

MINUTES
MEETING OF THE CITY COUNCIL
OF THE CITY OF SAN SABA
January 14, 2013

Members in attendance were: Ken Jordan, - Mayor
Charlie Peeler - Alderman
Oleta Behrens - Alderman
Shawn Oliver – Mayor-Pro-tem
Martha Leigh Whitten – Alderman
Mark Amthor - Alderman
Stan Weik – City Manager

Others present were: Gale Ivy – City Secretary
Charlene Lindsay – City Treasurer
Sabrina Maulsby – City Employee
Susie Jimenez – City Employee
Scott Glaze – City Employee
Scott Meador – City Employee
Tony Guidroz – City Employee
Jose Rocha – City Employee
Farrell Whitley – City Employee
Denver Daniel – City Employee
Al Hamrick – City Employee
Roger Verette – Citizen
Alice Smith – San Saba News & Star

At 6:00 p.m. Mayor Pro-Tem Oliver called the meeting to order and announced a quorum present as Mayor Jordan was going to be a few minutes late. Alderman Whitten led the invocation and the pledges.

PUBLIC COMMENTS:

None

PRESENTATIONS:

Jose Rocha, city employee working for the Parks Department was selected as the Employee for the month for January. Farrel Whitley, and Alderman Amthor presented Jose with a plaque with his name on it and a gift certificate to a local restaurant.

CONSENT AGENDA

On a motion by Alderman Oliver, seconded by Alderman Whitten, Council unanimously approved the following: minutes from the December 10th, 2012 council meetings; payment of bills; Resolution No. 2013-01 designating the San Saba News and Star as the official town newspaper, and Acceptance of the 2012 Racial Profiling Report.

RESOLUTION NO. 2013-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN SABA, TEXAS, DESIGNATING THE SAN SABA NEWS AND STAR AS THE OFFICIAL CITY NEWSPAPER

WHEREAS, Local Government Code § 52.004 requires that a municipality shall contract with and name an official newspaper; and,

WHEREAS, The San Saba News and Star meets the statutory requirements of eligibility for designation as an official newspaper.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN SABA, TEXAS THAT THE SAN SABA NEWS AND STAR IS DESIGNATED THE OFFICIAL NEWSPAPER OF THE CITY OF SAN SABA, TEXAS.

Passed, approved and resolved this the 14th day of January, 2013.

Racial Profiling Report - Partial Exemption

SAN SABA POLICE
01/01/2012 - 12/31/2012

Number of motor vehicle stops: (Only 1 category per vehicle stop)
1) 161 Citation Only
2) 0 Arrest Only
3) 14 Both
4) 175 Total

Race or Ethnicity:
5) 2 African
6) 1 Asian
7) 127 Caucasian
8) 44 Hispanic
9) 0 Middle Eastern
10) 0 Native American
11) 174 Total

Race or Ethnicity known prior to stop?
12) 38 Yes
13) 137 No
14) 175 Total

Search conducted?
15) 8 Yes
16) 167 No
17) 175 Total

Was search consented?
18) 2 Yes
19) 6 No
20) 8 Total (Must equal #15)

Verification Information

Traffic Stops without Racial Profile Information (i.e. Perceived Race Code): 0
Traffic Stops without Person Information: 0
Traffic Stops without "Additional Data" under Racial Profile Information section (i.e Search Conducted, etc.): 0
Traffic Stops with "Additional Data" and Person Information: 175

DISCUSSION/ACTION ITEMS:

The first discussion item was to discuss and consider approval of Ordinance No. 2013-01 amending Ordinance No. 2009-19 specifically changes to Section 5 Permits and Tags and adding (E) dealing with bee colonies to Section 18, Public Nuisances of the Animal Control Ordinance. Scott Meador, animal control officer, explained the reason for the changes. Council unanimously approved the additions on a motion by Alderman Amthor and seconded by Alderman Oliver.

ORDINANCE NO. 2013-01

AN ORDINANCE AMENDING ORDINANCE NO. 2009-19; AN ORDINANCE REGULATING THE KEEPING OF ALL ANIMALS WITHIN THE CITY LIMITS OF THE CITY OF SAN SABA; ENACTING PROVISIONS WITH REGARD TO PERMITS AND TAGS, VACCINATION OF ANIMALS CAPABLE OF TRANSMITTING RABIES, RABIES CONTROL, BITES BY ANIMALS, DANGEROUS ANIMALS, FERAL CATS, WILD ANIMALS, ADDING BEE COLONIES; RESTRAINT OF ANIMALS, IMPOUNDMENT OF ANIMALS, PROHIBITED ANIMALS WITHIN THE CITY LIMITS, PROTECTION OF ANIMALS, FEES, PENALTIES, ENFORCEMENT, AND REPEALING INCONSISTENT PROVISIONS AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of San Saba, Texas has determined that in order to respond to the changes in animal control and protection which are required since the passage of its original ordinance and to better control and protect the health, safety and welfare of the citizens of the City of San Saba, that the existing animal control ordinances of the City should be amended as hereinafter set out; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN SABA, TEXAS THAT ORDINANCE NO. 2009-19 ANIMAL CONTROL, IS HEREBY AMENDED AS FOLLOWS:

SECTION 1. DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned animal: Any animal that has not been provided with one or more of the necessities of life including air, food, water or protection from the sun and other elements of nature or has been left in the custody of another person without their consent.

Adult animal: Any animal that is six months of age or older.

Animal: Any live, vertebrate creature, domestic or wild.

Animal control facility: A facility operated by the city for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Animal control officer: The officer and person designated by the city as the animal control authority, whether one or more, or his designee.

At large: That an animal is (1) on the premises of owner and is not restrained securely by a substantial fence of sufficient strength and height to prevent the animal from escaping from there; (2) off premises where any

animal is not on a leash or under the immediate control of a person physically capable of restraining the animal.

Cat: Means a domesticated animal that is a member of the feline family (*Felis domesticus*).

Commercial animal establishment: Any pet shop, auction, riding school or stable, zoological park, circus, recurring animal exhibition or kennel.

Commercial breeder: Any person who:

- (1) Breeds dogs or cats;
- (2) Sells or otherwise transfers possession of the offspring of a breeding dog or cat to another person for the purpose of breeding, show, personal pet or resale to a third person; and
- (3) Sells or otherwise transfers possessions of more than 12 dogs or 12 cats, or more than two litters (whichever is greater) or any combination within any 12-month period for a purpose as described in the definition of dangerous animal.

Dangerous animal: Any animal that inflicts bodily injury on any person or animal subject to the further provisions hereof.

Dog: A domesticated animal that is a member of the canine family (*Canis familiaris*).

Enforcement officer: Any person designated by the city to represent and act for the city in the impounding of animals, controlling of animals running at large and as otherwise required to enforce the provisions of this chapter and to enforce all regulations relating to animals as authorized by the state. This person will be a member of the animal control authority or any member of the police department of the city.

Feral Cat: A cat that is (1) born in the wild or is the offspring of an owned or feral cat and is not socialized, (2) is a formerly owned cat that has been abandoned and is no longer socialized, or (3) lives on a farm.

Feral Cat Caretaker: A person other than the owner who provides food, water or shelter to, or otherwise cares for, a feral cat.

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 to be a part of it.

Kennel:

- (1) Any lot, building, structure, enclosure or premises where five or more adult animals are kept; and
- (2) Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, cats, or other animals.

Livestock: All domesticated animals, including but not limited to horses, cows, mules, goats, sheep, pigs, hogs, rabbits, and pigeons, and does not include dogs and cats.

Owner: Any person, trust, partnership, corporation, or any other entity owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Pet: Any animal kept for pleasure rather than utility.

Restraint: Kept in a secure enclosure which must have at least 100 square feet of space for each dog six months of age or older.

Secure enclosure: A fenced pen, kennel or structure that is locked, and is capable of preventing the entry of the general public, including children; is capable of preventing the escape or release of an animal; is clearly marked as containing a quarantined/dangerous animal; and is in conformance with any additional requirements for enclosures, as established and provided in writing to the owner by the animal control authority.

Tract: A contiguous parcel of land under common use or ownership.

Undeveloped property: Any land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school, or governmental facilities or other structures or improvement intended for human use occupancy and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

Vaccination: An injection of United States Department of Agriculture approved rabies vaccine administered every 12 months or as prescribed by the Texas Board of Health by a licensed veterinarian, or 36 months if a 36-month vaccine is used.

Veterinary hospital/clinic: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Wild/prohibited animal: Any live animal, other than a common domestic species, regardless of the state or duration of captivity which can be normally found in the wild state, or may pose a potential physical or disease threat to the public or that is protected by international, federal, or state regulations, including those listed in V.T.C.A., Health and Safety Code § 822.101 and the following if not so listed:

- (1) *Class Reptillia.* Family Heldermatidea (venomous lizards); Family Viperidae (rattlesnakes, copperheads, cottonmouths, other pit vipers and true vipers); Family Elapidae (coral snakes, cobras, mambas, and other elapids); the following listed species of Family Colubridae *Dispholidus typus* (boomslang), *Hydrodynastes gigas* (watercobra), *Bioga* (mangrove snake), and *Thelotornis* (African twig snake) only; Order Phidia, Family Boidae (racers, boas, water snakes, and pythons); and Order Crocadilla (crocodiles, alligators, caimans, and gavials);
- (2) *Class Aves.* Order Falconiforms (such as hawks, eagles, and vultures); Subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus); and Order Strigiforms (such as owls);
- (3) *Class Mammalia.* Order Carnivora, Family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats; Family Canidae (such as wolves, wolf-dog, hybrids, dingos, coyotes, and jackals), except domesticated dogs; Family Mustelidae (such as weasels, skunks, martins, mink, and badgers) except domestic ferrets (*Mustela putorius furo*); Family Procyonidae (raccoon); Family Ursidae (such as bears); Order Marsupialia (such as kangaroos, wallabies and common opossums); Order Edentata (such as sloths, anteaters, and armadillos); Order Proboscidea (elephants); Order Primata (such as monkeys, chimpanzees, and gorillas); Order Rodentia (such as porcupines); and Order Ungulata (such as antelope, deer, bison, and camels), unless the Order Ungulata are located on premises which meet the definition of the farm/ranch;
- (4) *Animals not listed.* The animal control officer may declare any species of animal not listed in this subsection as "prohibited" if the confinement of the animal within the city can be shown to constitute a threat

to public health and safety; and does not mean any bird kept in a cage of aviary that is not regulated by international, federal, or state law, or a gerbil, hamster, guinea pig, or laboratory mouse or rat.

SECTION 2 – PENALTIES

(a) Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided for in the statutes of the State of Texas (for example cruelty to animals under Section 42.09 of the Penal code of the State of Texas) or civil penalties permitted to be assessed may be applied whenever a violation hereof is also a violation of State of Texas law.

(b) In addition to the penalties provided in this section, procedures and penalties (both civil and penal) set forth in the laws of the state with regard to the treatment, registration, keeping or use of animals which are permitted to be adopted by municipalities are specifically adopted hereby by the city. Each day a violation continues shall be deemed a separate offense.

(c) The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of other ordinances or state law.

SECTION 3 – ENFORCEMENT

(a) The provisions of this chapter shall be enforced by any enforcement officer, and such person shall have the authority to issue citations to persons violating the provisions of this chapter.

(b) It shall be unlawful for any owner or person to interfere with an enforcement officer in the performance of his duties as prescribed by this chapter.

(c) Those enforcing the provisions hereof shall have the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter, and shall not be guilty of trespass while doing so.

SECTION 4 – PAYMENT OF FEES

(a) The city manager or his designee shall be responsible for collecting all fees established and levied in accordance with this chapter. The chief of police or his or her designee shall have the authority to refund or waive fees under this chapter. Any refund or waiver of fees shall be documented by the Chief of police or his or her designee. All fees applicable hereunder shall be established by ordinance of the city council of the city.

(b) Fees imposed by this chapter shall not be required for dogs trained to assist auditory or visually impaired persons or for government police dogs.

SECTION 5 – PERMITS AND TAGS

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat, within the city, unless a current registration permit has been issued for such animal in accordance with this section.

(b) The owner, keeper or harbinger of any dog or cat within the city shall make application to the city for a registration permit for such dog or cat. Such application shall contain information on the dog's or cat's description, including whether the animal is neutered or spayed.

(c) The application described in this section shall be accompanied by the appropriate fee, and an application shall not be complete unless accompanied by said fee. See "Exhibit A" for fee schedule.

(d) An annual fee shall be due and paid every year prior to the last day of the month in which it was originally issued.

(e) Upon the owner's compliance with the above provisions of this section, the Animal Control Authority or his or her representative shall register the dog or cat and issue a metal registration tag, which shall be attached to the dog's or cat's collar, and which shall be worn by the dog or cat at all times.

(f) If a permit tag issued under this section is lost or stolen, it may be replaced by payment of the appropriate fee and presentation of the registration permit. If the tag and registration permit are both lost or stolen, a new permit must be purchased at the fee established for a new application.

(g) Any false statement in a rabies certification or application for a permit, under this section, shall be a violation of this chapter and shall render the permit issued for such dog or cat null and void, and the subject animal shall then be subject to being impounded.

(h) It shall be unlawful for any person to permit any animal subject to the terms hereof to be in a public place without its own tag, issued pursuant to a then current permit, secured to the animal or to transfer or use any permit or tag for any animal other than the animal for which it was issued.

SECTION 6 – EXEMPTIONS FROM PERMIT AND TAG REQUIREMENTS

The following are exempt from permit and tag requirements:

(a) Veterinary hospitals/clinics and government operated control facilities or shelters.

(b) Any animal brought into the city for no more than two hundred forty (240) hours for breeding, birthing, trial or show provided the person in possession of such animal prove current vaccination for such animal.

(c) A circus, carnival or zoo that is licensed under the federal Animal Welfare Act (7 U.S.C. section 2131 et seq.) and that furnishes proof to the enforcement officer that an inspection by the federal agency administering that Act has been performed within the previous calendar year.

(d) Farm/ranch premises where non-indigenous ruminates are bred and raised as to such non-indigenous ruminates.

(e) An organization sponsoring and all persons participating in exhibitions or domestic livestock shows and rodeos or horse racing as to the animals exhibited or raced.

SECTION 7 – PERMIT REVOCATION

The enforcement officer may revoke the permit of any animal regulated by this chapter if the animal is found not to comply with this chapter or is found in circumstances which do not comply with any law governing the protection and keeping of animals.

SECTION 8 – VACCINATION OF ANIMALS CAPABLE OF TRANSMITTING RABIES

The owners of all animals capable of transmitting rabies except goats, sheep, horses and cows, shall have such animals vaccinated before such animal reaches the age of four (4) months and before every twelve (12) months thereafter, or 36 months if a 36 month vaccine is used, or as prescribed by the Texas Board of Health against rabies with a vaccine approved by the United States Department of Agriculture and administered by a licensed veterinarian, who shall issue to the owner of the animal a vaccination certificate. The owner shall retain such certificate until the vaccination is renewed. At the time of vaccination, a metal tag shall be issued by the veterinarian showing the name of the veterinary clinic, the tag number, and the year of issuance. Such vaccination tags shall be worn by the animal for which it was issued in the same manner as and with the same requirements as the tag issued for an animal's annual permit as described above.

SECTION 9 – RABIES CONTROL

a) It shall be the duty of the owner or harbinger of any animal or practicing veterinarian to report to the animal control authority all suspected cases of rabies. The report shall be made immediately upon diagnosis or suspicion of rabies in animals.

b) Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be urgently imminent, the animal control authority, the Health Officer of the City of San Saba, or City Manager of the City of San Saba, may issue a quarantine order covering a period of two hundred forty (240) hours ordering persons owning, keeping, or harboring dogs, cats or other animals to muzzle the same or confine them for such time as may be specified in such quarantine proclamation. Upon the issuance of such order and posting notice of the same in the same location as notices of City of San Saba Council meetings are posted, persons owning or harboring such animals shall confine them to premises unless they are effectively muzzled and under the control of an adult person by leash, cord, chain or rope. Animals found at large in violation of this subsection may be destroyed by an enforcement officer if such officer is unable with reasonable effort to apprehend such animals for impoundment. The City Council of the City of San Saba may extend, revise or revoke such order, as it determines.

SECTION 10 – BITES BY ANIMALS

a) The enforcement officer may investigate reports in which animals have bitten persons or animals. It shall be the responsibility of such officer or other officer if he or she is not the investigating officer, to obtain details on the bite cases and to conduct a follow-up investigation of the biting animal, if he or she so determines, to determine if it is suffering from rabies.

b) The enforcement officer shall determine whether or not the animal suspected of biting is to be placed under quarantine and watched to determine if the animal is capable of transmitting or exposing humans or other animals to rabies. The quarantine for all animals shall be for a period not less than two hundred forty (240) hours.

c) The owner of the animal required to be quarantined under subsection (b) shall surrender the animal to the enforcement officer immediately, or otherwise arrange for the officer to pick up and retain such animal, in a separate kennel at the animal control facility or in quarters supervised by a veterinarian for the period of the quarantine. After the animal has been released from quarantine, the owner may redeem the animal from the animal shelter or other quarters upon payment of the applicable fees, and verification by the animal control authority that the animal's vaccination and permit are current,

d) In lieu of animal quarantine at the animal shelter or other quarters, the enforcement officer may authorize the animal to be kept on the owner's premises (residence quarantine) upon the following conditions to be determined in the enforcements officer's sold discretion:

- (1) The animal was currently vaccinated at the time of the bite; and
- (2) The animal was not at-large at the time of the bite; and
- (3) The animal was currently registered with the city at the time of the bit; and
- (4) When quarantined at home, the animal must be restrained in an area where it will not come in contact with any persons or animals; and
- (5) The animal must be made available to the animal control authority for periodic inspections at his or her discretion; and
- (6) The owner agrees to observe the animal for any signs of illness or personality changes and reports such changes to the animal control authority; and
- (7) The animal may not be moved from the quarantine location without prior notification and approval of the animal control authority; and
- (8) The animal will remain under quarantine until the owner is notified that the final health inspection has been made, all outstanding fees are paid, and that the animal has been cleared by the animal control authority. The animal control authority may require a veterinarian's certificate stating that in his or her opinion such animal is not rabid and exhibits no symptoms of rabies, prior to release of the animal from quarantine. Contact may be made by phone, personal service, or certified mail; and
- (9) The animal may not receive a vaccination for rabies during the quarantine period.
- (10) Failure to comply with all of the above conditions of residence quarantine, or as directed by the enforcement officer, is a violation of this chapter and will result in the animal being impounded at the animal control facility for the duration of the quarantine period.

e) After the animal has been released from quarantine, the owner will have five (5) days in which to have the animal registered with the city by the purchase of a city registration tag.

f) It shall be unlawful for any person to interfere with the enforcement of this section or to fail or refuse to surrender to an enforcement officer any animal involved or suspected of being involved in a bite case, or to otherwise fail to refuse to provide for the quarantine of animals as may be authorized by this chapter.

g) If an owner fails or refuses to surrender an animal to the enforcement officer for quarantine under this chapter, such officer may apply to any judge of the municipal court of the city for a warrant to seize the animal. The office executing the warrant shall cause the animal to be impounded at the city animal shelter or other facility as the office shall determine.

SECTION 11 – DANGEROUS ANIMALS

(a) The provisions of V.T.C.A., Health and Safety Code §§ 822.001 through 822.005 (Subchapter. A), V.T.C.A., Health and Safety Code § 822.011 (Subchapter. B), and V.T.C.A., Health and Safety Code §§ 822.041 through 822.047 (Subchapter D) are hereby adopted and incorporated in this Code as though the same were fully set out herein. Any future modifications of such laws of the state shall automatically be incorporated herein. References herein to any of said sections will mean the relevant sections of the Health and Safety Code of the State of Texas.

(b) Whenever in the above incorporated sections reference is made to the animal control authority, it shall refer to the animal control authority of the city of San Saba or any enforcement officer.

(c) The definition of dangerous dog contained in V.T.C.A., Health and Safety Code § 822.041 is hereby modified to include attacks on or injuries to other animals as well as persons, and such definition and the provisions of such sections shall include and be applicable to all animals in addition to dogs, but shall not be construed to permit animals to be kept where otherwise prohibited.

(d) The time period for compliance with the requirements of V.T.C.A., Health and Safety Code § 822.042 is hereby amended to 72 hours, provided that the animal shall be immediately restrained as required in said section. An owner of a dangerous dog may, as an alternative to the provisions of V.T.C.A., Health and Safety Code § 822.042, remove the dangerous animal from the city limits or surrender the animal for humane destruction or have the same performed within 24 hours after learning that the animal is dangerous or upon quarantine clearance, whichever is later.

(e) The liability insurance required under V.T.C.A., Health and Safety Code § 822.042 is to be in an amount of at least \$100,000.00, and shall be for bodily injury or property damage.

(f) All owners of dangerous animals shall provide to the city two color photographs of the animal in two different poses showing the color and approximate size of the animal.

(g) The owner of a dangerous animal is required to have the animal wear, at all times, the dangerous animal registration tag provided by the animal control authority.

(h) No dangerous animal may be kept on a porch, patio, or in any part of a house or structure, even if restrained, that would allow the animal to exit such building of its own volition. In addition, no dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(i) No person shall permit a dangerous animal to go outside its secure enclosure unless such animal is securely leashed with an 18-inch traffic lead. No person shall permit a dangerous animal to be kept on a chain, rope, or other type of leash outside its secure enclosure unless a person is in immediate physical control of the leash. Such animal shall not be leashed to inanimate objects such as trees, posts, or buildings.

(j) All owners of dangerous animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words:

"Beware
Dangerous Animal"

The sign is to be no smaller than 12 inches by 12 inches and shall not exceed 18 inches by 24 inches in size. In addition, a similar sign shall be posted on the kennel or pen of such animal.

(k) All owners of registered dangerous animals shall, within ten calendar days of the occurrence report the following in writing to the animal control authority:

- 1) Removal from the city, or death of said animal;
- 2) Written proof of new address if animal is sold and/or moves within the city.

(l) The new owner of a dangerous animal shall pay a registration fee established by city council, and the animal control authority shall issue a new dangerous animal registration tag.

(m) An owner of a dangerous animal shall notify the animal control authority of any attack the animal makes on any person or any animal.

(n) A dangerous animal may be destroyed during an attempt to seize or impound the animal, if impoundment cannot be made with safety, wherever the impoundment is attempted without liability to an owner of a dangerous dog.

(o) 1) Should any person, other than an enforcement officer desire to file a complaint concerning an animal which is believed to be a dangerous animal, a sworn, written complaint must first be filed with the enforcement officer or police department of city containing:

- (i) Name, address and telephone number of complainant and other witnesses;
- (ii) Date, time, and location of any incident involving the animal;
- (iii) Description of the animal;

- (iv) Name, address, and telephone number of the animal's owner, if known;
- (v) A statement describing the facts of death or serious bodily or animal injury upon which such complaint is based; and
- (vi) A statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.

2) After a sworn complaint is filed, it shall be referred to the enforcement officer and/or municipal court for processing and hearing in accordance with the provisions of the above referenced sections of the Health and Safety Code of the State of Texas.

SECTION 12 - RESTRAINT

Any dog, male or female, within the city limits of San Saba, Texas, shall be restrained by the owner. Restraint means:

- a) Kept in a secure enclosure
***Enclosure for dogs**
 - i. An outdoor enclosure used to keep more than six dogs, other than puppies less than six months old, must be located at least 50 feet from an adjacent residence or business, excluding the residence or business of the owner or handler.

 - ii. An outdoor enclosure used as the primary living area for a dog or used as an area for a dog to regularly eat, sleep, drink, and eliminate must have at least 100 square feet of space for each dog six months of age or older. Such enclosure shall be constructed of chain link or similar type materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure.

 - iii. Any dogs confined within a fenced yard must have adequate space for exercise based on a dimension of at least 100 square feet.

 - iv. All dogs shall have shelter to allow the animal to remain dry and protected from the elements. Such shelter shall be fully enclosed on three

sides and roofed. The entrance to the shelter shall be flexible to allow the animal's entry and exist, and sturdy enough to block entry of wind and rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

b) Kept under the direct physical control of the animal's owner or handler by a leash, cord, chain, or similar direct physical control.

i. No person shall, at any time, fasten, chain or tie any dog or cause such dog to be fastened, chained or tied to a stationary object or trolley system while such dog is on the owner's property or on the property of the dog owner's landlord unless the person is holding the chain or tether.

(Exceptions – A dog may be tethered to allow for the cleaning of the dog's enclosure or while the owner is outside with the dog and is in visual contact of the animal at all times to prevent injury to the dog). The prohibition does not apply to a temporary restraint: during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity or that is required to protect the safety or welfare of a person or the dog, if the dog's owner or handler remains with the dog throughout the period of restraint.

ii. A person restraining a dog with a chain or tether shall attach the chain or tether to a properly fitting collar or harness worn by the dog. A person may not wrap a chain or tether directly around a dog's neck. A person may not restrain a dog with a chain or tether that weights more than 1/18 of the dog's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.

iii. A person may not restrain a dog in a manner that does not allow the dog to have access to necessary shelter and water.

SECTION 13 – IMPOUNDMENT OF ANIMALS

a) The animal control authority or any enforcement officer may take up and impound any animal found at large or otherwise in violation of this chapter. If the owner, keeper or harbinger of such animal is known or can be readily ascertained, the animal control officer shall notify him by telephone, personal service, certified mail, or door tag not later than twenty-four (24) hours following the beginning of the next business day after such impoundment or after obtaining owner information.

b) If impoundment of a dangerous animal is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner or harbinger. If an attempt is made to seize or impound a dangerous animal from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given twenty-four (24) hours notice that if the said animal is not surrendered to the animal control division for impoundment within said twenty-four hour period, then the animal will be destroyed wherever it is found. Notice under this section shall be in writing. A written notice left at the entrance to the premises where the dangerous animal is harbored will be considered valid notice under this section. In lieu of surrendering the animal to animal

control, an owner may permanently remove said animal from the city, if written proof of destination is provided to the animal control authority.

c) The owner, keeper, or harbinger of any animal impounded under this section may redeem same within ninety-six (96) hours following notification of the person listed on the City's permit application or within ninety-six (96) hours following impoundment if there is no City tag on the animal at the time of impoundment, by payment of applicable impounding fees and boarding fees as established by the city council, and by providing proof, as may be required by the animal control authority of the ownership or right to possession of the animal.

d) Any person desiring to adopt an impounded cat or dog or other animal identified as adoptable by the animal control office may do so upon payment of the applicable fee as established by city council. The decision as to whether or not an animal may be adopted by any particular person or entity is exclusively within the discretion of the animal control authority.

e) Any owner or person redeeming an animal from the animal control authority or adopting an animal from the animal control authority must have the animal vaccinated and registered with the city within one hundred twenty (120) hours of the release of the animal unless registration and vaccination are then effective and valid.

f) The city shall comply with all sterilization laws as set forth in Chapter 828, Health and Safety Code of the State of Texas. Any impounded animal adopted from the animal control facility, if not sterilized and vaccinated, must be sterilized and vaccinated. A new owner must sign an agreement to have the animal sterilized.

g) All impounded animals not redeemed within the above described ninety-six (96) hours may be destroyed in a humane manner by the animal control authority. No animal may be adopted or sold for purposes of research.

h) Any owner or person redeeming an unsterilized animal from the animal control authority, for the fifth time within any twelve consecutive month period or for the second time within any twelve consecutive month period for any animal which has been determined to be a dangerous animal must have the animal sterilized. The cost of the sterilization shall be born by the owner.

SECTION 14 – WILD/PROHIBITED ANIMALS

a) No owner shall keep or permit to be kept on his premises or premises under his control any wild/prohibited or dangerous animal for sale, display, or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to any persons or entities as defined by Section 822.102 (a) subsections (1) through (11) of the Health and Safety Code of the State of Texas.

b) No person shall keep or permit to be kept any wild or prohibited animal as a pet.

c) The animal control authority may issue temporary approval for keeping, care, and protection of an injured, newborn or immature animal native to this area which it deems to be incapable of caring for itself. This is to be done temporarily, until state laws can be followed; i.e.; contacting Game Warden.

d) The animal control officer shall have the power to release or order released any animal being kept temporarily under the provisions of the previous paragraph.

SECTION 15 – FERAL CAT COLONIES

Feral Cat Colonies shall be permitted and Feral Cat Colony Caretakers shall be entitled to maintain and care for feral cats by providing food, water, shelter and other forms of sustenance, provided that the feral cat colonies are registered with the animal services department.

REGISTRATION OF FERAL CAT COLONIES

Each Feral Cat Colony within the city limits must be registered annually with the animal services department.

This registration shall include:

- 1) The name and contact information for the primary colony caretaker
- 2) The location of the feral cat colony
- 3) The number of cats in the colony.
- 4) Documentation showing the number of cats that have been spayed, neutered and vaccinated in the colony in the past year.

OVERSIGHT COMMITTEE

The animal services supervisor shall appoint a committee to assist with the management of feral cat colonies within the city limits. This committee will assist the animal services supervisor with:

- 1) Ensuring that the registered caretakers are operating within the requirements of this ordinance.
- 2) Resolving conflicts or complaints over the conduct of a feral cat colony caretaker or of any cats within a colony.
- 3) Determining the disposition of an abandoned feral cat colony.
- 4) Establishing and reviewing written minimum educational standards for all registered colony caretakers.
- 5) Establishing and reviewing the procedures for feral cat colony maintenance.

FERAL CAT COLONY CARETAKER RESPONSIBILITIES

All registered feral cat colony caretakers are responsible for the following:

- 1) Registering the colony with the animal services department.
- 2) Taking all appropriate and reasonable steps to have the colony population vaccinated for rabies in accordance with this ordinance.
- 3) Taking all appropriate steps to have the colony population spayed or neutered by a licensed veterinarian.
- 4) Providing food, water, and if feasible, shelter for colony cats.
- 5) Obtaining proper medical attention for any colony cat that appears to require it.
- 6) Obtaining written authorization from the appropriate property owner to enter on to private property to provide colony care.
- 7) Notifying the Department within 7 days of any change in address or contact information for the caretaker.
- 8) Following the written procedures for colony maintenance as established under this ordinance by the Oversight Committee.

WITHDRAWAL OF FERAL CAT COLONY CARETAKER

In the event a registered caretaker is unable or unwilling to continue their duties with a colony, the caretaker must notify the animal services department in writing. If no replacement caretaker is readily available, the animal services supervisor will meet with the Oversight Committee to determine the disposition of the abandoned feral cat colony.

DISPOSITION OF FERAL CAT COLONY CATS

Any cat that is trapped within the city limits will be checked for identification marks. If a trapped cat is believed to belong to a feral cat colony, the animal services department will notify the registered caretakers. The caretakers must:

- 1) Retrieve the colony cat from the shelter within 3 days, or
- 2) Inform the animal services department that they do not intend to reclaim the cat.

ENFORCEMENT

- 1) The establishment of feral cat colonies does not diminish the right for individual private property owners to trap and remove stray animals from their property in accordance with established procedures of the animal services department.
- 2) Feral Cat colony cats that are repeatedly trapped on private property or otherwise cause a continued nuisance will be reported to the registered caretakers. The caretakers will be provided 30 days to resolve the issue. In the event the caretaker is unable to resolve the problem, the animal services supervisor will discuss the disposition of the cat with the oversight committee.
- 3) Feral Cat colony cats that are trapped on private property do not constitute a violation regarding unrestrained animals and the registered caretaker is not subject to the implementation of a fine under that provision.

NON-COMPLIANT COLONY CARETAKER

A feral cat colony caretaker that repeatedly fails to manage a colony or otherwise continues to act in a manner that is not in compliance with this ordinance may be prohibited from serving as a feral cat colony caretaker. Such decisions will be at the discretion of the animal services supervisor with the advice of the Oversight Committee.

EXISTING FERAL CAT COLONIES

Feral cats who were spayed or neutered and vaccinated for rabies prior to the date on which this ordinance became effective, shall be deemed to be in compliance with this ordinance provided that the colony caretaker provides the animal services department with a description of the individual cat. Feral cat colony caretakers shall take all appropriate steps to bring these cats into compliance with this ordinance within three years, or upon revaccination of the cats for rabies, whichever comes first.

SECTION 16 - LIVESTOCK

a) No person shall keep livestock within the corporate limits of the city, except in conformance with and in districts where permitted by the Zoning Ordinance of the City of San Saba, as agriculture, open space or the like, or if the animals are kept as part of a sanctioned FFA or 4H project, are City of San Saba approved horse and carriage operation or the like, or are horses, cows or cattle kept on tracts of land 20,000 sq. ft. in size or larger. It shall be unlawful for any person who is the owner of any hog or pig of any kind, or any person who has any hog or pig under their management or control, to keep the same, or allow the same to remain in any pen or in any other place within the city limits. This does not include Vietnamese pot-bellied pigs, in which one per residence is permitted.

b) No person shall keep any tract or lot within the city limits any domestic fowl, such as, but not limited to chickens, turkeys, guinea fowl, geese and/or ducks, unless the fowl are securely penned or tethered on the property of the owner and not be allowed to roam free. Any fowl of any kind found to be roaming free by the animal control officer within the city limits will be considered to be un-owned and may be taken up or disposed of as may be deemed necessary to prevent the fowl from becoming a public nuisance. All owners or keepers of the fowl within the city limits will be held responsible for the cleanliness and upkeep of the tract of land or lot upon which the fowl are being kept so as not to allow it to become a public nuisance by the odor that may be created by the keeping of the fowl.

c) Subsections a) and b) above shall not apply to animal shelters, veterinary establishments, animal hospitals operated by a licensed veterinarian, or commercial animal establishments located on property zoned for such purposes. Such establishments, however, must meet sanitation requirements and keep animals securely caged and penned.

d) Subsections a) and b) above shall not apply to those students participating in 4-H or FFA who engage in the raising of livestock or fowl for the purpose of showing them in a livestock show.

e) Any animal now being kept or harbored lawfully within the city as per the date of adoption of this article or at any location outside the city which may be annexed after the date, the distance and number requirements of subsections a) and b) above shall not apply for a period of six months from the date after the passage of this article or the date of annexation, respectively.

SECTION 17 – PROTECTION OF ANIMALS

a) Chickens or ducklings younger than eight (8) weeks of age may not be sold in quantities of less than ten (10) to a single purchaser except if the animals are sold as part of a sanctioned FFA or F-H project.

b) No person shall knowingly expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided however, that the application of pesticides which are commercially available and which are properly applied to control pests shall not constitute a violation of this section.

c) No owner or person shall:

- 1) Deprive an animal of sufficient good and wholesome food or water, adequate shelter and protection from weather, veterinary care (when needed to prevent suffering), and humane care and treatment, or
- 2) Beat, cruelly ill-treat, torment, mentally abuse, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dog fight, cock fight, bull fight, or other combat between animals or between animals and humans; or

3) Abandon any animal in their custody.

d) No owner or person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health, safety or welfare. Any animal control 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, safety or welfare is or soon will be endangered. If the life of the animal is in immediate danger, said animal may be impounded in the discretion of the animal control officer.

e) The animal control authority may liberally utilize the authority granted by Section 821.022 of the Texas Health and Safety Code to seize any animal if the animal control authority has reason to believe that an animal has been or is being cruelly treated. Seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life or if it would unreasonably prolong the suffering of the subject animal requiring veterinary care.

f) No owner or person shall sell, trade, barter, lease, rent, give away, or display for a commercial purpose, any live animal, on any roadside, public-right-of-way, commercial parking lot, or any flea market. This does not apply to animal rescue groups trying to adopt out rescued animals.

g) Any person who, as the operator of a motor vehicle, strikes a domestic or non-domestic animal shall as soon as practicable report such injury or death to the animal control officer so that the animal may be picked up.

SECTION 18 – PUBLIC NUISANCES

a) It shall be unlawful and constitute a public nuisance for any person to maintain any animal or fowl in such a manner or allow any pen, enclosure, yard or similar place used for the keeping of animals or fowl to become unsanitary, offensive by reason of odor, or create a condition that is a breeding place for fleas or other vector and which is offensive to persons of ordinary sensibilities residing in the vicinity thereof or is determined to be a public nuisance by any enforcement officer.

b) It shall be unlawful and constitute a public nuisance for any person to maintain any animal or fowl which repeatedly roams at large in violation of this chapter on public or private property, attacks another animal or damages public or private property.

c) It shall be unlawful and constitute a public nuisance for the owner of any animal to allow any excreta deposited by his animal to remain on public or private property. The creation of any condition injurious to public health caused by the lack of or improper disposal of animal waste will also be considered a violation of this section.

d) Subject to the noise ordinance of the city, it shall be unlawful and constitute a public nuisance to keep any animal which, by causing frequent or long continued barking, howling, crowing, meowing, or other noise shall disturb any person of ordinary sensibilities residing in the vicinity of the premises where the animal is kept, housed or harbored.

e) It shall be unlawful and constitute a public nuisance to keep bees in such a manner as to deny the lawful use of adjacent property or endanger personal health, safety, and welfare. Upon determination that a bee colony situated within the City of San Saba is not being kept in compliance with this section, animal control may order the bees to be removed from the City of San Saba or destroyed.

(f) It shall be unlawful for any owner or person to allow any animal to remain a public nuisance as defined herein.

SECTION 19 - TRAPS

a) Only humane live-animal traps may be used for capturing animals roaming, unrestrained in the city. The use of steel jaw traps to apprehend animals is prohibited. As an exception to this section, governmental agencies and entities shall be permitted to use such traps and equipment as necessary and permitted by state law or regulation.

b) No person shall remove, alter, damage, or otherwise tamper with a trap or equipment set out by the animal control authority.

c) When small animal traps are loaned to any citizen of the city, the citizen is responsible for the upkeep and baiting of the trap while he or she is in possession of the trap. Any trap destroyed, lost, or stolen is the responsibility of the citizen using the trap and, the full replacement cost of the trap shall be charged to the person using the trap. All funds generated will be used to purchase more traps or to replace worn out traps.

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable. All ordinances and part of ordinances in conflict with the provisions of this ordinance are hereby repealed.

PASSED AND APPROVED this the 14th day of January, 2013.

**ATTACHMENT A
FEES**

Standard Licensing Fees

Dog or cat annual tag	\$10.00 with proof of Vaccinations
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Impoundment Fee

Dog or Cat impounded	\$10.00/per day
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Adoption Fee

Animals may be adopted at not charge; however, any animal being adopted or redeemed by an owner, must be vaccinated and registered with the city within 5 days (120 hours) of the release. If the animal is not sterilized, the new owner must sign an agreement to have the animal spayed or neutered.

Relinquish Fee

Dog or Cat	No fee
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The second action item was to discuss and consider approval of request from Wedding Oak Winery and San Saba Old Town Properties to rebuild the sidewalk on the south side of Highway 190 along Block 23 pursuant to the specifications made by the Texas Dept. of Public Safety. City Manager Weik explained that the city would provide the labor to remove the present sidewalk and install the

CITY COUNCIL MINUTES

JANUARY 14, 2013

new antique street lamps, but all expenses would be paid by the two entities listed above. The request was unanimously approved on a motion by Alderman Peeler and seconded by Alderman Behrens.

The third and final action item was to discuss and consider approval of request of the Community Foundation of San Saba County to upgrade the sidewalk along the west side of Cherokee Street in Block 22. This is the sidewalk between the previous Everett's Flooring and the previous Everett's Furniture buildings. According to City Manager Weik, the current sidewalk has unlevel areas in it. In order to connect to a sidewalk which will run from the Burden Hotel to it, this areas will have to be redone to connect evenly. On a motion by Alderman Amthor, seconded by Alderman Whitten, the request was unanimously approved.

CITY MANAGER'S REPORT

City Manager Weik reported on the following activities in the City of San Saba: the Christmas decorations in Mill Pond Park this holiday season were extremely enjoyed by all citizens in San Saba as well as visitors from other areas. Plans are being made to enlarge the decorations next year to take in more of the park. City Manager Weik would also like to see more activities happening either in the park or at the new Burden Hotel Plaza. These activities could include carolers, Santa, serving hot chocolate or cider, etc. Mr. Weik will meet with business owners to get their thoughts on this and to work with them to use this in their advertising to bring visitors to town. The decorated park could be a major draw to San Saba in the future. Parks Department Supervisor, Farrell Whitely, spoke also concerning his plans for next year. A \$1.00 per month donation is being suggested to be included on statements going out to support decorations for the park and other areas. This will be strictly voluntary and citizens may request to have the \$1.00 removed from their bills. Many citizens in town have expressed an interest in donating money toward this worthwhile project.

OTHER REPORTS

A brief update of activities in their departments was given by Denver Daniel, electric department, Tony Guidroz, and City Secretary Gale Ivy. Ms. Ivy reminded Council that the City Council election was scheduled for May 11, 2013. The three council aldermen up for re-election are Mark Amthor, Charles Peeler and Shawn Oliver.

As there was no further discussion, the meeting adjourned at 6:40 p.m.

ATTEST:

Kenneth G. Jordan, Mayor

Gale Ivy, TRMC, City Secretary

Approved 2/11/13