The application shall include the name and address of the applicant, description of the animal and have attached thereto a copy of the proof of rabies current vaccination certificate.

b) The Animal Control Authority shall maintain a record of the identifying numbers of all dog or cat microchips issued.

c) Microchip fees shall not be redeemed for seeing-eye dogs, service dogs or governmental police dogs, however, other requirements of other subparagraphs under this article shall remain in force.

Section 91.5 Maintaining Current Microchip Registration

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a) The owner or keeper of a dog, cat or equine shall maintain current registration with a microchip registration company.

b) If there is a change in contact information of an owner or keeper of a registered microchipped equine, dog or cat, the owner or keeper shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.

c) If there is a change in ownership of a registered equine, dog or cat, the initial owner or keeper shall be responsible for ensuring that the microchip is no longer registered in the initial owner's or keeper's name within thirty (30) days of the date of change in ownership. The new owner or keeper shall be responsible for re-registering the microchip to include any new address and telephone number and have the registration information transferred to the new owner's or keeper's name within thirty (30) days after the change in ownership.

Section 91.5 Limiting the number of domestic animals

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Section 91.6 Limiting the Number of Domestic Animals

a) It shall be a violation of this Chapter for any person to possess, own or otherwise keep within the City more than four (4) animals of the same species, (to exclude chickens), in any developed, residentially zoned section or to keep more than six (6) animals of the same species, excluding livestock, in an area zoned agricultural-residential which exceeds one (1) acre except in cases of newly born or hatched litters or clutches under the age of three (3) months old.

b) Exception shall be made for fostering of animals by a Humane Society or Animal Facility meeting the following criteria:

1. letter from sponsoring agency;
2. total of six (6) animals of any species including personal pets;
3. must have proof of rabies vaccination for each fostered animal over four (4) months of age; and

4. fostered animals allowed on premises no longer than twelve (12) months

c) This section shall not apply to commercial kennels, veterinary establishments or animal hospitals operated by a licensed veterinarian or pet shops and grooming shops located on property zoned for such purposes. Such establishments must meet sanitation requirements and keep animals securely caged or penned.

d) This section shall not apply to any Feral Cat Caregiver managing a registered Feral Cat Colony as part of an authorized trap, neuter, and return program.

e) This section shall not apply to any municipally owned or operated facility, establishment or property.

Section 91.6 Permits

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Section 91.7 Permits

a) No person shall operate a commercial animal establishment, kennel, stable, or cattery unless the establishment is located in a properly zoned area and unless a permit has first been obtained in compliance with this section.

b) The City shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this ordinance and other applicable laws. The City may amend such regulations from time to time as deemed desirable for public health and welfare and for the protections of animals.

c) When a permit applicant has shown that he or she is willing and able to comply with the regulations promulgated by the City a permit shall be issued upon payment of the applicable fees.

d) The permit period shall begin with the date the permit is issued and shall be effective for a period of one (1) year. Renewal applications for permits must be made thirty (30) days prior to and are due at the date the original permit expires.

e) If there is a change in ownership of a commercial animal establishment or kennel, the new owner must apply for a new permit. Permits are not transferable.

f) Annual permits shall be issued upon payment of the applicable fee as listed in Exhibit A, Fee Schedule.

g) Every facility regulated by this Chapter shall be considered a separate enterprise requiring an individual permit.

h) No fee under this Chapter may be required of any veterinary hospital, animal shelter, government operated zoological park, school district, civic, or charitable organization but all other applicable regulations shall apply.

l) Failure to obtain a permit before opening any facility covered in this section shall result in a fine.

j) Any person who has a change in the category under which a permit was issued shall be subject to reclassification of the permit fee.

k) No animal shall be sold, bartered, traded or given away on any roadside or public right of way.

l) Temporary Permits shall consist of the following: Temporary Permit is valid for 30 days with a fee of \$15 per 30 days

1. vendor's name;
2. address, including city;
3. telephone number;
4. type and number of animals to be sold or given away;
5. location of business where animals are being sold; and
6. rabies and age-appropriate vaccination information (health certificate) for each animal signed by a licensed veterinarian.
7. All animal(s) must be sterilized before sold or given away.
8. If a person fails to obtain a permit after 48 hours' notice, then an Animal Control Officer shall be authorized to impound then animal(s).

~~Section 91.7 Temporary permit issuance and revocation~~

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Section 91.8 Temporary Permit Issuance and Revocation

a) The city may revoke any permit if the person holding the permit or refuses or fails to comply with this Chapter or any law governing the protection and keeping of animals.

b) Any person whose permit is revoked shall within ten (10) days thereafter humanely dispose of all animals owned kept or harbored by such person and no part of the permit fee shall be refunded.

c) It shall be a condition of the issuance of any permit or license that the City shall be permitted to inspect all animals and the premises where animals are kept any reasonable time of the day and, shall if permission for such inspection is refused, revoke the permit of the refusing owner named on the permit.

d) If the applicant has withheld or falsified any information on the application, the City shall refuse to issue or may revoke a permit.

e) No person who has been convicted of cruelty to animals shall be issued a permit:

1. as a guard dog company;
2. for registration as a dog trainer;
3. to operate a commercial animal establishment; and
4. to sell animals

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~~Section 91.8 Guard or sentry dog permits~~
~~Section 91.9 Guard or sentry dog permits~~

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a) Guard dog permit applications shall include the following information:

1. the business name, address and telephone number of the commercial property where the guard dogs are to be used;
2. the name, address and telephone number of the dog's handlers who can be reached at any time during the day or night;
3. the number of dogs to be used and a general description of their use;
4. description of the dogs' proof of their current vaccination and City license;
5. the location of where the dogs are to be housed;
6. any other information that the LRCA deems necessary by rules and regulations; and
7. permit holders shall notify the LRCA if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.

b) An Animal Control Officer, shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for and when it is renewed.

c) If the inspection reveals that the requirements of this section are met, a permit fee for each commercial property shall be paid to the City. The permit shall be displayed at the approved commercial property and a rabies vaccination and the City license tag shall be affixed to the collar of each dog used. Nothing in this section shall exempt guard dogs from any of the other provisions of this Chapter.

d) Each permit shall be valid for the period of one (1) year and must be renewed annually prior to the expiration date.

e) Each permit must be obtained prior to housing or utilizing guard dogs at the commercial properties where guard dogs are in use.

ARTICLE IV RESTRAINTS, BITES, AND ANIMAL CARE

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~~Section 91.9 Restraints~~
~~Section 91.10 Restraints~~

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a) All dogs and other domestic animals shall be kept under restraint and shall not be allowed to run at large.

b) The owner of a sexually intact (not spayed or neutered) domesticated cat shall not permit the domesticated cat to roam. All free-roaming domesticated / owned cats must be spayed or neutered.

c) No owner shall fail to exercise proper care and control of his or her animal(s) to prevent it from becoming a public nuisance. Free-roaming cats that are found to be a public nuisance shall be impounded and the owner (if known) shall be contacted.

d) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding purposes.

e) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

1. between the hours of 10:00 pm and 6:00 am;
2. within 500 feet of the premises of a school;

f) All animals must have shelter (a structure that is at least three walls and a roof, tall enough for the animal to stand up in without touching their head to the roof and wide enough for the animal to turn around with ease and lay down but still be in the shelter).

g) All animals must be provided with fresh water at all times while tethered outside:

1. excess of three (3) hours, or
2. in the case of extreme weather conditions, such as:
 - a) outdoor temperature below 32 degrees Fahrenheit;
 - b) heat advisory issued by local State jurisdiction; or
 - c) storm warnings issued by National Weather Service.

h) In this section. A restraint unreasonably limits a dog's movement if the restraint:

1. is a collar that is pinch type, prong type or choke type or that is not properly fitted to the dog;
2. is not at least ten (10) feet long;
3. is in an unsafe condition; or
4. will cause injury to the dog

i) This provision does not prohibit a person from walking a dog with a hand-held leash.

~~Section 91.10 Trap, Neuter and Return Program (to the extent that funding is available).~~
~~Section 91.11 Trap, Neuter and Return Program (to the extent that funding is available)~~

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In order to effectively and humanely control the feral cat populations within its jurisdictional boundaries, the City shall sponsor and support a trap, neuter, and return program in an effort to reduce the feral and free-roaming cat population over time without necessity of wholesale capture and euthanasia. The City may establish a fund or provide services to offset the costs of trapping, neutering, and vaccinating captured free-roaming cats that can be returned to an appropriate, controlled, protected, and authorized colony site. Registered Feral Cat Caregivers for feral cat colonies, whether of one (1) or several free-roaming cats, may be aided by the City in providing traps and transportation to a spay/neuter facility and off-setting costs, to the extent that funding is available. Left ear tipping shall be used on these cats in order to be identified as spayed or neutered and a vaccinated member of a managed colony. A photographic record adequate to identify the cat shall be obtained for all cats. This is part of the City Trap, Neuter and Return Program and maintained by the Registered Feral Cat Caregiver.

Section 91.11 Registered Feral Cat Caregivers

Section 91.12 Registered Feral Cat Caregivers

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Registered Feral Cat Caregivers shall attend one of the San Antonio Feral Cat Coalition workshops and shall provide information about the colony to the Animal Services Department. Registered Feral Cat Caregivers of a free-roaming cat or free-roaming cat colony shall be exempt under the provisions of License Requirements and Animal Identification requirements by furnishing the Animal Services Department with a statement agreeing to the following conditions:

1. Regularly feed the free-roaming cat(s) colony including weekend and holidays, ensuring sanitary conditions at all times. Colonies shall be fed using bowls, plates, pans or similar utensils to contain the food; food shall not be poured on the ground for the purpose of providing food. Food shall not be left out during hours of darkness to avoid attracting wildlife or vermin.
2. Regularly and frequently trap the colony cats over the age of twelve (12) weeks for purposes of sterilization.
3. Identify all colony cats by having their left ear tipped when under anesthesia for sterilization.
4. All colony cats must be vaccinated for rabies, preferably with a three (3) year vaccine.
5. All colony cats with illness and/or injury that cannot be provided with treatment shall be humanely euthanized by a veterinarian or animal facility to prevent pain and suffering.
6. Feral Cat Caregivers are not permitted to release sterilized, free-roaming cats on private or public property without the permission of the property owner.
7. Any Feral Cat Caregiver determined to be in violation of this Section shall be issued a written warning and be permitted up to and including thirty (30) days to achieve compliance. Failure to comply may result in the issuance of a citation.

8. Make every attempt to remove kittens from the colony before eight (8) weeks of age for domestication and placement.

Section 91.12 Animal Control Officer/Trap, Neuter and Return

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Section 91.13 Animal Control Officer/Trap, Neuter and Return

The Animal Control Officer shall maintain all records relating to authorized colony management in the trap, neuter and return program. Other duties shall include:

1. Monitor the managed cat colonies in the trap, neuter and return program, maintaining records of Registered Feral Cat Caregivers and determining the need of additional Feral Cat Caregivers;
2. Help to resolve complaints over the conduct of a colony;
3. Maintain records and prepare quarterly reports on the following:
 - a. Number and location of managed colonies;
 - b. Total number of cats in colonies;
 - c. Number of cats and kittens spayed and neutered pursuant to the trap, neuter and return program, and
 - d. Number of cats and kittens placed in permanent homes.

After receiving the permission of the Registered Feral Cat Caregiver or a resident, the Animal Control Officer may set traps in the Feral Cat Caregiver's/resident's yard to assist in trapping.

Section 91.13 Enforcement/Trap, Neuter and Return

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Section 91.14 Enforcement/Trap, Neuter and Return

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The City shall retain the following rights:

1. The right to seize or remove cats from a colony that have not been vaccinated against rabies and / or which are demonstrating signs of the disease.
2. The right to seize or remove a cat or cats from a colony that are creating a public nuisance after the Feral Cat Caregiver has been afforded thirty (30) days to remove and relocate the cat(s) and has failed to do so.
3. The right to seize and remove a colony of cats when a Feral Cat Caregiver or the Animal Control Officer is unable to provide care and management of the colony and has not been able to obtain a replacement or substitute Feral Cat Caregiver.
4. The right to seize or remove cat(s) from a colony if medical care necessary to prevent pain and suffering has not or cannot be provided by a Feral Cat Caregiver or if the Animal Control Officer has reason to believe that a cat in the colony has been cruelly treated.

5. The right to seize or remove cats from a colony suspected to have bitten a human being for the purposes of rabies quarantine and / or testing.

When the number of cats trapped and sterilized by the City or Registered Feral Cat Caregivers exceeds 400 in a calendar year, the City will reevaluate this program.

Section 91.14 Bites and Dangerous Animals

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Section 91.15 Bites and Dangerous Animals

a) Any animal within the City that bites or otherwise attacks a person who is not at the time trespassing upon the property of the owner or person having control of such animal or who is not provoking or teasing such animal shall be deemed dangerous. The City may order following the procedures listed below that such animal be kept muzzled, kept within a sufficient enclosure or that such animal be permanently removed from the corporate limits of the City or that such animal be delivered to an Animal Control Officer or the City Animal Facility to be humanely euthanized. The following information shall be gathered:

1. name, address and telephone number of complainant and any other witnesses to the incident;
2. date, time and location of the incident;
3. description of the animal;
4. name, address and telephone number of the owner;
5. a statement that the animal attacked, bit and or killed a person or another animal;
6. a statement that the animal has exhibited vicious propensities in past conduct, if known, and
7. other facts or circumstances of the incident

b) After a sworn complaint is filed with the local health authority it shall be investigated and if there is sufficient evidence there will be a request to the Municipal Judge to set a time and place for a hearing. Notice shall be given of the hearing to the animal's owner by personal service or certified mail, return receipt requested at least ten (10) days prior to the hearing date.

c) The Municipal Judge shall hold such hearing and shall determine at the hearing if the animal specified in the complaint should be ordered to be kept muzzled, kept within a sufficient enclosure, removed from the City limits or destroyed for the protection of the public health, safety and welfare of the community. The Municipal Judge shall receive testimony at the hearing concerning the incident under investigation. To order the removal or destruction of the animal or the muzzling or keeping of an animal in a sufficient enclosure for the public health safety and welfare the Municipal Judge may find:

1. the animal attacked or bit a human being or attacked or killed another animal;

2. the animal is the same animal that committed the acts in part 1 of this subsection;
 3. destruction or removal of the animal is necessary to preserve the public health, safety, and welfare of the community;
 4. the animal attacked or bit a human being or another animal or the animal has a known propensity to attack bite or injure human beings or domesticated animals because of temperament conditioning or training or it is demonstrated by the local health authority that the animal has a dangerous disposition likely to be harmful to humans or other animals
 5. the animal is the same animal that committed the act in part 4 of this subsection; and
 6. muzzling or keeping of the animal in a sufficient enclosure or removal or destruction of the animal is necessary to preserve the public health, safety, and welfare of the community.
- d) If the Municipal Judge orders muzzling, keeping within a sufficient enclosure, destruction, or removal of the animal and the owner is not present at the hearing he or she shall notify the owner of the decision by personal service or certified mail return receipt requested. If the Judge does not order destruction or removal of the animal, the Animal Facility Supervisor or designee shall, if the animal was impounded and, if any required rabies observation quarantine period has been completed, return the animal to the owner upon payment of any fees due with the understanding that any muzzling or keeping within a sufficient enclosure order must be followed as long as the animal remains within the City.
- e) The owner of an animal may appeal a destruction or removal order to a court of competent jurisdiction within five (5) days of the decision of the Municipal Court. If the Municipal Judge receives written notice of the intent to appeal within five (5) days of the decision he or she shall suspend the destruction or removal order pending final determination of the court. If the filing of a petition in a court of competent jurisdiction within five (5) days of the order of destruction or removal perfects appeal, he or she shall suspend the destruction or removal pending the outcome of the appeal. In that event the owner will have forty-eight (48) hours' notice to pick up the animal if it was impounded and if any required rabies observation quarantine period has been completed and hold the animal pending the appeal. All fees due must be paid before the animal is released to the owner and the animal must be kept muzzled or within a sufficient enclosure if so ordered. Failure to claim the animal within forty-eight (48) hours will result in the execution of the removal or destruction order.
- f) In the event that any animal is discovered in violation of any removal or destruction order described in D above, the animal shall be immediately seized and humanely euthanized. If any animal is discovered in violation of any muzzling or keeping within a sufficient enclosure, the animal shall be seized and the person controlling such animal shall be prosecuted under the provisions of G below.
- g) It shall be unlawful for any person to harbor or keep on his or her premises or in or about premises under his or her control any vicious animal except as directed by this Chapter. Conviction of harboring a vicious animal in violation of this Chapter shall result in a fine.

h) No part of this Chapter shall preclude at any time the filing of complaint in the court of competent jurisdiction under the provisions of the State of Texas Dangerous Dog Act, Texas Health and Safety Code Chapter 822 as amended from time to time.

Section 91.16 Care of and Cruelty to Animals
Section 91.16 Care of and Cruelty to Animals

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a) Animal cruelty is a State law violation punishable by fine and or jail time in accordance with the Texas Penal Code. Animal Care Officials shall utilize the authority granted by Section 821.022 of the Texas Health and Safety Code as amended from time to time to seize and impound any animal that has been or is being cruelly treated. If the investigating Animal Care Officer has reason to believe that an animal has been or is being cruelly treated pending a hearing before any court on the issues of cruelty and disposition of the animal, the seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life of the animal or if it would unreasonably prolong the suffering of the animal needing immediate attention.

b) It shall be unlawful for an owner of an animal to neglect an animal and fail to provide that animal with humane care and treatment, including, but not limited to, access to an adequate supply of fresh air, species-specific food, fresh water, exercise, adequate facility, and with appropriate veterinary care when needed to prevent suffering.

c) It shall be the duty of the owner or keeper of each and every dog or cat kept in the City to have such dog or cat vaccinated against rabies by a licensed veterinarian by the time the animal is four (4) months of age and then according to the label recommendations of the approved rabies vaccine. It shall further be the duty of each owner or keeper to obtain a certificate from such veterinarian certifying that such animal has been vaccinated and produce that document for inspection by the Animal Control Officer when requested. If the vaccination document cannot or will not be produced by the owner or keeper of such animal the Animal Control Officer shall issue a citation for failure to comply with this section of this Chapter.

d) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, whether owned or un-owned, or cause, instigate, or permit any dog fight, cock fight, bull fight, or other combat between animals or between animals and humans.

e) No owner of an animal shall abandon such animal or, in case of impoundment by the Animal Control Officer, allow the animal to remain in the Animal Facility beyond a five (5) day maximum after notification of impoundment of such animal

f) It shall be unlawful for the owner of an animal or a person charged with custody or care of an animal to surgically alter an animal, including, but not limited to, ear cropping, ear tipping, tail docking, and dewclaw removal except when done by a licensed veterinarian.

g) Any person who as the operator of a motor vehicle strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the appropriate law enforcement agency. Failure to do so shall be a violation of this Chapter.

h) No person shall expose any known poisonous substance whether mixed with food or not so that the same shall be liable to be eaten by any animal.

i) No person shall transport or carry on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle and, if traveling in an unenclosed vehicle, including, but not limited to, convertibles, pickup trucks, jeeps, and flatbed trucks, the animal shall be confined by a vented container or cage or by chain, rope, or other device cross tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.

j) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Any Animal Care Officer or Police Officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is endangered, and said neglected or endangered animal shall be impounded.

k) No person shall place or set out steel jaw traps, spring traps with teeth, neck traps, or any type of trap with a holding mechanism designed to cut, slice, tear, or traumatize the entrapped prey unless the use of such traps is specifically deemed necessary by the Texas Parks and Wildlife Department or Director of Health for control of communicable Disease.

l) All animals shall be kept in a sanitary manner. Animal owners shall collect and dispose of animal waste deposited by his or her animals. No owner shall allow the accumulation of animal waste on any premises in a quantity sufficient to create an odor offensive to a person of normal sensibilities standing on adjacent property not owned by the subject animal's owner or which creates a condition conducive to the breeding of flies or other pests.

m) An animal owner or keeper shall not walk an animal without a leash or restraint or without otherwise having such animal under control and shall not guide or take animals onto the yards or driveways of property not owned, leased, or occupied by the animal owner for the purpose of allowing the animal to defecate but shall keep the animal in the public right-of-way and shall carry a container with implement for the sanitary removal of the animal's fecal matter from the public sidewalk and public right-of-way adjacent to any property with a structure or other improvements thereon.

n) All persons residing in the City who own dogs or cats must keep such dog or cat at the registered residential premises permanently occupied and inhabited by said animal's owner or a licensed kennel. It shall be unlawful for said owner to keep their animal at any other location within the City.

ARTICLE V SPAY OR NEUTER AND MICROCHIPING

~~Section 91.16 Mandatory spay or neuter and microchipping of unrestrained dogs and cats~~

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Section 91.17 Mandatory spay and neuter and microchipping of unrestrained dogs and cats

a) The owner of a dog or cat which has been impounded for being at large or creating a public nuisance shall have the animal spayed or neutered and microchipped within thirty (30) days following the animal's release from impoundment.

a)

1) The owner of a dog or cat required by subsection (a) to be spayed or neutered and microchipped shall submit to the Animal Services Department certification that the procedure was performed and the certification shall be made on a form provided by the Animal Services Department and signed by the veterinarian with license number who performed the procedure. The owner shall deliver the certification to the Animal Services Department no later than the 40th day following the animal's release from impoundment. If failure to do so the Animal Control Officer shall issue a citation to the known owner of the released animal for failure to have the animal sterilized and microchipped. The owner shall then contact the Municipal Court to arrange a court date, at which time proof of the sterilization and microchipping is to be submitted by the owner. If the court finds that the owner has complied with the sterilization and microchipping, the citation shall be dismissed and the owner shall pay any court or administrative fees to the Municipal Court Clerk.

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b) The Animal Control Authority is authorized to exempt an animal's owner from the requirements of subsection A if the owner proves to the satisfaction of the Animal Control Authority that the animal meets or met one (1) of the conditions specified in subsection E below.

c) The owner of a dog or cat required by subsection A to be spayed or neutered and microchipped shall submit to the Municipal Court certification that the procedure was performed, and the certification shall be signed by the veterinarian who performed the procedure.

d) Offenses

1. A person commits an offense if the person is the owner of the dog or cat required by subsection A to be spayed or neutered and microchipped and the person fails to have the animal spayed or neutered as required; and

2. A person commits an offense if the person is the owner of the dog or cat required by subsection A to be spayed or neutered and microchipped and the person fails to provide certification of the spay neuter procedure as required by subsection C;

e) In a prosecution for a violation of subsection D, it is an affirmative defense that:

1. At the time of the animal's impoundment:

a) the animal was registered with a national registry, sporting dog, livestock dog or working dog registry and the animal had not previously been impounded for being at large; or

b) the person was a member of a national breed club, local breed club, local all-breed club, or sporting or hunting club and the animal had not previously been impounded for being at large.

2. The animal was at large at the time of its impoundment due to fire or due to the criminal or negligent acts of a third party who was not residing at the animal owner's residence. At trial, evidence of a fire or the criminal or negligent acts of a third party may be presented in one (1) or more of the following manners:

- a) a certified copy of a City police or fire report verifying the incident;
 - b) the affidavit of City police or fire personnel with direct knowledge of the incident,
- or
- c) the testimony of City police or fire personnel with direct knowledge of the incident.
- f) Nothing in this section shall be construed as permitting spayed/neutered dogs to run at large.

~~Section 91.17 Authority to slay animals running at large~~
~~Section 91.18 Authority to slay animals running at large~~

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If any animal found running at large in violation of this Chapter cannot be safely taken up and impounded and / or causes threat to human life or other domestic animals, such animal may, if deemed necessary, be slain by any authorized Police Officer or Animal Control Officer.

ARTICLE VI RABIES CONTROL AND QUARANTINE

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~~Section 91.18 Enforcement~~
~~Section 91.19 Enforcement~~

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The civil and criminal provisions of this Chapter shall be enforced by the person or agencies designated by the City. It shall be a violation of this Chapter to interfere with an Animal Control Officer or an Animal Facility employee in the performance of his or her duties.

~~Section 91.19 Reports of exposure to rabies~~
~~Section 91.20 Reports of exposure to rabies~~

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a) Persons having knowledge of an animal bite or other attack on an individual that the person could reasonably foresee as capable of transmitting rabies or of an animal that the person suspects is rabid shall report the incident or animal to the City Police Department and/or the Animal Control Officer. This report shall include the name and address of any victim and of the owner of the animal, if known.

b) The owner of an animal that is reported to have bitten or to have attacked an individual or that the owner knows or suspects to have bitten or to have attacked an individual shall submit the animal for quarantine to the Animal Control Officer.

c) If a quarantined animal is found to be rabid, the Animal Control Authority will cause to have the animal humanely euthanized. If an animal dies or is euthanized while in quarantine,

the Animal Control Authority will cause to have the head or brain of the animal removed and submit it to the nearest Texas Department of Health Laboratory for testing.

d) If a quarantined animal is found to be free from rabies, the Animal Control Authority shall release it to the owner following the quarantine period and the payment of all required fees and costs.

e) The owner of an animal that is quarantined under this Chapter shall pay the City the cost of the quarantine and any other fees associated with the animal's care. The Animal Control Authority may sell and retain the proceeds, keep, or euthanize an animal that the owner or custodian does not take possession of on or before the seventh (7th) working day following the end of the quarantine period.

f) Immediately after acquiring knowledge that his or her animal has been bitten by a rabid animal, it shall be the duty of the owner or keeper to cause such animal to be given anti-rabies treatment and to impound such animal for a period of six (6) months in a place approved by the LRCA or to have the said animal humanely euthanized.

Section 91.20 Rabies vaccination

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Section 91.21 Rabies vaccination

a) It shall be unlawful for any person to own, keep, harbor, or have custody or control of a dog, cat, or domestic ferret that is four (4) months of age or older within the City unless such dog or cat is currently vaccinated against rabies by the injection of an approved USDA anti-rabies vaccine by the direct supervision of a licensed veterinarian.

b) Every owner of a dog or cat immunized against rabies as required herein shall procure a rabies vaccination certificate from the veterinarian administering the vaccine. Such certificate shall contain the following information:

1. owner's name, address and telephone number;
2. the species, sex, age, weight, predominant breed, and color of the vaccinated animal;
3. the vaccine type, producer, expiration date, and serial number;
4. the date the animal was vaccinated;
5. rabies tag number; and
6. veterinarian's signature and license number.

c) A veterinarian or person under the direct supervision of a veterinarian who vaccinates a dog, cat, or domestic ferret as required herein shall furnish the owner thereof with a metal tag bearing a number corresponding to the number placed on the certificate and with lettering showing immunization and the year thereof. This tag shall be attached to the properly fitted collar of the dog or cat for which it is issued and shall be worn at all times on the collar.

Section 91.21 Quarantine method and testing

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Section 91.22 Quarantine method and testing

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a) Animals involved in a biting or scratching incident for which an owner cannot be readily identified and or contacted expeditiously will be impounded. The animal shall be confined under positive control for ten (10) consecutive days (240 hours) after the time of the bite. The animal will be isolated from other animals or possible victims.

b) Every animal that has rabies or symptoms thereof or every animal that a person could reasonably suspect as having rabies or that bites any person within the City shall be impounded at once and held for observation and quarantined at an approved quarantine facility. The facilities must meet the minimum State Quarantine Facility Standards and will be subject to inspection by the Texas Department of Health.

c) The owner of any dog or cat that is reported to have rabies or symptoms thereof or to have been exposed to rabies or to have bitten any person within the City or that the owner knows or suspects to be rabid or to have attacked an individual shall submit such animal to the Animal Control Officer or the Animal Facility for a quarantine period often 10 consecutive days (240 hours) at the owner's expense. The ten-day observation period shall begin on the day of the bite incident. Any such animal must be immediately surrendered to the Animal Control Officer or Animal Facility. The owner may choose to have the animal quarantined for the ten (10) day period at any approved quarantine facility.

d) In the event the owner of such animal described in A or B refuses to surrender such animal on demand, such action shall constitute a misdemeanor and, upon conviction, be punishable by a fine. The Animal Control Officer may appeal to a Magistrate for a seizure warrant to seize the suspect animal to place it into quarantine.

e) The owner of an animal quarantined under this section shall pay the quarantine facility the reasonable cost of the quarantine and any other fees associated with the animal's care, including the charges for preparation and shipment of the animal head or brain if required to the nearest Texas Department of Health certified laboratory for rabies testing. If the owner chooses not to pay for quarantine, the animal shall be humanely euthanized and the brain submitted to the Texas Department of Health certified laboratory for rabies diagnosis at the owner's expense. All quarantine-related payment arrangements shall be at the discretion of the individual quarantine facility and the facility shall be responsible for the collection of money owed.

f) The following quarantine procedures shall be observed:

1. Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

2. A responsible person will observe the quarantined animal twice a day and will notify the LRCA if clinical signs of rabies appear.

3. At the discretion of the LRCA or his or her designee the un-owned animal may be humanely euthanized for rabies diagnosis prior to the end of the quarantine period.

4. The Animal Control Authority or his or her designee may require a written agreement by the owner or the custodian at the time of quarantine and the animal may be disposed of according to terms of such agreement.

5. If the biting animal cannot be maintained in secure quarantine or if the owner chooses not to pay for quarantine, the animal shall be humanely euthanized and the brain submitted to a Texas Department of Health certified laboratory for rabies diagnosis at the owner's expense.

g) Any animal quarantined at a certified quarantine facility shall be observed by a licensed veterinarian or Animal Control Officer or LRCA at least on the first and last days of the quarantine period. If it is determined that the animal has clinical signs of the disease of rabies the animal shall be humanely euthanized and the head or brain submitted for testing. If the Animal Control Officer, veterinarian, or LRCA determines that the animal does not exhibit the clinical signs of the disease of rabies, then the LRCA shall provide a form to the veterinarian for his or her signature certifying that the animal has been found to be free of the clinical signs of rabies at the end of the quarantine period. This form shall be returned to the LRCA at the end of the quarantine period.

h) The owner of the animal may request permission from the Animal Control Officer or LRCA for home quarantine if the following criteria can be met:

1. Secure facilities must be available at the home of the animal's owner and must be approved by the Animal Control Officer or the LRCA.

2. The animal is currently vaccinated against rabies and possesses a current City license tag.

3. The animal was not in violation of any laws or ordinance at the time of the incident.

4. The bite incident was a provoked attack.

5. A licensed veterinarian, Animal Control Officer or the LRCA must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the home quarantine period, the person having possession of the animal must notify the City veterinarian, Animal Control Officer, and LRCA. At the end of the quarantine period, the owner shall transport the animal by direct route to the veterinarian for final observation. Both observations by the veterinarian, Animal Control Officer, or the LRCA may be made at the location of the home quarantine if requested by the owner or required by the Animal Control Officer or the LRCA. The release from quarantine must be accomplished in writing.

6. It shall be unlawful to violate the provisions and conditions of the home quarantine as required by the Animal Control Officer. If the owner of the animal fails to abide by all provisions and conditions required by the Animal Control Officer when the quarantine was granted and the animal is found in violation of these conditions, the animal shall be immediately impounded and quarantined for the remainder of the observation period at an approved quarantine facility at the owner's expense.

a) No dog or cat shall be released from quarantine unless:

1. the owner has an unexpired rabies vaccination certificate and license for the animal;
or

2. the animal has been vaccinated against rabies by a licensed veterinarian and a license is obtained at owner's expense.

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

Section 91.22 Disposition of domestic animals exposed to rabies

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Section 91.23 Disposition of domestic animals exposed to rabies

a) Animals that have not been vaccinated and which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be humanely euthanized or, if sufficient justification for preserving the animal exists, the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and be given a booster vaccination during the third and eighth week of isolation. If the animal is under three (3) months of age at the time of the second vaccination, an additional booster should be given when the animal reaches three (3) months of age.

b) Currently vaccinated animals that have been bitten or otherwise significantly exposed to a rabid animal should be humanely euthanized or, if sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination immediately and placed in strict isolation for forty-five (45) days. These provisions apply only to domestic animals for which an approved rabies vaccination is available.

ARTICLE VII FOWL AND OTHER SMALL ANIMALS

Section 91.24 Domestic fowl animal limit and requirements.

a) A maximum number of six (6) chickens are allowed at a residence.

b) The owner must have adequate facilities to house the domestic fowls and ensure adequate sanitation. Domestic fowls must be kept in a coop and run that is at least twenty-four (24) square feet in size, or has at least (6) square feet of space per fowl, whichever is larger.

c) The domestic fowls must be kept housed or confined in a manner that does not allow them to create a nuisance.

d) Sanitation must be addressed in a manner that prevents the attraction of pests.

e) The domestic fowls must be kept in a coop and run not less than fifty (50) feet from any business or dwelling occupied by any person other than the owner. The facilities shall be subject to inspection by the department.

f) Roosters are prohibited.

~~Section 91.23 Stray~~
~~Section 91.25 Stray~~

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It shall be unlawful for any person keeping chickens, turkeys, geese, guineas, ducks, pigeons, or other fowl to permit or allow the same to run at large within the City. It shall be the duty of every person raising or keeping chickens, turkeys, ducks, geese, guineas, pigeons, or other fowl to keep them in pens, coops, or enclosures which shall be a distance of at least fifty (50) feet from every building structure other than the owner of such fowl used for sleeping, dining, or living, and shall be kept in a sanitary condition and shall also be kept in such a manner as will be reasonably calculated not to become offensive to neighbors or to the public.

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~~Section 91.24 Keeping of roosters prohibited~~
~~Section 91.26 Keeping of roosters prohibited~~

It shall be unlawful for any person to keep roosters within the corporate City limits.

~~Section 91.25 Keeping rabbits, guinea pigs, rats, etc.~~
~~Section 91.27 Keeping rabbits, guinea pigs, rats, etc.~~

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It shall be the duty of every person raising or keeping rabbits, guinea pigs, rats, mice, hamsters, and other small animals to keep such animals in pens, coops, or enclosures and such pens, coops, or enclosures a distance of at least twenty-five (25) feet from every building structure other than the owner of such small animals used for sleeping, dining or living and shall be kept in a sanitary condition and shall be kept in such a manner as will be reasonably calculated not to become offensive to neighbors or to the public.

~~Section 91.26 Keeping of venomous reptiles~~
~~Section 91.28 Keeping of venomous reptiles~~

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- 1) Permit Required: The owner of any venomous reptile must have the proper permit through Texas Parks and Wildlife. The owner must provide documentation to Animal Control Authority, who will verify the permit. The owner of any venomous reptile(s) must contact The City of Kirby Animal Services any time they receive a new venomous reptile or at the moment they become residents. This is for the health and safety of Kirby employees such as firefighters and EMS as well as their own safety.

- 2) Criminal Penalty: A person commits an offense if the person intentionally fails or refuses to produce a permit required under the subchapter. An offense under this section is a misdemeanor punishable by a fine of not more than \$500.

~~Section 91.27 Not applicable to authorized veterinary hospitals~~
~~Section 91.29 Not applicable to authorized veterinary hospitals~~

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This article shall not apply to authorized veterinary hospitals for the treatment of fowl and other small animals

ARTICLE VIII LIVESTOCK

~~Section 91.28 Estray~~

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~~Section 91.30 Estray~~

It shall be unlawful for the owner-keeper or person in charge of any livestock to allow said animal to be unrestrained or to allow or permit the same to run at large within the City. Horses, ponies, mules, donkeys and cattle shall be kept in a stable, shed, pen, or other enclosure, wherever located within the City, which shall be a distance of at least two hundred (200) feet and all other livestock shall be a minimum distance of one thousand (1,000) feet from every building structure other than the owner of such livestock used for sleeping, dining, and living and shall be kept in such a manner as will be reasonably calculated not to be offensive to neighbors or to the public.

~~Section 91.29 Impounding~~

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~~Section 92.31 Impounding~~

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The Animal Control Officer shall take up or cause to be taken up any such animal found to be at large or stray within the City and shall impound any such animal in a suitable place provided for that purpose. Procedures for the Texas Agriculture Code Estray Act as amended from time to time shall be followed. A copy of this Act and procedures can be obtained at the Animal Facility.

~~Section 91.30 Care of livestock animals~~

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~~Section 92.32 Care of livestock animals~~

- a) It shall be unlawful for any person to abandon or torture a livestock animal, to seriously overwork an animal, or to transport or confine a livestock animal in a cruel manner.
- b) Persons owning or caring for livestock must provide necessary food, water, care, and for a livestock animal.
- b) It shall be unlawful for any person to stake any livestock for the purpose of grazing upon or within the reach of any public street, alley, sidewalk, or park within the limits of the City of Kirby.

ARTICLE IX WILD ANIMALS AND PERFORMING ANIMAL EXHIBITIONS

~~Section 91.31 Keeping of wild non domesticated animals~~

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~~Section 91.33 Keeping of wild non domesticated animals~~

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No person shall keep or permit to be kept on his or her premises any wild or vicious animal as a pet, for display or exhibition purposes whether gratuitously or for a fee. This section shall not apply to zoological parks, performing animal exhibitions, circuses and veterinary hospitals.

- a) No person shall keep or permit to be kept any wild animal

b) Only the Texas Parks and Wildlife Department Office may give written permission for the keeping, care and protection of an infant animal native to this area that has been deemed to be orphaned.

c) The Texas Parks and Wildlife Department Office shall have the power to release or order the release of any infant wild animal kept which is deemed capable of survival.

Section 91.32 Performing animal exhibitions

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Section 91.34 Performing animal exhibitions

No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering.

ARTICLE X SPECIAL PROVISIONS

Section 91.33 Enforcement

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Section 91.35 Enforcement

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The civil and criminal provisions of this Chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this Chapter to interfere with an Animal Control Officer or an Animal Facility employee in the performance of his or her duties.

Section 91.34 Penalty

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Section 91.36 Penalty

a) Any person who shall violate any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined an amount in accordance with Section 10.99 of the Code of Ordinances of the City. Each and every day of such violation shall be deemed a separate offense.

b) A judge who has jurisdiction of the offense at his or her discretion may dismiss a rabies vaccination violation or a registration license violation if the defendant remedies the charge defect within ten (10) working days of the date of citation upon the assessment by the judge and payment by the defendant of an administrative fee for dismissal of the violation.

Section 91.35 Advisory Committee duties

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Section 91.37 Advisory Committee duties

a) The Kirby Animal Advisory Committee shall consist of four (4) members appointed by the City Council. The members of this Committee shall include a licensed veterinarian, a municipal official, a shelter employee and one member of an animal welfare organization.

b) The Advisory Committee shall meet at least three (3) times a year and shall assist in complying with the requirements of State and local laws.

c) The Advisory Committee shall visit the Animal Shelter at times selected by the Committee and make recommendations to the City Manager concerning animal services and facility operating procedures.

Section 91.36 City Veterinarian duties

Section 91.38 City Veterinarian duties

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It shall be the responsibility of the City's contracted Veterinarian to inspect the Animal Facility at least once a year. The Veterinarian will file a written report to the City Manager and the Texas Department of Health. The report must include all conditions of the Facility, care of animals, structure and contents and inspection of records as required by the Texas Health and Safety Code as amended from time to time.

ARTICLE XI ANIMAL FACILITY OPERATIONS

Section 91.37 Monthly reports of Animal Facility

Section 91.39 Monthly reports of animal facility

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It shall be the duty of the Animal Services Department to report in writing monthly the total number of animals impounded and or quarantined, the total number of animals redeemed or sold to private parties and the total number of animals humanely disposed of under the provisions of this Chapter.

Section 91.38 Fee deposits

Section 91.40 Fee deposits

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It shall be the duty of the Animal Services Department to pay or cause to be paid all money collected by him or her under the terms of this Chapter to the City.

Section 91.39 Reclaiming before adoption

Section 91.41 Reclaiming before adoption

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The owner of any impounded animal under this Article may reclaim the same from the Animal Facility at any time before adoption by paying all fees, fines and expenses of taking up and keeping such animal.

Section 91.40 Records

Section 91.42 Records

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The Animal Services Department shall keep a computer record in which he or she shall record a description of all animals impounded under this Article which shall include the date of impoundment, the date and the amount realized from the adoption, the fees and expenses due for impounding and keeping same, the name of the owner if known and the name of the adopter.

ARTICLE XII ADOPTION

Section 91.41 Inoculation and sterilization of adopted animals

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Section 91.43 Inoculation and sterilization of adopted animals

All dogs and cats adopted from the Animal Facility shall be inoculated according to age and sterilized before adoption. The following shall be included in each adoption:

a) Dogs shall receive at least one dose as recommended by Veterinarian, to include distemper, hepatitis, adenovirus, parainfluenza, parvovirus, bordatella, and rabies according to age requirements.

b) Cats shall receive at least one dose as recommended by a veterinarian, to include rhinotracheitis, calicivirus, panleukopenia, chlamydia psittacine, and rabies according to age requirements.

No unclaimed dog or cat shall be released for adoption from the Animal Facility without being sterilized or without written agreement from an adopter guaranteeing that such animal will be sterilized within thirty (30) days for adult animals and by the date an adopted infant female or infant male becomes six months old.

Section 91.42 Examination by veterinarian and diagnostic testing

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Section 91.44 Examination by veterinarian and diagnostic testing

A veterinarian shall examine all animals adopted from the Animal Facility for health conditions prior to adoption. Dogs older than six (6) months shall be tested for heartworms and, if positive, treated prior to adoption. All cats shall be tested for Feline AIDS and Leukemia. Any known health conditions shall be disclosed to the adopter. Animals other than dogs and cats shall receive inoculations or other medical treatment as recommended by a veterinarian prior to adoption.

Section 91.43 Medical treatment by veterinarian

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Section 91.45 Medical treatment by veterinarian

All animals adopted shall be treated for any known medical conditions prior to being adopted. Any impounded animal with a known medical condition shall be treated as recommended by a veterinarian to prevent suffering.

Section 91.44 Fees passed on

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Section 91.46 Fees passed on

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All costs, debts, and/or fees created by this Article shall be passed on to the adopter and must be paid prior to receiving custody of the animal.

Section 91.45 Adoptions

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Section 91.47 Adoptions

Should the adoption not work out due to behavioral or other problems the adopted animal can be returned to the Animal Shelter but no money shall be refunded unless a written statement from a veterinarian is provided by the adopter showing cause that the adopted animal is unhealthy within fourteen (14) days of the adoption.

91.48 Return of captured animal to owner.

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In addition to issuance of a citation, the animal care officer may return an animal found at large to the known owner.

The owner may redeem an impounded animal during normal business hours by paying the impoundment fee, boarding fees, sterilization fees if any, and vaccination fees. If required by law for the subject species, proof of valid current rabies vaccination will be required upon release. If an owner fails to provide proof of valid current rabies vaccination prior to release, the owner shall provide proof of rabies vaccination within (3) business days upon the release of the animal.

Section 91.46 Sterilization agreement

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Section 91.49 Sterilization agreement

The City shall not release an adopted animal from its custody without the animal first being sterilized, except in cases of medical necessity or when age restrictions prohibit sterilization of the animal prior to being released from the shelter. In these cases, the City shall require the adopter to sign a Sterilization Agreement to have the animal altered within thirty (30) days of adoption or by the time the animal reaches six (6) months of age, or within the appropriate time-frame created by the City Veterinarian or the Animal Services Department. This does not apply to 501(c) 3 Rescue Organizations.

a) The sterilization agreement will contain the following:

1. date of the agreement;
2. name and address of releasing agency;
3. name, address, date of birth, and driver's license/ID number of the adopter;
4. a description of the animal to be adopted;
5. the sterilization due date, and

6. a statement printed in conspicuous bold print that sterilization of the animal is required under Texas Health and Safety Code Chapter 828 as amended from time to time and that a violation of the agreement is a criminal offense punishable as a Class C misdemeanor.

b) The completion date in the sterilization agreement must be:

1. the thirtieth (30th) day after the date of adoption in the case of an adult animal, or
2. by the date an adopted infant male or female becomes six (6) months old; or
3. within the appropriate time frame recommended by treating veterinarian.

Section 91.47 Sterilization required

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Section 91.50 Sterilization required

a) Except as provided for by this section, a new owner who signs an agreement under Section 91.47 shall have the adopted animal sterilized on or before the sterilization completion date stated in the agreement.

b) If the sterilization completion date falls on a Saturday, Sunday or legal holiday the deadline is extended to the next day thereafter that is not a Saturday, Sunday or legal holiday.

c) A releasing agency may extend the deadline for (30) thirty days on presentation of a written report from a licensed veterinarian stating that the life or health of the adopted animal may be jeopardized by surgery. There is no limit on the number of extensions that may be granted under this subsection.

Section 91.48 Confirmation of sterilization

Section 91.51 Confirmation of sterilization

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a) Each new owner who signs a sterilization agreement under Section 91.47 shall deliver to the agency from which the animal was adopted a letter signed by the veterinarian who performed the surgery.

b) The letter must be delivered in person or by mail not later than the seventh (7th) day after the date on which the animal was sterilized.

c) The letter must state that the animal has been sterilized, briefly describe the animal, and provide the date of sterilization.

Section 91.49 Letter concerning animal's death

Section 91.52 Letter concerning animal's death

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a) If an adopted animal dies on or before the sterilization completion date agreed to under Section 91.47, the new owner shall deliver to the releasing agency a signed letter stating that the animal is dead.

b) The letter must be delivered not later than the seventh (7th) day after the date of the animal's death and must describe the cause of death, if known, and provide the date of death.

c) Falsifying a letter concerning an animal's death will be considered a violation of this section and the owner will be fined for failure to have their animal sterilized.

Section 91.50 Letter concerning lost or stolen animal

Section 91.53 Letter concerning lost or stolen animal

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a) If an adopted animal is lost or stolen before the sterilization completion date agreed to under Section 91.47, the new owner shall deliver to the releasing agency a signed letter stating that the animal is lost or stolen.

b) The letter must be delivered not later than the seventh (7th) day after the date of the animal's disappearance and must describe the circumstances surrounding the disappearance and provide the approximate date of the disappearance.

c) Falsifying a letter concerning an animal's death will be considered a violation of this section and the owner will be fined for failure to have their animal sterilized.

Section 91.51 Notice of failure to receive letter

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Section 91.54 Notice of failure to receive letter

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a) A releasing agency that does not receive a letter under Section 91.49, 91.50, or 19.51 before the expiration of the seventh (7th) day after the sterilization completion date agreed to under Section 91.47 shall cause a complaint to be filed against the new owner. It is a presumption under this law that the failure of the new owner to deliver to the releasing agency a signed letter required under Section 91.49, 91.50, or 19.51 is the result of the new owner's refusal to have the adopted animal sterilized. The new owner may rebut this presumption at the time of the hearing with the proof required under the above-mentioned sections.

b) A releasing agency that does not receive a letter under Section 91.49, 91.50, or 19.51 after the expiration of the seventh (7th) day after the sterilization completion date agreed to under Section 91.47 may promptly reclaim the animal from the new owner.

c) A person may not prevent, obstruct, or interfere with the right to reclaim an animal under this section.

d) In the event of such reclamation, the City shall have no obligation to repay fees previously paid pursuant to this Chapter.

ARTICLE XIII FEE SCHEDULE

Section 91.52 Schedule of Fees (See Exhibit A)

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Section 91.55 Schedule of fees (See Exhibit A)

PASSED AND APPROVED on first reading on the 13th day of February, 2020.

PASSED, APPROVED, AND ADOPTED on second reading on the 25th day of May, 2020.

CITY OF KIRBY

Lisa B. Pierce, Mayor Kimberly Aldridge, Mayor

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ATTEST:

Patty Cox, City Secretary

**EXHIBIT A
FEE SCHEDULE
ANIMAL AND FOWL**

1) Microchip \$ 10.00

2) Permits. A permit shall be issued after payment of the applicable fee:

a) Kennel authorized to house 10 or less dogs or cats	\$ 25.00
b) Kennel authorized to house more than 10 but less than 50	\$ 75.00
c) Kennel authorized to house 50 or more dogs or cats	\$150.00
d) Pet Shop or Riding Stable	\$100.00
e) Grooming Shop	\$ 30.00
f) Auction	\$100.00
g) Animal exhibition/circus	\$100.00
h) Zoological Park	\$200.00
i) Guard Dog Training Center	\$200.00
j) Obedience Training Center	\$ 50.00
k) Commercial Establishment using a Guard Dog	\$ 30.00
l) Temporary Permit (not to exceed 3 days)	\$ 15.00
m) Dangerous Dog Permit (deemed by the Judge)	\$200.00

3) Impoundment Fee. An impoundment fee must be paid for each captured animal:

Dog or cat (1 st offense)	\$ 45.00
Dog or cat (2 nd offense during 12 month period)	\$ 55.00
Dog or cat (3 rd offense in a 12 month period)	\$ 65.00
Dog or cat (4 th offense and each subsequent)	\$ 85.00
Fowl or other small animal	\$ 15.00
Livestock	\$ 75.00
Zoological/Circus animal	\$200.00

4) Boarding Fee. In addition to the impoundment fee a boarding fee must be paid for each animal:

Dog or cat (per day)	\$ 10.00
Fowl or other small animal (per day)	\$ 5.00
Livestock (per day)	\$ 25.00
Zoological/Circus animal (per day)	\$100.00

5) Charge for vaccines given / diagnostic tests performed:

DAPPV	\$ 10.00
Bordatella	\$ 10.00
FVRCP	\$ 10.00
Rabies	\$ 20.00
Heartworm Test	\$ 25.00
FIV/FelV Test	\$ 25.00

The owner shall reimburse the City for all additional veterinary expenses incurred as a result of their animal's impoundment.

6) Surrender Fee. (per animal):

Dog or cat	\$ 125.00
Litter** (3 or more dogs or cats under 3 months of age)	\$ 125.00
Small animal, bird, reptile	\$ 10.00
Livestock	\$ 75.00
Circus/Zoological	\$ 200.00

**Any litters of dogs or cats over 3 months of age shall be charged \$35.00 per animal as these animals will require additional vaccinations that the litter fee will not cover.

7) Rabies Quarantine impoundment fee \$50.00 per animal plus \$13.00 per day for boarding. If a rabies vaccine and City license are required for the animal, then \$20.00 for the rabies vaccination and the appropriate charge for the City license will be added to the final cost. Owners of quarantined animals may opt to have their animal quarantined at any DSHS-approved quarantine facility, but must provide proof of the quarantine the outcome to the City.

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Head Removal/Submission (if an owner chooses not to quarantine)	\$125.00
Lab submission fees	\$40.00
Head removal fees	\$50.00
Euthanasia fees	\$15.00
Body disposal fees	\$20.00

8) Adoption Fee. (per animal):

Dog	\$ 125.00
Cat	\$ 80.00
Fowl or small animal	\$ Free
Swine	\$ Free

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. i.

8. Discussion And Possible Action

Discussion And Possible Action On Ordinance No. O-2022-916; Authorizing The Use Of Parks And Recreation Areas Owned And Controlled By The City Of Kirby; Regulating Possession And Consumption Of Alcoholic Beverages In Such Parks; Stating The Policies And Regulations Governing The Use Of Such Park, Establishing A Curfew For Parks Usage. This Is The Second Reading.

The first reading was approved on August 25th. A copy is included.

AN ORDINANCE REPEALING AND
ORDINANCE NO. O-2008-652;
AUTHORIZING THE USE OF PARKS AND
RECREATION AREAS OWNED AND
CONTROLLED BY THE CITY OF KIRBY;
REGULATING POSSESSION AND
CONSUMPTION OF ALCOHOLIC
BEVERAGES IN SUCH PARKS; STATING
THE POLICIES AND REGULATIONS
GOVERNING THE USE OF SUCH PARK,
ESTABLISHING A CURFEW FOR PARK
USAGE; AND PROVIDING A PENALTY FOR
VIOLATION OF THIS ORDINANCE

WHEREAS, the City Council of the City of Kirby, Texas, finds a need for guidelines concerning the use of public parks and recreational areas, the swimming pool, ball fields and picnic areas; and

WHEREAS, it is hereby declared to be the policy of the City of Kirby to provide, improve and maintain together with suitable recreational facilities therein, city parks, for the use and benefit of the public, and in connection therewith to fix and collect such reasonable charges as the governing body shall deem fit for the use of such facilities by members of the public; and

WHEREAS, there is a need to establish that no alcoholic beverages be permitted in or consumed within the pool area, except it may be consumed elsewhere in city parks or facilities during normal hours; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirby that:

SECTION 1. HOURS OF CLOSING

All City Parks will be closed between the hours of 11:00PM and 8:00AM with the exception of the John Sterling Building which must be vacated by 12:00AM. It shall be unlawful for any person or persons to occupy or use any parts of the parks or facilities therein during said closed hours. Provided however, it shall be unlawful for any person or persons to use the parks or facilities therein during said hours without prior written permission, said permission to be considered only for the following uses:

1. For large groups, special use activities, such as fairs, etc, when approved by the City Manager.
2. For special activities, i.e. scouting groups, when approved by the City Manager.
3. For other presently unforeseen special events, when approved by the City

Manager and only when such permission would not constitute a nuisance to residences adjacent to any park and recreational area.

SECTION 2. REGULATIONS AND FEES FOR OBTAINING RESERVATIONS

A. REGULATIONS:

1. Lease agreements will be made with a minimum of 72 hours notice by adults only and in person.
2. Renters will be responsible for the clean-up of the park area or facility used.
3. Reservation must be made with the City of Kirby if party exceeds 25 people under the large pavilion area at Friendship Park and Hugo Lentz Park.
4. City Administration will notify the Police Department and the Public Works Department of date, time, and type of reservation.
5. Gambling. The only games permitted are those which have merchandise prizes. (Absolutely no gambling permitted.)
6. Renters will be required to engage at their expense duly sworn peace officers (Arrangement for officers will be appointed by the Chief of Police or his/her designee or other certified law enforcement personnel approved by the Chief of Police.) to maintain order and help with parking. The number of peace officers required shall be in accordance with the Fee Schedule.
7. Rules, policies, and fees for utilization of the baseball/softball areas are outlined in Exhibit "A".
8. Any activity where alcoholic beverages are to be sold must have a permit from the Texas Alcohol and Beverage Commission (TABC) and said permit shall be visibly displayed at the location where the alcoholic beverages are sold. No alcoholic beverages will be sold to, consumed by or in the possession of minors.

B. FEES:

A deposit will be required from all renters at the time said agreement is granted. Said deposit will be refunded if the City Manager's office determines that the area is left in a clean and orderly manner. The amount of the deposit is as outlined in the separate Fee Schedule listed under Public Notices. A non-refundable usage fee will be charged as noted in the Fee Schedule. The Fee Schedule, approved by City Council annually, can be viewed and/or requested at City Hall and the City of Kirby website.

All fees must be paid up front in order to lock in a reservation. The City is not able to "hold" dates and times for renters. All park and pool rentals must be paid for, without exception. This applies to the mayor, members of city council, city employees, and citizens alike, unless it is a city event sanctioned and approved by city council.

SECTION 3. In consideration of neighboring residents, volume from musical instruments or PA systems must be kept reasonable. All activity, music and PA systems must be turned off at 11:00PM and the park vacated by 12:00AM. Exceptions to this rule must be approved by the City Manager.

SECTION 4. No motorized vehicles, with the exception of maintenance or emergency vehicles, will be allowed in any part of the park, except in designated parking areas. Bicycles and skateboards are hereby prohibited from park pavilions and ballfields. Dirt motorcycles, four wheelers, go-carts and other recreational vehicles are prohibited in city parks; any exceptions to this rule must be approved by the City Manager.

SECTION 5. Horses and other livestock are hereby prohibited in the park, unless in conjunction with a special function approved by the City Manager. The City of Kirby has an animal control ordinance that will be enforced. Pets should be on a leash at all times. In addition, all pet owners will be responsible for clean-up of their pet.

SECTION 6. Each facility should be used only for the purpose it was intended, unless prior approval is granted by the City Manager. Ex. The ballfields should be used for ballgames and practices. The pavilion should be used for picnics, birthday parties and other similar uses.

SECTION 7. Glass containers are hereby prohibited from city parks and the swimming pool.

SECTION 8. *Littering.* No person shall litter in any city park. Littering as used in this ordinance means the discarding of garbage, paper, cans and other forms of refuse in any place other than officially designated refuse containers or disposal units.

SECTION 9. All groups under the age of 17 must have proper adult supervision in attendance at all times during the gathering at the discretion of officer on duty or the Chief of Police.

SECTION 10. Any person, firm, or corporation violating the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in a sum not to exceed Five Hundred Dollars (\$500.00).

SECTION 11. If for any reason any section, paragraph, subdivision, clause, phrase or provision of this or any other ordinance shall be held invalid, it shall not affect any valid provisions of this or any other ordinance of the City of Kirby to which these rules and regulations relate. This ordinance repeals Ordinance No. O-2014-749.

PASSED AND APPROVED for the first reading this the 10th day of May 2018.

PASSED AND APPROVED for the second reading this the 24th day of May 2018.

Lisa B. Pierce, Mayor

Patty Cox, TRMC
City Secretary

EXHIBIT "A"

REGULATIONS APPLICABLE FOR THE UTILIZATION OF THE BASEBALL/SOFTBALL AREAS IN FRIENDSHIP PARK

1. RESERVATION OF FIELDS:

Baseball/softball areas, hereafter referred to as ballfields, will be available to the public on a "first come" basis except as follows:

a. Two types of agreements may be entered into under these regulations:

- Annual – One year agreement approved by the City Council for use of the ballfields on specific days/times. Financial reports must be submitted with the application or previous contract two months prior to being placed on the agenda for council approval.
- Tournament – Agreement approved by the City Manager for the purpose of conducting a tournament on specific days/times, not to be utilized for more than two (2) consecutive weekends.

b. Organized leagues sponsored by organizations from Kirby will have first priority on the use of ballfields as outlined by schedules approved by and on file with the City Manager or the City Manager's designee.

c. Organizations desiring use of a field or fields will be required to submit game and practice schedules to the City Manager or the City Manager's designee for review and approval.

d. Whenever league schedules conflict (e.g. different local organizations request use of fields for the same time period), the City Manager or the City Manager's designee will contact the affected organizations and work out a mutual agreement.

e. Organizations or individuals without proper documentation may be asked to vacate the ballfields.

f. When fields are not reserved, they are open to the public except when City personnel are working or preparing to work on the fields.

g. Persons or organizations not holding field reservations must relinquish to reservation holders.

2. FIELD CHARGES FOR ORGANIZED LOCAL LEAGUES

Groups, leagues, individuals and organizations may make agreements in the form of

annual contracts with the city, to be approved by the City Council.

Groups, leagues, individuals and organizations will be assessed a single use fee per the Fee Schedule found under Public Notices. Tournament or single use shall be understood to be no more than two (2) consecutive weekends of use.

Groups, leagues, individuals and organizations must:

- provide necessary field equipment (i.e. home plate, pitching plate, chalk, chalker, etc.)
- Leagues provide daily conditioning of playing area (i.e. keep infield smooth and clean, etc).
- Leagues maintain parking area and field complex, to be cleaned after each day's use.

3. RESERVATION REQUEST PROCEDURES

All groups, leagues, individuals, or organizations wishing to use the fields for individual practice or play, league play, or tournament play, must submit a written request to the City Manager or the City Manager's designee outlining prescribed times listed within this ordinance. The following information must also be provided:

- a. Individual, group, organization, and type of agreement requested (Annual or Tournament).
- b. Name of League (if applicable).
- c. Name, address, phone numbers of all league representatives.
- d. Number of teams and players in league.
- e. Date of season or tournament.
- f. Number and type of games that will be played on each field.
- g. Number of fields required.
- h. Schedule of dates and time of games.
- i. Leagues must provide the City Manager or the City Manager's designee a copy of their liability insurance policy before an agreement will be considered.

4. PAYMENT PROCEDURES

Payment in full is due to the City of Kirby for Annual agreements upon approval by the City Council. Payment for Tournament agreements is due upon approval by the City Manager.

The deadline for canceling Tournament reservations without forfeiture of the reservation fee is 48 hours prior to reserved day or time. Team or tournament representative must have a copy of the agreement "in hand" during reservation. If games are rained out, the fee will be refunded on a pro-rated basis for games that have not been played, provided that the City Manager or the City Manager's designee is notified the next business day.

5. ADVERTISING SIGNS

Local leagues may install commercial advertising signs on the outfield fence during the scheduled league season. However, signs must be secured in such a manner as not to endanger players or create a condition harmful to users of fields. In addition, when signs become damaged or unsuitable (as determined by the City Manager or the City Manager's designee) for their advertisement value because of weather or other conditions, they shall be replaced or removed. Signs must be removed from the fence at the end of each season.

Advertising that promotes the individual leagues (GNELL, Spartans, etc.) shall incur a charge to be determined, agreed upon, and voted by City Council.

The City of Kirby reserves the right to make use of any unused signage areas along the outfield fence to enhance park revenues that will aid in maintaining other areas of the park. Advertising fees for the league would be determined through the annual contract and approved by council.

Tournament groups (limited to one or two consecutive weekends) who have sponsorship will be allowed to post the sponsor signs during the duration of their event at no charge.

6. RESERVED RIGHTS

The City of Kirby reserves the right to adjust schedules submitted for approval to provide equal participation of and use of ballfields. (i.e., Reserving one field one night for an adult league, etc)

8. INSURANCE REQUIREMENTS

Insurance and Indemnification: As a condition precedent to the use of the permission granted, Renter agrees to indemnify and hold harmless City, its officials, employees, and agents from and against any and all costs, claims, and damages (including attorney's fees) that may be caused by the use of said property, and shall protect and indemnify City from any and all claims costs, expenses, judgments, and causes of action arising out of the use of said property, and shall defend any litigation arising in connection with such use at its own cost and expense. In addition, Renter agrees to obtain an insurance policy protecting City from any liability and to have City named as co-insured in said policy. Such policy shall be for not less than \$500,000.00 per person for bodily injuries and \$1,000,000.00 per

occurrence and \$50,000.00 for property damages and proof of payment of premium for said policy (or said policy) shall be delivered to and kept by the City Manager or the City Manager's designee and such insurance policy shall be maintained in full force so long as this agreement is in effect.

PARKS AND FACILITIES CLEANING GUIDELINES

Renters will be responsible for the following:

Litter: All paper products, food, etc. must be picked up and placed in a trash receptacle.

Tables, Chairs and Benches: Must be cleaned of litter and wiped off to rid them of spilled drinks and food.

Restrooms: All paper products must be placed in a trash receptacle.

Kitchen: Countertops and appliances must be wiped off to rid them of spillage.

Air/Heat: Must be turned off before vacating the building.

Keys: Must be returned to City Hall by 5:00PM the next business day.

<input checked="" type="checkbox"/>	DISCUSSION AND POSSIBLE ACTION ITEMS
<input type="checkbox"/>	SPECIAL CONSIDERATION
<input type="checkbox"/>	CONSENT AGENDA
<input type="checkbox"/>	PUBLIC HEARING
<input type="checkbox"/>	PRESENTATION
<input type="checkbox"/>	WORKSHOP

**CITY OF KIRBY
CITY COUNCIL MEETING
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. j.

8. Discussion And Possible Action

Discussion And Possible Action To Appoint A Member To The Planning And Zoning
Commission For A Term That Expires August 2024.

There is currently are two vacancies. A roster is included.

PLANNING & ZONING COMMISSION
Terms of Office

Clay McBee	TERM Expires August 2023
VACANT	TERM Expires August 2024
Julie Hinojosa	TERM Expires August 2023
Alexandra D. Ebert	TERM Expires August 2024
VACANT	TERM Expires August 2024
Council Liaison:	
(Council Liaison Mayor Kim Aldrich)	

(SEPTEMBER 2022)

<u> X </u>	DISCUSSION AND POSSIBLE ACTION ITEMS
<u> </u>	SPECIAL CONSIDERATION
<u> </u>	CONSENT AGENDA
<u> </u>	PUBLIC HEARING
<u> </u>	PRESENTATION
<u> </u>	WORKSHOP

**C I T Y O F K I R B Y
C I T Y C O U N C I L M E E T I N G
A G E N D A I T E M S U M M A R Y**

DATE: SEPTEMBER 8, 2022

AGENDA ITEM: 8. k.

8. Discussion And Possible Action

Discussion And Possible Action On A Request For The City To Allow Use Of
Friendship Park For The Juventud Que Adora Texas on October 31, 2022

Mr. Gonzalez is requesting to host this event in Friendship Park. He is prepared to pay the fees. He will be in attendance to answer questions.

Tracy Miller

From: Robert Gonzalez
Sent: Monday, August 29, 2022 4:33 PM
To: Tracy Miller
Cc:
Subject: 31 Oct 2022 Night of Worship - Juventud Que Adora Texas
Attachments: IMG_3104 (1).JPG; FB1181C4-B884-437B-956D-4FA06DD27011.JPEG

Tracy,

It was a pleasure to meet and speak with you last week, I appreciate the insight and coaching as we present this great event to the Kirby City Council. I have included my Pastors in the CC line.

Here is a synopsis of the event:

There's nothing God's people need more than His presence and to spend uninterrupted time with Him can bring much needed refreshment. Our youth are the leaders of tomorrow, they have a great impact on what the next generation of society will be - they are the next generation! Investing in today's youth is necessary in growing the body of Christ. Teaching young people in the church to grow in their relationship with the Lord prepares them to serve Christ in all they do.

The goal of this gathering at Friendship Park isn't simply to have church. It's not simply to sing songs or have an emotional evening. The goal of any gathering is the glory of God.

Have you ever wished you could devote an entire service to worshiping God through music, song, and other expressions of worship? This worship night at Friendship Park will allow our Christian youth to have a special time where they can have a bit more freedom without the constraints of what is required of a typical Saturday/Sunday church service.

Every year Iglesia Impacto de Amor youth Christian ministry Juventud Que Adora hosts a "Luz Entre La Tinieblas Night of Worship" event, attached are photos and flyers. These are times when Christian youth from San Antonio and the surrounding area gather as a church and have extended times of music, singing, prayer, and praise. Our worship nights will have a short sermon, but they tend to be more expressive, the music tends to be a bit louder and fuller, and the interaction with the congregation seems to increase dramatically.

We're referring to our "Night of Worship" as a gathering focused around the musical aspects of worship.

We thank you in advance for your time and the opportunity to allow our Christian youth ministry impact the community in a positive manner.

Best Regards,

Robert (Rob) Gonzalez

Sr. Director of Government Business Development
SGM U.S. Army Retired

Power Breezer knowledge site



Total Control Panel

Login

To: tmiller@cityofkirby.org

Message Score: 30

High (60): Pass

From: rgonzalez@powerbreezer.com

My Spam Blocking Level: Custom

Medium (75): Pass

Low (90): Pass

Block this sender

Custom (45): Pass

Block [powerbreezer.com](mailto:rgonzalez@powerbreezer.com)

This message was delivered because the content filter score did not exceed your filter level.

MONDAY
31
OCTOBER



Luz Entre Tinieblas



7 PM

FRIENDSHIP PARK
5745 Binz Engleman Rd.
Kirby, Tx 78244

JUVENTUD QUE ADORA

“LUZ ENTRE LAS TINIEBLAS”

¡Noche de Adoración!

31 DE OCTUBRE DEL 2021

A LAS 7:30PM

Iglesia Piedras Preciosas del Reino
10208 Culebra Road
San Antonio, Texas

CITY OF KIRBY
PARK LEASE AGREEMENT

ORDINANCE # O-2014-749

I, ROBERT GONZALEZ, (Name of Park User)
have read and agree to abide by the regulations stated in this agreement. I
understand that violation of certain of these regulations may result in:

- (1) loss of my deposit,
- (2) a citation being issued for violation of a City Ordinance, and
- (3) prohibition on future usage of the City Park by myself and/or my group organization.

RSB
SIGNATURE OF USER

DELICIOUS BLUE APPRA
NAME OF GROUP

31 OCT 2022
DATE OF USAGE

RSB
CITY AUTHORIZATION

150
EXPECTED NUMBER OF PEOPLE

FS Park Pavilion
FACILITY TO BE USED

Is the Following Required?

☐ Lights
☒ Security/Life Guards
☐ Keys

ADDRESS

CITY STATE ZIP

PHONE NUMBER

FACILITY DEPOSIT \$150.00
*PAVILION RENTAL \$135.00
BASEBALL FIELD RENTAL _____
ELECT (PAV) _____ (BB) _____
*POOL/ JOHN STERLING RENTAL _____

Total \$285.00

DEPOSIT RECEIPT # _____

*USAGE RECEIPT # _____

* USAGE FEE IS NON-REFUNDABLE.

Per Ordinance No. O-2014-749

- 1) Renter will be responsible for asking people to leave once the maximum expected amount of people has been reached. me
- 2) Additional officers will be brought in at additional expense to the renter if more people show up, or if a non-alcohol function becomes an alcohol function. me
- 3) Officer will be allowed to force an early shut down to the party if the renter will not comply with items 1 and 2. me
- 4) No Balloons me

BE SURE TO PICK UP THE KEY ON
_____ AFTER 3:00 P.M.

Rental Hours: 5-10

Alcoholic Beverages: Y or N

If Yes, Officer's Badge Number: _____

Deposit Refunded: Y or N

RSB
Signature of User

FEES

Deposit Fees

A deposit of \$150.00 will be required from all Park and Facility renters at the time said application is granted. Said deposit will be refunded if the City Manager's office determines that the area was let in a clean and orderly condition. Deposits not picked up 60 days after an event will be forfeited by the renter. A non-refundable usage fee will be charges as listed below.

USAGE FEE

	<u>Resident of Kirby Rate</u>	<u>Non-resident of Kirby Rate</u>
Friendship Park	\$75.00 for the first hour \$10.00 for each additional hour	\$75.00 for the first hour \$15.00 for each additional hour
John Sterling Hall	\$75.00 for the first hour \$10.00 for each additional hour	\$75.00 for the first hour \$15.00 for each additional hour
Hugo Lentz Park	\$30.00 for the first hour \$5.00 for each additional hour	
John Sterling Pool	\$40.00 per hour up to 50 people (minimum 2 hours) \$15.00 per hour will be assessed for each additional 25 people Lifeguards: Minimum of two (2) lifeguards More may be required based on Red Cross requirements \$25.00 per lifeguard per hour Security requirements: Per Security Schedule	
Pool Season:	Memorial Day Weekend until Labor Day Daily entry fee: \$2.00 per person Baby to 2 years old: no charge	

All fees must be paid up front in order to lock in a reservation. The City is not able to "hold" dates and times for renters.

SECURITY

No Alcoholic Beverages Consumed

<u>Number of People</u>	<u>Number of Officers</u>
1-49	No officer required
50-100	1 officer required
101 and above	Discretion of Chief of Police

Alcoholic Beverages Consumed

<u>Number of People</u>	<u>Number of Officers</u>
1-49	1 officer required
50-100	2 officers required
101 and above	Discretion of Chief of Police

Cost per officer: \$40.00 per hour