MH
12/13/07
Item #4

AN ORDINANCE 2007-12-13-1291

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

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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 by 2012; and

WHEREAS, achieving a "no kill" goal by 2012 requires increasing the entire community's awareness of the critical animal care issues that the City of San Antonio faces; and

WHEREAS, more importantly, it also requires increasing the level of responsibility that pet owners take for the care and treatment of their animals; and

WHEREAS, in January 2007, an Ad Hoc Subcommittee was appointed by the Animal Care Services Advisory Board (Board) to review and make recommendations to revise Chapter 5 of the City Code of San Antonio, Texas; and

WHEREAS, the Ad Hoc Subcommittee presented their recommendations to the Board on July 11, 2007 at which time the Board made the decision to hold a stakeholder meeting on August 1, 2007 and a community input meeting on August 22, 2007 regarding the proposed revisions to Chapter 5; and

WHEREAS, on October 17, 2007 the Board presented their proposed recommendations to City Council at which time City Council referred this item to the Quality of Life Committee (Committee) for further discussion; and

WHEREAS, on November 20, 2007 Animal Care Services provided a briefing to the Committee on new proposed language relating to dangerous and vicious animals at which time the Committee approved the language and referred this item for full City Council consideration; and

WHEREAS, additionally, a revised fee schedule amending current fees as well as establishing new fees is being proposed; and

WHEREAS, the City desires to amend Chapter 5 of the City Code of San Antonio, Texas to promote the health, safety, and welfare of the public; **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 and Fowl", is hereby amended in its entirety by replacing its provisions with a revised Chapter 5 entitled

"Animals". The said revised Chapter 5 is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. Violations occurring after the effective date of this ordinance shall be punished as provided in the revised Chapter 5, Section 5-16. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

SECTION 3. Fees related to the administration of the revised Chapter 5 of the City Code of San Antonio, Texas are hereby amended or established as attached hereto and incorporated herein for all purposes in Attachment II entitled Fee Schedule.

SECTION 4. 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 5. 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 6. 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 7. Revised Chapter 5 of the City Code of San Antonio, Texas (Attachment I) shall be effective on January 1, 2008 with the following exceptions: Revised Article IV, of Chapter 5, entitled, Dangerous or Vicious Animals, shall be effective immediately upon passage by eight affirmative votes of the entire City Council; Sections 5-108, 5-109, 5-111, 5-112, 5-113, 5-114, 5-115 and 5-151 of revised Chapter 5 shall be effective on March 1, 2008; Sections 5-107 and 5-156 (c-f) of revised Chapter 5 shall be effective on January 1, 2009.

SECTION 8. Penalties provided for in this revised Chapter 5 shall be effective five days after publication by the City Clerk.

PASSED AND APPROVED this 13th day of December, 2007.

M A Y O R
PHIL HARDBERGER

ATTEST: Leticia M. Vacek
City Clerk

APPROVED AS TO FORM: Hollis Young
for City Attorney

Attachment I

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 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 of this Chapter.

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 Cattery 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 cat 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.

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 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 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 of this Code, 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 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 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.

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

Prohibited animals shall mean:

A. Any ape or other non-human primate;

B. Any member of the genus *Canis* including wolf, hybrid wolf, coyote, jackal or fox, and similar species except *Canis familiaris*;

C. Any member of the genus *Felis* including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except *Felis domesticus*;

D. Mustelids; other than the domestic ferret (*Mustela putorius furo*);

E. Skunk;

F. Any poisonous reptile or venomous species except bees;

G. Crocodile, alligator, caiman or related species;

H. Miniature Vietnamese pot-bellied pig;

I. Ostrich or any other Ratites;

J. Bear; and

K. 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 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 sides free of leaks or openings to the wind and rain and a fourth side allowing access that is protected from the elements.

Stray animal shall mean any animal not under restraint.

Temporary owner shall mean an individual who finds a stray animal 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 of Texas.

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 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) 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.

State law references: Requirements for animal shelters, Texas Health and Safety Code Chapter 823.

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) Animal Cruelty is 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.

(c) 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.

(d) It shall be unlawful for a person to intentionally, knowingly or recklessly beat, cruelly treat, overload or otherwise abuse any animal, including the person's own animal or any unowned animal anywhere in the City.

(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.

(g) 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. 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. 5-6. 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.

(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.

(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 Section 5-110(b).

Sec. 5-7. 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. 5-8. 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. 5-9. 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 eight (8) hours 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. 5-10. 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. 5-11. 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.

(c) Dogs and cats shall be removed from their primary enclosures at least twice during each twenty-four 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.

(d) 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 parainfluenza, 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).

(e) 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.

(f) 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.

(g) 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, adeno-virus 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.

(h) 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 of San Antonio 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.

(i) 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. 5-12. Commercial kennel and cattery requirements.

(a) No person shall operate a commercial kennel or cattery within the City without first obtaining a license from the Director.

(b) The exterior of a commercial 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 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, parainfluenza, and canine parvovirus in accordance with standard veterinary practices. A commercial cattery 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 kennels/catteries 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 kennel/cattery 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. 5-13. 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. 5-14. 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. 5-15. 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 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 of the dog's body weight.

Sec. 5-16. 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).

(b) 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.

(c) Upon conviction, any violations of Section 5-4, 5-80 or 5-81 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.

(d) 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.

(e) 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.

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 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; 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.

State Law Reference: Texas Health and Safety Code Sec. 823.005.

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:

(a) Exhibition at stock shows, fairs and circuses;

(b) When located at and on the property of any vocational school, with facilities properly constructed as determined by the Director;

(c) Slaughtering establishments;

(d) When offered for sale at stock yards or auction barns adjacent thereto;

(e) 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:

(1) 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;

(2) 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;

(3)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;

(4) All swine must be grain fed;

(5) 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;

(6) Hog wallows are prohibited;

(7) The open and adjacent areas must be kept clean;

(8) 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;

9) 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

(10) 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 of this Code.

(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 OR VICIOUS ANIMALS

Sec. 5-75. Keeping of dangerous animals.

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

(a) 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

(b) 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

(c) 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:

(a) 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; or

(b) 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; or

(c) 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

(d) 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. 5-77. Investigation, seizure and confinement of alleged dangerous or vicious animal.

(a) Upon receipt of a sworn affidavit of complaint, signed by one 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 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 5-81 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 5-81 and 5-82.

Sec. 5-78. 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. 5-79. Determination hearing; notice of hearings.

(a) If an animal is alleged to be vicious or dangerous, the Director or his designee shall schedule 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. Failure of the owner of the animal to appear at the determination hearing shall result in a final determination with no further appeal.

(b) The vicious/dangerous animal determination hearing officer shall determine whether 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 Director shall issue findings within five (5) working days after the determination hearing.

(c) The owner of the animal determined to be vicious or dangerous 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 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 prepare a written memorandum of findings and declare the vicious/dangerous animal determination hearing officer's ruling either affirmed or reversed.

Sec. 5-80. 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:

(a) 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; or

(b) 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; or

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

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

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

(f) If the animal was injured and responding to pain; or

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

Sec. 5-81. 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 Texas 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

(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; and

(3) The dangerous animal must be kept in an enclosure as defined in Section 5-1 of this Chapter; and

(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; and

(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 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; and

(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; and

(7) The owner shall authorize the Department to implant a microchip beneath the skin of the dangerous animal for positive identification of the animal; and

(8) The dangerous animal must be spayed or neutered; and

(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 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 Texas 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; and

(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; and

(3) The vicious animal must be kept in an enclosure as defined in Section 5-1 of this Chapter; and

(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; and

(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; and

(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. 5-83. 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. 5-84. Dangerous or vicious animal violations.

(a) The owner or keeper of a vicious or dangerous animal 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.

(b) 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 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.

(c) 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 5-81 or 5-82 as required; or

(2) Fail to notify the Department of a change of status as set out in Section 5-83; or

(3) Fail to keep the animal confined at no cost to the City during the hearing process.

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

(e) 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 Section 5-84, subsections (a) or (b).

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 humanely disposed of if not timely redeemed.

(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; or

(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.

The dog or cat license will be valid as long as the rabies vaccination certificate is current and maintained. Regardless of the type of dog or cat license obtained, it will expire on the expiration of the current rabies vaccination certificate.

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.

(c) 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. 5-108. 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.

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

(b) 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.

(c) 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.

(d) 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).

(e) This Section does not apply to caretakers of feral cat colonies and rescuers affiliated with recognized rescue organizations registered with the Department.

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 i) equines ii) bovines iii) sheep iv) goats and v) 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. The criteria for evaluating the application for a permit shall be those listed in subsection (b).

(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 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 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 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.

(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.

(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) 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.

Sec. 5-110. Permit required for circus, rodeo, animal exhibit and animal show; 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) 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.

(c) 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.

(d) 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.

(e) 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.

(a) 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 dog kennels and catteries license.

(a) No person shall operate a commercial kennel/cattery without first obtaining a license from the Director. 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 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 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 kennel/cattery upon the expiration of the current license period. Any unlicensed commercial 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 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 of San Antonio.

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 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

State law references: Rabies Control Act, Texas Health and Safety Code, Chapter 826.

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 owner/keeper does not surrender the animal, 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) below.

(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; and

(2) The animal was currently vaccinated against rabies when the exposure incident occurred; and

(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 Section 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 harborer 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. OWNER RESPONSIBILITY; NUISANCES; IMPOUNDMENT

Sec. 5-150. 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) 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) 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;

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

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

(e) The owner or keeper shall not keep more than the number of animals allowed under this Chapter;

(f) 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).

(c) 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) On public property, in all cases;

(b) On private property, if:

(1) The consent of the resident or property owner is obtained; or

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

(3) 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 of this Code. 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 Section 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, 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, the Department shall 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. 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, the intact permit shall be revoked if applicable, and the owner shall agree to sterilize the dog. 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.

(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.

(f) 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 any days the animal care facility is not opened, and may be offered for adoption or humanely euthanized at the discretion of the Director thereafter. In the case of owned animals, the City will dispose of any unclaimed animal before this three (3) day period if the owner releases ownership of the animal to the City. If any impounded animal is determined by a licensed veterinarian 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.

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 may be offered for adoption or humanely euthanized at the discretion of the Director. The selection of an animal for adoption during the reclamation period or the following adoption period shall not confer any ownership right or right of possession to the animal.

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 harborer 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.

Proposed Fee Schedule for Animal Care Services

Attachment II

Impoundment Fees

Regular Intake	Current Fees	Proposed Fees
Dog and Cat		
1st Occurrence	$35.00	$50.00
2nd Occurrence	$75.00	$75.00
3rd Occurrence	$100.00	$100.00
4th Occurrence	$200.00	$200.00
Boarding	$7.00	$10.00/day
Rabies	$20.00	$12.00
Bordatella		$6.00
DHPP		$8.00
FVRCP	$5.00	$8.00

(vaccinations given at time of impoundment)

** If dog is intact upon first impoundment, the owner must either elect to sterilize the dog or purchase an intact dog permit. If the dog is impounded for a second time, the dog must undergo sterilization surgery.

Livestock	Current Fees	Proposed Fees
Horse/Cattle	$100.00	$100.00/animal
Boarding	$20.00	$35.00/day
Goats/Pigs	$100.00	$75.00
Boarding	$20.00/animal	$15.00/day (each)
Poultry & Rabbits	N/A	$20.00
Boarding	$10.00/day	$10.00/day (each)

Rabies Observation	Current Fees	Proposed Fees
1st Occurrence	$35.00	$75.00
2nd Occurrence	$100.00	$100.00
3rd Occurrence	$200.00	$200.00 (Requires dangerous dog investigation)
Boarding	$7.00/day	$20.00/day

Animal Adoption

	Current Fees	Proposed Fees
* Fees vary depending upon whether or not pets are already altered or if they require additional treatment		
Dog/Cat Adoption Fee		
Unsterilized	$63.00	Cats/Dogs/Puppies/Kittens Flat Rate $73.00
Puppy/Kitten	$55.00	
Already Sterilized	$38.00	

Dog Package	Cat Package	Dog Package	Cat Package
License	License	License	License
Heartworm Test	Feline Aids Test	Heartworm Test	FELV/FIV
Rabies Vaccination	Rabies Vaccination	Rabies Vaccination	Rabies Vaccination
DHLPP Vaccination	FVRCP Vaccination	DHLPP Vaccination	FVRCP Vaccination
Bordatella Vaccination	Sterilization Surgery	Bordatella Vaccination	Sterilization Surgery
Sterilization Surgery	Flea Treatment	Sterilization Surgery	Flea Treatment
Microchip	Microchip	Microchip	Microchip
Ivermec Treatment	Dewormer	Ivermec Treatment	Dewormer
Dewormer		Dewormer	

	Current Fees	Proposed Fees
Spay/Neuter Deposit		
For release of unsterilized	$40.00	$150.00
Fee will be refunded upon proof of sterilization		

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

Proposed Fee Schedule for Animal Care Services

Animal Adoption, cont.	**Current Fees**	**Proposed Fees**
Rabbit Adoption	N/A	$15.00 each
(If they want the animal sterilized)		$60.00 each
Small Mammal Adoption	N/A	$10.00 each

Licensing & Permits

Pet License	**Current Fees**	**Proposed Fees**
Sterilized	$5.00	Microchip to be used as a permanent form of licensing
Unsterilzed	$20.00	Sterilized & Unsterilized $7.00
Animals deemed Dangerous	$5.00	$100.00/year
Animals deemed Vicious	N/A	$75.00/year

- Currently licensed animals must have a current rabies vaccination. The rabies vaccination must be renewed within 30 days of its expiration and proof must be submitted to Animal Care Services within 60 days of the vaccination date.

Permits	**Current Fees**	**Proposed Fees**
Intact Dog Permit	N/A	$50.00/year
Litter Permit	N/A	$50.00/litter (1 litter x year)
Cat Colony Permit	N/A	$10.00/year
Livestock Permit	$150.00/year	$150.00 per horse/cattle x year
		$50.00 x additional horse/cattle
Other Livestock	N/A	$75.00/year
(hog, sheep, goat, llama, etc.)		$25.00 each additional

Veterinary Fees	**Current Fees**	**Proposed Fees**
Vaccinations		
DHPP	$5.00	$8.00
FVRCP	$5.00	$8.00
Bordatella	N/A	$6.00
Rabies	$20.00	$12.00
Tests		
Heartworm	$10.00	$10.00
FELV/FIV	$10.00	$15.00
Fecal	N/A	$6.00
Blood work	N/A	$75.00
Parasite Control		
External	N/A	$10.00
Ear mites	N/A	$7.00
Other		
Pain Medication	N/A	$10.00
Anesthesia	N/A	$25.00
Fluids (x 1000ml bag)	N/A	$10.00
Bandaging (x incident)	N/A	$10.00
Ecollar	N/A	$10.00
Surgery (x hour)	N/A	$75.00

Other Fees		
Non-City Processing Fee	$50.00	$50.00
Pet shop/kennel license	$75.00/year	150.00/year
Pet grooming permit	N/A	$75.00
Animal Exhibit permits	$75.00	$100.00
Vouchers	N/A	$50.00
Exceed # of animal limit permit	N/A	$25.00
Storefront items	N/A	Prices vary by item

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