

AN ORDINANCE 2013 - 11 - 21 - 0803

**AMENDING CHAPTER 5 AND CHAPTER 20 OF THE CITY CODE IN ORDER TO ADOPT THE ADMINISTRATIVE ADJUDICATION HEARING PROCEDURES SET OUT IN CHAPTER 20 FOR ANIMAL CARE AND CONTROL ORDINANCE VIOLATIONS; PROVIDING FOR PENALTIES AND PUBLICATION.**

\* \* \* \* \*

**WHEREAS**, in September 2013, an amendment to the state law permitted local municipalities the ability to issue civil citations in addition to criminal citations; and

**WHEREAS**, civil citations, which have already been adopted by Code Compliance, are adjudicated through a Hearing Officer and provide an opportunity to focus on long term compliance, rather than just the isolated infraction; and

**WHEREAS**, by adopting a civil citation process ACS will be able to promote, protect, and improve the health safety and welfare of the citizens by providing the authority to impose administrative penalties in order to provide an equitable, expeditious, effective, and inexpensive method to animal care enforcement activities; and

**WHEREAS**, ACS will be able to reduce the amount of time Animal Care Services officers spend in court as an ACS supervisor will present the civil citation cases to the Hearing Officer; and

**WHEREAS**, by adopting a civil citation process, ACS could redirect these resources to: picking up pets, answering calls, issuing citations, and/or other field enforcement activities; and

**WHEREAS**, the proposed amendments would also result in the creation of an ACS department compliance assistance account where \$20.00 for each penalty assessed will be deposited for the purpose of abating animal care and control violations managed by ACS; **NOW THEREFORE:**

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

**SECTION 1.** Chapter 5 entitled "Animals" and Chapter 20 entitled "Municipal Court" of the City Code of San Antonio, Texas are hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

**SECTION 2.** Chapter 5 of the City Code of San Antonio, Texas is hereby amended as follows:

***Chapter 5, Article I, Section 5-21, Unlawful acts; criminal penalties; civil remedies, subsection (c) is amended as follows:***

(c) Nothing in this section shall limit any and all other criminal, civil or administrative the remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.

**SECTION 3.** Chapter 20 of the City Code of San Antonio, Texas is hereby amended as follows:

***Chapter 20, Article II, Section 20-101, Authority and supplementary provision, is amended as follows:***

The City of San Antonio (the "city"), as a home-rule city, adopts in this article a procedure for administrative adjudication hearings pursuant to V.T.C.A., Local Government Code § 54.044 and the powers of self-rule granted by the voters under the City Charter as authorized by the Constitution of the State.

Nothing ~~in~~ is this article shall preclude the city's pursuit of any and all other remedies allowed under the civil and criminal statutes and, in equity, to address conditions which are treated in this article ~~under the theory of public nuisance and abatement of dangerous structures or buildings~~. Neither shall the city be required to issue, nor be prohibited from issuing, criminal citations before, during, or after any proceeding prescribed in this article.

***Chapter 20, Article II, Section 20-102, Jurisdiction, subsection (a) is amended as follows:***

- (a) The jurisdiction of the administrative hearing officers shall be limited to city ordinances:
- (1) For the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances or exits;
  - (2) Relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
  - (3) Relating to dangerously damaged or deteriorated buildings or improvements;
  - (4) Relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; ~~or~~
  - (5) Relating to a building code or to the condition, use or appearance of property in the city;
- or
- (6) Relating to animal care and control.

***Chapter 20, Article II, Section 20-108, Appeal, is amended to add subsection (c) as follows:***

(c) The municipal court's review shall be limited to a hearing under the substantial evidence rule.

***Chapter 20, Article II, Section 20-109, Disposition of administrative penalties, costs and fees, is amended as follows:***

- (a) Except as provided in subsections (b) and (c), penalties, costs and fees assessed under this article shall be paid into the city's general fund for the use and benefit of the city.
- (b) Twenty dollars (\$20.00) of each penalty assessed and paid for Development Services Department violations set out in section 20-102(a)(1)-(5) under this article shall be deposited into the Development Services Department compliance assistance account established in section 20-110 of this article.
- (c) Twenty dollars (\$20.00) of each penalty assessed and paid for Animal Care Services Department violations set out in section 20-102(a)(6) shall be deposited into the Animal Care Services Department compliance assistance account established in section 20-110 of this article.

***Chapter 20, Article II, Section 20-110, Compliance assistance account, is amended as follows:***

**Sec. 20-110. - Compliance assistance accounts.**

- (a) ~~The Compliance~~ compliance assistance accounts ~~are~~ is composed of:
  - (1) Penalties collected under subsection 20-109(b) and (c) of this article; and
  - (2) Any funds donated by a person, as accepted by city council ordinance.
- (b) The Development Services Department compliance assistance account shall be used for the sole purpose of rehabilitating, repairing or abating nuisances of properties and premises in the city for persons who:
  - (1) Have been found liable for an administrative violation under this article;
  - (2) Are found by the administrative hearing officer to be indigent and financially unable to comply with an administrative order under section 20-105;
  - (3) File a request for funds with the Development Services Department for the purpose of rehabilitating and/or repairing the person's property or premises until it complies with the administrative order;
  - (4) ~~Have not~~ have received funds from the compliance assistance account within the preceding sixty (60) months;
  - (5) Do not qualify for other home repair or rehabilitation assistance programs available through the city; and
  - (6) Own and occupy the property.
- (c) The Animal Care Services Department compliance assistance account shall be used for the sole purpose of abating animal care and control violations set out in chapter 5 of this code for persons who:
  - (1) Have been found liable for an administrative violation under this article;
  - (2) Are found by the administrative hearing officer to be indigent and financially unable to comply with an administrative order under section 20-105;

(3) File a request for funds with the Animal Care Services Department for the purpose of abating animal care and control violations set out in chapter 5 of this code until there is compliance with the administrative order;

(4) Have not have received funds from the compliance assistance account within the preceding sixty (60) months;

(5) Do not qualify for other animal care and control assistance programs available through the city; and

(6) Own the animal at issue.

(de) The director of the Development Services Department and the director of the Animal Care Services Department shall adopt policies and procedures consistent with this article for the administration of each account's the funds fund.

**SECTION 4.** All other provisions of Chapter 5 and Chapter 20 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

**SECTION 5.** Violations occurring after the effective date of this ordinance shall be punished as provided in the revised Chapter 5 and Chapter 20. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

**SECTION 6.** Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

**SECTION 7.** Funds generated by this ordinance will be deposited into Fund 11001000, Internal Order 237000000260 and General Ledger 4401343.

**SECTION 8.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

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

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

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

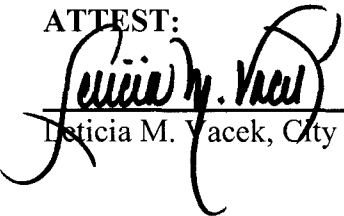
**SECTION 12.** Penalties provided for in this revised Chapter 5 and Chapter 20 shall be effective five days after publication by the City Clerk.

PASSED AND APPROVED this 21st day of November, 2013.

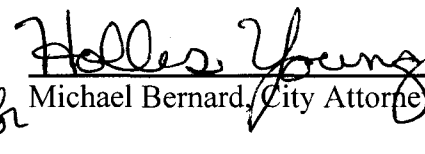


M A Y O R  
Julián Castro

ATTEST:

  
\_\_\_\_\_  
Leticia M. Yacek, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
for Michael Bernard, City Attorney

<b>Agenda Item:</b>	25 ( in consent vote: 5, 6, 7, 8, 10A, 10B, 11, 12, 13, 14, 15, 16B, 19, 20, 21, 22, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 40, 41, 42, 43, 44, 45, 46 )						
<b>Date:</b>	11/21/2013						
<b>Time:</b>	12:17:52 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance amending Chapter 5 and Chapter 20 of the City Code to adopt the administrative adjudication hearing procedures set out in Chapter 20 for animal care and control ordinance violations; providing for penalties and publication. [Erik Walsh, Deputy City Manager; Kathy Davis, Director, Animal Care Services]						
<b>Result:</b>	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x			x	
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				x
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Carlton Soules	District 10		x				