

AN ORDINANCE 2010-06-17-0555

**AMENDING CHAPTER 5 OF THE CITY CODE ENTITLED "ANIMALS";
PROVIDING FOR CRIMINAL PENALTIES; ADOPTING A REVISED FEE
SCHEDULE WHICH AMENDS OR ESTABLISHES RELATED FEES; AND
PROVIDING FOR PUBLICATION.**

* * * * *

WHEREAS, on September 14, 2006 City Council approved a resolution supporting the implementation of a community wide five-year Animal Care Strategic Plan that would challenge and lead the community to achieve a "no kill" goal; and

WHEREAS, utilizing a dynamic, inclusive process, Animal Care Services presented a host of changes to the Chapter 5 Ordinance in 2007 including new permitting and licensing processes as well as enhanced cruelty laws; and

WHEREAS, these new laws were passed unanimously by City Council and have been responsible for increasing awareness of the community's critical animal care issues; and

WHEREAS, achieving a "no kill" goal, however, requires not only promoting public awareness but also increasing responsible pet ownership--both through enforceable laws and enhanced resources; and

WHEREAS, in November 2009, Animal Care Services formed a small, six person ordinance review committee; and

WHEREAS, this committee was charged with reviewing the current ordinance; and

WHEREAS, in March 2010, a seventeen member Focus Group comprised of a broad spectrum of San Antonio residents was formed to review the smaller committee suggestions and to offer their individual input; and

WHEREAS, in addition, eight public hearings were held throughout the community to garner input and suggestions; and

WHEREAS, final recommendations to the Animal Care Services Advisory Board (Board) were presented at a special Board meeting on June 2, 2010; and

WHEREAS, the Board approved the recommended amendments to the Chapter 5 ordinance; and

WHEREAS, on June 8, 2010, the Quality of Life Council Committee unanimously approved the proposed recommendations to the Chapter 5 ordinance; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 5 of the City Code of San Antonio, Texas entitled "Animals", is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance. Chapter 5, entitled "Animals" is amended as follows:

Chapter 5 - ANIMALS

Article I. In General

Sec. 5-1. - Definitions.

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

Abandoned animal shall mean an animal abandoned while in the person's custody without making reasonable arrangements for assumption of custody by another person.

Animal shall mean any living vertebrate or invertebrate, domestic or wild, not including man.

Animal care services facility shall mean a facility operated by the city for the impoundment, care, disposition and/or adoption of animals.

Animal care officer shall mean a person designated by the state, or the city, who is qualified to perform such duties under the laws of this state and the ordinances of the city.

Animal determination hearing officer means the individual designated by the director to conduct administrative hearings to decide whether an animal is dangerous or aggressive provided that such person shall not have participated in any investigation of facts regarding the alleged dangerous or aggressive animal or be in the chain of command of any such person.

Animal permit hearing officer means the individual designated by the director to conduct administrative hearings to review the denial and revocation of permits authorized by this chapter provided that such person shall not have participated in any investigation of facts regarding the denial or revocation or be in the chain of command of any such person.

Animal licensing shall mean the assignment by the director of a number to each animal for whom the appropriate fee has been paid and who has been vaccinated with antirabies vaccine.

Animal nuisance shall mean a public nuisance created within the city in violation of article VII.

Cat colony means 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) using trap, neuter and return methodology.

Commercial boarding kenneleattery shall mean any place other than a veterinary hospital where the property owner, tenant, or occupant keeps or allows others to keep or board any domestic animal ~~eat or domestic ferret for longer than twelve (12) hours~~, for a fee, donation or non-monetary reward.

~~*Commercial kennel* shall mean any place other than a veterinary hospital, where the property owner, tenant, or occupant keeps or allows others to keep or board any dog for longer than twelve (12) hours for a fee, donation or non-monetary reward.~~

Competition animal shall mean a cat or dog that is of a breed recognized by and registered with an approved breed registry approved by the director and shows or competes in animal shows or other competition events sponsored by an approved breed registry.

Choker collar shall mean a length of chain or nylon cord or rope with rings at either end such that the collar can be formed into a loop around the animal's neck that slips (adjusts) tighter when pulled and slips looser when tension is released.

City shall mean the City of San Antonio, Texas.

Confined shall mean a situation by which an animal is effectively prevented from being free to roam or run at large at will.

Dangerous animal shall mean any animal who meets any or all of the criteria in article IV.

~~*Dangerous animal determination hearing officer* means the director or other individual designated by the director to conduct administrative hearings to decide whether or not an animal is dangerous. The hearing officer shall have a working knowledge of animal behavior.~~

Department shall mean the City of San Antonio's Animal Care Services Department.

Director shall mean the Director of the City of San Antonio's Animal Care Services Department.

Dog shall mean any member of *Canis familiaris* or any combination of *Canis familiaris* and other canine species including both genders.

Domestic dog shall mean a member of *Canis familiaris* which is not a hybrid of *Canis familiaris* and another canine species.

Domestic animal shall mean any animal which is not prohibited, and commonly kept as pets at the owner's residence, including but not limited to domestic cats and dogs, domestic ferrets, rabbits, and domestic fowl poultry.

Domestic cat shall mean any member of *Felis domesticus*.

Domestic fowl shall mean 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.

Enclosure means for purposes of dangerous dogs, a house or a building, or in the case of a fence or a structure/pen, the fence or structure/pen must also have minimum dimensions of five (5) feet by ten (10) feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times. The structure/pen must have secure sides to prevent the dangerous animal from escaping from the enclosure. The structure/pen shall provide protection from the elements for the dangerous animal. Notwithstanding the fence height restrictions of section 6-2, the animal care officer shall have the right to require that the fence be higher than six (6) feet or require a secure top and/or bottom be added to the structure/pen if the need is demonstrated. These additional requirements

shall be based upon the type of animal to be kept in this enclosure and its anticipated ability to escape.

Grooming shop shall mean a commercial establishment (structure or vehicle) where animals are bathed, clipped, plucked or otherwise groomed.

Impound shall mean the placing of an animal in the city's animal care services facility, or, the taking into custody of an animal for purposes of transportation to the city's animal care services facility.

Keeper means any person, firm, corporation, organization or department holding, caring for, having an interest in, or having control or custody of an animal. If the keeper of an animal is a minor, the parent or guardian of that minor shall be responsible for compliance with animal care related ordinances.

License tag shall mean a metal tag of the design prescribed by the director and bearing the city's animal license number.

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

Nondomestic animal shall mean and includes all animals other than domestic cats and dogs, domestic ferrets, livestock, rabbits and domestic fowl.

Owner of an animal shall mean any person owning or having care, custody, possession or control of an animal. ~~the person or the legal guardian of the person who feeds or harbors the subject animal for more than seventy-two (72) hours without the presence of that subject animal being recorded in the records of the department as a stray animal~~ Persons caring for an animal at the specific request of an owner are not included in the definition of owner, but are required to keep the animal in compliance with this Code.

Performing animal exhibition shall mean any spectacle, display, act or event, other than circuses and rodeos, in which performing animals are used.

Pet shall mean any animal kept for pleasure or enjoyment, rather than utility or commercial purposes.

Pet shop shall mean a business establishment, whether licensed or not by the department, where ~~two (2) or more species~~ of animals including, dogs, cats, fish, birds, reptiles, or rodents are kept for sale or commercial barter.

~~*Poultry* shall mean any domestic fowl, including but not limited to geese, pheasants, chickens, prairie chickens, peacocks, guineas, ducks and turkeys, as well as quail, doves and other normally undomesticated fowl that are being raised for food or for sale.~~

Puppy shall mean any member of *Canis familiaris* and other canine species including both genders four (4) months of age or under.

Quarantine shall mean the detention or isolation of an animal suspected of carrying an infectious or contagious disease.

Prohibited animals shall mean:

- (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) Any poisonous reptile or venomous species except bees;
- (7) Crocodile, alligator, caiman or related species;
- (8) Miniature Vietnamese pot-bellied pig;
- (9) Ostrich or any other Ratites;
- (10) Bear; and
- (11) All other mammals that live in a natural state of undomesticated freedom including the opossum, raccoon, armadillo and squirrel.

Rabies vaccination shall mean a protective inoculation by a licensed veterinarian with a rabies vaccine recognized and approved by the United States Department of Agriculture given in an amount sufficient to provide an immunity that satisfies the requirement of state law.

Restraint shall mean a situation whereby an animal is secured by a tether, a leash or a lead, ~~or is under the effective control of a responsible person and obedient to that person's commands,~~ or is confined within the real property of its owner.

Responsible person shall mean a person to whose commands an animal in question is obedient, and who is capable of controlling the animal if the animal should fail to obey such commands.

Run at large shall mean to be free of restraint while outside the boundaries of the real property of the owner.

Severe injury means any physical injury that results in death, broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Shelter shall mean a structure with a roof and three (3) sides ~~free of leaks or openings to the wind and rain~~ and a fourth side allowing access that is protected from the elements and a floor that is elevated enough to keep the shelter dry.

Stray animal shall mean any animal not under restraint.

Temporary owner shall mean an individual who finds a stray animal, has the animal for fewer than thirty (30) days and attempts to find the true owner of the animal. When the owner cannot be found, a temporary owner then will find a new home for the animal.

Trap, neuter and return (TNR) program shall mean 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 shall mean an animal caught or taken in, as if in a trap or snare by skill, craft or trickery.

Unprovoked animal attack means an attack by an animal that was not hit, kicked or struck by a person with any object or body part nor was any part of the animal's body pulled, pinched or squeezed by the person or animal that was attacked.

Vaccination certificate shall mean a document showing on its face that the animal described thereon has received a current inoculation of rabies vaccine in an amount sufficient to produce an immunity that satisfies the requirement of state law, inscribed with the date of the inoculation, the 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 shall mean a person licensed to practice veterinary medicine in the state.

Veterinary hospital shall mean any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis of and treatment of diseases and injuries of animals.

Wild animal shall mean any nonhuman primate, raccoon, skunk, fox, wolf, leopard, panther, tiger, lion, lynx, bobcat, or other warm-blooded animals, or any poisonous or dangerous snake which can be found in the wild state.

Zoological park shall mean any facility, other than a pet shop or commercial boarding kennel, displaying or exhibiting one (1) or more species of nondomesticated animals operated by a person or government agency.

Sec. 5-2. - Animal care services facility; erection, maintenance, care of animals; euthanasia service.

(a)

There shall be erected and maintained, under the supervision of the director, a suitable building and kennels, to be known as the animal care services facility, for the confinement of all animals seized, impounded or surrendered pursuant to the provisions of this chapter. The animal care services 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 department

(b)

Upon payment of the applicable fee, if any, the animal care services facility will provide euthanasia of dogs, cats, and other small animals upon the signed request of an owner who resides within the city and residents of unincorporated Bexar County as long as the city and county maintain a joint animal control program through contractual agreement.

(c)

The sale of live animals from the animal care services facility for research and pound seizures is prohibited.

Sec. 5-3. - Prohibiting sale of baby chicks, ducklings or other fowl and rabbits.

(a)

It shall be unlawful for any person to sell or offer for sale, barter, lease, rent or give away on the condition that some other item is purchased, bartered, leased, or rented, any baby chicks, ducklings, other fowl less than three (3) weeks old, or rabbits less than eight (8) weeks old; except that this chapter shall not be construed as to prohibit the sale or display of such baby chicks, ducklings, or other fowl in proper breeder facilities or hatcheries or to prohibit the sale or display of such baby chicks, ducklings, or other fowl in stores engaged in the business of selling the same to be raised for commercial purposes.

(b)

It shall be unlawful to color, dye, stain, or otherwise change the natural color of any baby chicks, ducklings, or other fowl or rabbits or to possess for the purpose of sale any baby chicks, ducklings, or other fowl or rabbits which have been so colored.

Sec. 5-4. - Cruelty to animals.

(a)

Cruelty to nonlivestock and livestock animals, excluding uncaptured wild living creatures, Animal cruelty is a violation of the Texas Penal Code and depending on the circumstances, is a Class A misdemeanor, state jail felony, or a felony of the third degree. a state law violation punishable by fine and/or jail time in accordance with the Texas Penal Code.

(b)

~~It shall be unlawful for any person to wound or kill any cattle, horses, sheep, swine or goats of any description, whether wild or domestic, in any public place within the city.~~

(e)

~~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 shelter and with appropriate veterinary care when needed to prevent suffering.~~

(bd)

It shall be a violation of this Code ~~It shall be unlawful for a person to intentionally, knowingly or recklessly beat, cruelly treat, overload or otherwise abuse any uncaptured wild living creature animal, including the person's own animal or any unowned animal anywhere in the city. A violation of this subsection is punishable as described in section 5-21 of this Code.~~

(e)

~~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, tail docking, and dewclaw removal, except when done by a licensed veterinarian.~~

(f)

~~Any person who, as the operator of a motor vehicle, strikes a domestic animal, livestock, or any wild animal over five (5) pounds in weight, shall at once report the accident to the city customer services/311 department.~~

(cg)

Animal care officials shall liberally utilize the authority granted by § section 821.022 of the Texas Health and Safety Code to seize and impound any animal that has been or is being cruelly treated. If the investigating animal care officer or cruelty investigator has reason to believe that an animal has been or is being cruelly treated, pending a hearing before any Justice of the Peace of Bexar County, Texas or any municipal court judge 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.

Sec. 5-5. - Killing animals in a public place.

It shall be unlawful for any person to wound or kill any cattle, horse, sheep, swine or goats of any description, whether wild or domestic, in any public place within the city.

Sec. 5-6. - Standard of Care.

An owner, keeper or temporary owner of an animal is required to provide his animals with humane care and treatment as follows:

- (a) Access to an adequate supply of fresh air,
- (b) Species specific food,
- (c) Fresh water,
- (d) Exercise,
- (e) Shelter as defined by this code and
- (f) Veterinary care when needed to prevent suffering.

Sec. 5-7. - Ear cropping, tail docking, and dewclaw removal.

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, tail docking, and dewclaw removal, except when done by a licensed veterinarian.

Sec. 5-8. - Reporting motor vehicle animal strikes.

Any person who, as the operator of a motor vehicle, strikes a domestic animal, livestock, or any wild animal over five (5) pounds in weight, shall at once report the accident to the city customer services/311 department.

Sec. 5-9. – Flooring standards for animal housing.

It shall be unlawful to house any animal on a surface that permits the feet or any portion of the foot to pass through any opening. The floor must be constructed in a manner that protects the animal's feet and legs from injury.

Sec. 5-105. - Prohibiting giving away animals as prizes or inducements.

It shall be unlawful for any person to give away, or offer to give away, any live animal as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

Sec. 5-116. - Prohibiting selling, displaying animals on roadside, garage sales, flea markets and festivals.

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, or give away, any animal on any roadside, public right-of-way, commercial parking lot, ~~or at any garage sale, flea market, or festival,~~ park, community center or outdoor public place.
- (b) It shall be unlawful for any person to display for a commercial purpose any animal on any roadside, public right-of-way, commercial parking lot, ~~or at any garage sale, flea market, or festival,~~ park, community center or outdoor public place.
- (c) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any recognized rescue organization which is currently registered with the department.
- (d) Subsection (b) shall not apply to any person who has obtained a permit and is complying with the specific limitations as set forth in section 5-110 or facilities not required to obtain a permit under subsection 5-110~~(c)~~.
- (e) Any animal being sold, traded, bartered, leased, rented, or being given away on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place shall be subject to seizure and impoundment at the discretion of the investigating animal care officer and shall be subject to adoption, rescue, foster or humanely euthanized at the discretion of the director if not timely redeemed within the impoundment period as set out in this Code by payment of applicable impoundment fees for each animal impounded.

Sec. 5-127. - Exposing animals to poisonous substances.

- (a) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same may be attractive to any warm-blooded animal or human; except that it shall not be unlawful for a person to expose, on his own property or with permission of the property owner, commercially available rat poison or other pesticides appropriately placed in accordance with the labeling directions.
- (b) It shall be sufficient to constitute a violation under this section that the poisonous substance was attractively exposed by such person in such a manner that the same may have been eaten, or was in fact eaten, by any warm blooded animal or human; no intent or further culpable mental state shall be required to prove a prima facie violation.

Sec. 5-138. - Traps with holding mechanisms prohibited; exceptions.

(a)

No person shall set up or allow to be set up on his property steel jaw traps, spring traps with teeth or perforated edges on the holding mechanism, snares, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped prey, for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically deemed necessary by the director of health in or for the control of communicable disease. This section is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhogs; except that the owner is responsible for taking care that any of the above said "rodent" traps are not placed or used on or about his property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal, or of a human.

(b)

It shall be a prima facie violation of this section that the traps proscribed in this section were, in fact, set up by the person in question, or were allowed to be set up by the person in question; no intent or further culpable mental state shall be required to prove such a prima facie violation.

Sec. 5-149. - Animal traps without holding mechanism.

A person may set up on his own property humane traps used to capture dogs, cats, and other small animals alive which must be sheltered and shall be checked at least once every two (2) hours or every eight (8) hours if left overnight by the individual setting the trap. Humane care shall be provided for any trapped animals including the provision of food, water, and protection from extremes of the environment including heat, cold, and precipitation. Trapped dogs or cats bearing identification and/or city registration shall be turned over to the department or the animal's owner.

Sec. 5-1510. - Safety of animals in motor vehicles.

(a)

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, pick-up 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.

(b)

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.

Sec. 5-1611. - Pet shop requirements.

- (a) No person shall operate a pet shop within the city without first obtaining a license from the director.
- ~~(b)~~
~~All enclosures used for public display of an animal must prevent direct contact between the animal and the viewing members of the public.~~
- (be) Dogs and cats shall be removed from their primary enclosures at least twice during each 24-hour period and exercised unless the primary enclosure is of sufficient size to conduct an exercise regimen needed by the animal for good health. All animals shall be able to stand, stretch, and turn without touching any of the four (4) sides or top of their primary enclosure. Group housing of compatible animals is allowed if the space prevents crowding and allows for easy removal of animal waste, and the unhampered movement and comfort of each animal. Sick, diseased, and injured animals shall be kept isolated and taken to a veterinarian on the day of discovery for veterinary care or euthanasia.
- (cd) All pet shops and stores selling animals, birds, reptiles and fish shall:
 - (1) Take care to house animals in a sanitary manner;
 - (2) Provide appropriate medical services, care, and housing according to individual species' needs;
 - (3) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the department) against common disease in accordance with standard veterinary practices; in the case of dogs, against canine distemper, adeno-virus para influenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleukopenia; and
 - (4) Not offer any puppy or kitten under the age of eight (8) weeks for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the department, or any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals, or any recognized rescue organization which is currently registered with the department).
- (de) Animal enclosures shall be cleaned of debris and fecal matter at least once every twenty-four (24) hours. Sanitizing of dog and cat enclosures shall be done once every day by washing the surfaces with water and either soap or detergent, or by the use of a pressure water system or steam cleaner all of which shall be followed by the application of a safe

and effective disinfectant. The exercise and run areas having pea gravel or other non-permanent surface materials shall be thoroughly cleaned at least every twenty-four (24) hours and more frequently if necessary by removal of soiled materials and application of suitable disinfectants followed by the replacement of clean surface materials when necessary.

(ef)

It shall be unlawful for a pet shop owner, operator, manager, or employee to sell, trade, transfer, barter, give away, maintain, or act as a dealer or agent between a buyer and seller of any prohibited animal as defined by this chapter.

(fg)

All cats and dogs taken into a pet shop facility for resale shall be checked no later than seventy-two (72) hours from the date the dog or cat is taken into the pet shop for internal and external parasites, unless documentation is provided indicating the animal has had a veterinary exam within the past thirty (30) days and is free of internal and external parasites. Any animal exhibiting any signs of parasites shall be promptly treated, and medical records maintained for each animal. Any animal exhibiting signs of any infectious or contagious disease including, but not limited to canine distemper, adenovirus parainfluenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, feline rhinotracheitis, and panleucopenia, will be immediately isolated and given adequate veterinary care. Complete records of veterinary care will be kept and delivered to the purchaser upon the sale of the animals. The department of health or animal care services may restrict the sale of any animal(s) suspected of being diseased or otherwise unfit for sale and may require that said animal(s) be examined within twenty-four (24) hours by a licensed veterinarian. The permit holder shall reimburse the enforcing agency's veterinary fees if the veterinarian concludes that the animal is unfit for sale at the time of the examination.

(gh)

The pet shop permit holder shall furnish a purchaser a written statement at the time of sale which shall include:

(1)

Date of sale;

(2)

Name, address and telephone number of purchaser and permit holder;

(3)

Permit number of permit holder;

(4)

Breed, description, approximate age and sex of dog, cat or other animal sold (small mammals, parrot-type birds, and fish not included);

(5)

Medication and prophylactic immunization and dates administered;

(6)

Internal parasite medication(s) and date(s) administered;

(7)

A guarantee of good health for a period of not less than two (2) weeks with recommendation to have the animal examined by a licensed veterinarian. The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale. All purchasers of dogs, cats and ferrets shall also be furnished with information as to the requirements of ownership of these animals within the city including requirements for rabies vaccination, litter permits, intact animal permits, microchipping and licensing. The pet shop permit holder shall be further required to register with the department the name, address, and telephone number of each purchaser of any dog or cat transferred within five (5) days after the sale or transfer.

(hi)

Records shall be maintained in good auditable condition, and surrendered to the director or his authorized representative upon request and without reservation or purpose of evasion. Failure to produce such records upon demand by the director or any authorized representative of the director shall be cause for the revocation of an existing license and the refusal to issue a new license for a period of two (2) years.

Sec. 5-1712. - Commercial boarding kennel ~~and cattery~~ requirements.

(a)

No person shall operate a commercial boarding kennel ~~or cattery~~ within the city without first obtaining a license from the director.

(b)

The exterior of a commercial boarding kennel/~~cattery~~ area shall be completely fenced or otherwise enclosed to prevent animals from leaving the premises

(c)

Runs shall be constructed to effectively enclose the animals housed therein. Construction shall permit ready observation and handling of the animals and promote ease of cleaning. Runs and exercise areas having gravel or other non-permanent surface materials shall be sanitized a minimum of once in each twenty-four (24) hour period and more frequently as may be necessary by removal of soiled materials and application of suitable disinfectants and replacement with clean surface materials.

(d)

All primary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain them, and exclude other animals. They shall be constructed and maintained to enable the animals contained therein to remain dry and clean and to permit regular and effective cleaning. Heating and cooling shall be provided as required, according to the physical need of the animals, with sufficient light to allow observation of animals and sanitation conditions.

(e)

Group housing is permitted for animals that are compatible. Adequate space shall be permitted to allow freedom of movement and comfort.

(f)

All animals that are known to be exposed to or show symptoms of having infectious or contagious diseases shall not be transferred to any person other than the owner of the animal.

(g)

A commercial boarding kennel shall not accept a dog for boarding without first obtaining a copy of the dog's immunization record or veterinarian receipt showing that the animal has a current rabies vaccination certificate and been vaccinated against canine distemper, hepatitis, para influenza, and canine parvovirus in accordance with standard veterinary practices. A commercial boarding kennel ~~eattery~~ shall not accept a cat for boarding without first obtaining a copy of the cat's immunization record or veterinarian receipt showing that the cat has a current rabies certificate and been vaccinated against feline panleukopenia, viral rhinotracheitis, and calici virus in accordance with standard veterinary practices. Puppies and kittens less than four (4) months of age are exempt from the rabies vaccination requirement. The animal care services facility and commercial boarding kennels/~~eateries~~ possessing federal certification of non-profit status (IRS 501(c)3) are exempt from this requirement.

(h)

It is the responsibility of the permittees, except for those exempted from the payment of commercial boarding kennel/~~eattery~~ fees, to be able to prove at anytime that all dogs and cats on the premises which are over four (4) months of age are currently vaccinated against rabies.

(i)

All animals shall be supplied with sufficient species specific food during each twenty-four (24) hour period and more often if the physiological needs of the animal require it. Each animal shall have access to fresh potable water at all times.

(j)

Precautions shall be taken to insure that animals are not teased, annoyed, or made to suffer by any persons or means.

Sec. 5-1813. - Animal waste; sanitation standards.

(a)

All animals shall be kept in a sanitary manner. Animal owners shall collect and dispose of animal waste by flushing it down a commode, by burial at least six (6) inches below the surface of the ground, or by placing it in a disposable container, sealing the container, and disposing of it as household garbage. Livestock standings shall be constructed of concrete, compacted caliche or other equally impervious material that can be easily cleaned where bovines, equines, swine, goats or sheep are kept; or any other livestock when kept for commercial purposes. Such standings shall be located under the roofed areas and shall be the size of the roofed areas. All manure and other animal wastes from livestock shall be removed from pens, corrals or standings at least once each day. This material shall be deposited in a manure storage bin of concrete or metal construction and shall be provided with a fly-tight lid. Such manure and other animal

wastes shall be removed from this bin at least once each week to a disposal site approved by the director.

(b)

No animal 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 any adjacent property not owned or controlled by the subject animal's owner, or which creates a condition conducive to the breeding of flies or other pests. It shall be unlawful to permit or allow fly breeding on premises on which livestock are kept, and permitting or allowing such shall authorize the denial, suspension or revocation of a permit by the director. Livestock owners shall have and maintain a fly control program.

(c)

The accumulation of animal waste on any premises so as to create a stench or harborage for flies or other pests is hereby declared to be a public nuisance. Upon delivery of a written "Notice to Clean" by the director of health, animal care services or housing and neighborhood services or their representatives, an animal owner or any adult occupant of the premises identified in said notice shall abate the therein described public nuisance on the premises within twenty-four (24) hours. Delivery shall be accomplished either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous place on the main entrance fence gate of the premises or main entrance door of the structure on the premises, or by certified mail, return receipt requested.

(d)

The director of health, the director of animal care services and the director of housing and neighborhood services are separately authorized and empowered to enforce the provisions of this section, and may summarily abate and remove any immediate public health and safety hazard due to the presence of animals by declaring the conditions to be an immediate public health hazard and public nuisance, and shall execute an administrative order that the premises be cleaned to city health code standards by the city or its contractor within twenty-four (24) hours. All three said directors are each individually authorized to petition a justice or municipal court for a court order for the seizure of a particularly described animal or all animals kept on the subject premises to be impounded and cared for as abused or neglected animals pending a hearing before the court in accordance with §-section 821.022 of the Texas Health and Safety Code.

Sec. 5-~~1914~~. - Leash and pooper scooper required.

An animal owner or keeper shall not walk an animal without a leash restraint, 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 and 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.

Sec. 5-~~2015~~. - Fastening animals with rope or chain; choker collar.

(a)

No animal shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. This does not prohibit the proper use of choker collars in the training of animals. The tying device shall be attached to the animal's collar or harness and shall be at least ten (10) feet in length and must have a swivel device on the anchor and collar end to prevent tangling.

(b)

No person shall chain their dog using a collar exceeding one and one-half (1½) inches wide for any dog weighing less than sixty (60) pounds. Dogs weighing sixty (60) pounds or more shall not be tethered using a collar exceeding two (2) inches in width.

(c)

An animal that is tethered must have access to adequate shelter at all times.

(d)

A person shall not chain or tether a dog with a chain or tether that weighs more than one-eighth (⅛) of the dog's body weight.

(e)

No person shall tether their female dog while the dog is in estrus.

(f)

Leaving a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement in the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below thirty two (32) degrees Fahrenheit; a heat advisory has been issued by a local or state authority or jurisdiction ; or a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service is a state law violation punishable by fine and/or jail time in accordance with the Texas Health and Safety Code.

Sec. 5-2116. - Unlawful acts; criminal penalties; civil remedies.

(a)

~~It shall be unlawful for a person to do or perform any act prohibited by this chapter, and it shall be unlawful for a person to fail to do or perform any act required by this chapter. A violation of this chapter is a class C misdemeanor offense, no culpable mental state or criminal intent is required, and upon conviction, a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).~~

(ab)

Unless otherwise specifically provided for in this chapter, if it is found that a person intentionally, knowingly or recklessly violated any provision of this chapter, then upon conviction a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this chapter, the person shall be fined an

amount not less than two hundred dollars (\$200.00) and shall be fined not less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.

(be)

If it is found that a person intentionally, knowingly or recklessly violated ~~Upon conviction, any violations of sections 5-4, 5-5, 5-7, 5-8 and 5-80 or 5-81 then upon conviction~~ a person shall be punished by a minimum fine of five hundred dollars (\$500.00) and a maximum fine of two thousand dollars (\$2,000.00) for a first offense, a minimum fine of one thousand dollars (\$1,000.00) and a maximum fine of two thousand dollars (\$2,000.00) for a second offense, and a fine of two thousand dollars (\$2,000.00) for a third and subsequent offense.

(cd)

Nothing in this section shall limit the remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.

(de)

Where it is deemed necessary by the city manager and the director, the city attorney's office is hereby empowered to secure injunctive relief to enforce the provisions of this chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this chapter.

Sec. 5-~~22~~47. - Rental fee authorized for the animal care services facility annex facility.

The department is authorized to charge a rental fee for the rental of a training room at the animal care services facility annex facility. The Director may without Council action enter into agreements pertaining to the rental of the annex facility for educational, training or community purposes.

Article II. Animal Care Services Advisory Board

Sec. 5-25. - Creation; composition; term of service.

(a)

There is hereby created the animal care services advisory board, which shall consist of fourteen (14) members. Eleven (11) of the members of this board shall be appointed by the city council, one (1) from each city council district and one (1) by the mayor. Each of these appointees shall serve on said board for a term of two (2) years in accordance with the City's Boards and Commissions Rules codified in Chapter 2, Article IX of the City Code. ~~from date of appointment.~~ The health department director, the animal care services department director and the city manager or designees shall be ex-officio non-voting members of the board.

(b)

The animal care services advisory board shall include among its membership at least one (1) licensed veterinarian; one (1) city official; one (1) ~~animal shelter operator person~~

whose duties include the daily operation of an animal shelter; and one (1) representative from an animal welfare organization.

- (c) The animal care services advisory board shall meet at least three (3) times a year.

Sec. 5-26. - Duties and powers.

- (a) The animal care services advisory board shall visit the animal care services facility of the city at times selected by the board, and shall inspect all phases of the operation at the facility. To this end, board members shall have access, for observation purposes only, to all areas of the animal care services facility.
- (b) The board shall submit quarterly reports to the city council, through the city manager, concerning the operation of the animal care services facility and the animal care services program, together with its recommendations and/or advice concerning same.
- (c) The board shall further advise the city council, through the city manager, on any aspect of animal care services which in the board's opinion merits the attention of the city.

Article III. Livestock

Sec. 5-50. - Swine.

It shall be unlawful to keep or maintain swine within the city other than for the purposes and at the locations indicated below:

- (1) Exhibition at stock shows, fairs and circuses;
- (2) When located at and on the property of any vocational school, with facilities properly constructed as determined by the director;
- (3) Slaughtering establishments;
- (4) When offered for sale at stock yards or auction barns adjacent thereto;
- (5) When kept at the home of an FFA (Future Farmers of America) member under the supervision of a high school vocational agricultural teacher or of a 4-H member under the supervision of the county agricultural agent, subject to the following conditions:

- a. Each enrollee shall obtain a permit from the director before commencing a project. The form of application for permits shall be prescribed by the director. No fees shall be charged for such permits;
- b. The property upon which the FFA or 4-H enrollee resides and maintains the swine must be a minimum of one (1) acre in area with a maximum of five (5) swine;
- c. The minimum pen size shall be six hundred twenty-five (625) square feet per hog over fifty (50) pounds, and the pen must be covered with a roof having a minimum of one hundred (100) square feet per hog with a minimum pen width of fifteen (15) feet;
- d. All swine must be grain fed;
- e. Swine must be on a self-waterer or similar equipment approved by the director. There shall be a slab or other solid type construction under the tank covering the area of four (4) feet in each direction;
- f. Hog wallows are prohibited;
- g. The open and adjacent areas must be kept clean;
- h. Enrollees must be under close supervision of a vocational agricultural teacher or the county agricultural agent. If an enrollee does not conform to city regulations, such advisor will report the violation to the director and maintaining swine at the location shall be terminated immediately;
- i. The pen shall be a minimum of one hundred fifty (150) feet from any dwelling or business building owned or occupied by any person other than the owner of the swine or person keeping and maintaining same; and
- j. Enrollees must be certified by letters to the director by the county agricultural agent for 4-H members and by the high school principal for FFA members giving the names of the vocational agriculture teachers or advisors supervising the enrollees and their projects, and such other information as the director may require. Such officials shall notify the director of the termination of an enrollee's projects.

Sec. 5-51. - Removal of animal wastes at stock shows; parking of stock trucks.

- (a) Manure and other animal wastes from animals held at stock shows, fairs, circuses and carnivals, shall be removed daily to a place approved by the director.
- (b) Stock trucks and stock cars which have been used for the transportation of livestock, if parked in any area within the city other than the stockyards, shall have all animal waste removed and the vehicle thoroughly cleaned. Such cleaning shall be accomplished at a place designated by the director.

Sec. 5-52. - Keeping of bovines, equines, sheep, and goats.

- (a) Regulation of horse drawn carriages shall be governed by the provisions of chapter 33.
- (b) A minimum of four hundred (400) square feet of pen of which one hundred (100) square feet is under roof must be provided for each head of bovines or equines and two hundred (200) square feet of pen of which forty (40) square feet is under roof must be provided for each head of sheep or goats.
- (c) Any boarding stable or riding stable or academy must contain at least four hundred (400) square feet of space, of which one hundred (100) square feet is under roof, for each of such animals kept or maintained on the premises. The other provisions of this section shall not apply if the premises are zoned for operation of a riding stable or academy.
- (d) The keeping of more than the maximum number of livestock permitted under this chapter is hereby declared to be an animal nuisance, and may be abated after notice has been provided to the owner and an opportunity to voluntarily come into compliance has been given by the director or his designated representatives. Upon delivery of a written "Notice to Remove Livestock" by the director or his designated representatives, an animal owner or any adult occupant of the premises identified in said notice shall abate the therein described animal nuisance on the premises within ten (10) days from the date of notice. Delivery shall be accomplished either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous place on the main entrance fence gate of the premises or main entrance door of the structure on the premises, or by certified mail, return receipt requested. After proper notice, the animal nuisance may be abated by the director or his designated representatives by seizing and impounding any unlawfully kept number of livestock and, after an administrative hearing, either euthanizing them or releasing them to any person or organization approved by the director or his designee, offering to lawfully keep and care for them.

Article IV. Dangerous animals and aggressive dogs ~~or Vicious Animals~~

Sec. 5-75. - Keeping of dangerous animals.

Any animal owned or kept shall be determined to be dangerous if:

- (1) It makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
- (2) It commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.; ~~or~~
- (3) ~~While off the owner's property, it severely injures or kills a domestic animal without provocation.~~

~~Sec. 5-76. Keeping of vicious animals.~~

~~Any animal owned or kept shall be determined to be vicious if:~~

- (1) ~~Because of its physical nature and vicious propensity it is capable of inflicting serious physical harm or death to human beings and would constitute a danger to human life or property;~~
- (2) ~~Without reasonable provocation habitually has behaved within the enclosure in which it was being kept in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or bite;~~
- (3) ~~It commits unprovoked acts while in the enclosure in which the animal was being kept and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person; or~~
- (4) ~~An animal which acts in a highly aggressive manner while in the enclosure in which the animal was being kept and appears to a reasonable person able to jump over or escape.~~

Sec. 5-7677. - Investigation, seizure and confinement of alleged dangerous ~~or vicious~~ animal.

- (a) Upon receipt of a sworn affidavit of complaint, signed by one (1) or more individuals before an individual authorized by law to make sworn statements, the department shall

investigate the complaint. The complaint shall contain a description of the incident involving an alleged dangerous ~~or vicious~~ animal, as defined above, the date and location of the incident, the name of the owner of the animal, the address of the owner, and a description of the animal(s) involved in the incident. Said investigation may include discussing the incident with the owner/keeper of the animal. The owner/keeper of the animal shall have the right to provide an affidavit or statement concerning his own animal.

(b)

After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to insure the health and safety of people and/or animals nearby, the director or his designee may order the immediate seizure and impound of the animal. An administrative search warrant shall be obtained from any municipal court magistrate to enter onto private property to search for an animal which is allegedly ~~vicious or~~ dangerous or has been previously determined to be ~~vicious or~~ dangerous, if permission to enter the subject premises is denied by a person in lawful possession. If the animal cannot be safely approached, a tranquilizer projector may be used by department personnel. The cost of securing said animal(s), pending the determination hearing, shall be borne by the owner. The animal(s) involved may be confined at the animal care services facility or other location designated by the director until the ~~vicious or~~ dangerous animal determination hearing has been conducted, any appeal, and a final determination has been made. If an animal is determined to be ~~vicious or~~ dangerous, it will remain in confinement as directed by the director. An animal that has been determined to be ~~vicious or~~ dangerous cannot be released back to the owner until the owner is able to demonstrate his ability to comply with all the requirements for ~~vicious or~~ dangerous animals as outlined in sections 5-801 and 5-82.

(c)

An animal care officer may impound an alleged ~~vicious or~~ dangerous animal if the officer has cause to believe that an animal is ~~vicious or~~ dangerous as defined above.

(d)

Within five (5) working days after impounding an alleged ~~vicious or~~ dangerous animal, the director will notify the owner of the animal, by certified mail, return receipt requested, the reason for the allegation, and all requirements for owners of an animal determined to be ~~vicious or~~ dangerous as set out in sections 5-801 and 5-82.

Sec. 5-7778. - Payment for cost of confinement.

(a)

The owner of an animal impounded by the department must pay the costs of care of the animal while it is in the custody of the department prior to the release of the animal to the owner. Reasonable expenses for this care include, but are not limited to the cost of housing, feeding, emergency veterinary medical care, immunizations and routine veterinary medical care for the animal.

(b)

If an animal is held in impoundment by the department for more than thirty (30) days,

the owner of the animal must pay the actual costs accrued for the first thirty (30) days of impoundment, and every thirty (30) days thereafter until the matter for holding the animal has been finalized. The department will mail a notice and statement of costs to the owner of the animal at the address on file with the department. All costs must be paid within a maximum of three (3) business days following the receipt of the notice and statement. If the costs have not been paid within the allotted three (3) business days, this will be considered a voluntary relinquishment of the animal by the owner and the animal shall immediately become the property of the city.

(c)

Costs must be paid at the department in cash or certified funds only. The costs shall be deposited into the city's general trust fund, in a subaccount specific for each case.

Sec. 5-7879. - Determination hearing; notice of hearings.

(a)

If an animal is alleged to be ~~vicious or~~ dangerous, the director or his designee shall schedule a and ~~conduct a vicious or~~ dangerous animal determination hearing. The determination hearing shall be conducted within fifteen (15) working days of the date the animal is impounded for allegedly being ~~vicious or~~ dangerous. The owner shall be notified of said hearing by certified mail, return receipt requested. If the hearing is not conducted within fifteen (15) working days of date the animal is impounded, the animal shall be deemed to be not dangerous and shall be returned immediately to the owner at no cost. Failure of the owner of the animal to appear at the determination hearing shall result in a final determination with no further appeal. The owner may be represented by counsel.

(b)

The ~~vicious/dangerous~~ animal determination hearing officer shall determine whether, by a preponderance of the evidence, the animal is a ~~vicious or~~ dangerous animal as defined in this chapter based upon evidence, affidavits, and testimony presented at the time of the hearing by the owner, witnesses to any incident which may be germane to such a determination, department personnel, police or any other person possessing information pertinent to such determination. The owner may cross examine witnesses. A record of the hearing shall be kept. The animal determination hearing officer ~~director~~ shall issue written factual findings and a determination as to whether the animal is dangerous within five (5) working days after the determination hearing. The owner shall be notified of the animal determination hearing officer's findings and determination by certified mail, return receipt requested.

(c)

The owner of the animal determined to be ~~vicious or~~ dangerous has the right to appeal the determination decision to municipal court within five (5) working days of receiving the animal determination hearing officer's determination ~~such decision by submitting written notice to the director.~~ Failure to appeal within the time allotted shall result in the animal determination hearing officer's decision as final.

(d)

A municipal court judge shall sit as the administrative appeal hearing officer, and shall conduct the appeal as a civil administrative proceeding for the purpose of reviewing the written or audio record and/or viewing a video tape of the hearing conducted by the ~~vicious/dangerous~~ animal determination hearing officer, and hearing any additional offered relevant sworn testimony and other evidence that such administrative appeal hearing officer deems useful. The administrative appeal hearing officer shall decide if the determination of the animal determination hearing officer is supported by a preponderance of the evidence. In addition, the administrative appeal hearing officer is permitted to consider whether the animal determination hearing satisfied the requirements of due process. The administrative appeal hearing officer shall prepare a written memorandum of findings and declare the ~~vicious/dangerous~~ animal determination hearing officer's ruling either affirmed or reversed.

(e)

The ruling of the municipal court may be appealed in the manner provided for the appeal of cases from municipal court.

Sec. 5-7980. - Defense to determination of ~~vicious or dangerous~~ animal.

It is a defense to the determination of an animal as ~~vicious or dangerous~~ and to the prosecution of the owner of an animal:

(1)

If the threat, injury, or damage was sustained by a person who at the time was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;

(2)

If the person was teasing, tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the animal;

(3)

If the person was committing or attempting to commit a crime;

(4)

If the domestic animal killed was at the time teasing, tormenting, abusing or assaulting the animal;

(5)

If the animal was protecting or defending a person within the immediate vicinity of the animal from an attack or assault;

(6)

If the animal was injured and responding to pain; or

(7)

If the animal was protecting its offspring, itself or its kennelmates.

Sec. 5-~~808~~1. - Requirements of dangerous animal owners.

(a)

An owner of an animal determined to be dangerous by the ~~dangerous~~ animal determination hearing officer or the administrative appeal hearing officer, must comply with all of the following ten (10) requirements before the subject animal can be released to the owner by the director. The director must, however, release the animal to the owner if a state licensed veterinarian with a facility located within the city verifies, upon being contacted by a city veterinarian or director, that the owner has arranged for the required surgery of the dangerous animal to comply with this article, and a city veterinarian has implanted the required identification microchip in the animal, and has inspected the residence where the animal is to be kept, and is satisfied that the following requirements which could have already been complied with have been complied with by the owner:

(1)

The animal must be licensed in accordance with this chapter and shall have a higher licensing fee;

(2)

The dangerous animal shall at all times wear a collar approved by the department visible at fifty (50) feet so that the animal can be identified as a dangerous animal. The department is authorized to charge the animal owner a fee to cover the cost of this collar;

(3)

The dangerous animal must be kept in an enclosure as defined in section 5-1 of this chapter;

(4)

The owner must present to the department a certificate of public liability insurance in the amount of one hundred thousand (\$100,000.00) dollars to cover any injuries caused by the dangerous animal. The insurance shall be kept in effect continuously and shall not be cancelled unless the animal is no longer kept by the insured owner;

(5)

The dangerous animal, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal; and the dangerous animal must be restrained by a sturdy leash ~~chain or cable~~ six (6) feet in length. The department is authorized to charge the animal owner a fee to cover the cost of this leash;

(6)

The owner shall post a sign on his premises warning that there is a dangerous animal on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the department shall design and produce a uniform dangerous animal symbol or decal, understandable by small children which shall be made available at cost to the public. Such symbol or decal must be displayed on or about the sign;

- (7)
The owner shall authorize the department to implant a microchip beneath the skin of the dangerous animal for positive identification of the animal;
 - (8)
The dangerous animal must be spayed or neutered;
 - (9)
The owner must attend a class on responsible pet ownership conducted by the department; and
 - (10)
The owner must allow an annual inspection of the residence where the animal is kept to ensure continued compliance with all requirements of this section. More frequent inspections may be conducted in response to specific complaints regarding non-compliance with this section.
- (b)
If the owner of an animal determined to be dangerous is unable or unwilling to comply with the ownership requirements listed above at anytime, the animal must be euthanized by an animal shelter, animal care agency, licensed veterinarian or the department. An animal determined to be dangerous under this chapter shall not be offered for adoption, rescue or sale.

~~Sec. 5-82. Requirements of vicious animal owners.~~

- (a)
~~An owner of an animal determined to be vicious by the vicious animal determination hearing officer or the administrative appeal hearing officer, must comply with all of the following requirements before the subject animal can be released to the owner by the director. The director must, however, release the animal to the owner if a state licensed veterinarian with a facility located within the city verifies, upon being contacted by a city veterinarian or director, that the owner has arranged for the required surgery of the vicious animal to comply with this article, and a city veterinarian has implanted the required identification microchip in the animal, and is satisfied that the following requirements which could have already been complied with have been complied with by the owner:~~
- (1)
~~The animal must be licensed in accordance with this chapter;~~
 - (2)
~~The vicious animal shall at all times wear a collar approved by the department visible at fifty (50) feet so that the animal can be identified as a vicious animal. The department is authorized to charge the animal owner a fee to cover the cost of this collar;~~
 - (3)
~~The vicious animal must be kept in an enclosure as defined in section 5-1 of this~~

chapter;

(4)

~~The vicious animal, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration, but shall prevent it from biting any person or animal; and the vicious animal must be restrained by a chain or cable (6) feet in length. The department is authorized to charge the animal owner a fee to cover the cost of this leash;~~

(5)

~~The owner shall post a sign on his premises warning that there is a vicious animal on the property. This sign shall be visible and capable of being read from the public street or highway. In addition, the department shall design and produce a uniform vicious animal symbol or decal, understandable by small children which shall be made available at cost to the public. Such symbol or decal must be displayed on or about the sign;~~

(6)

~~The owner shall authorize the department to implant a microchip beneath the skin of the vicious animal for positive identification of the animal; and~~

(7)

~~The vicious animal must be spayed or neutered.~~

(b)

~~If the owner of an animal determined to be vicious is unable or unwilling to comply with the ownership requirements listed above at anytime, the animal must be euthanized by an animal shelter, animal care agency, licensed veterinarian or the department. An animal determined to be vicious under this chapter shall not be offered for adoption or sale.~~

Sec. 5-8183. - Notification of change of status.

The owner/keeper of a ~~vicious or~~ dangerous animal shall notify the director or his designee within twenty-four (24) hours if their ~~vicious or~~ dangerous animal is loose, unconfined, has attacked another animal, has attacked a person, or has died. If an owner/keeper of a ~~vicious or~~ dangerous animal gives the ~~vicious or~~ dangerous animal away, the owner/keeper shall within twenty-four (24) hours notify the director or his designee that said animal has been given away and provide the director or his designee the name, address, and telephone number of the new owner/keeper. Prior to taking possession of the animal, the new owner/keeper must comply with the requirements of owners of ~~vicious or~~ dangerous animals and provide a sworn statement to the director or his designee that they will continue to comply with all of the requirements of owners of ~~vicious or~~ dangerous animals for as long as the owner/keeper has possession of the animal.

Sec. 5-824. - Dangerous ~~or~~ vicious animal violations.

(a)

A person commits an offense under state law, pursuant to the Texas Health and Safety Code, if the person is the owner of a dangerous dog which makes an unprovoked attack on another person that occurs at a location other than a secure enclosure in which the dog is restrained and causes serious bodily injury to the other person.

(ba)

The owner or keeper of a ~~vicious or~~ dangerous animal, other than a dangerous dog, which, when unprovoked, inflicts severe injury or death to a person or bites a person on public or private property; ~~or which kills a domestic animal without provocation while off the owner's property,~~ shall be guilty of a misdemeanor.

(cb)

It shall be a violation of this chapter for an owner or keeper to intentionally, knowingly, or recklessly fail to prevent a ~~vicious or~~ dangerous animal, including a dangerous dog, from killing or wounding, or assisting in the killing or wounding of any domestic animal belonging to or in the possession of another person, or for an owner or keeper to fail to prevent a ~~vicious or~~ dangerous animal from attacking, assaulting, biting or otherwise injuring any person or assisting in the attack, assault, biting, or other injury of any person whether out of or within the enclosure of the owner or keeper, and whether or not such ~~vicious or~~ dangerous animal was on a leash or securely muzzled or whether or not the ~~vicious or~~ dangerous animal escaped without the knowledge or consent of the owner or keeper. The animal care officer shall seize and destroy such ~~vicious or~~ dangerous animal in an expeditious and humane manner. In addition, the owner or keeper shall be cited for the offense.

(de)

It shall be a violation of this chapter for the owner or keeper of a ~~vicious or~~ dangerous animal to:

(1)

Fail to comply with any of the requirements of sections 5-801 ~~or 5-82~~ as required;

(2)

Fail to notify the department of a change of status as set out in section 5-813; or

(3)

Fail to keep the animal confined at no cost to the city during the hearing process.

(ed)

The provisions under this section shall not apply to any law enforcement agency where a dog is being used for law enforcement.

(fe)

A rebuttable presumption shall exist that the owner or keeper knowingly allowed a ~~vicious or~~ dangerous animal to be kept in inadequate confinement in any criminal complaint filed under subsections (ba) or (cb).

Sec. 5-83. – Aggressive dogs; levels defined.

Classification of a dog as aggressive shall be based upon specific behaviors exhibited by the dog. For purposes of this chapter, behaviors establishing various levels of aggressive dogs are the following:

(a)

Level 1 behavior is established if:

(1)

A dog while in the enclosure in which the animal was being kept and acts to cause a person to reasonably believe that the animal will attack and cause bodily injury to that person; or

(2)

A dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of a domestic animal.

(b)

Level 2 behavior is established if a dog, while at large, causes physical injury to any domestic animal or livestock.

(c)

Level 3 behavior is established if:

(1)

A dog, while at large, kills or causes the death of any domestic animal or livestock; or

(2)

A dog classified as a Level 2 aggressive dog that repeats the behavior in subsection (b) after the owner or keeper receives notice of the Level 2 classification.

(d)

Notwithstanding subsections (a), (b), and (c), the director shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors specified in subsections (a), (b), and (c), if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

Sec. 5-84. - Aggressive dogs; appeals; restrictions pending appeal.

(a)

The director shall have authority to determine whether any dog has engaged in the behaviors specified in Section 5-83. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the director. These observations and testimony can be provided by animal care officers or by other witnesses who personally observed the behavior. They shall sign an affidavit attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(b)

The director shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.

(c)

The director shall give the dog's owner or keeper written notice by certified mail or personal service of the dog's specified behavior, of the dog's classification as aggressive, and of the restrictions applicable to that dog by reason of its classification. If the owner or keeper denies that the behavior in question occurred, the owner or keeper may appeal the director's decision to the animal determination hearing officer.

(d)

Upon receipt of notice of the dog's classification as a Level 1, 2, or 3 aggressive dog pursuant to subsection (c), the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Failure to comply with the specified restrictions shall be a violation of this chapter for which a fine can be imposed. Additionally, the director shall have authority to impound the dog pending completion of all appeals.

(e)

If the director's decision or the animal determination hearing officer's decision finds that a dog has engaged in aggressive behavior, the dog may be impounded pending the completion of any appeals.

(f)

Any dog classified as a Level 3, that is found to have repeated Level 3 behavior as defined under this code, shall be impounded if not already impounded. The dog shall not be released to the owner or be made available for adoption until either potential recipient of the dog has established arrangements for accommodating the animal consistent with all the security and safety requirements ordered by the director or the animal determination hearing officer.

Sec. 5-85. - Aggressive dogs hearings; notice of hearings; appeal.

(a)

Notice of appeal of a classification of aggressive dog must be given to the director within fifteen (15) working days of the date the dog is classified as aggressive by the director. The director or his designee shall set an aggressive animal hearing. The owner shall be notified of said hearing by certified mail, return receipt requested. Failure of the owner of the animal to appear at the hearing shall result in a final classification with no further appeal. The owner may be represented by counsel.

(b)

The animal determination hearing officer shall determine whether, by a preponderance of the evidence, the animal is aggressive as defined in this chapter based upon evidence, affidavits, and testimony presented at the time of the hearing by the owner, witnesses to any incident which may be germane to such a determination, department personnel, police or any other person possessing information pertinent to such determination. The owner may cross examine witnesses. A record of the hearing shall be kept. The animal determination hearing officer shall issue written factual findings and a determination as to whether the dog is aggressive within five (5) working days after the hearing. The owner shall be notified of the animal determination hearing officer's findings and determination by certified mail, return receipt requested.

(c)

The owner of the dog determined to be aggressive by the animal determination hearing officer has the right to appeal the determination to municipal court by submitting written notice to the director within five (5) working days of receiving the animal determination hearing officer's determination. Failure to appeal within the time allotted shall result in the animal determination hearing officer's determination as final.

(d)

A municipal court judge shall sit as the administrative appeal hearing officer. The administrative appeal hearing officer shall apply a pure substantial evidence review of the aggressive dog hearing. The administrative appeal hearing officer shall consider only the factual record made at the aggressive dog hearing and decide if the determination of the animal determination hearing officer is reasonably supported by substantial evidence. In addition, the administrative appeal hearing officer is permitted to consider whether the aggressive dog hearing satisfied the requirements of due process. The administrative appeal hearing officer shall prepare a written memorandum of findings and declare the animal determination hearing officer's determination either affirmed or reversed.

(e)

The result of the administrative appeal hearing is final.

Sec. 5-86. - Regulation of Aggressive dogs.

In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall comply with the following conditions:

(a)

Dogs classified as Level 1 dogs shall be restrained, so as not to be at large, by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside the owner's or keeper's home and not on a leash. The director may order sterilization of the animal.

(b)

Dogs classified as Level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of \$100,000.00. In addition, the owner or keeper may be required to complete a responsible pet ownership program as prescribed by the director or the animal determination hearing officer. The director may order sterilization of the animal.

(c)

Dogs classified as Level 3 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises, and the owner or keeper shall post warning signs, which are provided by the director, on the premises where the dog is kept, in conformance with rules to be adopted by the director. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of \$100,000.00. The owner or keeper shall not permit the dog to be off the owner's or keeper's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the director may require the owner or keeper to satisfactorily complete a pet ownership program. The director may order sterilization of the animal.

(d)

To insure correct identification, all dogs that have been classified as aggressive shall be microchipped and photographed, and may be fitted with a special tag or collar determined by the director at the owner's expense. The director shall adopt rules specifying the type of required identification.

(e)

The animal must be licensed in accordance with this chapter and shall have a higher licensing fee;

(f)

The owner or keeper of a Level 3 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner or keeper of any aggressive dog shall not permit the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not permit the dog to be moved to a new address or change owners or keepers without providing the director with ten days' prior written notification.

Sec. 5-87. - Declassification of aggressive dogs.

Declassification will be automatic pursuant to this section.

(a)

The following conditions must be met:

(1)

Level 1 or Level 2 dogs have been classified for one year without further incident, and two years for Level 3 dogs; and

(2)

There have been no violations of the specified regulations; and

(3)

If ordered by the director or hearings officer at the time of classification:

a.

The owner or keeper provides the director with written certification of satisfactory completion of obedience training for the aggressive dog with the owner or keeper; and

b.

The owner or keeper provides the director with written verification that the classified dog has been sterilized from a licensed veterinarian.

(b)

When the owner or keeper of an aggressive dog meets all of the conditions in this chapter, the restrictions for Level 1 and Level 2 classified dogs may be removed. Restrictions for Level 3 may be removed, with the exception of the secure enclosure.

Article V. Animal Licenses and Permits

Sec. 5-100. - Dog and cat license required; application.

(a)

The owner or keeper of any dog or cat must apply for a license before the animal attains four (4) months of age. 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 current rabies vaccination. Any unlicensed dog or cat shall be subject to seizure and impoundment at the discretion of the investigating animal care officer ~~or housing and neighborhood services enforcement investigator~~, and shall be subject to adoption, rescue, foster or shall be humanely euthanized at the discretion of the director disposed of if not timely redeemed within the impoundment period as set out in this Code.

(b)

It is a defense to prosecution under this section that:

(1)

The dog or cat owner is a nonresident of this city and is keeping the subject pet in the city for fewer than sixty (60) days;

(2)

The dog or cat owner has been a resident of this city for fewer than thirty (30) days; or

(3)

The dog or cat had been abandoned or lost and the temporary owner has had the dog or cat for fewer than thirty (30) days.

Sec. 5-101. - Validity of license.

A The dog or cat license may be issued will be valid for one (1), two (2) or three (3) years and shall be renewed not later than the last day of the month the registration expires as long as the rabies vaccination certificate is current and maintained. Regardless of the term type of dog or cat license obtained, it will be valid as long as long the rabies vaccination certificate is current and it will expire on the expiration of the current rabies vaccination certificate. Dogs and cats which were licensed under Ordinance 2007-12-13-1291 (passed and approved by the City Council on December 13, 2007) which provided that a dog or cat license will be valid as long as the rabies vaccination certificate is current and maintained are exempt from the licensing renewal requirement under this chapter.

Sec. 5-102. - Issuance of pet license.

Upon the acceptance of the dog or cat license application, the director, his authorized animal care officer, as well as any licensed veterinarian, pet product retailer, or pet service provider located in the city which is approved by the director, is hereby authorized to issue a dog or cat license which is stamped with an identifying number.

Sec. 5-103. - Wearing tags, exception.

(a)

Dogs must wear dog license tags ~~or if microchipped, a tag indicating the microchip number~~ at all times while outdoors; except that dogs which are kept for show or exhibition purposes are not required to wear such tags as long as the dogs are otherwise under restraint.

(b)

Cats that are currently vaccinated for rabies and microchipped shall not be required to wear tags on a collar due to the danger of accidental strangulation. Upon request of the director or his authorized animal care officer, the owner or keeper of any cat licensed in accordance with this chapter shall display such tag or license receipt for the animal in question to any requesting officer.

Sec. 5-104. - Permits/licenses when issued; required record of numbers; ~~term of validity.~~

(a)

A permit or a license shall be issued after payment of the applicable fee, if any. The director is authorized to reduce or waive any fee provided for in this chapter.

~~(b)~~

~~The rabies vaccination must be renewed within thirty (30) days of its expiration to maintain lifetime licensing. Rabies vaccination information must be provided to the department within ninety (90) days of rabies vaccination.~~

(be)

The department shall maintain a record of the identifying numbers of all dog and cat licenses.

Sec. 5-105. - Nontransferability.

No person may use any pet dog or cat license for any animal other than the one for which it was issued.

Sec. 5-106. - Review upon frequent violations.

The director shall review any and all dog or cat licenses issued to any animal owners against whom four (4) or more convictions have been obtained within a period of one (1) year under the provisions of this chapter and shall revoke said license as to the subject pet(s) and notify the subject animal owner of said revocation if, after the director or his appointed representative conducts an administrative hearing, and determines that the public health and safety are at risk while the licensed pet owner or any member of this household has possession or control of the subject animals. Certified mail notice of the time and place of said hearing shall be mailed to the last known address of the licensed pet owner at least ten (10) days prior to said hearing.

~~Sec. 5-107. - Intact dog permit.~~

(a)

~~Any owner or keeper of a dog that is not spayed or neutered must obtain an intact dog permit, unless the dog qualifies for a certified medical exception from a licensed veterinarian or is less than six (6) months old.~~

(b)

~~This section shall not apply to:~~

(1)

~~A dog or cat owner who is a nonresident of this city and is keeping the subject pet in the city for fewer than sixty (60) days; or~~

(2)

~~Dog or cat owners who have been a resident of this city for fewer than thirty (30) days.~~

Sec. 5-107108. - Litter permit.

Any person whose female dog or cat has a litter must obtain a litter permit prior to or within ten (10) business days of the litter's birth.

(a1)

The issuance of a permit authorizes the whelping of no more than one (1) litter per female dog or cat in any 12-month period.

(b2)

If a person fails to obtain a permit after notice, then the department shall be authorized to impound the female dog or cat and the animal litter.

(c3)

The litter permit number shall be prominently displayed in all advertisements, notices, or displays of the litter for sale or trade or offers to give away any members of the litter.

(d4)

No person may offer any puppy or kitten under the age of eight (8) weeks for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the department, or any tax-exempt nonprofit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals, or any recognized rescue organization which is currently registered with the department).

(e5)

This section does not apply to caretakers of feral cat colonies and rescuers affiliated with recognized rescue organizations registered with the department.

Sec. 5-108. Seller's permit.

Any person who sells or offers for sale one or more puppies must obtain a seller's permit.

(a)

Each seller's permit shall be valid for one (1) year. Each permit applicant shall be required to take an educational course as part of the permit application process.

(b)

The seller's permit number shall be prominently displayed in all advertisements, notices, or displays for sale of the puppies.

(c)

A seller's permit holder shall provide a purchaser a written statement which shall include a guarantee of good health for a period of not less than two (2) weeks with a recommendation to have the animal examined by a licensed veterinarian.

(d)

A person who obtains a litter permit or pet shop license shall not be required to obtain a seller's permit under this section.

(e)

If a person fails to obtain a permit after notice, then the department shall be authorized to impound the puppies.

Sec. 5-109. - Animal limits; excess animal permit.

(a)

The total number of domestic fowl and livestock allowed at a residence is five (5) which may include:

(1)

Up to three (3) domestic fowl; and

(2)

Up to two (2) animals from the following classes of livestock:

a.

Equines;

b.

Bovines;

c.

Sheep;

d.

Goats; and

e.

Llamas.

(b)

All livestock must be enclosed in a pen the nearest point being at least one hundred (100) feet from any dwelling or business building owned or occupied by any person other than the owner. All domestic fowl must be kept in an enclosure. An owner must comply with the following with regard to domestic fowl and livestock:

(1)

The owner must have adequate facilities to house the livestock and domestic fowl and ensure adequate sanitation.

(2)

The livestock and domestic fowl must be kept housed or confined in a manner that does not allow them to create a nuisance.

(3)

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

(c)

If an owner desires to exceed the maximum number of domestic fowl or livestock specified in subsection (a), an owner must make an application for an excess animal permit with the department which shall be valid for one (1) year. The criteria for evaluating the application for an excess animal permit shall be those listed in subsection (b). In addition, all domestic fowl must be kept in an enclosure 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.

(d)

A maximum number of eight (8) cats or five (5) dogs, or an aggregate number of eight (8) is permitted at a residence. In order to have more dogs and/or cats than this chapter allows at a residence, an owner must apply for an excess animal permit which shall be valid for one (1) ~~three (3)~~ years. The criteria used to evaluate the granting of a dog or cat permit are as follows:

(1)

All dogs and cats for which a permit is required must be sterilized, unless the dog (s) or cat (s) qualifies for a certified medical exception by a licensed veterinarian or is under four (4) ~~six (6)~~ months old.

(2)

All dogs and cats must be currently vaccinated for rabies.

(3)

All dogs and cats must be currently licensed by the city.

(4)

The dogs and/or cats must not be housed exclusively outside.

(5)

All dogs and cats must have ~~be microchipped~~ and a photograph of each animal

~~must be~~ attached to an animal profile sheet that will be kept on record as verification of the animals allowed in the permit. Rescuers registered with the department shall be exempt from the photograph and profile sheet requirement.

- (6) If the owner of the dogs and/or cats is not the owner of the property, the permission of the property owner must be obtained before a permit application will be processed.
- (7) A check will be made to determine if there are any previous valid complaints. A previous valid complaint can be grounds for the denial of a permit request.
- (8) The requestor must have adequate property or facilities to ensure the dogs and/or cats do not disturb any neighbors. The facilities shall be subject to inspection by the department.
- ~~(9) Once a permit is granted, the permittee must obey all rules pertaining to pet ownership within the city and the state. Any valid violation under this chapter, including exceeding the number of dogs and cats allowed on the original permit is grounds for revocation of the permit by the department.~~
- ~~(10) If a permit is revoked, the permittee will have thirty (30) days to come into compliance with existing numbers limits.~~

(e)

The total number of rabbits allowed at a residence is ten (10). An owner must comply with the following with regard to rabbits:

- (1) The owner must have adequate facilities to house the rabbits and ensure adequate sanitation.
- (2) The rabbits must be kept housed or confined in a manner that does not allow them to create a nuisance.
- (3) Sanitation must be addressed in a manner that prevents the attraction of pests.

If an owner desires to exceed the maximum number of rabbits specified above (ten (10) rabbits), an owner must make an application for an excess animal permit with the department which shall be valid for one (1) year. The criteria for evaluating the application for an excess animal permit shall be those listed above in subsection (1), (2) and (3). The facilities shall be subject to inspection by the department. The

maximum amount of rabbits allowed with an excess animal permit is twenty-five (25).

- (f) Any owner, caretaker, or other person who keeps any non-poisonous snake over three (3) feet and/or fifteen (15) pounds, in addition to complying with all federal and state laws, regulations, and permit regulations affecting such snake, shall:

(1)

Keep the snake at all times in a cage or enclosure of such size and construction and in a manner as to preclude the possibility of escape. Such enclosure shall be of such size as to permit the snake reasonable freedom of movement; and

(2)

Keep the snake in such a manner so as not to threaten or annoy any person of normal sensitivity; and

(3)

Prevent unauthorized access to the snake through adequate safeguards.

(g)

Once a permit is granted, the permittee must obey all rules pertaining to pet ownership within the city and the state. Any valid violation under this chapter, including exceeding the number of animals allowed on the original permit is grounds for revocation of the permit by the department.

(h)

If a permit is revoked, the permittee will have thirty (30) days to come into compliance with existing numbers limits.

(ie)

An owner who is denied a permit or whose permit is revoked has the right to appeal the denial or revocation by submitting written notice to the director within fifteen (15) working days of the denial or revocation. Upon the timely receipt of such written notice, the director or his designee shall schedule an animal permit hearing. The owner shall be notified of said hearing by certified mail, return receipt requested. If the hearing is not conducted within fifteen (15) working days of date the notice of appeal is received, the director shall issue the requested permit or reinstate the revoked permit. Failure of the owner of the animal to appear at the permit hearing shall result in a final denial or revocation with no further appeal. The owner may be represented by counsel. Any person who is denied a permit or whose permit is revoked may appeal the denial or revocation to the director within thirty (30) days of the date of the denial or revocation of the permit. All requests for appeals must be in writing and addressed to the director; whereupon said director shall set the appeal for hearing within forty-five (45) days of the said director's receipt of the written request. The director shall issue findings within five (5) working days after the determination hearing. A person who is denied a permit has the right to appeal the decision to municipal court within five (5) working days of receiving such decision by submitting written notice to the director. Failure to appeal within the time allotted shall result in the hearing officer's decision as final. A municipal

~~court judge shall sit as the administrative appeal hearing officer, and shall conduct the appeal as a civil administrative proceeding for the purpose of reviewing the written or audio record and/or viewing a video tape of the hearing conducted by the director, and hearing any additional offered relevant sworn testimony and other evidence that such administrative appeal hearing officer deems useful. The administrative appeal hearing officer shall prepare a written memorandum of findings and declare the director's ruling either affirmed or reversed.~~

(j)

The animal permit hearing officer shall determine whether, by a preponderance of the evidence, a permit should not be denied or revoked based upon evidence, affidavits, and testimony presented at the time of the hearing by the owner, witnesses to any incident which may be germane to such a determination, department personnel, police or any other person possessing information pertinent to such determination. The owner may cross examine witnesses. A record of the hearing shall be kept. The animal permit hearing officer shall issue written factual findings and a determination as to whether the permit denial or revocation should be reversed within five (5) working days after the animal permit hearing. The owner shall be notified of the animal permit hearing officer's findings and determination by certified mail, return receipt requested.

(k)

If the animal permit hearing officer does not reverse the permit denial or revocation, the owner has the right to appeal the determination to municipal court by submitting written notice to the director within five (5) working days of receiving the animal permit hearing officer's determination. Failure to appeal within the time allotted shall result in the animal permit hearing officer's determination as final.

(l)

A municipal court judge shall sit as the administrative appeal hearing officer. The administrative appeal hearing officer shall apply a pure substantial evidence review of the animal permit determination. The administrative appeal hearing officer shall consider only the factual record made at the animal permit hearing and decide if the determination of the animal permit hearing officer is reasonably supported by substantial evidence. In addition, the administrative appeal hearing officer is permitted to consider whether the animal permit hearing satisfied the requirements of due process. The administrative appeal hearing officer shall prepare a written memorandum of findings and declare the animal permit hearing officer's determination either affirmed or reversed.

(m)

The result of the administrative appeal hearing is final.

Sec. 5-110. - Permit required for circuses, rodeos, animal exhibits, and animal shows, petting zoos and recreational animal rides; special exceptions for institutions and special attractions.

(a)

Any operator of a circus, rodeo, animal exhibit, or entertainment show, or other persons desiring to bring any non-aquatic mammal into the city to use in a circus, rodeo, animal exhibit or animal show other than a dog show or a cat show, shall first submit a written request to the department for a permit and pay a permit application fee to cover the cost of inspecting the facility where the animal(s) will be kept during the event, which may

be for any number of consecutive days. The permit application shall be submitted at least twenty (20) days prior to the event, and shall contain information as to the kind and number of animals involved, the reason for bringing the animal(s) to the city, and the name and address of the person or business that will keep, feed, and confine the animal(s) during their stay in the city.

(b)

No person shall operate a petting zoo or recreational animal ride (which include, but are not limited to, horses, ponies, donkeys, camels, elephants or cows) within the city without first obtaining a permit which shall be valid for one (1) year. An operator of a petting zoo or recreational animal ride shall first submit a written request to the department for a permit and pay a permit application fee to cover the cost of inspecting the facility where the animal(s) will be kept and shall contain information as to the kind and number of animals involved, and the name and address of the person or business that will keep, feed, and confine the animal(s). Animals used within the city for petting zoos or recreational animal rides must be provided with all the necessities of life including air, food, water, veterinary care, exercise, and protection from the sun and other elements of nature.

(cb)

A permit shall not be required for any animal so long as it is owned by a governmentally owned and operated facility, publicly operated facility, a public zoological park, or bona fide medical institution or research institution.

(de)

A prohibited animal brought into the city for entertainment purposes which is not approved by the director or designee, upon the order of the director or his designee, will be immediately removed from the city. If not so removed expeditiously, an animal care officer shall seize such animal if he has reason to believe the animal is not being properly fed, housed, or cared for, or is not being safely and securely confined for public safety.

(ed)

Animals used within the city for entertainment purposes such as rodeos and circuses must be provided with all the necessities of life including air, food, water, veterinary care, exercise, and protection from the sun and other elements of nature. A licensed veterinarian must be in attendance at all such functions. Once determined to be injured or ill by a licensed veterinarian, an animal may be returned to use only after certification as healthy by a licensed veterinarian.

(fe)

Nothing in this section shall authorize the director to issue a permit to a person to sell, trade, barter, lease, rent, or give away any animal on any roadside, public right-of-way, commercial parking lot, or at any garage sale, flea market or festival.

Sec. 5-111. - Pet shop license.

No person shall operate any pet shop as defined in this chapter, without first obtaining a license from the director who shall take into consideration the type of building construction, the regulatory compliance history of the permittee as it relates to sanitation, health, welfare of the animals, birds or reptiles housed, and related zoning requirements. The director shall utilize a standardized check-list for inspecting and evaluating the qualifications of applicants.

- (1) Applications for an original or renewal pet shop license shall be submitted to the department and shall be approved or denied by the director. The department shall investigate the applicant's qualifications for a license, and report its findings to the director. A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation of a license.
- (2) Failure to intentionally, knowingly, or recklessly apply for a license prior to the opening of such a commercial animal facility, or within thirty (30) days after the renewal date, shall constitute a misdemeanor offense.
- (3) Each pet shop license shall be valid for one (1) year.

Sec. 5-112. - Grooming shop license.

- (a) No person shall operate any grooming shop, as defined in this chapter, without first obtaining a license from the director who shall take into consideration the type of building construction, the regulatory compliance history of the permittee as it relates to sanitation, health, welfare of the animals, and related zoning requirements. The director shall utilize a standardized check-list for inspecting and evaluating the qualifications of applicants.
 - (1) Applications for an original or renewal grooming shop license shall be submitted to the department and shall be approved or denied by the director. The department shall investigate the applicant's qualifications for a license, and report its findings to the director. A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation.
 - (2) Failure to intentionally, knowingly, or recklessly apply for a license prior to the opening of such a commercial animal facility, or within thirty (30) days after the renewal date, shall constitute a misdemeanor offense.
 - (3) Each grooming shop license shall be valid for one (1) year.
- (b) A permit holder has the right to request that any dog or cat accepted for grooming be

vaccinated against common diseases, and require proof of such vaccinations be furnished to the shop operator.

Sec. 5-113. - Commercial boarding ~~dog~~ kennels and ~~catteries~~ license.

No person shall operate a commercial boarding kennel/~~cattery~~ without first obtaining a license from the director which shall be valid for one (1) year Such license shall be issued after inspection and approval of the facilities, taking into consideration the type of construction as it relates to sanitation, the health and welfare of the dogs and cats, and related zoning regulations.

- (1) Application for licenses under this section shall be made to the director on the form furnished by the department and approved by the director. The director or designee shall conduct the investigation necessary to determine the applicant's qualifications for a license.
- (2) Failure to apply for a license prior to the opening of a commercial boarding kennel/~~cattery~~, or within thirty (30) days after the renewal date is a misdemeanor offense.
- (3) The director or his designee, after an administrative hearing, shall make a determination of whether the commercial boarding kennel/~~cattery~~ conditions and the applicant's animal care practices meet the standards of this chapter, whether the facilities are adequate, and whether the applicant is otherwise willing and capable of complying with city ordinances. If the application is for renewal of an existing license, and the applicant has not complied with the rules and regulations established in this chapter, said director shall issue a "Letter of Denial of Renewal and Order of Termination of Operations" of the subject commercial boarding kennel/~~cattery~~ upon the expiration of the current license period. Any unlicensed commercial boarding kennel/~~cattery~~ is hereby declared a public nuisance, and shall be summarily abated by seizure and impoundment of all cats and dogs exceeding the legal number that may be kept by a resident.
- (4) Each commercial boarding kennel/~~cattery~~ license application submitted to the department shall be accompanied by an application fee. However, the Animal Defense League and the Humane Society of Bexar County shall not be required to pay said fee, nor shall any corporation with Internal Revenue Service Code Section 501(c)(3) status as a non-profit organization established for the purpose of protecting and caring for stray and unwanted animals.

Sec. 5-114. - Livestock permits.

- (a)

It shall be unlawful for any person to keep livestock in the city without first applying in writing and obtaining a permit from the director, such permit to be valid only for the location for which it was issued.

- (b) A person who keeps livestock as defined in this chapter shall pay a permit fee per year for each animal.
- (c) All fees payable under this chapter, for whatever purpose required, shall be paid to the city.

Sec. 5-115. - Cat colony permit and registration.

- (a) Each cat colony will be registered by the caretakers with the department or its designee which will serve as a clearinghouse for information on current caretakers, education for new caretakers, and assistance for persons found in violation of this section. Cat colonies with eight (8) or fewer cats are not required to be registered as a cat colony.
- (b) Any feral cat picked up by the department which has an appropriate ear tip will be returned to that colony unless veterinary care is required or the criteria listed in subsection (d) apply.
- (c) Caretakers of feral cat colonies shall obtain a cat colony permit which shall be valid for one (1) year, and implement proper management and sterilization practices as required by the department. Any person or caretaker determined to be in violation of proper management and sterilization practices required by the department shall be issued a written warning and be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance. That period of time shall not exceed ninety (90) days from issuance of the initial warning notice. Failure to comply shall result in a violation of this chapter, which may result in the issuance of a citation.
- (d) The department has the right to immediately seize and remove all, or parts of any colony for the following reasons:
 - (1) Public health and public safety concerns including rabies, other epizootic and certain zoonoses identified by the department of health; or
 - (2) Animals creating a public nuisance as defined in section 5-150.

Sec. 5-116. - Revocation.

All permits issued under this chapter may be revoked by the director, or his authorized representative, for violation by the holder thereof of any of the provisions of this chapter.

Revocation of the permit is accomplished by mailing to the holder of such permit a written notice by certified mail stating his permit is revoked. Revocation of the permit may also be accomplished by personally delivering to the holder thereof a written notice stating his permit is revoked.

Article VI. Rabies Control

Sec. 5-125. - Required vaccination.

An owner of a dog, cat or domestic ferret must have the animal vaccinated against rabies in a manner that satisfies the requirements of state law.

Sec. 5-126. - Reporting, bites, scratches; zoonotic diseases.

- (a) Any veterinarian or person having knowledge of an animal having bitten, scratched or injured a person or other animal, within the city shall report the incident to the director who is also the local rabies control authority immediately.
- (b) Any veterinarian or other person having knowledge of an animal diagnosed as having any reportable zoonotic disease shall report same to the director within five (5) days.
- (c) The owner of such diseased or biting or scratching animal who learns of such incident shall immediately give his name and address together with the animal's license number and date of last rabies vaccination to the person bitten or injured or to a parent or guardian of such person who is under the age of eighteen (18) years. The owner shall notify the director within twenty-four (24) hours of his name; the animal's license number; the name of the injured person, and other information requested by the director related to the animal and injured party.
- (d) If the animal care services officer is present, If the owner/keeper shall immediately surrender the animal. If an animal care services officer is not present and the owner/keeper does not surrender the animal to the animal care services facility within twenty-four (24) hours of the incident occurring, the director or any appointed animal care officer shall seize and impound any animal for rabies observation upon the sworn affidavit of any person with knowledge that the animal has bitten a person or another animal. An administrative search warrant shall be obtained from any municipal court judge or other magistrate to enter onto private property to search for the biting animal if permission to enter is not given.

Sec. 5-127. - Confinement of biting, scratching animals.

- (a) The owner of any animal within the city which has bitten or scratched a person so as to have caused an abrasion of the skin shall, on demand of the director or any animal care

officer, immediately surrender such animal to the animal care services facility, or other approved rabies quarantine facility for observation for a period lasting not more than ten (10) days after the date of the incident, subject to the provisions of subsection (b).

(b)

The owner of any animal that has bitten or scratched any person shall be allowed to assume personal responsibility for confining the animal for the observation period of ten (10) days, only under the following circumstances:

(1)

Secure facilities must be available at the home of the animal's owner, and must be approved by the director;

(2)

The animal was currently vaccinated against rabies when the exposure incident occurred;

(3)

The animal was not in violation of any laws or ordinances at the time of the bite; and

(4)

The director, city veterinarian or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the director must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing by the veterinarian who will attest to the health of the animal.

(c)

If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be quarantined for observation by a veterinarian for the appropriate period as required by state law.

(d)

Violation of the observation confinement of the biting animal as provided in subsection (b) shall be just cause for seizure and confinement of the animal in the animal care facility of the city.

(e)

All wild animals involved in exposure incidents including biting, scratching or any other direct exposure by physical contact will be humanely euthanized in such a manner that the brain is not mutilated. The brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.

Sec. 5-128. - Concealment, sale of biting animal prohibited.

It shall be unlawful for any owner within the city to conceal, sell, give away or otherwise dispose of an animal that has bitten or scratched another animal or a human, or to otherwise permit the animal to be taken beyond the limits of the city after having knowledge of the

animal's having bitten or having so injured another animal or a person as to cause an abrasion of the animal's or person's skin, until such animal is released by the director.

Sec. 5-129. - Confinement of animals infected with or exposed to rabies.

The owner of any animal infected with rabies, or who reasonably suspects his animal of having such an infection, shall notify the police department or the animal care services facility of the fact that his animal has been infected with or exposed to rabies. The director is empowered to have such animal removed from the owner's premises to the animal care services facility, or at the request of the owner, such animal may be placed in a veterinary hospital, and shall be placed under observation for the appropriate period as required by state law. Whether confined in the animal care services facility or a veterinary hospital, the owner shall bear the expense of the confinement.

Sec. 5-130. - Confinement at owner's expense; payment.

Any animal surrendered to the animal care services facility for the purpose of observation as provided in this chapter shall be kept at the facility and shall be fed and cared for at the expense of the owner. Such fees are to be paid to the city before the animal can be reclaimed from the animal care services facility at the end of the authorized quarantine and observation period.

Sec. 5-131. - Release of animal subject to certification by veterinarian.

No animal shall be released from the observation period provided for in this article unless a licensed veterinarian certifies in writing to the director that such animal is not showing symptoms of rabies. Exemption from placing such animal in the animal care services facility or in a veterinary hospital as provided in subsection 5-127(b) shall not exempt such owner from securing a proper release, as provided above.

Sec. 5-132. - Euthanization of rabid animals, wild biting animals.

When in the opinion of the director the animal has exhibited signs of incipient rabies, the animal will be immediately euthanized and the brain submitted to a Texas Department of State Health Services certified laboratory approved by the director for diagnosis. In the case of biting wild animals, euthanasia shall be performed immediately and the brain submitted for rabies diagnosis.

Sec. 5-133. - Impoundment of animals unclaimed after quarantine.

Any animal quarantined at the city's animal care services facility not reclaimed by its owner within twenty-four (24) hours of the expiration of the quarantine or observation period provided in this chapter shall become the property of the city and may be offered for adoption or humanely euthanized at the discretion of the director.

Sec. 5-134. - Notification of authorities upon knowledge of rabid animal.

Any person having knowledge of any animal being infected with rabies or reasonably suspecting such infection shall immediately notify the animal care services facility or the police

department of such fact or suspicion giving the name of the owner, possessor, keeper or harbinger of such animal, if the same be known, together with a description of such animal and where such animal may be found.

Sec. 5-135. - Final disposition of rabid, nonrabid animals.

Where an animal has been bitten by another animal, and the biting animal described in this section is determined not to have rabies, then both animals will be released from observation. If the biting animal is determined to be rabid, and the animal victim is possessed of a current vaccination certificate, then the owner of the animal victim will have the option of immediately having the animal victim humanely euthanized, or, in the alternative, revaccinated and quarantined for a period of ninety (90) days. However, if the animal victim is not possessed of a current vaccination certificate, then the owner of said animal victim will have the option of immediately having said animal victim humanely euthanized, or, in the alternative, vaccinated and quarantined for a period of one hundred and eighty (180) days.

Sec. 5-136. - Health emergencies.

Upon a finding by the director of health that a health emergency exists due to the imminent threat of rabies or other disease communicable by animals, he shall have the authority to order that all unrestrained animals be impounded and destroyed immediately; except that, no emergency order shall continue for a period longer than seven (7) days without the consent of the city council.

Sec. 5-137. - Joint animal vaccination drives.

The director is hereby authorized to conduct periodic rabies vaccination drives in cooperation with the Veterinary Medical Association of Bexar County for the public health benefit of the community.

Article VII. Animal Nuisances ~~Owner Responsibility; Nuisances; Impoundment~~

Sec. 5-150. - Animal Nuisances ~~Owner responsibilities.~~

The owner or keeper of any animal in the city is responsible for the behavior and conduct of that animal at all times including the creation of a public nuisance. Violations of the following acts or omissions are public nuisances:

(a~~1~~)

The owner or keeper shall keep the animal (except cats) restrained at all times and insure that the animal (except cats) does not roam or run at large at will;

(b~~2~~)

The owner or keeper shall not keep any dog which barks or whines in such a manner, with such intensity, or with such continued duration, or keep any other animal, fowl, or bird, which makes frequent or long, continued noise, so as to

annoy, distress or disturb the quiet comfort or repose of persons of normal nervous sensibilities within the vicinity of hearing thereof;

(c3)

The owner or keeper shall prevent his animal from biting or injuring without provocation, any animal or person;

(d4)

The owner or keeper shall prevent his animal from damaging or destroying public property or property other than its owner's private property;

(e5)

The owner or keeper shall not keep more than the number of animals allowed under this chapter;

(f6)

An owner or keeper creates an animal nuisance ~~per se~~ by the keeping, frequent feeding or harboring of any poisonous or inherently dangerous or prohibited animal.

Sec. 5-151. - Outdoor cats.

All outdoor cats must be spayed or neutered.

Sec. 5-152. - Misdemeanor violations by animal owners; presumptions.

(a)

An animal owner commits a misdemeanor offense if by act, omission or possession he creates an animal nuisance ~~or an animal nuisance per se~~.

(b)

~~No culpable mental state shall be required to support a conviction under subsection (a).~~

(be)

The following presumptions are hereby declared applicable in the prosecution of an offense pursuant to subsection (a):

(1)

The filing of a complaint by two (2) or more neighbors, within a twelve-month period, regarding the barking of an animal kept by its owner shall give rise to the presumption that an owner keeps an animal which barks or whines in such a manner, with such intensity, or with such continued duration so as to annoy, distress or disturb the quiet, comfort or repose of persons of normal nervous sensibilities. For the purpose of this presumption, each neighbor must occupy a different residence;

(2)

The fact that an animal in question has bitten or injured another animal or human

being during the previous eighteen (18) months shall give rise to the presumption that the animal bites or injures other animals or human beings without provocation;

(3)

The fact that an animal in question has damaged or destroyed public or private property during the last twelve (12) months shall give rise to the presumption that the animal has a propensity to destroy property.

Sec. 5-153. - Impounding animals creating animal nuisance ~~per-se~~.

Animal care officers or other law enforcement officers shall have the power to impound animals which create an animal nuisance ~~per-se~~ for the purpose of abating the nuisance as follows:

(~~a~~1)

On public property, in all cases;

(~~b~~2)

On private property, if:

1a.

The consent of the resident or property owner is obtained;

2b.

The officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded; or

3e.

Authorized by appropriate courts of law.

Sec. 5-154. - Impounding abandoned or unrestrained animals.

(a)

The director may order the seizure and impoundment of any abandoned animal as defined in this chapter. Disposition of said seized and impounded abandoned animals shall be in accordance with sections 5-157, 5-158, and 5-159. Any trap, neuter and return (TNR) program that has been registered with the department shall not constitute a violation of this section.

(b)

Animal care officers or other law enforcement officers shall have the power to impound unrestrained animals for the purpose of abating the nuisance as follows:

(1)

On public property, in all cases;

(2)

On private property, if the consent of the resident or property owner is obtained;

- (3) On private property, in all cases except fenced rear yards of residences, if the officer reasonably believes that the animal will run at large if not impounded.

Sec. 5-155. - Impounding procedures.

Animal care officers or other law enforcement officers authorized pursuant to sections 5-153 or 5-154 to abate a nuisance, shall, prior to impounding an animal, leave notice at the residence of the premises where the unrestrained animal was found stating the kind and type of animal seized, the place where the animal is to be impounded, the hours when it may be reclaimed by the owner and the length of time it is to be held; provided the animal care officers or other law enforcement officers shall:

- (1) Release the animal to the owner, if the animal was found unrestrained on the owner's premises and the owner agrees to restrain the animal in the future; or
- (2) Release the animal to the owner if the animal was found unrestrained outside the owner's premises, but the owner readily presents himself and agrees to restrain the animal in the future.

Sec. 5-156. - Return of captured animal to owner.

- (a) In addition to the issuance of a citation, the animal care officer may return an animal found at large to the known owner in lieu of impounding the animal.
- (b) The owner may redeem an impounded animal during normal business hours by paying the impoundment fee, sterilization fees if any, boarding fees, and the pre-release rabies vaccination fee if required by law for the subject species and proof of valid current vaccination cannot be produced.
- (c) On the first impound, of an intact dog found at large, the department shall require the owner to enter into an agreement to sterilize the dog before releasing it back to its owner, unless the owner possesses or obtains a valid intact dog license for the dog. ~~require the owner of any intact dog to enter into an agreement to sterilize the dog that has been impounded before releasing it back to its owner, unless the owner possesses or obtains a valid intact dog permit for the dog, or the dog qualifies for a certified medical exception from a city veterinarian, or the dog is under six (6) months old. If an owner enters into a sterilization~~ Under the agreement, the owner shall provide proof of sterilization of the dog to the department within thirty (30) days from the date of the agreement.
- (d) On the second impound of a dog found at large, the intact dog license permit shall be

revoked if applicable, and the owner shall agree to sterilize the dog, unless the dog qualifies for a certified medical exception from a city veterinarian, the dog is an exhibition or competition dog, or the dog is a police or military service dog. Owners of exhibition or competition dogs and police or military service dogs shall provide proof to the director or his designee. Under the sterilization agreement, the owner shall provide proof of sterilization of the dog to the department within thirty (30) days from the date of the agreement.

(e)

~~In the event a dog is under six (6) months of age and gets impounded a second time, the owner of the dog will be required to provide to the department proof of sterilization once the animal reaches six (6) months of age pursuant to an agreement with the department.~~

(ef)

On the second impound of an intact cat found at large, the department shall sterilize the cat prior to releasing it back to its owner at the owner's expense, or require the owner of an intact cat to enter into an agreement to sterilize the cat before releasing it back to its owner, unless the cat qualifies for a certified medical exception from a city veterinarian, or the cat is an exhibition or competition cat. Owners of exhibition or competition cats shall provide proof to the director or his designee. If an owner enters into a sterilization agreement, the owner shall provide proof of sterilization of the cat to the department within thirty (30) days from the date of the agreement. The department shall require the owner of any intact cat that has previously been impounded to enter into an agreement to sterilize the cat before releasing it back to its owner.

Sec. 5-157. - Notifying owner of impounded animal.

If the owner of an impounded animal can be identified, the animal care officer shall upon impoundment notify the owner at the address stated on the records of the department.

Sec. 5-158. - Minimum time animals impounded; euthanasia authorized.

Impounded dogs and cats shall be kept for not fewer than three (3) days, excluding the day the animal is impounded and any days the animal care services facility is not opened, and shall ~~may~~ be subject to offered for adoption, rescue, foster or humanely euthanized at the discretion of the director thereafter. In the case of owned animals, the city may will dispose of any unclaimed animal before this three-day period if the owner releases ownership of the animal to the city. If any impounded animal is determined by a licensed veterinarian or designee to be suffering from disease or injury such that the animal is in pain or is beyond reasonable medical help, the animal may be euthanized immediately. In such a case, holding times otherwise specified in this Code will not apply. Due to their immature immune system, any abandoned animal under four months of age shall immediately become the property of the city, for humane disposition, and may be offered for adoption or humanely euthanized at the discretion of the director.

Sec. 5-159. - Unclaimed animals.

(a)

Any animal not claimed by its owner within the above stated three (3) days shall become the property of the city, ~~for humane disposition, and shall be subject to may be offered for~~ adoption, rescue, foster or humanely euthanized at the discretion of the director. The selection of an animal for adoption or rescue during the reclamation period or thereafter ~~the following adoption period~~ shall not confer any ownership right or right of possession to the animal.

(b)

The director may sell unclaimed livestock found running free of restraint by public auction to the highest bidder for cash after notice of the auction is posted on a public bulletin board where other public notices are posted for the City.

Sec. 5-160. - Charges for reclaiming, adopting impounded animals; liability of claimant.

(a)

Any owner reclaiming an impounded animal shall, before the animal will be released to him, pay impoundment and boarding fees. The director is authorized to reduce or waive impoundment and/or boarding fees.

(b)

No animal shall be released from the animal care facility without the owner presenting proof that the animal has had a rabies vaccination in compliance with the requirements of state law. An owner of any dog or cat who cannot provide proof of said rabies vaccination shall be subject to a fee for rabies vaccination of each dog or cat. ~~Animal transfer organizations approved by the director will be assessed a rabies vaccination fee.~~ An owner of any domestic ferret who cannot provide proof of said rabies vaccination shall be subject to a fee for rabies vaccination of each domestic ferret. In addition, no animal shall be released without being licensed.

(c)

Any citizen reclaiming or adopting any animal under the provisions of this section shall be liable for any applicable fees.

(d)

All animals adopted from the animal care facility shall be spayed or neutered within thirty (30) days unless this procedure has already been accomplished. Persons adopting animals from the animal care facility shall pay the applicable fees for adopting a dog or cat. As an incentive for the adoption of animals, the director is authorized to advertise and reduce or waive adoption fees. A deposit will be collected for each pet adopted that has not yet been spayed or neutered. This deposit will be returned upon application and presentment of a valid spay/neuter certificate.

(e)

The city animal care facility is authorized to accept animals for humane disposition from individuals who reside in the city or in other municipalities or in unincorporated areas of Bexar County. The city animal care facility is authorized to accept animals for humane disposition from Bexar County for animals in the unincorporated areas of Bexar County

as long as the city and county maintain a joint animal control program by contractual agreement. The city animal care facility is authorized to accept animals for humane disposition from other municipalities in Bexar County as long as the city and the other municipality in Bexar County maintain a joint animal control program by contractual agreement. An animal service fee shall be charged per animal.

- (f) The department shall refund fees paid by persons who adopted an animal that dies within two (2) weeks of adoption due to apparent congenital illness or communicable disease that could have been contracted by the animal prior to adoption. Adoption fees shall be refunded as long as the terms of the adoption contract were followed.
- (g) At the time animals are reclaimed from the animal care facility they will be identified by the implantation of a microchip so the animal, if ever lost or stolen, can be returned to its owner.
- (h) If an animal that is impounded is sterilized, currently vaccinated for rabies and licensed the department will not charge an impound fee for the first impound only. The animal must be reclaimed within the time limits in section 5-158. The initial impound will count as a first impound in assessing fees for any future impounds.
- (i) The first impound free policy applies toward each residence.

Sec. 5-161. - Liability of owners of impounded animals.

- (a) The owner of an animal impounded remains subject to prosecution for violation of this chapter regardless of reclamation or nonreclamation.
- (b) The owner of an impounded animal remains liable for the fees incident to impoundment, regardless of reclamation of the animal or nonreclamation.

Sec. 5-162. - Abatement of animal nuisance complaint and citation; summary statement.

- (a) Any person may, upon presentation of a duly executed affidavit stating the existence of an animal nuisance, as defined in this chapter, and identifying the name and address of the owner or owners of such animal may request the city prosecutor to file a complaint in municipal court against the owner or owners of such animal under the provisions of this chapter. The filing of a complaint by the person will result in the issuance of a court summons to the owner or owners of the animal in question.
- (b)

Animal care officers and other law enforcement officers may issue the owner or owners of animals creating an animal nuisance, as defined in this chapter, a citation to appear in municipal court to answer the offense charged.

Sec. 5-163. - Enforcement; interference with animal care officer, police.

- (a) The provisions of this chapter shall be enforced by the director, his designated agents and the police department. It shall be a violation of this chapter to interfere with an animal care officer or a police officer in the performance of his duties.
- (b) Interference is presumed when the owner, keeper, or harbinger or possessor of an animal in noncompliance refuses to surrender the animal on demand to the animal care or police officers, provided that the demand is in accordance with the provisions of this chapter.
- (c) It shall be unlawful for a person to make a false complaint or report of an alleged violation under this chapter.

SECTION 2. All other provisions of Chapter 5 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 3. Violations occurring after the effective date of this ordinance shall be punished as provided in the revised Chapter 5, Section 5-21. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

SECTION 4. The following fees related to the Animal Care Services Department are hereby established: licensing fee for dogs (sterilized), \$ 5.00/1 year, \$10.00/2 year, \$15.00/3 year; licensing fees for dog (unsterilized), \$50.00/1 year, \$100.00/2 year, \$150.00/3 year; licensing fees for cats (sterilized or unsterilized), \$5.00/ 1 year, \$10.00/ 2 year, \$15.00/3 year; aggressive animal licensing fees (sterilized), \$25.00/year (level 1), \$50.00/year (level 2), \$75.00/year (level 3); aggressive animal licensing fees (unsterilized), \$75.00/year (level 1), \$100.00/year (level 2), \$125.00/year (level 3); seller's permit fee, \$250.00/year; petting zoo/recreational animal ride permit, \$50.00/year; replacement pet license tag fee, \$5.00.

SECTION 5. The following fees related to the Animal Care Services Department are hereby amended: second impoundment fee for dogs/cats from \$75.00 to \$100.00; third impoundment fee for dogs/cats from \$100.00 to \$150.00.

SECTION 6. The following fees related to the Animal Care Services Department are hereby repealed: livestock/large animal adoption fee, vicious animal licensing fee and intact dog permit fee.

SECTION 7. Ordinance No. 2009-09-17-0731A related to fees is hereby amended to reflect the changes set forth above. The Fee Schedule attached hereto as **Attachment I** and incorporated herein for all purposes shall replace and supersede Attachment I in Ordinance No. 2009-09-17-0731A.

SECTION 8. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.


SECTION 9. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 10. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

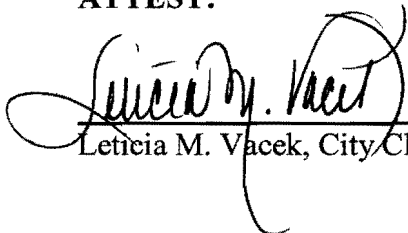
SECTION 11. This ordinance shall become effective immediately upon passage by eight (8) or more affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

SECTION 12. Penalties provided for in this revised Chapter 5 shall be effective five days after publication by the City Clerk.

PASSED AND APPROVED this 17th day of June, 2010.

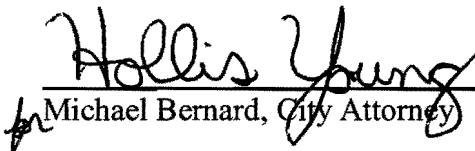

M A Y O R
Julian Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



for Michael Bernard, City Attorney

CITY OF SAN ANTONIO, TEXAS
ANIMAL CARE SERVICES
FEE SCHEDULE

Attachment I

The Director of Animal Care Services reserves the right to adjust fees during instances of moratoriums or any special events or circumstances, if deemed necessary.

Animal Adoption- Flat Rate

Dog Package:

Cat Package:

Fees

\$81.00

\$29.00

Other Animal Adoptions Fees

Rabbit Adoption

\$15.00 each;

\$60.00 each (for sterilization)

Small Animal Adoption (fowls/birds, ferrets, small reptiles, guinea pigs)

\$10.00 each

Livestock (sheep, goats, bovines, equines)/Specialty animals (i.e. exotic birds)

sold by auction

Licensing & Permits

Pet License Tag Fees

City Registration (dogs)

Sterilized

\$ 5.00/ 1 year

\$10.00/ 2 year

\$15.00/3 year

Unsterilized

\$50.00/1 year

\$100.00/2 year

\$150.00/3 year

City Registration (cats)

Sterilized or unsterilized

\$5.00/ 1 year

\$10.00/ 2 year

\$15.00/3 year

Animals deemed Dangerous

\$100.00/1 year

Animals deemed Aggressive

Sterilized

\$25.00/year (level 1)

\$50.00/year (level 2)

\$75.00/year (level 3)

Unsterilized

\$75.00/year (level 1)

\$100.00/year (level 2)

\$125.00/year (level 3)

Permits Fees

Seller's Permit

\$250.00/year

Litter Permit

\$50.00/litter (1 litter per year)

Cat Colony Permit

\$10.00/year

Livestock permit (horse, cattle)

\$150.00 per animal x year

Other Livestock (hog, sheep, goat, llama, etc.)

\$75.00/year

Pet Shop Permit

\$150.00/year

Commercial Boarding Kennel Permit

\$150.00/year

Pet Grooming Permit

\$75.00

Animal Exhibit Permit

\$100.00/event

Petting Zoo/Recreational Animal Ride Permit

\$50.00/year

Exceed # of Animal Limit Permit

\$25.00/year

(Dogs, cats, domestic fowl, livestock, rabbits)

Inspection and Subsequent Re-inspection(s)

\$25.00 each inspection

Impoundment Fees

Regular Intake

Dog and Cat

1st Occurrence

2nd Occurrence

3rd Occurrence

4th Occurrence

Boarding

Fees

\$50.00 plus vaccinations

\$100.00 plus vaccinations

\$150.00 plus vaccinations

\$200.00 plus vaccinations

\$10.00/daily

Vaccinations *(also given at the time of impoundment):*

Rabies (unless proof of vaccination is provided)	\$12.00
Bordetella	\$6.00
DHPP	\$8.00
FVRCP (cats)	\$8.00

Rabies Observation Fees

1st Occurrence	\$75.00
2nd Occurrence	\$100.00
3rd Occurrence (Requires dangerous dog investigation)	\$200.00
Boarding	\$20.00/day

Livestock Impound Fees

Horse/Cattle	\$100.00/animal
Boarding	\$35.00/daily
Goats/Pigs	\$75.00
Boarding	\$15.00/daily
Poultry & Rabbits	\$20.00
Boarding	\$10.00/daily

Other Fees

Owner Surrender	\$40.00/City Residents
Non-City Processing (Including Owner Surrender)	\$50.00
Storefront items	Prices vary by item
Euthanasia Fee	\$25.00
Annex Facility Fee	\$75.00 half day/\$100.00 full day
Microchip	\$15.00
Replacement Pet License Tag	\$5.00
Spay/Neuter Deposit	\$150.00

Additional vaccination fees may be found at www.sanantonio.gov/animalcare.com