

## Chapter 6 ANIMAL CARE AND CONTROL

### ARTICLE I. GENERAL PROVISIONS

#### Sec. 6-1. Definitions.

(a) As used in this chapter, the following words have the meanings ascribed to them in this section:

*Abandoned animal* means an animal left without care by the owner and or keeper without making reasonable arrangements for assumption of custody by another person.

*Animal* means any living vertebrate creature, domestic or wild, other than Homo sapiens.

*Animal care officer* means the animal care services division manager, employees of the animal care services division, or authorized agents of animal care services.

*Animal care services* means a division of the City of Corpus Christi responsible for enforcing state and local laws, ordinances, rules, and regulations regarding the care and keeping of animals, including the provisions of this chapter.

*Animal Care Services Manager* means the program manager of Corpus Christi Animal Care Services.

*At large or running at large* means any animal within the city not kept under restraint.

*Attack* means to set upon with violent force.

*Auction* means any place or facility within the city where animals are regularly bought, sold, offered for sale, or traded, except for those facilities otherwise defined in this chapter.

*Cat* means a domesticated member of the Felidae (feline) family, other than a bobcat, cougar, jaguar, leopard, lion, panther, tiger, or other prohibited animal.

*Circus* means a commercial variety show featuring animal acts for public entertainment.

*City* means the City of Corpus Christi.

*City animal shelter* means a place operated by or for the city, whether in city facilities or by contract, for the detention of dogs, cats, and other animals as prescribed by law.

*Collar or harness* means a band of leather, nylon, rope, or similar material, excluding chain if utilized for training purposes, that is commonly used on an animal to aid in control of movement of the animal, by the animal's owner, and to which a leash or lead can be attached.

*Commercial animal establishment* means any auction, circus, hatchery, kennel, performing animal exhibit, performing animal exhibition, pet shop, rodeo, stable, or zoological park or any lot, building, structure, or premises within the city used for the business of buying, selling, grooming, breeding, or boarding of animals.

*Commercial property* means:

- (1) Any portion of land or buildings, excluding publicly owned property, that is zoned or utilized for commercial or business uses within the city, including temporary sites.
- (2) Any vehicle utilized for commercial or business purposes within the city.

*Department* means Corpus Christi Animal Care Services.

*Dog* means a domesticated member of the Canidae (canine) family, other than a coyote, dingo, fox, jackal, wolf, wolf hybrid, or other prohibited animal.

*Food* means:

With respect to animals any commercially processed and packaged substance intended for use by an animal owner to meet and maintain the nutritional needs of the animal for which it was processed and packaged.

*Food processing establishment* means any place in which food is commercially manufactured or packaged for human consumption.

*Food service establishment* means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service. The term does not include private homes where food is prepared or served for individual family consumption, the location of vending machines, and supply vehicles.

*Fowl* means any live bird.

*Grooming shop* means a commercial enterprise where two (2) or more dogs or cats over four (4) months of age are groomed, upon agreement with the dog or cat owner, on a service-for-fee basis. The premises must be located within an appropriately zoned area and a certificate of occupancy must have been obtained for the intended use, if required by the city's zoning and construction ordinances.

*Hatchery* means a commercial enterprise regularly engaged in supplying, selling, or offering for sale any fowl to commercial or agricultural customers.

*Impound* means any of the following:

- (1) the placing of an animal in the city's animal care services facility
- (2) the taking of an animal into custody for purposes of transporting the animal to the city's animal care services facility
- (3) an officer in pursuit of an animal, and in lieu of taking custody of the animal, elects to return the animal to its owner with proper written notices, warnings and admonishments.

*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.

*Kennel* means a commercial enterprise, excluding a veterinary hospital, where four (4) or more dogs or cats over four (4) months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed on a daily, weekly, or monthly basis. The premises must be located within an appropriately zoned area and a certificate of occupancy must have been obtained for kennel use, if required by the city's zoning and construction ordinances.

*Licensed veterinarian* means a veterinarian licensed by the Texas State Board of Veterinary Medical Examiners.

*Livestock* means farm animals, such as horses, ponies, mules, donkeys, cattle, goats, sheep, and swine.

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

*Owner* means any person owning, keeping, or harboring one (1) or more animals. An animal is deemed to be harbored if it is fed or provided water. An animal is deemed to be kept if it is fed or provided water and sheltered or restrained except upon the authorization of the animal care services manager. If the owner of an animal is a minor, the parent or guardian of that minor shall be responsible for compliance with animal care related ordinances and shall be identified as the legal owner of said animal.

*Performing animal exhibit* means any spectacle, act, or event, excluding a circus or rodeo, in which animals display stunts, tricks, skills, or natural characteristics and which spectacle, act, or event does not exceed two (2) calendar days in duration.

*Performing animal exhibition* means any spectacle, act, or event, excluding a circus or rodeo, in which animals display stunts, tricks, skills, or natural characteristics and which spectacle, act, or event exceeds two (2) calendar days in duration.

*Pet* means any animal not otherwise prohibited under this chapter that is kept for pleasure rather than utility.

*Pet shop* means a commercial enterprise regularly engaged in the buying and selling of animals and animal-related products. The premises must be located within an appropriately zoned area and a certificate of occupancy must have been obtained for the intended use, if required by the city's zoning and construction ordinances.

*Poultry* means any species of domesticated fowl commonly kept for eggs or meat, such as chickens, turkeys, ducks, or geese.

*Prohibited animal* means any animal, other than a common household pet, such as a canary, finch, cockatiel, hamster, guinea pig, gerbil, rabbit, ferret, fish, or small nonpoisonous reptiles, that poses a potential physical or disease threat to the public or that is protected by international, federal or state laws or regulations, and includes, but is not limited to, the following:

- (1) Within the class Reptilia: family Helodermatidea (venomous lizards); family Varanidae (monitors); Order Ophidia, family Boidae (boas, pythons and anacondas); family Hydrophiidae (marine snakes); family Viperidae (rattlesnakes, copperheads, cottonmouths, pit vipers and true vipers); family Elapidae (coral snakes, cobras, and mambas); family Colubridae, Dispholidus Typus (boomslang), Cyclagras gigas (water cobra), Boiga dendrophila (mangrove snake) and Kirtlandii (twig snake) only; order Crocodylia (crocodiles, alligators, caimans and gavials);
- (2) Within the class Aves: order Falconiformes (hawks, eagles and vultures) and subdivision Rapitae (ostriches, rheas, cassowaries and emus);
- (3) Within the class Mammalia: order Carnivora, family Felidae, (such as cougars, tigers, lions, bobcats and ocelots) except domesticated cats, family Canidae (such as wolves, dingos, coyotes and jackals) except domesticated dogs, family Mustelidae (such as weasels, skunks, martins, mink and badgers), family Procyonidae (such as raccoons), and family Ursidae (such as bears); order Marsupialia (such as kangaroos and opossums); order Chiroptera (bats); order Edentata (such as sloths, anteaters and armadillos); order Proboscidea (elephants); order Primata (such as monkeys, chimpanzees and gorillas); order Rodentia (such as porcupines); and order Ungulata (such as antelope, deer, bison and camels); and
- (4) Within the class Amphibia: Poisonous frogs, toads and salamanders.

*Provocation* means any purposeful act that causes an animal to scratch, bite, or attack in protection of itself, the owner, or the owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with this chapter is considered provocation, irrespective of the reason for the entrance.

*Public nuisance* means any animal that:

- (1) Is a dangerous dog within the meaning of V.T.C.A., Health and Safety Code ch. 822, as it may be amended.
- (2) Trespasses on school grounds.

- (3) Is repeatedly at large.
- (4) Damages private or public property.
- (5) Barks, whines, howls or makes other annoying noises in an excessive, continuous or unreasonable fashion, or at unreasonable hours.
- (6) Bites, attacks or injures a domestic animal.
- (7) Bites, attacks, or injures a person.
- (8) Creates a danger to the public or destroys public/private property.

*Pursuit* means The act of attempting to capture and/or impound an animal.

*Rat-proof* means a state of being constructed so as to effectively prevent the entrance of rats.

*Reclaim* means to retrieve or recover an animal from the city animal shelter after quarantine or impound.

*Registration* means a privilege granted, upon compliance with the terms of this chapter, to lawfully own, keep, harbor, or have custody or control of a dog or cat within the city.

*Restraint* means any animal that is securely caged; secured by a leash or lead attached to a collar or harness and under the effective control of a responsible person and obedient to that person's commands, within the confines of its owner's home or yard which is fully enclosed by a secure and substantial fence; or properly tethered. Livestock must be kept in species appropriate enclosures; i.e. stalls, pens, or in pastures or paddocks with secure and substantial fencing. In addition, a dog is deemed under restraint in the following circumstances:

- (1) When the dog is entered in a bona fide dog show, field trial, or exhibition held within the city, while the dog is actually engaged in the show, trial or exhibition.
- (2) When the dog is accompanied by and in the presence of its owner, master, or trainer, while the dog is actually engaged in dog obedience training; provided, the person training the dog has in the person's possession a leash of at least five (5) feet and not more than ten (10) feet in length and of sufficient strength to control the dog.
- (3) When the dog is used by a person with disabilities who utilizes the dog as a service animal to aid the person in going from place to place within the city.
- (4) When the dog is utilized by a licensed peace officer for law enforcement purposes.

*Sanitary* means any condition of good order and cleanliness, free from the elements of filth or bacteria that endanger health.

*Secure enclosure* with respect to Dangerous Dogs means a fenced area or structure separate from the owners residence in respect to their house if contact is possible with guests, invitees, or licensees, and meets the following requirements:

- (1) At least six (6) feet in height with secure sides and a secure top; if the enclosure does not have a floor that is secured to its sides, the sides shall be embedded at least two (2) feet into the ground;
- (2) Of sufficient size to allow the dog to move freely;
- (3) Locked;
- (4) Capable of preventing the entry of the general public, including children;
- (5) Capable of preventing the escape or release of a dangerous dog by any means, including digging, climbing, jumping, or chewing out of the enclosure;
- (6) Clearly marked as containing a dangerous dog; and

- (7) Located no less than five (5) feet from another property line or fence adjoining the premises on which the enclosure is located.

*Secure Enclosure* with respect to animals that are not Dangerous Dogs means an enclosure that is species appropriate and prevents the animal from leaving said enclosure on its own volition, preventing it from being at large.

*Shelter* means a structure that has three sides, a roof, and a floor; reference 6-161 for additional requirements

*Stable* means any place that provides:

- (1) Any horse, pony, donkey, or mule for hire.
- (2) Boarding or grazing for any horse, pony, donkey or mule.
- (3) Riding instruction on any horse, pony, donkey or mule.

*Tether* means to restrain an animal by rope, chain, or a similar material attached to a collar or harness so that an animal is fastened to a running line, pulley system, or trolley.

*Tied* means to improperly restrain an animal by means of securing the animal to a fixed point.

*Vaccination certificate* means the certificate issued by a licensed veterinarian in a form that meets the minimum standards approved by the Texas Board of Health for presentation to the animal care services division as a condition precedent to the granting of a dog or cat registration, and showing on its face that, at the time of presentation, the dog or cat covered by the certificate has been vaccinated for rabies.

*Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and the treatment of diseases and injuries to animals.

*Zoological park* means any lot, building, structure, enclosure, or premises, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of non-domesticated animals and that is accredited by a recognized national or state zoological entity. The premises must be located within an appropriately zoned area and a certificate of occupancy must have been obtained for the intended use, if required by the city's zoning and construction ordinances.

- (b) The words "animal," "cat," "dog," "fowl," "livestock," and "poultry" include both the male and female gender.
- (c) The singular form of words includes the plural form and vice versa.

#### **Sec. 6-2. Penalties.**

- (a) No person may violate any provisions of this chapter. A violation of any of the provisions of this chapter constitutes a violation of a public health law. A violation is punishable by a fine of not less than fifty dollars (\$50.00) plus court costs nor more than five hundred dollars (\$500.00) plus court costs.
- (b) Violations of this chapter are treated as strict liability offenses. There is no need to prove that the person had an intent to violate the provision with which the person is charged under this chapter.
- (c) Each day a violation continues constitutes a separate offense.

#### **Sec. 6-3. RESERVED.**

**Sec. 6-4. Interference with animal care officer.**

No person may interfere with an animal care officer while an officer is engaged in the performance of the officer's duties.

**Sec. 6-5. Pursuit of animals.**

For purposes of discharging the duties imposed by the provisions of this chapter, or other applicable laws, and to enforce the same, an animal care officer or police officer may enter upon private property to the fullest extent permitted by law, except dwellings located on the property, when in pursuit of any animal which the officer has reason to believe is subject to impoundment under the provisions of this chapter or other applicable laws.

**Sec. 6-6. Regulations.**

Regulations providing for the interpretation and enforcement of this chapter may be adopted by Animal Care Services. The regulations are effective after review at a public meeting held by the animal control advisory committee. A copy of the regulations will be kept on file in the city secretary's office.

**Sec. 6-7. Compliance with chapter required for keeping animals.**

No person may do any act forbidden or fail to do any act required in this chapter.

**Sec. 6-8. Compliance with sanitation standards required for keeping animals.**

The owner of any animal within the city and the holder of any commercial permit issued under this chapter must comply with the standards of sanitation established by the Animal Care Services Manager under this chapter.

**Sec. 6-9. Compliance with chapter not relief from compliance with federal, state, and city laws, rules, and regulations.**

The keeping of any animal in accordance with the provisions of this chapter may not be construed to authorize the keeping of the animal in violation of any federal, state, or city laws, rules, and regulations, including the zoning ordinances or any other ordinance of the city.

**Sec. 6-10. Inspection of animals and premises.**

Animals and premises where animals are kept or maintained are subject to inspection by the animal care services manager, an animal care officer, or any police officer at any reasonable hour, or at any hour in cases of emergency.

**Sec. 6-11. Abatement of conditions not complying with chapter.**

Whenever any premises where animals are kept out of compliance with the provisions of this chapter, any regulations established by the Animal Care Service Manager, or any ordinance or law pertaining to the care or keeping of an animal, the animal care services manager or designee, by written notice to the person responsible for the premises or the keeping of the animals or to the person owning or in control of the premises, may order the abatement of the conditions preventing compliance. Failure to comply with the written notice constitutes grounds for the city to obtain relief by injunction. Additionally, failure to comply with the written notice may subject the violator to administrative proceedings and criminal charges.

**Sec. 6-12. Application omissions or falsifications.**

If an applicant has withheld or falsified any information on an application submitted under this chapter, the animal care services manager may refuse to issue a registration or permit, or may revoke any registration or permit issued in connection with the application.

**Sec. 6-13. Effect of prior convictions; subsequent bite incident.**

- (a) No person who has been convicted within the preceding sixty (60) months of cruelty to animals under this chapter or any other animal cruelty law of this state or any other jurisdiction in the United States may be issued a registration or permit.
- (b) No person may be issued a registration if the person has been convicted within the preceding twenty-four (24) months of two (2) or more violations, resulting from separate incidents, for failure to restrain an animal under this chapter and who owns an animal that was involved in a documented biting incident, which incident occurred without provocation, resulted in injury to another person or domestic animal, and occurred subsequent to the convictions.
  - (1) Any person denied issuance of a registration under this subsection (b) may challenge the denial by filing a written protest for review by the city manager, or the city manager's designee. Any protest must be submitted to the city manager's office within ten (10) days of denial of issuance.
  - (2) Upon review by the city manager, or designee, of a written protest, the city manager's decision is final.
- (c) For purposes of this section, a prior court order of deferred adjudication or deferred disposition is considered a conviction.

**Sec. 6-14. Reapplication upon denial of registration.**

- (a) Any person having been denied a registration for any reason other than section 6-13 of this chapter may not reapply for a period of thirty (30) days after such denial.
- (b) Any person having been denied a registration under subsection 6-13(b) of this chapter may not reapply for a period of twenty-four (24) months after such denial.
- (c) Each reapplication for registration must be accompanied by a nonrefundable ten-dollar (\$10.00) fee.

**Sec. 6-15. Fee schedule.**

Fees for animal care services shall be charged pursuant to the animal care service fee schedule filed with the city secretary. Animal care fee schedule will be submitted to city council annually for review. Any adjustment of the animal care service fee schedule requires city council approval.

**Sec. 6-16. Waiver or reduction of fees.**

The animal care services manager is authorized to reduce or waive fees for adoption events or where necessary to advance the goals of animal care services.

**Sec. 6-17. Local rabies control authority.**

- (a) The animal care services manager is designated as the local rabies control authority to enforce the provisions of the Rabies Control Act of 1981 (V.T.C.A., Health and Safety Code § 826.001 et seq.).
- (b) The duties of the local rabies control authority shall include, but are not limited to the enforcement of:

- (1) The provisions of the Rabies Control Act of 1981, and the rules of the state board of health which comprises the minimum standards for rabies control;
- (2) The ordinances and/or rules of the City of Corpus Christi; and/or
- (3) The rules adopted by the state board of health under the area quarantine provisions of V.T.C.A., Health and Safety Code § 826.045 of said Act.

**Secs. 6-18—6-25. Reserved.**

## **ARTICLE II. REGISTRATIONS**

### **Sec. 6-26. Application requirements.**

- (a) *Required.* No person may own, keep, harbor, or have custody or control of any dog or cat over four (4) months of age within the city without having said dog or cat implanted with a microchip that is to be registered with both animal care services and the issuing microchip company, except as permitted by section 6-28(b) of this Code.
- (b) No person may own, keep, harbor or have custody or control of a dog or cat over four (4) months of age within the city, unless the dog or cat has been immunized against rabies in accordance with this chapter and state law.
- (c) Every owner or keeper of a dog or cat immunized against rabies as required in this chapter must procure a rabies vaccination certificate from the veterinarian administering the vaccine.
  - (d) A veterinarian who vaccinates a dog or cat as required by this chapter must furnish the owner or keeper of the dog or cat with a metal tag bearing a number corresponding to the number placed on the vaccination certificate, and with lettering showing immunization and the year thereof. This tag must be attached to the collar or harness of the dog or cat for which it was issued and must be worn at all times in a conspicuous place on the collar or harness.(1)
 

It is presumed, in a prosecution for a violation of this subsection, that the dog or cat owned, kept, or harbored by, or under the custody or control of the person so charged was over four (4) months of age on the date of the violation.
  - (2) It is presumed, in a prosecution for a violation of this subsection, that the person charged with owning, keeping, harboring, or having custody or control of a dog or cat required to be registered under this subsection did not register the subject animal in accordance with this chapter unless, upon the request of an animal care services officer or licensed peace officer at the time of the violation, valid proof of registration was produced by the person so charged.
- (e) Application; prerequisites. Written application for registrations and payment of the applicable fees must be made to the city's collections section, animal care services division, or participating veterinarians. The application must include the name, address, phone number, state-issued driver's license or identification number, and date of birth of the applicant, a description of the animal, rabies vaccination information and microchip information.
- (f) When to apply. An owner must make application for registration within ten (10) days after obtaining a dog or cat over four (4) months of age, except that this requirement will not apply to a nonresident individual keeping a dog or cat within the city for no longer than sixty (60) days.
  - (1) It is presumed, in a prosecution of a violation of this section, that the dog or cat, owned by the person charged with the violation, was obtained more than ten (10) days prior to the date of the violation.
  - (2) It is presumed, in a prosecution of a violation of the exception contained in this section, that the person charged with the violation is a resident of the city and that the person has kept the dog or cat within the city for a period exceeding sixty (60) days.



**Sec. 6-27. Fees.**

- (a) The animal's owner will be responsible for any applicable fees incurred by the implant of the microchip, through CCACS or other delegates, including a license veterinarian. Fees for microchipping performed by CCACS will be established in the fee schedule pursuant to section 6-15 of this chapter.
- (b) No fee may be charged for a registration issued for any dog actually used by a person with disabilities who utilizes the dog as a service animal to aid the person in going from place to place within the city.
- (c) No fee may be charged for a registration issued for any dog that is owned and used by any law enforcement agency for drug awareness, drug or bomb detection, or any other law enforcement purpose.

**Sec. 6-28. Microchip Required**

- (a) A microchip registered with animal care services will act in place of a city license, indefinitely, and may be revoked by an administrative proceeding pursuant to section 6-76 (Registration and Permit Revocation), when deemed necessary.
- (b) A dog or cat is exempt from this requirement if the dog or cat is deemed ineligible by the animal care services manager or determined to be medically unsuitable for a microchip by a licensed veterinarian, in writing. Proof of medical unsuitability for microchip must be provided to animal care services within thirty (30) days.

**Sec. 6-29. Maintaining Current Registration**

- (a) The owner of a dog or cat shall maintain current registration with both the microchip registration company and animal care services.
- (b) If there is a change in contact information for the owner of a dog or cat with a registered microchip the owner shall update contact information, including new address or telephone number, with both animal care services as well as the microchip registration company, if applicable, within thirty (30) days of the date of the change in contact information.
- (c) If there is a change in ownership of an animal with a registered microchip the initial owner shall be responsible for ensuring that the microchip is no longer registered in the initial owner's name within thirty (30) days of the date of change in ownership. The new owner shall be responsible for re-registering the microchip to include any new address and telephone number and have the registration information transferred to the new owner's name within thirty (30) days after the change in ownership.
- (d) *No person may use a microchip registration for any other animal than the one it has been issued to.*

**Sec. 6-30. Registration records.**

The animal care services manager shall maintain a current record of the microchip numbers of dog and cat registrations, and the names and addresses of persons to whom the microchip is issued/updated.

**Sec. 6-31. Reduction or waiver of fee during animal health campaigns.**

The city manager is authorized to temporarily reduce or waive fees for animal registrations as part of community-wide registration and vaccination campaigns held by the animal care services division in conjunction with the Coastal Bend Veterinary Medical Association or a nonprofit animal welfare organization to increase the awareness of the need for pet vaccinations and registrations.

**Sec. 6-32. Dangerous dog.**

Dangerous dogs shall be defined in accordance with V.T.C.A., Health and Safety Code ch. 822, § 822.041, as referenced below and shall be determined and regulated in accordance with said chapter.

Dangerous dog means a dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

**Sec. 6-33. - Investigation, seizure and confinement of alleged dangerous dog and determination of a dangerous dog.**

- (a) Upon receipt of a sworn affidavit of complaint, signed by one (1) or more individuals before an individual authorized by law to make sworn statements, the department shall investigate the complaint. The complaint shall contain a description of the incident involving an alleged dangerous dog, as defined above, the date and location of the incident, the name of the owner of the dog, the address of the owner, and a description of the dog(s) involved in the incident. Said investigation may include discussing the incident with the owner/keeper of the dog. The owner/keeper of the dog shall have the right to provide an affidavit or statement concerning his own dog.
- (b) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to ensure the health and safety of people nearby, the animal care services manager may order the immediate seizure and impound of the dog. An administrative search warrant shall be obtained from any municipal court magistrate to enter onto private property to search for a dog which is allegedly dangerous or has been previously determined to be dangerous, if permission to enter the subject premises is denied by a person in lawful possession. If the dog cannot be safely approached, a tranquilizer projector may be used by department personnel. The cost of securing said dog(s) shall be borne by the owner. If a dog is determined to be dangerous, it will remain in confinement as directed by the animal care services manager. A dog that has been determined to be dangerous cannot be released back to the owner until the owner is able to demonstrate his ability to comply with all the requirements for dangerous dogs as outlined in this chapter.
- (c) An animal care officer may impound an alleged dangerous dog if the officer has cause to believe that a dog is dangerous as defined above.
- (d) The department shall determine whether a dog is dangerous. Within five (5) working days after the dog is deemed dangerous, the department will notify the owner of the dog, of the dangerous dog determination and appeal rights by written notice. The notice shall include the reason for the allegation, and all requirements for owners of a dog determined to be dangerous as set out in this chapter.

**Sec. 6-34 - Requirements of dangerous dog owners.**

- (a) An owner of a dog determined to be dangerous, must comply with all of the following nine (9) requirements before the subject dog can be released to the owner by the department. The department must, however, release the dog to the owner if a state licensed veterinarian with a facility located within the city verifies, upon being contacted by a city veterinarian or department, that the owner has arranged for the required surgery of the dangerous dog to comply with this article, and if necessary, a city veterinarian has implanted the required registered microchip in the dog, has inspected the residence

where the dog 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 dog must be registered with the department and shall annually obtain a dangerous dog permit;
- (2) The dangerous dog shall at all times wear a collar approved by the department visible at fifty (50) feet so that the dog can be identified as a dangerous dog. The department is authorized to charge the dog owner a fee to cover the cost of this collar;
- (3) The dangerous dog must be kept in a Dangerous Dog enclosure as defined this chapter;
- (4) The owner must present to the department a certificate of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00) to cover any injuries caused by the dangerous dog. The insurance shall be kept in effect continuously and shall not be cancelled unless the dog is no longer kept by the insured owner;
- (5) The dangerous dog, when taken outside the enclosure, must be securely muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration, but shall prevent it from biting any person or animal; and the dangerous dog must be restrained by a sturdy leash six (6) feet in length. The department is authorized to charge the dog owner a fee to cover the cost of this leash;
- (6) The owner shall post a sign on his premises warning that there is a dangerous dog 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 dog symbol or decal, understandable by small children which shall be made available at cost to the public. Such symbol or decal must be displayed on or about the sign;
- (7) If the dog does not have a registered microchip, the owner shall authorize the department to implant a registered microchip beneath the skin of the dangerous dog for positive identification of the animal;
- (8) At the owner's expense, the dangerous dog must be spayed or neutered either by the department or, at the discretion of the department, by a veterinarian approved by the department prior to being released back to its owner;
- (9) The owner must allow an annual inspection of the residence where the dog is kept ensuring 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 a dog determined to be dangerous is unable or unwilling to comply with the ownership requirements listed above at any time, the dog must be euthanized by an animal shelter, animal care agency, licensed veterinarian or the department.

**Sec. 6-35 - Hearing to determine compliance with dangerous dog requirements.**

(a) V.T.C.A., Health and Safety Code § 822.0423 provides that a municipal court may conduct a hearing to determine whether the owner of a dangerous dog has complied with the requirements for the owner of a dangerous dog.

(b) Upon an application from any person, the municipal court shall conduct a hearing to determine compliance with dangerous dog requirements.

(c) A municipal court judge shall conduct a hearing to determine whether the preponderance of the evidence supports the allegation that the owner has failed to comply with dangerous dog requirements.

(d) The municipal court judge shall be the finder of fact.

(e) At the conclusion of the hearing, if the municipal court judge finds that the owner has failed to comply with the dangerous dog requirements, the judge shall order the seizure of the dog in accordance with V.T.C.A., Health and Safety Code § 822.042.

(f) An owner or the person who filed the application for the hearing may appeal the decision of the municipal court in the manner provided for the appeal of cases from municipal court.

(g) The municipal court judge may compel the attendance of the applicant, any known witnesses, the dog owner against whom the application was filed, and the animal care services manager or his representative who investigated. Any interested party, including the city attorney or an assistant city attorney, may present evidence at the hearing.

**Sec. 6-36 - Appeal of dangerous dog determination.**

Appeal of a dangerous dog determination shall be in accordance with V.T.C.A., Health and Safety Code § 822.0421.

**Sec. 6-37 - Notification of change of status; disposition of dangerous dog.**

The owner/keeper of a dangerous dog shall notify the department within twenty-four (24) hours if their dangerous dog is loose, unconfined, has attacked another animal, has attacked a person, or has died. A dog determined to be dangerous under this chapter shall not be offered for adoption, rescue or sale or be given away. If the owner wishes to dispose of the dangerous dog, the owner shall return the dog to the department.

**Sec. 6-38 - Dangerous dog violations.**

(a) A person commits an offense under state law, pursuant to the Texas Health and Safety Code, if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

(b) It shall be a violation of this chapter for an owner or keeper to intentionally, knowingly, or recklessly fail to prevent a dangerous dog, from killing or wounding, or assisting in the killing or wounding of any domestic animal belonging to or in the possession of another person, or for an owner or keeper to fail to prevent a dangerous dog 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 dangerous dog was on a leash or securely muzzled or whether or not the dangerous dog escaped without the knowledge or consent of the owner or keeper. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed in an expeditious and humane manner.

(c) It shall be a violation of this chapter for the owner or keeper of a dangerous dog to:

- (1) Fail to comply with any of the requirements of this chapter as required;
- (2) Fail to notify the department of a change of status as set out in this chapter; or
- (3) Fail to keep the dog 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 dangerous dog to be kept in inadequate confinement in any criminal complaint filed under subsection (b).
- (f) The animal care services manager may require a dangerous dog to be removed from the city limits.

**Sec. 6-39. - Aggressive dogs; levels defined.**

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

- (1) Level 1 behavior is established if a dog, while unrestrained, causes physical injury to any domestic animal or livestock.
- (2) Level 2 behavior is established if:
  - a. A dog, while unrestrained, kills or causes the death of any domestic animal or livestock, or
  - b. A dog classified as a level 1 aggressive dog that repeats the behavior in subsection (1) after the owner or keeper receives notice of the level 1 classification.
- (3) Notwithstanding subsections (1) and (2), the director shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors specified in subsections (1) and (2) if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

**Sec. 6-40. - Investigation, seizure, confinement, and designation of aggressive dogs.**

(a) The department shall have authority to determine whether any dog has engaged in the behaviors specified in section 6-39. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's or keeper's control of the dog, and other relevant evidence as determined by the department. These observations and testimony can be provided by animal care officers or by other witnesses who personally observed the behavior. They shall sign an affidavit attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(b) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to ensure the health and safety of people nearby, the department may order the immediate seizure and impound of the dog. An administrative search warrant shall be obtained from any municipal court magistrate to enter onto private property to search for a dog which is allegedly aggressive or has been previously determined to be aggressive, if permission to enter the subject premises is denied by a person in lawful possession. If the dog cannot be safely approached, a tranquilizer projector may be used by department personnel. The cost of securing said dog(s) shall be borne by the owner. If a dog is determined to be aggressive, it will remain in confinement as directed by the department. A dog that has been determined to be aggressive may not be released back to the owner until the owner is able to demonstrate his ability to comply with all the requirements for aggressive dogs as outlined in section 6-42.

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

(d) The department shall give the dog's owner or keeper written notice of the dog's specified behavior, of the dog's classification as aggressive, and of the restrictions applicable to that dog by reason of its classification.

(e) Upon receipt of notice of the dog's classification as a level 1 or 2 aggressive dog pursuant to subsection (c), the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Upon final determination and after appeals are exhausted, the owner will have thirty (30) days to comply with the requirements or else the animal will be considered abandoned and may be disposed of per section 6-103(g). Failure to comply with the specified restrictions shall be a violation of this chapter for which a fine can be imposed. Additionally, the department shall have authority to impound the dog pending completion of all appeals.

(f) If the department's decision finds that a dog has engaged in aggressive behavior, the dog may be impounded pending the completion of any appeals.

(g) Any dog classified as a level 2, that is found to have repeated level 2 behavior as defined under this code, shall be impounded if not already impounded. The dog shall not be released to the owner or be made available for adoption until either potential recipient of the dog has established arrangements for accommodating the animal consistent with all the security and safety requirements ordered by the department.

**Sec. 6-41. - Appeal of aggressive dog determination to municipal court.**

(a) An owner may appeal an aggressive dog determination within fifteen (15) days after receiving notice of the determination by:

- (1) Filing a written notice of appeal of the department's aggressive dog determination to municipal court;
- (2) Attaching a copy of the determination from the department; and
- (3) Serving a copy of the notice of appeal to the department by certified mail.

(b) A municipal court judge shall conduct a hearing to determine whether the preponderance of the evidence supports the aggressive dog determination.

(c) The municipal court judge shall be the finder of fact. As such, the municipal court judge may compel the attendance of the complainant, any known witnesses, the dog owner against whom the complaint was filed, and department staff who investigated. Failure of the owner of the animal to appear at the hearing shall result in a final classification with no further appeal. The owner may be represented by counsel.

(d) At the conclusion of the hearing, the municipal court may affirm or reverse the aggressive dog determination.

(e) The result of the administrative appeal hearing is final.

**Sec. 6-42. - Regulation of aggressive dogs.**

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

- (1) Dogs classified as level 1 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises. In addition, the department may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).
- (2) Dogs classified as level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal

access to the owner's or keeper's premises, and the owner or keeper shall post warning signs, which are provided by the department, on the premises where the dog is kept, in conformance with rules to be adopted by the department. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00). The owner or keeper shall not permit the dog to be off the owner's or keeper's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.

- (3) To ensure correct identification, all dogs that have been classified as aggressive shall be microchipped and photographed and may be fitted with a special tag or collar determined by the department at the owner's expense.
- (4) The animal must have a registered microchip and obtain an annual aggressive dog permit from the department.
- (5) The owner or keeper of a level 2 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner or keeper of any aggressive dog shall not permit the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not permit the dog to be moved to a new address or change owners or keepers without providing the director with ten (10) days' prior written notification.
- (6) At the owner's expense, the aggressive dog must be spayed or neutered by a veterinarian approved by the department prior to being released back to its owner.

**Sec. 6-43. - Declassification of aggressive dogs.**

Declassification will be automatic pursuant to this section.

(1) The following conditions must be met:

- a. Level 1 dogs have been classified for one (1) year without further incident, and two (2) years for level 2 dogs; and
- b. There have been no violations of the specified regulations.

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

**Secs. 6-44—6-50. Reserved.**

***ARTICLE III. COMMERCIAL PERMITS AND FEES***

**Sec. 6-51. General provisions.**

- (a) Except for veterinarians and veterinary hospitals, all commercial animal establishments and owners and possessors of guard dogs are required to maintain a valid commercial permit.
- (b) No commercial permit may be transferred or assigned between persons, between commercial animal establishments, or between a person and a commercial animal establishment.
- (c) Each separate and distinct commercial animal establishment, even though owned by the same person, must possess a permit.
- (d) Upon a change in the location or ownership of a commercial animal establishment, a new application for a commercial permit is required.

- (e) Each commercial animal establishment is subject to inspection by an animal care officer during normal business hours.
- (f) A commercial permit must be displayed in a prominent place on the premises.
- (g) In addition to all other conditions of this article, owners and possessors of dogs defined as "guard dogs" under this chapter must meet all applicable provisions of this chapter and regulations promulgated by the animal care services manager.
- (h) No commercial animal establishment may sell any dog or cat four (4) months of age or older to any person unless the animal has a valid rabies vaccination.
- (i) Failure to apply for a permit prior to the opening of such a commercial animal facility, or within thirty (30) days prior to the renewal date, shall constitute an offense under this section.
- (j) All animal establishments, commercial and non must have an evacuation plan in case but not limited to natural disaster must be written and readily available. All personnel, employees and volunteers must be educated on the establish plan and have knowledge of the actions that must be taken.

**Sec. 6-52. Application.**

- (a) All commercial animal establishments, excluding veterinarians and veterinary hospitals, and owners and possessors of guard dogs are required to obtain and submit an application for a commercial permit from the animal care services division.
- (b) Upon initial application for a permit, the animal care services manager or designee must review and certify that the commercial animal establishment has been inspected and is in compliance with all construction, zoning, or other ordinances of the city governing the conduct of the business of the commercial animal establishment after consulting with the building official and zoning and code enforcement administrator. An appropriate certificate of occupancy issued by the building official may be considered as evidence that the commercial animal establishment complies with the city's construction and zoning ordinances.

**Sec. 6-53. Term.**

- (a) Except as otherwise set out in this section, a commercial permit is renewable annually.
- (b) Commercial permits granted to an auction, circus, performing animal exhibition, and rodeo are valid for the duration of the event not to exceed thirty (30) days from the date of issuance. The time provided includes set up and preparation.
- (c) Commercial permits granted to a performing animal exhibit are valid for a period not exceeding four (4) calendar days.

**Sec. 6-54. Pertaining to Kennels.**

- (a) Each permit for a kennel must specify the maximum number of animals that may be kept at the kennel the animal care services department shall determine this number based on available space and number of employees, and can re-evaluate the maximum number of animals allowed at any time.
- (b) Owners and operators of kennels where animals are boarded must maintain a register identifying all animals boarded, the name, address, and telephone number of the owners of each animal including an alternative emergency telephone number.
- (c) The kennel owner must also provide an emergency telephone number where the kennel owner, operator, and any caretaker of the kennel can be reached if the owner, operator, or caretaker do not reside on the premises.



- (d) Runs shall be constructed to effectively enclose the animals housed therein. Runs and exercise areas shall be sanitized a minimum of once in each 24-hour period and more frequently as may be necessary by removal of soiled materials and application of suitable disinfectants.
- (e) All animals shall be supplied with sufficient species-specific food a minimum of once during each 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.

**Sec. 6-55. Pertaining to Stables.**

(a) Each permit for a stable must specify the maximum number of animals that may be kept at the kennel or stable, the animal care services department shall determine this number based on available space, and can re-evaluate the maximum number of animals allowed at any time

(b) Owners and operators of stables where animals are boarded must maintain a register identifying all animals boarded, the name, address, and telephone number of the owners of each animal including an alternative emergency telephone number.

(c) The stable owner must also provide an emergency telephone number where the stable owner, operator, and any caretaker of the stable can be reached.

(d) Stalls shall be constructed to effectively enclose the animals housed therein. Animal waste must be removed if it begins to inhibit the animal's ability to move around its stall comfortably.

(e) All animals shall be supplied with sufficient species-specific food a minimum of once during each 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.

**Sec. 6-56. Permit required for circuses, rodeos, animal exhibits, animal shows, petting zoos and recreational animal rides; special exceptions for institutions and special attractions.**

- (a) 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, records showing animals are up to date on required vaccinations and are considered by a certified veterinarian as healthy, required state or federal licensing documentation, name and address of the person or business that will keep, feed, and confine the animal(s) during their stay in the city and any other information requested by the department
- (b) Petting zoo permits shall be valid for the duration of the event outlined in the application.
- (c) Permits 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.
- (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 able to be contacted and come to site in case of emergencies, such as but not limited to injuries and illnesses. 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.

**Sec. 6-57. Pet Shop Requirements.**

- (a) No person shall operate a pet shop within the city without first obtaining a permit from the department.
- (b) All animals shall be able to stand, stretch, and turn without touching any of the four (4) sides or top of their primary enclosure.
- (c) 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 proper disinfectants that are not harmful to the animal's health.
- (d) All pet shops and stores selling any and all species of animals shall:
  - (1) Provide appropriate medical services, care, and housing according to individual species' needs.
  - (2) Keep accurate records of breed, description, approximate age and sex of animal sold if applicable
  - (3) Medications and immunizations administered if applicable;
  - (4) 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 if applicable. The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale.
- (e) Records shall be maintained and surrendered to the department upon request and without reservation or purpose of evasion. Failure to produce such records upon demand by the department shall be cause for the revocation of an existing permit and the refusal to issue a new permit for a period of two (2) years.

**Sec. 6-58. Suspension and Revocation.**

(a) Grounds for suspension. The animal care services manager may suspend any commercial animal establishment's permit if any of the following conditions occur:

(1) Animals at the commercial animal establishment are being deprived of necessary food, water, care or shelter;

(2) Animals at the commercial animal establishment are being cruelly confined or are otherwise being cruelly treated;

(3) Unsanitary conditions exist at the commercial animal establishment to such an extent that those conditions create a possible medium for the transmission of disease to the animals kept there or to human beings; or

(4) The owner or any agent or employee of the commercial animal establishment responsible for the oversight or operation of the commercial animal establishment receives three or more notice of violations in a twelve month period (12), outlining infractions found during inspection in relation to the operation of the commercial animal establishment.

(b) Conditions for revocation. The animal care services manager may revoke a permit to operate a commercial animal establishment if any of the following conditions occur:

(1) Conditions stated in subsection (a)(1), (a)(2), (a)(3), and/or (a)(4) of this section have existed on two or more occasions at the commercial animal establishment after the officials of animal care services have warned the commercial animal establishment of the conditions;

(2) The commercial animal establishment permit has been suspended two or more times;

(3) The owner of the commercial animal establishment is shown to have committed any offense involving cruelty to animals within the last 18 months; or

(4)The owner of the commercial animal establishment has knowingly employed any person at the commercial animal establishment or allowed any person to work at the commercial animal establishment who has committed any offense involving cruelty to animals within the last 18 months.

(c) Prior to suspension or revocation, written notice shall be given to the owner of the commercial animal establishment, the person in charge of the commercial animal establishment, or any employee or agent of the owner. The notice shall set forth:

(1)The specific conditions existing at the commercial animal establishment that are grounds for suspension or revocation of the permit pursuant to subsection (a) of this section;

(2)That a hearing will be held by the animal care services manager;

(3)The date, time and place of the hearing; and

(4)That the owner of the commercial animal establishment may appear in person and/or be represented by counsel and may present testimony

The hearing shall be held not later than seven business days after the date the permit holder received notice of the suspension.

(d) All hearings shall be held by the animal care services manager at animal care services and shall be conducted under rules consistent with the nature of the proceedings.

(e) After completion of the hearing, the animal care services manager shall make written findings as to why grounds exist for suspension or revocation of the permit and shall order the suspension or revocation of the permit. However, if the animal care services manager finds that the needs of the animals and the public interest will be adequately protected by a warning, he may issue a warning and deny the request for suspension or revocation.

(f) A denial of a request for suspension of a permit shall not preclude the animal care services manager from seeking a revocation of the permit as set forth below.

(g) A copy of the written findings and order of the animal care services manager shall be served on the owner of the commercial animal establishment. If the address of the owner is unknown or the notice has been sent via certified mail, return receipt requested and has been returned undelivered, such notice shall be served on the person in charge of the commercial animal establishment or on any employee or agent of the owner.

(h) If the permit is suspended, no one shall accept or place any animal in the commercial animal establishment and all sales, services being provided, or business conducted at the establishment shall cease until the permit is reinstated by the animal care services manager. Failure to comply with the cease business order will result in an automatic revocation of the permit.

(i) Correction of conditions; inspection; reinstatement of permit. Whenever the reason for a suspension no longer exists, the owner or person in charge of the commercial animal establishment shall notify animal care services that the conditions under which the permit was suspended have been corrected and that an inspection is requested; If the inspection shows that the conditions have been corrected, the animal care services manager shall reinstate the permit unless the animal care services manager has given notice that he is seeking revocation of the permit.

(j) If the permit is revoked, no one shall accept or place any animal in the commercial animal establishment and the owner and or operator of the establishment shall divest themselves of the animals within ten calendar days from the date of the revocation. Failure to do so will result in the animals at the pet facility being declared prohibited animals and said animals will be subject to seizure.

(k) Any notice provided for in this section may be served by personal delivery or by certified mail, return receipt requested.

(l) In the event a permit is revoked, the city shall not be liable to the permit applicant for any refund of any part of the permit fee. Reinstatement of a permit that has been revoked shall require application and payment of a permit fee as if it were an initial application; provided, however, no permit shall be issued to the same permit applicant if the applicant has been convicted of any offense involving cruelty to animals; no permit shall be issued to the same permit applicant within one year of the date a permit has been revoked; and no permit shall be issued for the same location unless it is shown that adequate precautions have been taken so that the conditions under which the permit was revoked shall not reoccur. If there is a dispute between the inspector and the permit applicant for an establishment for which a permit was revoked as to whether adequate precautions have been taken so that the conditions under which the permit was revoked will not reoccur, the applicant may request a hearing before the animal care services manager. The hearing shall be conducted under the same procedures as a hearing for a revocation of a permit; however, the burden shall be on the applicant to show that adequate precautions have been taken so that the conditions under which the permit was revoked will not reoccur.

**Secs. 6-59—6-75. Reserved.**

#### **ARTICLE IV. ADMINISTRATIVE PROCEEDINGS**

##### **Sec. 6-76. Administrative Hearing - Registration**

- (a) The animal care services manager or designee may hold an administrative hearing to determine whether any registration issued under article II of this chapter should be revoked or to otherwise regulate the keeping of an animal within the city, if:
- (1) A registration holder fails or refuses to comply with any provision of this chapter, the regulations promulgated by the animal care services manager or any law governing the protection and keeping of animals in this state;
  - (2) The owner of an unregistered animal or the owner of an unvaccinated animal under this chapter fails or refuses to comply with any provision of this chapter, the regulations promulgated by the animal care services manager, or any law governing the protection and keeping of animals in this state;
  - (3) An animal has been involved in an unprovoked biting offense and the incident involved bodily injury to a person;
  - (4) An animal has been determined by an animal care officer to be a public nuisance; or
  - (5) An animal has been the subject of two (2) criminal charges and/or violations brought against the animal's owner under this chapter, of two (2) impoundments, or a combination of one such violation and one (1) impoundment, resulting from separate incidents, within the twenty-four-month period immediately preceding the date of the last violation or impoundment. Impoundments which occurred as a result of provoked scratching, biting, or attacking incidents may not be considered for purposes of this subsection.
- (b) *Written notice required.*
- (1) An administrative hearing may not be held without giving the registration holder or owner of an unregistered animal prior written notice of the date, time and place of the hearing.
  - (2) Written notice is deemed made when a certified letter, return receipt requested, addressed to the address indicated on the owner's last registration or, if no such application is on file, to the owner's last known address, is deposited in the U.S. mail. Written notice is also deemed made when the notice letter is delivered by an employee or representative of the animal care services manager to the address.
- (c) *Disposition.* At the conclusion of the administrative hearing, the animal care services manager or designee shall determine if the owner holding the registration, or the owner of an unregistered animal has violated any provision of this chapter, the regulations promulgated by the animal care services manager, or any law governing the protection and keeping of the animal that is the subject of the

administrative hearing. If any violation has been found to have occurred, the animal care services manager or designee, at their discretion, may order that any of the following actions be taken within ten calendar days from the date of hearing:

- (1) That the owner divest himself/herself of the animal that is the subject of the administrative hearing by revocation of the animal's registration and removal from the city; failure to do so will result in the animal being deemed prohibited and said animal will be subject to seizure.
- (2) That the owner comply with specified conditions deemed to be consistent with the protection of the public health, safety and welfare, so as to be permitted to continue to keep the animal within the city; or
- (3) Any other disposition deemed to be consistent with the protection of the public's health, safety and welfare.

**Secs. 6-77—6-100. Reserved.**

## **ARTICLE V. ANIMAL AND RABIES CONTROL**

### **Sec. 6-101. Restraint.**

It is unlawful for an owner to fail to keep an owner's animals under restraint as follows:

- (1) Except for cats, all animals must be kept under restraint as defined in this chapter. Cats may be free-roaming if otherwise in compliance with the provisions of this chapter.
- (2) It is a violation of this chapter for any animal to be a public nuisance. An owner and/or keeper violates this provision if the owner's animal is a public nuisance, regardless of any "fault" of the owner and/or keeper.

### **Sec. 6-102. Spaying/neutering required of cats.**

- (a) After January 1, 2006, all free-roaming cats are required to be spayed or neutered. For the purposes of this section, "free-roaming" means not securely caged, not under restraint by a leash or lead attached to a collar or harness, or not within the confines of the cat owner's residence or business structure.
- (b) Any free-roaming cat that is not spayed or neutered is subject to impoundment under this chapter. Nothing contained in this chapter prevents the free-roaming of cats that have been spayed or neutered.

### **Sec. 6-103. Impoundment.**

- (a) *Grounds for impoundment.* Animals may be impounded by the animal care services division in any of the following circumstances:
  - (1) Any animal not kept under restraint as required by this chapter.
  - (2) Any dog or cat for which a valid city registration has not been issued.
  - (3) Any animal that constitutes a public nuisance.
  - (4) Any animal that has rabies or exhibits symptoms of rabies, or that a person could reasonably suspect as having rabies.
  - (5) Any animal that bites, scratches, or otherwise attacks another animal or person within the city.

- (6) Any animal not kept by the owner or permit holder in conformity with this chapter, regulations promulgated by the animal care services manager, disposition made in accordance with article IV of this chapter, or state law.
  - (7) Any animal upon the written request of the animal's owner and to which the animal care services manager or the animal care services manager's designee agrees that the animal be humanely euthanized for the protection of the public's health, safety and welfare.
  - (8) Any dog that is the subject of a cause of action filed pursuant to V.T.C.A., Health and Safety Code ch. 822, as it may be amended, must be impounded until further order of a court of proper jurisdiction.
- (b) *Length of impoundment.* Except for dogs impounded as subjects or probable subjects of a proceeding pursuant to V.T.C.A., Health and Safety Code ch. 822, for observation of rabies under section 6-127, or other administrative procedures, impounded animals not claimed must be kept for not less than three (3) working days from date of impoundment. In calculating the length of this time period, the first working day after impoundment is considered day one.
  - (c) *Notification of owner.* If, by registration or other means, the owner of an impounded animal can be identified, the animal care services division shall, as soon as practicable after impoundment, notify the owner in person or by telephone, if reasonably possible, advising that, if the impounded animal is not redeemed within five (5) working days, disposition will be made in accordance with this chapter.
  - (d) *Redemption.* Impounded animals, excluding those impounded as prohibited animals, or an animal held for observation of rabies under section 6-127 or other administrative procedures, are subject to redemption, at the discretion of the Animal Care Services Manager. Impounded animals may be redeemed by anyone entitled to possession of the animals, at the discretion of the Animal Care Services Manager while the animals are in the city animal shelter after paying the appropriate fees as follows:
    - (1) *Impoundment fees.* Impoundment fees are established in the fee schedule pursuant to section 6-15 of this chapter.  
A waiver or partial waiver of an impoundment fee may be granted by the animal care services manager in cases involving exigent circumstances as determined by the animal care services manager.
    - (2) *Boarding charge.* A boarding charge established in the fee schedule pursuant to section 6-15 of this chapter is not to exceed the reasonable cost of boarding, feeding and caring for the animal for the period of impoundment. Boarding charges apply to redemption of impounded animals and are not applicable to adoption of animals.
    - (3) *Rabies vaccination charge.* All charges for rabies vaccination if required.
    - (4) *Registration charge.* City registration charge, if applicable.
  - (e) *Redemption—Special circumstances.*
    - (1) In case any animal that is impounded is sought to be redeemed and is suffering from any disease or ailment, it may not be released until the animal care services manager is satisfied that arrangements looking to its proper treatment are assured.
    - (2) Animals impounded for rabies observation are subject to redemption if the animal has satisfied the required length of observation and is determined to be free from rabies as verified by the animal care services manager or designee.
  - (f) *Mandatory spay/neuter of dogs following impoundment.*
    - (1) The owner or keeper shall keep the animal restrained at all times (except cats as described by sec 6-102) and ensure that the animal is not at large. Dogs found to be at large shall be subject to mandatory sterilization at the owner's expense within thirty (30) days of notification of the violation.

- (2) *Exemption made by animal care services manager.* The animal care services manager is authorized to exempt an owner from the requirements of this section if the owner proves to the satisfaction of the animal care services manager that the animal met one (1) of the conditions specified in subsection (5) of this section.
- (3) *Certification of spay/neuter procedure.* The owner is required by this section to spay or neuter their animal shall submit certification signed by a licensed veterinarian that the procedure was performed no later than the fortieth day following the notification of violation to animal care services.
- (4) *Offenses.* A person commits an offense if the person is required by this section to spay or neuter their animal and fails to provide certification to animal care services of the procedure.
- (5) *Affirmative defense.* In a prosecution for a violation of subsection (4), it is an affirmative defense that at the time of the animal's impoundment:

The owner of the dog was a member of a national breed club, local breed club, local all-breed club, sporting or hunting club, or was regularly shown during the six-month period immediately preceding impoundment.

- b. The animal was at large due to a vis major.
  - c. The animal was at large at the time of its impoundment due to the criminal or negligent acts of a third party who was not residing at the dog owner's residence. At trial, evidence of a fire or the criminal or negligent acts of a third party may be presented in one (1) or more of the following manners:
    1. A certified copy of a police or fire report verifying the incident;
    2. The affidavit of police or fire personnel with direct knowledge of the incident; or
    3. The testimony of police or fire personnel with direct knowledge of the incident.
  - (6) Nothing in this subsection may be construed so as to permit a spayed or neutered dog to run at large.
- (g) *Disposition of animals.*
- (1) Immediately upon impoundment, the city is the designated caretaker of impounded animals. Except as provided in subsections (c) and (j) of this section, and certain livestock as provided for in this paragraph, impounded animals not redeemed by their owner within three (3) working days following impoundment become the property of the city and may be placed for adoption in a suitable home or with any nonprofit association organized for the protection and welfare of animals, sold under section 17-6 of the Code of Ordinances, or humanely euthanized. Prior to the disposition of any livestock excluding goats and sheep, notice must be posted for a ten-day period at the county courthouse, City Hall, and the city animal shelter upon the expiration of three (3) working days from the date of impoundment of the livestock. Upon the expiration of the ten-day notice period, the city may dispose of the livestock in the same manner as other unclaimed animals.
  - (2) The expiration of the three (3) working days period upon impoundment and the notice of and expiration of the ten-day period with respect to livestock does not apply to the disposition of any animal placed in impoundment by the written consent of the animal's owner and the acceptance of the animal by the animal care services manager. Any animal received by the consent of its owner may be disposed of immediately upon its impoundment in the same manner as unclaimed animals.
  - (3) In the case of a dog impounded under authority of V.T.C.A., Health and Safety Code ch. 822, as it may be amended, or other state law, the dog may be redeemed upon the court's finding and rendering a judgment that the dog did not engage in dangerous conduct and upon the conclusion of any proceeding provided for in this chapter; or upon the court's finding that the dog did engage in dangerous conduct, that the claimant of the dog shows proof of having fully

complied with all insurance and restraint requirements provided by state law, and meets all requirements of this chapter that pertain to the keeping of a dangerous dog.

- (4) Due to their immature immune system, any impounded animal under four (4) months of age shall immediately become the property of the city, for humane disposition, and may be offered for adoption, rescue, foster care or humanely euthanized at the discretion of the animal care service manager, veterinarian, or their designee.
- (h) *Adoption of unclaimed animal.* A person may adopt an unclaimed animal after the expiration of the redemption period and after paying any applicable rabies vaccination fees, registration fees, spay/neuter fees, and adoption fees established in the fee schedule pursuant to section 6-15 of this chapter. A person adopting an unclaimed animal must sign an agreement to have the animal sterilized within thirty (30) days of adoption, in compliance with V.T.C.A., Health and Safety Code ch. 828, if the animal is unsterilized at the time of adoption. All adoptions and approval of applications for adoption are at the discretion of the animal care services manager.
- (i) *Compliance required for release.* No impounded dog or cat may be released until the person to whom the dog or cat is to be released agrees and meets all regulations promulgated by the animal care services manager.
- (j) *Euthanasia.* The animal care services manager, a licensed veterinarian, or the animal care services manager's designee may direct the immediate euthanization of any animal determined to be seriously injured or diseased under the rules, guidelines, or procedures established by the animal care services manager. Impounded animals not redeemed or adopted as provided for in this section must be humanely euthanized at the city animal shelter under the direction a person trained and certified in human euthanasia as outlined in the Texas Health and Safety Code. The carcasses must be disposed of as directed by the animal care services manager.
- (k) *Records.* The animal care services manager shall cause to be maintained a record describing each identifiable animal impounded within the preceding two (2) years. In the case of registered dogs and cats, the registration number and the name of the person to whom it was issued must be noted. In the case of each identifiable animal, it must be noted how the impounded animal was disposed of, giving the names and addresses of persons to whom the animal was delivered, and the fees and charges received from the persons.
- (l) *Citation.* In addition to, or in lieu of, impounding an animal under this section, an animal care services officer or any police officer may issue to the owner of the animal a citation for a violation of this chapter.

#### **Sec. 6-104. Traps with holding mechanisms prohibited; exceptions.**

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. 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.

#### **Secs. 6-105—6-125. Reserved.**

#### **Sec. 6-126. Rabies impoundment and quarantine.**

- (a) Any veterinarian or person having knowledge of an animal having bitten, scratched or injured a person, within the city shall report the incident to animal care services 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 animal care services manager 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 registered microchip information 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 or keeper shall notify the department within twenty-four (24) hours of his name; the animal's registered microchip information; the name of the injured person; and other information requested by the department related to the animal and injured party.

The owner or keeper of the diseased or biting or scratching animal shall contact animal care services within twenty-four (24) hours upon receipt or notification from animal care services, The animal care services manager 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 or scratched a person. A search and seizure warrant shall be obtained from any municipal court judge or other magistrate to enter onto private property to search for the biting or scratching animal if permission to enter is not given.

(1) The owner or keeper of any animal within the city which has bitten or scratched a person so as to have caused a break of the skin shall, on demand of the animal care services manager 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).

(2) 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:

a. Secure facilities must be available at the home of the animal's owner, and must be approved by the animal care services manager;

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

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

d. The animal care services manager, 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 animal care services manager 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.

(3) 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.

(4) 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 services facility of the city.

(5) 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.

- (d) *Investigation of cases.* The animal care services manager or designee shall investigate and record all cases of rabies and suspected rabies.
- (e) *Disposition of bodies of quarantined animals.* The body of any animal that has died of rabies or that dies or is destroyed while in quarantine may not be disposed of except as directed by the animal care services manager.
- (f) *Payment of costs.* The owner of an animal quarantined under this section shall pay to the animal care services division the reasonable costs of the quarantine and disposition of the animal, including charges for preparation, processing, and shipment of the animal's head or brain, if required, to the nearest Texas Department of State Health Services Laboratory for Testing. The fee for preparation, processing, and shipment, by the animal care services division, of the animal's head or brain is established in the fee schedule pursuant to section 6-15 of this chapter.

**Secs. 6-127—6-150. Reserved.**

## **ARTICLE VI. CARE AND KEEPING OF ANIMALS**

### **Sec. 6-151. Humane animal care and keeping.**

No person may violate the following provisions for humane animal care and keeping:

- (1) No owner or keeper may fail to provide the owner's animal with sufficient and wholesome food, water, and necessary shelter and protection from the weather, all within reach of the animal.
- (2) No owner or keeper may fail to provide an animal in said person's possession with humane care and treatment and with veterinary care when needed to prevent or alleviate suffering.
- (3) No person may beat, cruelly treat, torment, overload, seriously overwork, or otherwise abuse an animal, or cause, instigate, or permit one animal to fight with another animal or person.
- (4) No person may abandon or neglect an animal.
- (5) No person, other than a licensed veterinarian, may crop a dog's ears, dock a dog's tail, or remove a dog's dew claws.
- (6) No person may sell an animal to, buy an animal from, or barter or exchange for an animal with, any commercial animal establishment that does not have a valid commercial permit nor may a person sell, buy, donate, or barter or exchange for, an animal upon commercial property without possessing a valid commercial permit.
- (7) No person may sell, offer for sale, or donate any animal to another person, or barter or exchange with any other person for an animal, upon any public property within the city. Public property includes, but is not limited to, streets, alleys, sidewalks, parking lots, and rights-of-way and easements.
- (8) No person may sell or deliver live chickens, ducklings, goslings, or rabbits to any other person within the period of thirty (30) days prior to Easter Sunday and on Easter Sunday. Hatcheries and commercial animal establishments that buy and sell animals intended for agricultural use or to be raised for commercial purposes are excluded from the prohibitions contained in this subsection.

- (9) No person may give away or offer to give away any live animal, except for goldfish, 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 any animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (10) No person may sell, offer for sale, barter, or display any living chickens, rabbits, ducks, or any other fowl or animal which has been dyed, colored, or otherwise treated so as to impart to it an artificial color.
- (11) No person may expose any poisonous substance, whether mixed with food or not, so that the same is likely to be eaten by any animal; provided, that, it is not a violation of this chapter for a person to expose on a person's own property common rat poison having a blood-thinning agent or other agent approved by the department of public health, mixed only with vegetable substances and intended for consumption by rats or mice only.
- (12) No person may allow an enclosure used to confine animals to be maintained in an unsanitary condition at times any time.
- (13) No person may sell, offer for sale, barter, donate, or display turtles with a carapace length of less than four (4) inches or viable turtle eggs. An educational or research institution is exempt from the display prohibition contained in this subsection if the turtles or turtle eggs are displayed for educational or research purposes.

**Sec. 6-152. Performing animals.**

- (a) No performing animal exhibit, performing animal exhibition, rodeo, or circus is permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.
- (b) All equipment used on a performing animal must fit properly and be in good working condition.

**Sec. 6-153. Keeping of certain animals prohibited.**

No person may keep, own, maintain, use, or have in the person's possession or on premises under the person's control, within the city, any of the following:

- (1) Any dangerous animal, except in accordance with this chapter and the regulations promulgated by the animal care services manager.
- (2) Any guard dog, except in accordance with the provisions of this chapter.
- (3) Any livestock or fowl, other than banded homing pigeons as stated in subsection (5) of this section, except when raised as part of an animal husbandry program for youths or kept in accordance with section 6-154 of this chapter.
- (4) Any prohibited animal, except when possessed under the provisions of section 6-57 of this chapter.
- (5) Pigeons, other than banded homing pigeons when raised for other than commercial purposes, confined to closed lofts, except for owner-supervised training or exercise flights, and kept in compliance with section 6-154 and all other provisions of this chapter.

**Sec. 6-154. Keeping of any livestock or fowl.**

- (a) The keeping on any premises in the city, of any fowl or livestock not prohibited by section 6-153, is prohibited unless:
  - (1) The pens, stalls, or other facilities for keeping the livestock or fowl are located so that the livestock or fowl cannot come within one hundred (100) feet of any existing dwelling or business building owned, used, or maintained by any person other than the keeper.

- (2) The pens, stalls, or other facilities for keeping the livestock or fowl, are located so that the livestock or fowl cannot come within five hundred (500) feet of any existing food service establishment or food processing establishment, regardless of ownership or occupancy of the establishment.
  - (3) The fenced open pasture for keeping the livestock or fowl has a means of preventing the livestock or fowl from coming within twenty-five (25) feet of any property line that abuts an existing residence.
- (b) The provisions contained in subsection (a) do not apply to fowl which are kept in completely enclosed and solidly walled facilities, to urban domestic fowl (commonly known as chickens) kept in conformity with the provisions of subsection (c) of this section, or to species of birds other than poultry.
  - (c) Urban domestic fowl. Domestic fowl may be kept in a residential zoning district so long as the owner, tenant, or person in control of the premises where the fowl are kept complies with the following conditions at all times:
    - (1) The number of fowl kept on the premises cannot exceed seven (7);
    - (2) No profit or business may be derived from the keeping or use of the fowl or eggs;
    - (3) The wings of the fowl must be kept clipped to prevent flight;
    - (4) The fowl must be provided with a hen house ("coop") located in the backyard area of the premises, and the dimensions of the coop must not exceed five-foot width by five-foot height by five-foot length;
    - (5) The coop must be completely surrounded by a six-foot high secure and substantial fenced enclosure that provides adequate space for the fowl to roam and the fowl are kept in the enclosure at all times;
    - (6) The chicken coop may not be located closer than twenty-five (25) feet to any existing dwelling or business building owned, used, or maintained by any person other than the owner and/or keeper;
    - (7) The owner or keeper must maintain the fowl, coop, and enclosed yard area, in a manner that prevents odor, health, and sanitation problems;
    - (8) Any sudden affliction, illness, or death occurring to any of the fowl must be immediately reported by the owner or keeper to the local health authority and to animal control services; and
    - (9) Roosters may not be present or kept on the premises.
  - (d) The keeping of urban domestic fowl in conformity with this chapter may not be construed to constitute a violation of any zoning law or provision.
  - (e) Buildings and structures used to keep animals within an IL Light Industrial or IH Heavy Industrial District (formerly, I-2 Light Industrial or I-3 Heavy Industrial District of the zoning ordinances, respectively) must meet the setback requirements in the Unified Development Code, as applicable in the appropriate district and as each may be amended.

**Sec. 6-155. Keeping of more than six pets.**

- (a) The keeping on any premises in the city, in any zoning district other than I-2 Light Industrial or I-3 Heavy Industrial District, of any pets in any number exceeding six (6) in aggregate, other than rodents and fish, is prohibited unless:
  - (1) The pens, stalls or other enclosure facilities for keeping the pets, other than fenced open pastures that are greater than one (1) acre, are located so that the pets cannot come within one hundred (100) feet of any existing dwelling or business building owned, used, or maintained by any person other than the keeper.

- (2) The pens, stalls or other facilities for keeping the pets, other than fenced open pastures that are greater than one (1) acre, are located so that the pets cannot come within five hundred (500) feet of any existing food service establishment or food processing establishment, regardless of ownership or occupancy of the establishment.
  - (3) The fenced open pasture, which is greater than one (1) acre, has a means of preventing the pets from coming within twenty-five (25) feet of any property line that abuts an existing residence.
- (b) Buildings and structures used to keep animals within an I-2 Light Industrial or I-3 Heavy Industrial District must meet the set back requirements in sections 20-5.04 or 21-6.04 of the zoning ordinances, as applicable in the appropriate district and as each section may be amended.

**Sec. 6-156. Maximum number of animals permitted.**

The keeping on any premises in the city, in any zoning district of any pets exceeding six (6), not to exceed a total of fourteen (14), is prohibited unless:

- (1) The property that the pens, stalls, facilities or other enclosures are located on are greater or equal to one (1) acre
- (2) The pens, stalls, facilities or other enclosures confining the animals do not allow the animal to come within five hundred (500) feet of any existing food service or food processing establishment, regardless or occupancy or ownership of the establishment.
- (3) The pens, stalls, facilities or other enclosures confining the animals do not allow the animal to come within twenty-five (25) feet of any property line that abuts an existing residence.

**Sec. 6-157. Exceptions to distance and number requirement regulations.**

- (a) *Laboratories, veterinarians, and others listed.* Where livestock or fowl are kept in medical laboratories or educational institutions for medical research, in veterinary hospitals for treatment, or on the premises of any recognized humane society for humane care, the livestock or fowl must be kept under conditions prescribed by the animal care services manager for the limited purposes stated in this subsection without the necessity of compliance with the distance and number requirements prescribed in this chapter.
- (b) *Pet shops.* Pet shops keeping all animals in completely enclosed and solidly walled facilities need not comply with the distance and number requirements prescribed in this chapter.
- (c) *Exempted premises in newly annexed area.* Where any animal is being kept at a location outside the city limits and, by annexation, the area becomes a part of and within the boundaries of the incorporated area of the city, the distance and number requirements do not apply for a period of three (3) years from and after the date of annexation. Extensions of this exemption may be obtained for successive three-year periods by applying for and obtaining a certificate from the animal care services manager certifying to the existence of sanitary conditions of the premises and neighboring premises.
- (d) *Events.* Where any animal is kept as part of an auction, circus, performing animal exhibit, performing animal exhibition, or rodeo for which a commercial permit has been obtained in accordance with article III of this chapter, or is kept as part of an animal special event authorized by the animal care services division, the holder of the permit or the person so authorized is exempt from the distance and maximum animal number requirements prescribed in this chapter.

**Sec. 6-158. Animal waste.**

- (a) The owner of each animal is required to remove any feces deposited by the owner's animal on public or private property.
- (b) Feces deposited by an animal on public property or upon the private property of any person other than the animal's owner must be collected and removed at once by the animal's owner. Animal feces deposited upon any other property must be collected and removed daily.
- (c) Collection and removal of animal feces must be in a container of a type that, when closed, is rat-proof and airtight. The container must be kept closed after each collection and, at least once a week, all collected feces must be disposed of in a manner that does not to permit fly breeding or other unhealthy conditions.

**Sec. 6-159. Storage and condition of food; control of rats and pests.**

- (a) All food provided for animals and kept outdoors must be stored and kept in a rat-proof and airtight building, box, container, or receptacle.
- (b) Stables must carry out an active, on-going rat and pest control program.
- (c) All food provided for animals must be free of pests, debris, and mold, or any other foreign objects or corruption that could cause harm or illness to the animal it is intended for.

**Sec. 6-160. Tethering dogs and other animals.**

- (a) It shall be unlawful for any person to tie any animal, excluding livestock, to a stationary object. All animals that are tethered must be on a running line, pulley system or trolley.
- (b) No person may tether an animal in a manner that permits the animal to reach any alley, sidewalk, public street, or property not belonging to the owner or keeper.
- (c) No person may properly tether any animal to any lamppost, light pole, utility pole, awning post, tree, fence, hydrant, or shrubbery belonging to another person without the consent of the owner of the object to which the animal is tethered,
- (d) No person may tether an animal in such a manner that allows the animal to become entangled.
- (e) No person may tether an animal on a cable attached to a running line, pulling system or trolley, that is less than ten feet in length.
- (f) No person may tether an animal by means of a pinch-type, prong-type, choke type, or improperly fitted collar.

**Sec. 6-161. Adequate sheltering of Canines**

- (a) It shall be unlawful for any person owning a canine to allow said canine to remain outdoors without direct physical supervision for any period of time without providing direct access to adequate shelter. Direct physical supervision shall mean physically in the presence of the animal without barrier.
- (b) Adequate shelter shall be defined as an enclosure that:
  - (1) is structurally sound;
  - (2) is impervious to moisture;
  - (3) is in good repair so as to protect the animal from injury;
  - (4) is ventilated so as to allow any trapped air, heat or gasses to escape;
  - (5) is maintained in a sanitary condition;

- (6) enables the animal to remain dry and clean; and
- (7) provides sufficient space allowing each animal within the enclosure to easily enter and exit, sit, stand, lie down, and turnabout freely inside without touching the ceiling or walls.
- (c) The enclosure shall be located in an area where it sits under direct shade for the most part of the day. If no natural shade is available in form of trees and nearby structures, shade shall be supplemented by introducing a tarp to the area extending over the shelter.
- (d) The area around the enclosure shall be maintained in a clean and sanitary condition, free from any trash or debris in which the animals may consume, become entangled upon, or otherwise cause injury upon itself/themselves.
- (e) On days when the ambient temperature falls at or below 50 degrees Fahrenheit, bedding shall be placed inside of the enclosure.
- (f) It shall be unlawful for any person owning a canine to allow said canine to remain outdoors for any period of time without direct supervision as defined above in subsection (a), in the case of extreme weather conditions, including conditions in which:
  - (1) The actual or effective outdoor temperature is below 32 degrees Fahrenheit.
  - (2) A heat advisory has been issued by a local or state authority or jurisdiction.

**Sec. 6-162. Failure to reclaim impounded animal.**

No person may knowingly fail to reclaim an impounded animal from the city animal shelter. This section shall apply to any person who:

- (a) Fails to reclaim their animal after the bite quarantine observation period has been completed.
- (b) After written notice of impoundment at the city animal shelter, fails to reclaim their animal
- (c) Leaves an animal at the city animal shelter without making prior arrangements with a staff member or delegate of the city animal shelter to have the animal owner surrendered, then fails to return and reclaim the animal within twenty four (24) hours of the drop off.

Any person failing to reclaim their animal from the city animal shelter as listed above shall be subject to penalties defined in section 6-2 and shall be required to reimburse CCACS for any fees accumulated while providing care for animals left at the shelter, pursuant to sections 6-103(d) and 6-15.

**Sec. 6-163. Feeding of Animals**

- (a) A person commits an offense if the person intentionally, knowingly, or recklessly feeds any animal, not limited to prohibited animals, by making food available for consumption on private or public property within the territorial limits of the city, and creates a public nuisance or encourages the

destruction of private or public property through feeding of the animals. With Exemption to; Sec. 6-57. Or 6-58.

- (b) A person shall be deemed to have fed an animal if the person places food in any form as defined in this section within reach of animals.
- (c) A person who violates any provision of this ordinance commits an offense subjected to citations following sec. Sec. 6-2. - Penalties.
- (d) An exception to this section is any animal is being fed by an owner or keeper as defined in this chapter's definitions.
- (e) If the property is vacant or abandoned, notice shall be provided to the last known owner. Criminal Trespass citations may be given with permission of the property owner.

**Sec 6-164. Impounding abandoned or unrestrained animals**

- (a) The department 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 impounded animals of this chapter. Any trap, neuter and return (TNR) program that has been identified and approved 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.

**Secs. 6-165—6-200. Reserved.**

***ARTICLE VII. WILDLIFE AND BIRD SANCTUARIES***

**Sec. 6-201. Designated.**

- (a) Subject to the further order, regulations and control by the city council, there is hereby designated as a wildlife and bird sanctuary all of that area owned by the city abutting on Up River Road in the county and more particularly described in two (2) deeds: One (1) deed dated December 30, 1954, of record in Volume 669, pages 189 through 191 of the Deed Records of Nueces County, and one (1) deed dated January 7, 1955, of record in Volume 672, pages 346 through 350 of the Deed Records of Nueces County, Texas. This designation shall not prohibit, nor prevent the continued use of such land as a part of the facilities of the water division of the department of public utilities, and any operations by city employees in draining or otherwise using such tract of land by such water division shall be exempt from the provisions of section 6-202.
- (b) Subject to the further order, regulation and control by the city council and the Lower Nueces River Water Supply District, there is hereby designated as a wildlife and bird sanctuary all area situated in Jim Wells and San Patricio Counties lying east of the Wesley Seale Dam and more particularly described as follows: All of that area bounded on the south by the city operations road on the Wade property; bounded on the west by the Wesley Seale Dam; bounded on the north by a line parallel to State Park Road 25 and immediately south of the trunk lines gauging station and extending from the south end of the north embankment of the dam easterly to the boundary of State Park Road 25; and thence along Park Road 25 to its intersection with the Southern Pacific Railroad right-of-way; and bounded on the east by the Southern Pacific Railroad west right-of-way line to said city operations



road. This designation shall not prohibit, nor prevent the continued use of said land as a part of the facilities of the water division of the department of public utilities and the operations of the city and the water district in connection with the using of said tract, and the said water reservoir shall be exempt from the provisions of section 6-202. This designation is subject to the heretofore existing rights of the Campfire Girls' lease on a portion of the water reservoir site.

**Sec. 6-202. Regulations.**

The following regulations shall be applicable to the areas designated in section 6-201 and in all other areas designated by the city council as wildlife and bird sanctuaries, whether situated within the city limits or owned by the city, whether within the city limits or outside the city limits:

- (1) It is unlawful for any person to hunt, take, kill or possess or attempt to hunt, take or kill any bird or animal within the limits of any wildlife and bird sanctuary designated as such sanctuary by the city council at any time.
- (2) It is unlawful for any person to disturb any nest or eggs of any bird on any wildlife and bird sanctuary within the city.
- (3) It is unlawful for any person to take any firearms, slingshot, bow and arrow or any device whatever usable for the killing, trapping or taking of any bird or other wildlife on any wildlife or bird sanctuary within the city.
- (4) No clearing of grass, brush or trees will be permitted without permission from the city and the water district acting through the reservoir superintendent.

**Secs. 6-203—6-225. Reserved.**

**ARTICLE VIII. BEEKEEPING**

**Sec. 6-226. Findings.**

The city council finds that honeybees are of benefit to mankind by providing agriculture, fruit and garden pollination services and by furnishing honey, wax, and other useful products; domestic strains of honeybees have been selectively bred for desirable traits, including gentleness, honey production and tendency not to swarm; and gentle strains of honeybees can usually be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed.

**Sec. 6-227. Definition.**

As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

*Apiary* means a place where one (1) or more bee colonies are kept.

*Bee* means any stage of the common domestic honeybee, *apis mellifera* species.

*Colony* means a hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.

*Hive* means a structure intended for the housing of a bee colony.

*Tract* means a contiguous parcel of land under common ownership.

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

**Sec. 6-228. Certain conduct declared unlawful.**

- (a) The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas, especially protection of persons from personal injury.
- (b) Notwithstanding compliance with the various requirements of this article it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

**Sec. 6-229. Hives.**

All bee colonies shall be kept in Langstroth type hives with removable frames, which shall be kept in sound and usable condition.

**Sec. 6-230. Fencing of flyways.**

In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation, or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in vicinity of the apiary. It is a defense to prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least twenty-five (25) feet from the property line of the apiary tract.

**Sec. 6-231. Water.**

Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, birdbaths, pet watering bowls, bird baths, or other water sources where they may cause human, bird or domestic pet contact.

**Sec. 6-232. General maintenance.**

Each beekeeper shall ensure that no bee comb or other materials that might attract bees to the location are left upon the grounds of the apiary site. Upon their removal from the hive all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

**Sec. 6-233. Queens.**

All hives shall be requeened annually when a quarantine or regulated area declared by the Texas Apiary Inspection Service is in effect. In addition, in any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly requeen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics. Queens must be obtained from a nonquarantined area.

**Sec. 6-234. Colony densities.**

- (a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size of configuration of the tract on which the apiary is situated:
  - (1) One-quarter acre or less tract size—Two (2) colonies.

- (2) More than one-quarter acre but less than one-half acre tract size—Four (4) colonies.
  - (3) More than one-half acre but less than one (1) acre tract size—Six (6) colonies.
  - (4) One (1) acre or larger tract size—Eight (8) colonies.
  - (5) Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
  - (6) Regardless of tract size, so long as all property, other than the tract upon which the hives are situated, that is within a radius of at least two hundred (200) feet from any hive remains undeveloped property there shall be no limit to the number of colonies.
- (b) For each two (2) colonies authorized under colony densities (subsection (a)) there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths (9-5/8) inch depth ten-frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days.

**Sec. 6-235. Marking hives, presumption of beekeeping.**

- (a) In apiaries the name and telephone number of the beekeeper shall be branded, painted, or otherwise clearly marked upon the structure of at least two (2) hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper. It is a defense to prosecution under this subsection that a colony is kept upon the same tract upon which the owner resides.
- (b) Unless marked in accordance with subsection (a) it shall be presumed for purposes of this article that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address, and telephone number of the other person who is acting as the beekeeper.

**Sec. 6-236. Inspection.**

- (a) The animal care services manager or designee shall have the right to inspect any apiary between the hours of 8:00 a.m. and 5:00 p.m. Presence of an apiary constitutes consent to the Animal Care Services Manager or his/her designee to enter the premises. Where practicable, prior notice shall be given to the beekeeper if he resides at the apiary or if his name is marked on the hives.
- (b) The authority provided for in this article is only for the general protection of the public health and safety. Neither the city, nor any officer or employee charged with the enforcement of this article shall owe any duty to any person in carrying out any provision of this article, nor shall any of them be liable to any person for any act or omission in carrying out any provision of this article. Nothing herein shall waive any immunity from liability of the city or any of its officers or employees, or imply any duty or liability in any area of city operations.

(Ord. No. 026046, § 1, 12-14-2004; Ord. No. 030405, § 27, 1-20-2015)

**Sec. 6-237. Compliance.**

- (a) Upon receipt of information that any colony situated within the city is not being kept in compliance with this article, the animal care services manager shall cause an investigation to be conducted. If he/she finds that grounds exist to believe that one (1) or more violations have occurred he/she shall cause a written notice of hearing to be issued to the beekeeper.
- (b) The notice of hearing shall set forth:

- (1) The date, time and place at which the hearing will be conducted;
- (2) The violation(s) alleged;
- (3) That the beekeeper may appear in person or through counsel, and present evidence; and
- (4) That the bees may be ordered destroyed or removed from the city if after the hearing the animal care services manager finds that they have been kept in violation of this article.

Notices shall be given by certified U.S. mail or personal delivery. However, if the animal care services manager is unable to locate the beekeeper, then the notice may be given by publication one (1) time in a newspaper of general circulation at least five (5) days prior to the date of the hearing.

- (c) The hearing shall be conducted by the animal care services manager or a hearing officer that he/she may designate. The burden shall be on the city to demonstrate by a preponderance of credible evidence that the colony or colonies have in fact been kept in violation of this article. If the hearing officer finds that the colony or colonies have been kept in violation of this article then he/she may order that the bees be destroyed or removed from the city, within a period not to exceed twenty (20) days, and that bees shall not thereafter be kept upon the tract for a period of two (2) years. In instances where the hearing officer finds that the violations were not intentional and that the beekeeper has employed corrective actions that will probably be effective to cure the violations alleged, then he/she may issue a warning in lieu of ordering the bees destroyed or removed. Upon failure of the beekeeper to comply with the order the animal care services manager may cause the bees to be destroyed and the hive structures to be removed. In each instance in which a bee colony is destroyed all usable components of the hive structure that are not damaged or rendered unhealthy by the destruction of the bees shall upon the beekeeper's request be returned to the beekeeper, provided that the beekeeper agrees to bear all transportation expenses for their return.
- (d) The decision of the hearing officer may be appealed by filing a notice of appeal with the city manager within ten (10) days following the date that the hearing officer announces his/her decision, or if the decision is not announced at the conclusion of the hearing, then within fifteen (15) days following the date that the hearing officer places written notice of his decision in the mail to the beekeeper. An appeal shall not stay the hearing officer's decision. The decision of the city manager shall be final.
- (e) The provisions of this section shall not be construed to require the conduct of a hearing for the destruction of:
  - (1) Any bee colony not residing in a hive structure intended for beekeeping;
  - (2) Any swarm of bees;
  - (3) Any colony residing in a standard or manmade hive, which by virtue of its condition, has obviously been abandoned by the beekeeper; or
  - (4) Where immediately necessary to protect the public health or safety.

**Sec. 6-238. Conflicts with zoning ordinance.**

If there should be any conflict between this article and the city zoning ordinance, the zoning ordinance shall control.