

ORDINANCE

2020-10-29-0772

AMENDING CHAPTER 5 ENTITLED “ANIMALS” AND CHAPTER 20 ENTITLED “MUNICIPAL COURT” OF THE CITY CODE TO REGULATE THE RETAIL SALE OF PETS, EXPAND ELIGIBILITY FOR THE ANIMAL CARE COMPLIANCE ASSISTANCE ACCOUNT, UPDATE CONSISTENT WITH THE STRATEGIC PRIORITIES OF ANIMAL CARE SERVICES, AND ESTABLISHING PENALTIES.

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WHEREAS, the City of San Antonio Department of Animal Care Services (“ACS”) Strategic Plan focusses on four key departmental strategies: (1) enhanced enforcement of existing laws and codes; (2) controlling the stray animal population; (3) increasing the City’s Live Release Rate; and, (4) to engage and educate the community on responsible pet ownership; and

WHEREAS, the systematic inhumane treatment of animals in commercial breeding facilities has been brought to light by numerous animal rights organizations; and

WHEREAS, ACS committed to studying the issue of pet sales in San Antonio and in July of 2019 and February of 2020, ACS conducted “SASpeakUp” surveys to gauge whether San Antonio residents identified pet sales as a problem and whether they supported the City establishing additional pet sales regulations; and

WHEREAS, the July 2019 “SASpeakUp” survey on pet sales identified strong support for the City to prohibit businesses or individual residents from selling dogs and cats that did not come from an animal shelter or nonprofit rescue group; and

WHEREAS, over 80% of respondents to the July 2019 “SASpeakUp” survey indicated they agreed or strongly agreed that individuals and businesses breeding animals for the sole purpose of selling pets contributes to the problem of too many loose and unowned dogs and cats within San Antonio; and

WHEREAS, the February 2020 “SASpeakUp” survey on pet sales identified strong support for the specific policy proposals by ACS with nearly 80% of respondents supporting the City requiring pet shops that sold dogs or cats to exclusively source those animals from rescues or municipal or county shelters; and

WHEREAS, approximately 95% of respondents to the February 2020 “SASpeakUp” survey indicated they agreed or strongly agreed that businesses should also be required to provide proof of microchip, issue a bill of good health for dogs and cat sold, and be required to immunize pets against common diseases; and

WHEREAS, ACS staff briefed the ACS Advisory Board (“Board”) on the survey results and policy proposals at the Board meeting, where Board members have expressed support of staff recommendations; and

WHEREAS, ACS staff recently presented the proposed city code amendments to the Community Health and Equity Committee and the Committee unanimously voted to advance these recommended revisions to City Council A Session; **NOW THEREFORE**:

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

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

ARTICLE I. - IN GENERAL

Sec. 5-1. - Definitions.

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

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

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

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

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

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

Animal rescue organization means any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, which rescues and places animals into permanent homes. Animal rescue organization does not include an entity that breeds animals, or an entity that in exchange for payment or compensation obtains any dog or cat from a person who either breeds dogs or cats or facilitates the sale of dogs or cats that were obtained from a person who breeds dogs or cats.

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

Bridle shall mean a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.

Cat colony means a colony of free-roaming (homeless, stray, wild or untamed) cats that has been registered with the department and is maintained by a colony caretaker (who provides food, water and shelter) using trap, neuter and return methodology.

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

City shall mean the City of San Antonio, Texas.

Cock shall mean the male of any type of domestic fowl.

Cockfight shall mean a contest wherein fowl are set against one another with the intention that they engage in combat.

Commercial boarding facility ~~kennel~~ shall mean any place other than a veterinary hospital where the property owner, tenant, or occupant keeps or allows others to keep or board any cats, dogs or equines ~~domestic animal~~ for a fee, donation or non-monetary reward.

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

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

Coop and run shall mean a fully enclosed and predator-resistant cage or a pen used to confine fowl within a designated location. The coop and run shall have roosts approximately eighteen to twenty-four (18—24) inches from the ground with at least eight (8) inches of roost space per bird.

Department shall mean the city's animal care services department.

Director shall mean the director of the city's animal care services department or his/her designee.

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

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

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

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

Domestic fowl shall mean birds of a breed developed or kept for the purpose of meat production, egg laying or purely for ornament or show, including but not limited to ducks, geese, chickens, turkeys, partridges, parakeets and pigeons.

Dubbing shall mean the procedure of removing the comb, wattle, and sometimes earlobes of a game fowl.

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

Gaff shall mean an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock's natural spur.

Game fowl shall mean a bird of any of various strains of domestic feral fowls developed chiefly for the intent of fighting or used in the act of cockfighting.

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

Housing space shall mean the amount of confined space a pet has regular access to throughout the day to walk, run, play, eat and rest. This can include inside the home, if it is regularly accessible to the pet, and within an exterior fenced area within the owner's property. It shall not include any space where the animal can get on or off the property by its own free will.

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

Keeper means any person, firm, corporation, organization or department holding, caring for, having an interest in, or having control or custody of an animal. If the keeper of an animal is

a minor, the parent or guardian of that minor shall be responsible for compliance with animal care related ordinances.

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

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

Offer for sale shall mean to proffer, display, or advertise for the sale, adoption, or other commercial transfer of an animal.

Owner of an animal shall mean any person owning or having care, custody, possession or control of an animal. Persons caring for an animal at the specific request of an owner are not included in the definition of owner, but are required to keep the animal in compliance with this Code.

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

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

Pet shop shall mean a business establishment, whether licensed or not by the department, where animals including dogs, cats, fish, birds, reptiles, or rodents are sold, offered for sale, bartered, traded, given away, or otherwise transferred. ~~are kept for sale or commercial barter.~~

Poisonous shall mean causing or capable of causing death or illness if taken into the body.

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

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

Prohibited animals shall mean:

- (1) Any ape or other non-human primate;
- (2) Any member of the genus *Canis* including wolf, hybrid wolf, coyote, jackal or fox, and similar species except *Canis familiaris*;
- (3) Any member of the genus *Felis* including leopard, lion, panther, tiger, lynx, bobcat, cheetah, ocelot, margay, jaguarundi, and any similar species except *Felis domesticus*;
- (4) Mustelids; other than the domestic ferret (*Mustela putorius furo*);

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

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

Registered microchip shall mean 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's or keeper's name, address, and telephone number (if available), and the description of the animal.

~~*Rescue group* shall mean a formal animal care organization whose declared mission is to take and care for unwanted, abandoned, abused or stray pets and attempt to find suitable homes for them.~~

Restraint shall mean a situation whereby an animal is secured by a tether, a leash or a lead, or is confined within the real property of its owner.

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

Roosts shall mean bars where domestic fowl perch at night inside a coop and run.

Rooster shall mean the male of any type of domestic fowl.

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

Seller (of animals) shall mean a person that transfers ownership of animals, in exchange for money, services, or goods. For the purposes of a seller's permit, seller shall not include an operator, manager, or employee of a business entity that sells animals commercially, except for a person that is selling animals out of said his or her primary residence.

Selling (of animals) shall mean the permanent change of ownership resulting from the exchange of money, services or goods.

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

Shelter shall mean a clean and sturdy structure with a roof and three (3) sides and a fourth side allowing access that is protected from the elements and a floor that is elevated enough to keep the shelter dry. A shelter shall provide protection from rain, hail, sleet, snow, and subfreezing temperatures and must be large enough to allow the dog or animal to stand erect, sit, turn around and lie down in a normal manner.

Slasher shall mean a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

Spur shall mean a sharp horn-like protrusion that can grow on the legs of fowl.

Stray animal shall mean any animal not under restraint.

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

Trap, neuter and return (TNR) program shall mean a nonlethal, humane alternative to deal with the stray cats which are captured, altered and returned back to their location in order to encourage the stabilization of the free-roaming cat population in the city.

Trapped animal shall mean an animal caught or taken in, as if in a trap or snare by skill, craft or trickery.

Unprovoked animal attack means an offensive attack by an animal that excludes circumstances in which immediately prior to the attack, and while properly confined and restrained:

- (1) The animal was taunted, teased or abused or otherwise assaulted by a person(s) or another animal- this includes being hit, kicked or struck, pulled, pinched, stepped on, squeezed, or bit by a person or other animal with any object or body part.
- (2) While properly restrained, the animal was defending or protecting a person(s) or property from a person(s) or another animal trespassing or committing a crime on the premises or property occupied by the owner.
- (3) The animal was protecting itself or its offspring.

Unrestrained ~~shall s-hall~~ mean a situation where an animal is found to be without physical restraint provided in the form of a barrier such as a fence, tether or leash providing positive control of the animal and inhibiting the animal from getting off the occupant's property or away from physical control by the owner/keeper.

Vaccination certificate shall mean a document showing on its face that the animal described thereon has received a current inoculation of rabies vaccine in an amount sufficient to produce an immunity that satisfies the requirement of state law, inscribed with the date of the inoculation, the duration of immunity approved for that vaccine, the name and address of the animal's owner, all other information required by state law and signed by a licensed veterinarian.

Venomous shall mean capable of injecting venom by means of a bite or sting.

Veterinarian shall mean a person licensed to practice veterinary medicine in the state.

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

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

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

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

- (a) There shall be erected and maintained, under the supervision of the director, a suitable building and kennels, to be known as the animal care services facility, for the confinement of all animals seized, impounded or surrendered pursuant to the provisions of this chapter. The animal care services facility shall be kept in a sanitary condition, and all animals taken up and impounded therein shall be properly fed and provided water. All animals shall be treated in a humane manner while under the custody of the department. The department or its designee shall be considered the designated caretaker of all impounded animals immediately upon intake at the facility.
- (b) Upon payment of the applicable fee, if any, the animal care services facility ~~will provide euthanasia of~~ may euthanize dogs, cats, and other small animals upon the signed request of an animal owner who resides within the city and residents of unincorporated Bexar County as long as the city and county maintain a joint animal control program through contractual agreement.
- (c) The sale of live animals from the animal care services facility for research and pound seizures is prohibited.

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

- (a) It shall be unlawful for any person to sell or offer for sale, ~~trade, barter, lease, rent or give away on the condition that some other item is purchased, bartered, leased, or rented,~~ any baby chicks, ducklings, other fowl less than three (3) weeks old, or rabbits less than eight (8) weeks old on the condition that some other item is purchased, traded, bartered, leased, or rented; except that this chapter shall not be construed as to prohibit the sale or display of such baby chicks, ducklings, or other fowl in proper breeder facilities or hatcheries or to prohibit the sale or display of such baby chicks, ducklings, or other fowl in stores engaged in the business of selling the same to be raised for commercial purposes.
- (b) It shall be unlawful to color, dye, stain, or otherwise change the natural color of any baby chicks, ducklings, or other fowl or rabbits or to possess for the purpose of sale any baby chicks, ducklings, or other fowl or rabbits which have been so colored.

Sec. 5-4. - Cruelty to animals.

- (a) Cruelty to non-livestock and livestock animals, excluding uncaptured wild living creatures, is a violation of the Texas Penal Code and depending on the circumstances, is a class A misdemeanor, state jail felony, or a felony of the third degree.
- (b) Cockfighting is a violation of the Texas Penal Code and depending on the circumstances is a state jail felony, class A or class B misdemeanor.
- (c) It shall be a violation of this Code for a person to intentionally, knowingly or recklessly beat, cruelly treat, overload or otherwise abuse any uncaptured wild living creature anywhere in the city. A violation of this subsection is punishable as described in section 5-21.
- (d) Animal care officials shall liberally utilize the authority granted by V.T.C.A., Health and Safety Code § 821.022 to seize and impound any animal that has been or is being cruelly treated. If the investigating animal care officer or cruelty investigator has reason to believe that an animal has been or is being cruelly treated, pending a hearing before any justice of the peace of Bexar County, Texas or any municipal court judge on the issues of cruelty and disposition of the animal, the seizure of the subject animal prior to receiving a warrant is hereby authorized if such a delay endangers the life of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.
- (e) It shall be a violation for any person to engage in dubbing.

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

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

Sec. 5-6. - Standard of care.

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

- (1) Access to an adequate supply of fresh air;
- (2) Species-specific food;
- (3) Fresh water;
- (4) Exercise;
- (5) Shelter, as defined by this Code;
- (6) Access to adequate natural or artificial shade from direct sunlight at all times that is large enough to contain all outdoor pets at one time and is separate from any shade created from the designated shelter; and
- (7) Veterinary care when needed to prevent suffering.

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

It shall be unlawful for the owner of an animal, or a person charged with custody or care of an animal, to surgically alter an animal, including, but not limited to ear cropping, tail docking, and dewclaw removal, except when done by a licensed veterinarian.

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

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

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

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

Sec. 5-10. - Prohibiting giving away animals as prizes or inducements.

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

Sec. 5-11. - Prohibiting selling animals on roadside, garage sales, flea markets and festivals.

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, or give away, any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place.
- (b) It shall be unlawful for any manager, operator or property owner to allow the conduct described in subsection (a).
- (c) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals that have an active animal rescue organization licensed issued by the department. ~~rescue group license.~~
- (d) Any animal being sold, traded, bartered, leased, rented, or being given away on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center or outdoor public place shall be subject to seizure and impoundment at the discretion of the investigating animal care officer. Upon impoundment, a notice of violation will be provided to the animal owner. Animals impounded under this section may be reclaimed-by the owner within five (5) days excluding the day of impoundment and any days the animal care services facility is not opened. Animals not reclaimed within this period shall thereafter become the property of the city and be subject to adoption, rescue, foster or humanely euthanized at the discretion of the department. Applicable impoundment fees for each animal reclaimed shall be paid.

Sec. 5-12. - Exposing animals to poisonous substances.

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

Sec. 5-13. - Traps with holding mechanisms prohibited; exceptions.

- (a) No person shall set up or allow to be set up on his or her property steel jaw traps, spring traps with teeth or perforated edges on the holding mechanism, snares, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped prey, for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically deemed necessary by the director of health in or for the control of communicable disease.

This section is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers and groundhogs; except that the owner is responsible for taking care that any of the above said "rodent" traps are not placed or used on or about his or her property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal, or of a human.

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

Sec. 5-14. - Animal traps without holding mechanism.

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

Sec. 5-15. - Safety of animals in motor vehicles.

- (a) No person shall transport or carry on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unenclosed vehicle (including, but not limited to convertibles, pick-up trucks, jeeps, and flatbed trucks), the animal shall be confined by a vented container or cage, rope or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling on a single leash.
- (b) No person shall leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety. Any animal care officer or police officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is endangered, and said neglected or endangered animal shall be impounded.

Sec. 5-16. - Pet shop requirements.

- (a) No person shall operate a pet shop within the city without first obtaining a license from the department.
- (b) It shall be unlawful for a pet shop owner, operator, manager, or employee to sell, trade, transfer, barter, give away, maintain, or act as a dealer or agent between a buyer and seller of any prohibited animal as defined by this chapter. ~~Dogs and cats shall be removed from their primary enclosures at least twice during each 24-hour period and exercised unless the primary enclosure is of sufficient size to conduct an exercise regimen needed by the animal for good health. All animals shall be able to stand, stretch, and turn without touching any of~~

~~the four (4) sides or top of their primary enclosure. Group housing of compatible animals is allowed if the space prevents crowding and allows for easy removal of animal waste, and the unhampered movement and comfort of each animal. Sick, diseased, and injured animals shall be kept isolated and taken to a veterinarian on the day of discovery for veterinary care or euthanasia.~~

- (c) A pet shop shall not sell, lease, offer for sale, trade, give away or otherwise transfer a cat or dog, unless the cat or dog was obtained from a city or county animal shelter, an animal control agency, or an animal rescue organization licensed by the department. All pet shops and stores selling animals, birds, reptiles and fish shall:

- ~~(1) Take care to house animals in a sanitary manner;~~
- ~~(2) Provide appropriate medical services, care, and housing according to individual species' needs;~~
- ~~(3) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the department) against common disease in accordance with standard veterinary practices; in the case of dogs, against canine distemper, adeno virus para influenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleukopenia; and~~
- ~~(4) Not offer any puppy or kitten under the age of eight (8) weeks for sale, trade or other compensation or for free giveaway (except a puppy or kitten, or litter or litters taken to the department, or any tax exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals, or any recognized rescue organization which is currently registered with the department).~~

- (d) All pet shops and stores selling animals shall:

- (1) Take care to house animals in a sanitary manner;
- (2) Provide appropriate medical services, care, and housing according to individual species' needs;
- (3) Keep sick, diseased, and injured animals isolated and checked by a veterinarian on the day of discovery for veterinary care;
- (4) Provide each animal sufficient space to stand, stretch, and turn without touching any of the four (4) sides or top of their primary enclosure. Group housing of compatible animals is allowed if the space prevents crowding and allows for easy removal of animal waste, and the unhampered movement and comfort of each animal. Take cats and dogs out of their primary enclosures at least twice during each 24-hour period for exercise unless the primary enclosure is of sufficient size to conduct an exercise regimen needed by the animal for good health;

- (5) Maintain clean animal enclosures and remove debris and fecal matter at least once every twenty-four (24) hours. Sanitizing of cat and dog enclosures shall be done once every day by washing the surfaces with water and either soap or detergent, or by the use of a pressure water system or steam cleaner all of which shall be followed by the application of a safe and effective disinfectant. The exercise and run areas having pea gravel or other non-permanent surface materials shall be thoroughly cleaned at least every twenty-four (24) hours and more frequently if necessary by removal of soiled materials and application of suitable disinfectants followed by the replacement of clean surface materials when necessary;
- (6) Check and treat all cats and dogs for internal and external parasites, unless documentation is provided indicating the animal has had a veterinary exam within the past thirty (30) days and is free of internal and external parasites;
- (7) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the department) against common disease in accordance with standard veterinary practices; in the case of dogs, against canine distemper, adeno-virus para influenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleukopenia;
- (8) Ensure that all cats and dogs that are being offered for sale, trade or other compensation or for free giveaway are:
 - a. sterilized by a licensed veterinarian;
 - b. implanted with a registered microchip.
- (9) Not offer any kitten or puppy under the age of eight (8) weeks for sale, trade or other compensation or for free giveaway; and,
- (10) Post on the enclosure for each cat or dog offered for sale the name, address, and contact information of the city or county animal shelter, animal control agency or animal rescue organization from which the dog or cat was obtained.

~~Animal enclosures shall be cleaned of debris and fecal matter at least once every twenty-four (24) hours. Sanitizing of dog and cat enclosures shall be done once every day by washing the surfaces with water and either soap or detergent, or by the use of a pressure water system or steam cleaner all of which shall be followed by the application of a safe and effective disinfectant. The exercise and run areas having pea gravel or other non-permanent surface materials shall be thoroughly cleaned at least every twenty-four (24) hours and more frequently if necessary by removal of soiled materials and application of suitable disinfectants followed by the replacement of clean surface materials when necessary.~~
- (e) The pet shop permit holder shall furnish a purchaser a written statement at the time of sale which shall include:
 - (1) Date of sale;

- (2) Name, address and telephone number of purchaser and permit holder;
 - (3) Permit number of permit holder;
 - (4) Breed, description, approximate age and sex of cat, dog, or other animal sold (small mammals, parrot-type birds, and fish not included);
 - (5) Medication and vaccination and immunization information, including dates administered;
 - (6) Internal parasite medication(s) and date(s) administered;
 - (7) A guarantee of good health for a period of not less than two (2) weeks with recommendation to have the animal examined by a licensed veterinarian. The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale. All purchasers of cats, dogs, and ferrets shall also be furnished with information as to the requirements of ownership of these animals within the city including requirements for rabies vaccination, litter permits, and microchipping; and
 - (8) In the case of the sale of a cat or dog: the name, address, and contact information of the city or county animal shelter, animal control agency or animal rescue organization from which the pet shop obtained the cat or dog.
~~It shall be unlawful for a pet shop owner, operator, manager, or employee to sell, trade, transfer, barter, give away, maintain, or act as a dealer or agent between a buyer and seller of any prohibited animal as defined by this chapter.~~
- ~~(f) — All cats and dogs taken into a pet shop facility for resale shall be checked no later than seventy-two (72) hours from the date the dog or cat is taken into the pet shop for internal and external parasites, unless documentation is provided indicating the animal has had a veterinary exam within the past thirty (30) days and is free of internal and external parasites. Any animal exhibiting any signs of parasites shall be promptly treated, and medical records maintained for each animal. Any animal exhibiting signs of any infectious or contagious disease including, but not limited to canine distemper, adeno-virus parainfluenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, feline rhinotracheitis, and panleucopenia, will be immediately isolated and given adequate veterinary care. Complete records of veterinary care will be kept and delivered to the purchaser upon the sale of the animals. The department of health or animal care services may restrict the sale of any animal(s) suspected of being diseased or otherwise unfit for sale and may require that said animal(s) be examined within twenty-four (24) hours by a licensed veterinarian. The permit holder shall reimburse the enforcing agency's veterinary fees if the veterinarian concludes that the animal is unfit for sale at the time of the examination.~~
- ~~(g) — The pet shop permit holder shall furnish a purchaser a written statement at the time of sale which shall include:~~
- ~~(1) — Date of sale;~~

- ~~(2) Name, address and telephone number of purchaser and permit holder;~~
- ~~(3) Permit number of permit holder;~~
- ~~(4) Breed, description, approximate age and sex of dog, cat or other animal sold (small mammals, parrot type birds, and fish not included);~~
- ~~(5) Medication and prophylactic immunization and dates administered;~~
- ~~(6) Internal parasite medication(s) and date(s) administered;~~
- ~~(7) A guarantee of good health for a period of not less than two (2) weeks with recommendation to have the animal examined by a licensed veterinarian. The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale. All purchasers of dogs, cats and ferrets shall also be furnished with information as to the requirements of ownership of these animals within the city including requirements for rabies vaccination, litter permits, and microchipping. The pet shop permit holder shall be further required to register with the department the name, address, and telephone number of each purchaser of any dog or cat transferred within five (5) days after the sale or transfer.~~

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

Sec. 5-17. - Commercial boarding facility kennel.

- (a) No person shall operate a commercial boarding facility ~~kennel~~ within the city without first obtaining a license from the department.
- (b) The exterior of a commercial boarding facility ~~kennel~~ area shall be completely fenced or otherwise enclosed to prevent animals from leaving the premises.
- (c) Runs shall be constructed to effectively enclose the animals housed therein. Construction shall permit ready observation and handling of the animals and promote ease of cleaning. Runs and exercise areas having gravel or other non-permanent surface materials shall be sanitized a minimum of once in each 24-hour period and more frequently as may be necessary by removal of soiled materials and application of suitable disinfectants and replacement with clean surface materials.
- (d) All primary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain them, and exclude other animals. They shall be constructed and maintained to enable the animals contained therein to remain dry and clean and to permit regular and effective cleaning. Heating and cooling shall be provided as required, according to the physical need of the animals, with sufficient light to allow observation of animals and sanitation conditions.
- (e) Group housing is permitted for animals that are compatible. Adequate space shall be permitted to allow freedom of movement and comfort.

- (f) All animals that are known to be exposed to or show symptoms of having infectious or contagious diseases shall not be transferred to any person other than the owner of the animal or a licensed licensee veterinarian.
- (g) A commercial boarding facility kennel shall not accept a dog for boarding without first obtaining a copy of the dog's immunization record or veterinarian receipt showing that the animal has a current rabies vaccination certificate and been vaccinated against canine distemper, hepatitis, para influenza, and canine parvovirus in accordance with standard veterinary practices. A commercial boarding facility kennel shall not accept a cat for boarding without first obtaining a copy of the cat's immunization record or veterinarian receipt showing that the cat has a current rabies certificate and been vaccinated against feline panleukopenia, viral rhinotracheitis, and calici virus in accordance with standard veterinary practices. Puppies and kittens less than four (4) months of age are exempt from the rabies vaccination requirement. A commercial boarding facility shall not accept an equine for boarding without first obtaining a copy of that equine's immunization record or veterinarian receipt showing that the equine has a current rabies certificate and current Coggins test certificate. The animal care services facility and commercial boarding facility kennels possessing federal certification of non-profit status (IRS 501(c)(3)) are exempt from this requirement.
- (h) It is the responsibility of the permittees, except for those exempted from the payment of commercial boarding facility kennel fees, to be able to prove at any time anytime that all cats, dogs and equines dogs and cats on the premises which are over four (4) months of age are currently vaccinated against rabies.
- (i) All animals shall be supplied with sufficient species specific food during each 24-hour period and more often if the physiological needs of the animal require it. Each animal shall have access to fresh potable water at all times.
- (j) Precautions shall be taken to ensure insure that animals are not teased, annoyed, or made to suffer by any persons or means.

Sec. 5-18. - Animal waste; sanitation standards.

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

- (b) No animal owner shall allow the accumulation of animal waste on any premises in a quantity sufficient to create an odor offensive to a person of normal sensibilities standing on any adjacent property not owned or controlled by the subject animal's owner, or which creates a condition conducive to the breeding of flies or other pests. It shall be unlawful to permit or allow fly breeding on premises on which livestock are kept, and permitting or allowing such shall authorize the denial, suspension or revocation of a permit by the department. Livestock owners shall have and maintain a fly control program.
- (c) The accumulation of animal waste on any premises so as to create a stench or harborage for flies or other pests is hereby declared to be a public nuisance. Upon delivery of a written "Notice to Clean" by the department of health, animal care services or development services or their representatives, an animal owner or any adult occupant of the premises identified in said notice shall abate the therein described public nuisance on the premises within twenty-four (24) hours. Delivery shall be accomplished either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous place on the main entrance fence gate of the premises or main entrance door of the structure on the premises, or by certified mail, return receipt requested.
- (d) The director of health, the director of animal care services and the director of development services or their designees are separately authorized and empowered to enforce the provisions of this section, and may summarily abate and remove any immediate public health and safety hazard due to the presence of animals by declaring the conditions to be an immediate public health hazard and public nuisance, and shall execute an administrative order that the premises be cleaned to city health code standards by the city or its contractor within twenty-four (24) hours. All three (3) said directors are each individually authorized to petition a justice or municipal court for a court order for the seizure of a particularly described animal or all animals kept on the subject premises to be impounded and cared for as abused or neglected animals pending a hearing before the court in accordance with V.T.C.A., Health and Safety Code § 821.022.

Sec. 5-19. - Leash and pooper scooper required.

An animal owner or keeper shall not walk an animal without a leash restraint, and shall not guide or take animals onto the yards or driveways of property not owned, leased or occupied by the animal owner for the purpose of allowing the animal to defecate, but shall keep the animal in the public right-of-way, and shall carry a container and implement for the sanitary removal of the animal's fecal matter from the public sidewalk and public right-of-way adjacent to any property with a structure or other improvements thereon.

Sec. 5-20. - Fastening animals.

- (a) No animal shall be hitched, tied or fastened by any tying device (to include a pulley system) and must wear a properly fitted collar or harness made of leather or nylon, not of the choker type. The collar or harness must have been specifically designed to be used for the animal being tethered. The tying device (to include pulley systems) shall be attached to the animal's

collar or harness and shall be at least ten (10) feet in length and must have a swivel device on the anchor and collar end to prevent tangling. The tying device (to include a pulley system) must provide at least one hundred fifty (150) square feet of unobstructed space.

- (b) An owner may not tether an unattended animal outside by use of a restraint that is composed primarily of a chain, has weights attached or is not attached to a properly fitted collar or harness.
- (c) No person shall tether their dog using a collar exceeding one and one-half (1½) inches wide for any dog weighing less than sixty (60) pounds. Dogs weighing sixty (60) pounds or more shall not be tethered using a collar exceeding two (2) inches in width. The collar must be adjusted to provide at least the circumference of the animal's neck plus one (1) inch.
- (d) An animal that is tethered must have access to adequate shelter, clean water, dry ground and shade from direct sunlight at all times.
- (e) A person shall not tether an animal with a tying device that weighs more than one-tenth (1/10) of the animal's body weight.
- (f) No person shall tether a puppy, sick or injured animal or a female dog while the dog is in estrus.
- (g) In accordance with the Texas Health and Safety Code, an owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement in the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below thirty-two (32) degrees Fahrenheit; a heat advisory has been issued by a local or state authority or jurisdiction; or a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

Sec. 5-21. - Unlawful acts; criminal penalties; civil remedies.

- (a) Unless otherwise specifically provided for in this chapter, if it is found that a person intentionally, knowingly or recklessly violated any provision of this chapter, then upon conviction a person shall be fined an amount not less than one hundred dollars (\$100.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this chapter, the person shall be fined an amount not less than two hundred dollars (\$200.00) and shall be fined not less than three hundred dollars (\$300.00) for a third conviction and for each conviction thereafter.
- (b) If it is found that a person intentionally, knowingly or recklessly violated sections 5-4, 5-5, 5-7, 5-8, 5-11, 5-16, ~~and 5-77,~~ and 5-106, then upon conviction a person shall be punished by a minimum fine of five hundred dollars (\$500.00) and a maximum fine of two thousand dollars (\$2,000.00) for a first offense, a minimum fine of one thousand dollars (\$1,000.00) and a maximum fine of two thousand dollars (\$2,000.00) for a second offense, and a fine of two thousand dollars (\$2,000.00) for a third and subsequent offense.

- (c) Nothing in this section shall limit any and all other criminal, civil or administrative remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense.
- (d) Where it is deemed necessary by the city manager and the director, the city attorney's office is hereby empowered to secure injunctive relief to enforce the provisions of this chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this chapter.

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

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

Secs. 5-23, 5-24. - Reserved.

ARTICLE II. - ANIMAL CARE SERVICES ADVISORY BOARD

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

- (a) There is hereby created the animal care services advisory board, which shall consist of fourteen (14) members. Eleven (11) of the members of this board shall be appointed by the city council, one (1) from each city council district and one (1) by the mayor. Each of these appointees shall serve on said board for a term of two (2) years in accordance with the city's boards and commissions rules codified in chapter 2, article IX of this Code. The health department director, the animal care services department director and the city manager or designees shall be ex-officio non-voting members of the board.
- (b) The animal care services advisory board shall include among its membership at least one (1) licensed veterinarian; one (1) city official; one (1) person whose duties include the daily operation of an animal shelter; and one (1) representative from an animal welfare organization.
- (c) The animal care services advisory board shall meet at least three (3) times a year.

Sec. 5-26. - Duties and powers.

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

- (c) The board shall further advise the city council, through the city manager, on any aspect of animal care services which in the board's opinion merits the attention of the city.

Secs. 5-27—5-49. - Reserved.

ARTICLE III. - LIVESTOCK

Sec. 5-50. - Swine.

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

- (1) Exhibition at stock shows, fairs, ~~and~~ circuses and zoological institutions;
- (2) When located at and on the property of any vocational school, with facilities properly constructed as determined by the department;
- (3) Slaughtering establishments;
- (4) When offered for sale at stock yards or auction barns adjacent thereto;
- (5) When kept at the home of an FFA (Future Farmers of America) member under the supervision of a high school vocational agricultural teacher or of a 4-H member under the supervision of the county agricultural agent, subject to the following conditions:
 - a. Each enrollee shall obtain a permit from the department before commencing a project. The form of application for permits shall be prescribed by the department. No fees shall be charged for such permits;
 - b. The property upon which the FFA or 4-H enrollee resides and maintains the swine must be a minimum of one (1) acre in area with a maximum of five (5) swine;
 - c. The minimum pen size shall be six hundred twenty-five (625) square feet per hog over fifty (50) pounds, and the pen must be covered with a roof having a minimum of one hundred (100) square feet per hog with a minimum pen width of fifteen (15) feet;
 - d. All swine must be grain fed;
 - e. Swine must be on a self-waterer or similar equipment approved by the department. There shall be a slab or other solid type construction under the tank covering the area of four (4) feet in each direction;
 - f. Hog wallows are prohibited;
 - g. The open and adjacent areas must be kept clean;

- h. Enrollees must be under close supervision of a vocational agricultural teacher or the county agricultural agent. If an enrollee does not conform to city regulations, such advisor will report the violation to the department and maintaining swine at the location shall be terminated immediately;
- i. The pen shall be a minimum of one hundred fifty (150) feet from any dwelling or business building owned or occupied by any person other than the owner of the swine or person keeping and maintaining same; and
- j. Enrollees must be certified by letters to the department by the county agricultural agent for 4-H members and by the high school principal for FFA members giving the names of the vocational agriculture teachers or advisors supervising the enrollees and their projects, and such other information as the department may require. Such officials shall notify the department of the termination of an enrollee's projects.

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

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

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

- (a) Regulation of horse drawn carriages shall be governed by the provisions of chapter 33.
- (b) An owner of livestock shall provide a minimum of five hundred (500) square feet of pen of which one hundred (100) square feet is under roof must be provided for each head of bovines or equines and, for each head of sheep or goat, shall provide a minimum of two hundred (200) square feet of pen of which forty (40) square feet is under roof ~~must be provided for each head of sheep or goats.~~
- (c) Any boarding stable or riding stable or academy must contain at least four hundred (400) square feet of space, of which one hundred (100) square feet is under roof, for each of such animals kept or maintained on the premises. The other provisions of this section shall not apply if the premises are zoned for operation of a riding stable or academy.
- (d) The keeping of more than the maximum number of livestock permitted under this chapter is hereby declared to be an animal nuisance, and may be abated after notice has been provided to the owner and an opportunity to voluntarily come into compliance has been given by the director. Upon delivery of a written "Notice to Remove Livestock" by the department, an

animal owner or any adult occupant of the premises identified in said notice shall abate the therein described animal nuisance on the premises within ten (10) days from the date of notice. Delivery shall be accomplished either by hand to the animal owner or keeper or any adult occupant of the residence, or by posting in a conspicuous place on the main entrance fence gate of the premises or main entrance door of the structure on the premises, or by certified mail, return receipt requested. After proper notice, the animal nuisance may be abated by the director by seizing and impounding any unlawfully kept number of livestock and, after an administrative hearing, either euthanizing them or releasing them to any person or organization approved by the director, offering to lawfully keep and care for them.

Secs. 5-53—5-74. - Reserved.

ARTICLE IV. - DANGEROUS AND AGGRESSIVE DOGS

Sec. 5-75. - Dangerous dogs.

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. 5-76. - 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 or her own dog.
- (b) After receiving a sworn affidavit of complaint and upon making a decision that seizure is a reasonable precaution to insure the health and safety of people nearby, the director 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 director. A dog that has been determined to be dangerous cannot be released back to the owner until the owner is able to demonstrate the ~~his~~ ability to comply with all the requirements for dangerous dogs as outlined in section 5-77.

- (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 as set out in section 5-79 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 section 5-77.

Sec. 5-77. - Requirements of dangerous dog owners.

- (a) An owner of a dog determined to be dangerous, shall ~~must~~ comply with all of the following ten (10) 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 an enclosure as defined in section 5-1 of this chapter;
 - (4) The owner must present to the department a certificate of public liability insurance in the amount of one hundred thousand 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, shall be kept secured by a sturdy leash of a maximum four (4) feet in length and maintained muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration, 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 no less than two (2) signs ~~a sign~~ on his or her 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 issue 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) At the owner's expense, the owner must complete ~~attend~~ a class on responsible pet ownership conducted by an organization approved by the department within two (2) months after the determination; and
 - (10) The owner must allow an annual inspection of the residence where the dog is kept in order for the department to verify ~~ensure~~ continued compliance with all requirements of this section. More frequent inspections may be conducted in response to specific complaints regarding non-compliance with this section.
- (b) If the owner of a dog determined to be dangerous is unable or unwilling to comply with the ownership requirements listed above within 30 days of the determination hearing ~~at anytime~~, the dog must be euthanized by an animal shelter, animal care agency, licensed veterinarian or the department.

Sec. 5-78. - 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 director or his or her representative who investigated. Any interested party, including the city attorney or an assistant city attorney, may present evidence at the hearing.

Sec. 5-79. - 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. 5-80. - 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. 5-81. - 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 section 5-77 as required;
 - (2) Fail to notify the department of a change of status as set out in section 5-80; 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).

Sec. 5-82. - 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. A dog while in the enclosure in which the animal was being kept acts to cause a person to reasonably believe that the animal will engage in an unprovoked attack and cause bodily injury to that person; or
 - b. An unrestrained dog is found to menace, chase, display threatening or unprovoked aggressive behavior or otherwise threaten or endanger the safety of a domestic animal.
- (2) Level 2 behavior is established if a dog, while unrestrained, causes physical injury to any domestic animal or livestock.
- (3) Level 3 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 2 aggressive dog that repeats the behavior in subsection (2) after the owner or keeper receives notice of the level 2 classification.

- (4) Notwithstanding subsections (1), (2), and (3), 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), (2), and (3), if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

Sec. 5-83. - 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 5-82. 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. The witness(es) ~~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 insure 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 the ~~his~~ ability to comply with all the requirements for aggressive dogs as outlined in section 5-85.
- (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, 2, or 3 aggressive dog pursuant to subsection (c), the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Upon final determination and after appeals are exhausted, the owner will have thirty (30) days to sterilize the animal. 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 3, that is found to have repeated level 3 behavior as defined under this code, shall be impounded if not already impounded. The dog shall not be released to the owner or be made available for adoption until either potential recipient of the dog has established arrangements for accommodating the animal consistent with all the security and safety requirements ordered by the department.

Sec. 5-84. - 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. 5-85. - Regulation of aggressive dogs.

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

- (a) Dogs classified as level 1 or 2 shall be restrained, so as not to be at large, by a physical device or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside the owner's or keeper's home and not on a leash. 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).

- (b) Dogs classified as level 3 shall be confined, so as not to be at large, by a physical device or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside. The owner or keeper shall restrict the dog to the owner's or keeper's property unless the dog is restrained by an adequate leash under the control of a capable person and muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The owner or keeper of a level 3 aggressive dog shall post no less than two (2) warning signs on the property where the dog is being kept and shall not permit the warnings signs to be removed. 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).
- ~~(1) Dogs classified as level 1 dogs shall be restrained, so as not to be at large, by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside the owner's or keeper's home and not on a leash.~~
- ~~(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. 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).~~
- ~~(3) Dogs classified as level 3 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or keeper's premises, and the owner or keeper shall post warning signs, which are provided by the 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.~~
- (c)(4) To ensure ~~insure~~ correct identification, all dogs that have been classified as aggressive shall be microchipped and photographed, and may be fitted with a special tag or collar determined by the department at the owner's expense.
- (d)(5) The animal must have a registered microchip and obtain an annual aggressive dog permit from the department.
- (e)(6) The owner or keeper of a level 3 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner or keeper of any aggressive dog shall not

permit the special tag or collar to be removed from the dog. The owner or keeper of an aggressive dog shall not permit the dog to be moved to a new address or change owners or keepers without providing the director with ten (10) days' prior written notification.

~~(f)(7)~~ At the owner's expense, the aggressive 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.

~~(g)(8)~~ At the owner's expense, the owner must complete ~~attend~~ a class on responsible pet ownership conducted by an organization approved by the department within two (2) months after the dog has been classified as aggressive. If the department takes ownership of the animal, then the director may waive this requirement for any subsequent owner of the animal.

Sec. 5-86. - Declassification of aggressive dogs.

Declassification will be automatic pursuant to this section.

- (1) The following conditions must be met:
 - a. Level 1 or level 2 dogs have been classified for one (1) year without further incident, and two (2) years for level 3 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 and level 2 classified dogs may be removed. Restrictions for level 3 may be removed, with the exception of the secure enclosure.

Sec. 5-87. - Payment for cost of confinement.

- (a) The owner of a dog impounded by the department must pay the costs of care of the dog while it is in the custody of the department prior to the release of the dog to the owner. Reasonable expenses for this care include, but are not limited to the cost of housing, feeding, emergency veterinary medical care, immunizations and routine veterinary medical care for the dog.
- (b) If a dog is held in impoundment by the department for more than twenty (20) days, the owner of the dog must pay the actual costs accrued for the first twenty (20) days of impoundment, and every twenty (20) days thereafter until the matter for holding the dog has been finalized. The department will mail a notice and statement of costs to the owner of the dog at the address on file with the department. All costs must be paid within a maximum of three (3) business days following the receipt of the notice and statement. If the costs have not been paid within the allotted three (3) business days, this will be considered a voluntary relinquishment of the dog by the owner and the dog shall immediately become the property of the city.

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

Secs. 5-88—5-99. - Reserved.

ARTICLE V. - ANIMAL MICROCHIPPING, ~~AND~~ PERMITS, AND LICENSES.

Sec. 5-100. - Microchipping required.

- (a) The owner or keeper of any equine, dog or cat must have the animal implanted with a registered microchip before the animal attains four (4) months of age. An equine, dog or cat is exempt from this requirement if the equine, dog or cat is determined to be medically unsuitable for microchipping by a licensed veterinarian in writing. If the animal is determined to be medically unsuitable for microchipping, the owner shall have the animal permanently marked with an identifying tattoo by a licensed veterinarian. Proof of medical unsuitability for microchipping along with the identifying tattoo number and owner's or keeper's name, address and telephone number must be provided to the department within thirty (30) days of tattooing. If there is a change in contact information, the owner or keeper of a tattooed animal shall update contact information with the department within thirty (30) days of the date of the change in contact information. If there is a change in ownership of a tattooed animal the initial owner or keeper shall be responsible for notifying the department of the change within thirty (30) days of the date of change in ownership. The new owner or keeper shall be responsible for providing the department with the new owner's or keeper's name, address and telephone number within thirty (30) days after the change in ownership.
- (b) It is a defense to prosecution under this section that:
 - (1) The equine, dog or cat owner is a nonresident of this city and is keeping the subject animal in the city for fewer than sixty (60) days;
 - (2) The animal owner has been a resident of this city for fewer than thirty (30) days; or
 - (3) The animal had been abandoned or lost and the temporary owner has had the equine, dog or cat for fewer than thirty (30) days.

Sec. 5-101. - Maintaining current microchip registration.

- (a) The owner or keeper of a dog, cat or equine shall maintain current registration with a microchip registration company.
- (b) If there is a change in contact information of an owner or keeper of a registered microchipped equine, dog or cat, the owner or keeper shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.

- (c) If there is a change in ownership of a registered equine, dog or cat, the initial owner or keeper shall be responsible for ensuring that the microchip is no longer registered in the initial owner's or keeper's name within thirty (30) days of the date of change in ownership. The new owner or keeper 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 or keeper's name within thirty (30) days after the change in ownership.

Sec. 5-102. - Wearing tags, exception.

- (a) Dogs must wear a tag ~~with the registered microchip number~~ at all times while outdoors; except that dogs which are kept for show or exhibition purposes are not required to wear such a tag as long as the dogs are otherwise under restraint. The tag shall include either the dog's microchip number, or the current address or telephone number of the dog owner.
- (b) Cats and equines shall not be required to wear a tag with the registered microchip number on a collar.

Sec. 5-103. - Nontransferability.

No person may use a registered microchip number for any animal other than the one for which it was issued.

Sec. 5-104. - Review upon frequent violations.

The department shall review any and all animal registrations for any animal owners against whom four (4) or more convictions have been obtained within a period of one (1) year under the provisions of this chapter and shall notify the subject animal owner of said convictions and possible seizure and impoundment if, after the director conducts an administrative hearing, and determines that the public health and safety are at risk while the animal owner or any member of this household has possession or control of the subject animals. Certified mail notice of the time and place of said hearing shall be mailed to the last known address of the animal owner at least ten (10) days prior to said hearing.

Sec. 5-105. - Litter permit; sterilization required for violation.

Any person whose female dog or cat has a litter must obtain a litter permit prior to the litter's birth. One (1) litter permit shall be required for each whelping female dog or cat. No female dog or cat shall whelp more than one (1) litter over a twelve (12) month period of time.

- (1) If an owner violates this section, the owner shall be required to sterilize the whelping dog or cat and each litter member within sixty (60) days of receiving a citation for violation of this section. It shall be the owner's responsibility to provide to the department proof of sterilization of the whelping dog or cat and each litter member prior to the required deadline. The department has the authority to extend or exempt this requirement if proof of need (such as medical necessity) is provided.

- (2) An owner in violation of this section shall not dispose of or divest ownership of the whelping mother or any member of the litter until the sterilization requirement is met and the department has received proof of sterilization.
- (3) This section does not apply to caretakers of feral cat colonies or animal rescue organizations–with an active animal rescue organization group license issued by the department.

Sec. 5-106. - Seller's permit; sterilization required for violation.

- (a) Any person who sells or offers for sale one (1) or more animals must obtain a seller's permit.
 - (1) Each seller's permit shall be valid for one (1) animal or one (1) litter.
 - (2) The seller's permit number shall be prominently displayed in all advertisements, notices, or displays for sale of the animals.
 - (3) Each permit applicant shall be required to have taken in the prior two (2) years a department approved responsible pet ownership course prior to the approval of a seller's permit.
 - (4) A seller's permit holder shall provide a purchaser a written statement which shall include a guarantee of good health for a period of not less than two (2) weeks with a recommendation to have the animal examined by a licensed veterinarian.
 - (5) A person who obtains a pet shop license or animal rescue organization group license issued by the department shall not be required to obtain a seller's permit under this section.
 - (6) A person who obtains a litter permit is still required to obtain a seller's permit if the person intends to sell the litter. If a litter permit and seller permit are requested simultaneously, the seller's permit fee may be waived.
 - (7) If a person fails to obtain a permit after notice, then the department shall be authorized to impound the animals.
 - (8) If an animal seller violates this section, the seller shall be required to sterilize all dogs and cats present at the location of the sale within sixty (60) days of receiving a citation for violation of this section.

Sec. 5-107. - Animal limits; excess animal permit.

- (a) A maximum number of eight (8) cats or five (5) dogs, or an aggregate number of eight (8) is permitted at a residence. In order to have more dogs and/or cats than this chapter allows at a residence, an owner must apply for an excess animal permit which shall be valid for one (1) year.

The criteria used to evaluate the granting of a dog or cat permit are as follows:

- (1) All dogs and cats for which a permit is required must be sterilized, unless the dog(s) or cat(s) qualifies for a certified medical exception by a licensed veterinarian or is under four (4) months old.
- (2) All dogs and cats must be currently vaccinated for rabies.
- (3) All dogs and cats must have a registered microchip.
- (4) The dogs and/or cats must not be housed exclusively outside and no more than five (5) dogs may be housed outside between the hours of 10:00 p.m. and 6:00 a.m.
- (5) The primary form of restraint for any dog shall not be tethering.
- (6) Each dog must have access to its own shelter when housed outside.
- (7) There must be a minimum of four hundred fifty (450) square feet of unobstructed housing space available per animal. The department shall have the discretion to increase the minimum square feet required when the requesting permit is for larger dogs.
- (8) All dogs and cats must have a photograph of each animal attached to an animal profile sheet that will be kept on record as verification of the animals allowed in the permit. ~~Rescuers with an animal rescue organization group license or official fosters of licensed rescue groups~~ shall be exempt from the photograph and profile sheet requirement for those animals that are temporarily being housed at the location for less than four (4) months.
- (9) If the owner of the dogs and/or cats is not the owner of the property, the permission of the property owner must be obtained before a permit application will be processed.
- (10) A check will be made to determine if there are any previous valid complaints. A previous valid complaint can be grounds for the denial of a permit request.
- (11) The requestor must have adequate property or facilities to ensure the dogs and/or cats do not disturb any neighbors. The facilities shall be subject to inspection by the department.
- (12) An animal rescue organization and designee(s) of an animal rescue organization with an active animal approved-rescue organization group license ~~issued by the department,~~ that are ~~who is~~ temporarily housing pets (less than four (4) months) with the intent to re-home the pets elsewhere, may exceed the maximum ~~minimum~~ number of pets as long as the animal rescue organization and its designee(s) follows requirements for those with an excess animal permit.

- (b) A maximum number of eight (8) domestic fowl is allowed at a residence of which only one (1) may be a rooster.
 - (1) An owner must comply with the following with regard to domestic fowl:
 - a. The owner must have adequate facilities to house the domestic fowl and ensure adequate sanitation. All domestic fowl must be kept in a coop and run that is at least twenty-four (24) square feet in size, or has at least six (6) square feet of space per fowl, whichever is larger.
 - b. The domestic fowl must be kept housed or confined in a manner that does not allow them to create a nuisance.
 - c. Sanitation must be addressed in a manner that prevents the attraction of pests.
 - (2) If an owner desires to exceed the maximum number of domestic fowl specified in subsection (b), an owner must make an application for an excess animal permit with the department which shall be valid for one (1) year. The criteria for evaluating the application for an excess animal permit shall be those listed in subsection (b). In addition, all domestic fowl must be kept in a coop and run not less than fifty (50) feet from any business or dwelling occupied by any person other than the owner. The facilities shall be subject to inspection by the department. An owner with between twenty-six (26) and fifty (50) domestic fowl must keep the animals in a coop and run not less than seventy-five (75) feet from any business or dwelling occupied by any person other than the owner. An owner with fifty-one (51) or more domestic fowl must keep the animals in a coop and run not less than one hundred (100) feet away from any business or dwelling occupied by a person other than the owner and have a business license that demonstrates a need to house over fifty (50) domestic fowl. The facilities shall be subject to inspection by the department.
 - a. The maximum number of roosters allowed for excess animal permits shall be one (1) rooster for every ten (10) authorized domestic fowl.
 - b. Up to eight (8) fowl may be allowed to temporarily roam outside the coop and run at a time, but within an enclosed area within the boundaries of the real property of the owner between the hours of 6:00 a.m. and 10:00 p.m.
- (c) The total number of livestock allowed at a residence is two (2) animals from the following classes of livestock: Equines; bovines; sheep; goats; and llamas.
 - (1) All livestock must be enclosed in a pen the nearest point being at least one hundred (100) feet from any dwelling or business building owned or occupied by any person other than the owner. For the purpose of this section, a pen shall mean a fully enclosed space that is adequately sturdy to prevent the livestock from being unrestrained. An owner must comply with the following with regard to livestock:

- a. The owner must have adequate facilities to house the livestock and ensure adequate sanitation.
 - b. The livestock must be kept housed or confined in a manner that does not allow them to create a nuisance.
 - c. Sanitation must be addressed in a manner that prevents the attraction of pests.
 - d. Livestock permits are required for every livestock animal.
- (2) If an owner desires to exceed the maximum number and type of livestock specified in this section, an owner must make an application for an excess animal permit with the department which shall be valid for one (1) year. The criteria for evaluating the application for an excess animal permit shall be those listed in subsection (c) and section 5-52 of this chapter.
- (d) The total number of rabbits allowed at a residence is ten (10). An owner must comply with the following with regard to rabbits:
 - (1) The owner must have adequate facilities to house the rabbits and ensure adequate sanitation.
 - (2) The rabbits must be kept housed or confined in a manner that does not allow them to create a nuisance.
 - (3) Sanitation must be addressed in a manner that prevents the attraction of pests.
 - (4) If an animal owner desires to exceed the maximum number of rabbits specified above (ten (10) rabbits), an owner must make an application for an excess animal permit with the department which shall be valid for one (1) year. The criteria for evaluating the application for an excess animal permit shall be those listed in subsection (d). The facilities shall be subject to inspection by the department. The maximum amount of rabbits allowed with an excess animal permit is twenty-five (25).
- (e) Any owner, caretaker, or other person who keeps any non-~~venomous~~ ~~poisonous~~ snake over three (3) feet and/or fifteen (15) pounds, in addition to complying with all federal and state laws, regulations, and permit regulations affecting such snake, shall:
 - (1) Keep the snake at all times in a cage or enclosure of such size and construction and in a manner as to preclude the possibility of escape. Such enclosure shall be of such size as to permit the snake reasonable freedom of movement;
 - (2) Keep the snake in such a manner so as not to threaten or annoy any person of normal sensitivity; and

- (3) Prevent unauthorized access to the snake through adequate safeguards.
- (f) The following shall apply for all excess animal permits:
- (1) Once a permit is granted, the permittee must obey all rules pertaining to animal ownership within the city and the state. Any valid violation under this chapter, including exceeding the number of animals allowed on the original permit is grounds for revocation of the permit by the department.
 - (2) If a permit is revoked, the permittee upon notification by the department, will have thirty (30) days to come into compliance with existing numbers limits.
 - (3) An owner who is denied a permit or whose permit is revoked has the right to appeal the denial or revocation by submitting written notice to the director within fifteen (15) working days of the denial or revocation. Upon the timely receipt of such written notice, the department shall schedule an animal permit hearing. The owner shall be notified of said hearing by certified mail, return receipt requested. If the hearing is not conducted within fifteen (15) working days of the date the notice of appeal is received, the department shall issue the requested permit or reinstate the revoked permit. Failure of the owner of the animal to appear at the permit hearing shall result in a final denial or revocation with no further appeal. The owner may be represented by counsel.
 - (4) The animal permit hearing officer shall determine whether, by a preponderance of the evidence, a permit should not be denied or revoked based upon evidence, affidavits, and testimony presented at the time of the hearing by the owner, witnesses to any incident which may be germane to such a determination, department personnel, police or any other person possessing information pertinent to such determination. The owner may cross examine witnesses. A record of the hearing shall be kept. The animal permit hearing officer shall issue written factual findings and a determination as to whether the permit denial or revocation should be reversed within five (5) working days after the animal permit hearing. The owner shall be notified of the animal permit hearing officer's findings and determination by certified mail, return receipt requested.
 - (5) If the animal permit hearing officer does not reverse the permit denial or revocation, the owner has the right to appeal the determination to municipal court by submitting written notice to the department within five (5) working days of receiving the animal permit hearing officer's determination. Failure to appeal within the time allotted shall result in the animal permit hearing officer's determination as final.
 - (6) A municipal court judge shall sit as the administrative appeal hearing officer. The administrative appeal hearing officer shall apply a pure substantial evidence review of the animal permit determination. The administrative appeal hearing officer shall consider only the factual record made at the animal permit hearing and decide if the determination of the animal permit hearing officer is reasonably supported by substantial evidence. In addition, the administrative appeal hearing officer is permitted to consider whether the animal permit hearing satisfied the requirements of due process.

The administrative appeal hearing officer shall prepare a written memorandum of findings and declare the animal permit hearing officer's determination either affirmed or reversed.

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

Sec. 5-108. - Permit required for circuses, rodeos, animal exhibits, animal shows, petting zoos and recreational animal rides; special exceptions for institutions and special attractions.

- (a) Any operator of a circus, rodeo, animal exhibit, or entertainment show, or other persons desiring to bring any non-aquatic mammal into the city to use in a circus, rodeo, animal exhibit or animal show other than a dog show or a cat show where the animals will not be directly accessible to the public, shall first submit a written request to the department for a permit and pay a permit application fee to cover the cost of inspecting the facility where the animal(s) will be kept during the event, which may be for any number of consecutive days. The permit application shall be submitted at least twenty (20) days prior to the event, and shall contain information as to the kind and number of animals involved, records showing animals are up to date on required vaccinations and are considered by a certified veterinarian as healthy, how they will be housed safely and not physically accessible to the public, required state or federal licensing documentation, the reason for bringing the animal(s) to the city, the 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. The director has the authority to determine the requirements necessary with regard to risk to public safety or the safety of the animals for each event. If the intent of the operator is to allow a member of the general public direct contact with any of the animals, the operator must submit a written request to the department for a temporary petting zoo permit in addition to the exhibit permit as outlined in subsection (a). The temporary petting zoo permit shall be valid for the duration of the event outlined in the application.
- (b) No person shall operate a petting zoo or recreational animal ride where an animal is allowed to be in contact with the public (which include, but are not limited to, horses, ponies, donkeys, camels, elephants or cows) within the city without first obtaining a petting zoo permit which shall be valid for one (1) year. An operator of a petting zoo or recreational animal ride shall first submit a written request to the department for a petting zoo permit and pay a permit application fee to cover the cost of inspecting the facility where the animal(s) are kept and shall contain information as to the kind and number of animals involved, and the name and address of the person or business that will keep, feed, and confine the animal(s). Animals used within the city for petting zoos or recreational animal rides must be provided with all the necessities of life including air, food, water, veterinary care, exercise, and protection from the sun and other elements of nature.
- (c) A permit shall not be required for any animal so long as it is owned by a governmentally owned and operated facility, publicly operated facility, a public zoological park, or bona fide medical institution or research institution.

- (d) A prohibited animal brought into the city for entertainment purposes which is not approved by the department, upon the order of the department, will be immediately removed from the city. If not so removed expeditiously, an animal care officer shall seize such animal if he has reason to believe the animal is not being properly fed, housed, or cared for, or is not being safely and securely confined for public safety. Failure to comply with the removal order shall constitute a misdemeanor offense.
- (e) Animals used within the city for entertainment purposes such as rodeos and circuses must be provided with all the necessities of life including air, food, water, veterinary care, exercise, and protection from the sun and other elements of nature. A licensed veterinarian must be in attendance at all such functions. Once determined to be injured or ill by a licensed veterinarian, an animal may be returned to use only after certification as healthy by a licensed veterinarian.
- (f) Nothing in this section shall authorize the department to issue a permit to a person to sell, trade, barter, lease, rent, or give away any animal on any roadside, public right-of-way, commercial parking lot, or at any garage sale, flea market or festival.

Sec. 5-109. - Pet shop license.

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

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

Sec. 5-110. - Grooming shop license.

- (a) No person shall operate any grooming shop, as defined in this chapter, without first obtaining a license from the department who shall take into consideration the type of building construction, the regulatory compliance history of the permittee as it relates to sanitation, health, welfare of the animals, and related zoning requirements. The department shall inspect and evaluate the qualifications of applicants.
 - (1) Applications for an original or renewal grooming shop license shall be submitted to the department and shall be approved or denied by the department. The department shall

investigate the applicant's qualifications for a license. A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation.

- (2) Failure to apply for a license prior to the opening of such a commercial animal facility, or within thirty (30) days after the renewal date, shall constitute a misdemeanor offense.
 - (3) Each grooming shop license shall be valid for one (1) year.
- (b) A permit holder has the right to request that any dog or cat accepted for grooming be vaccinated against common diseases, and require proof of such vaccinations be furnished to the shop operator.

Sec. 5-111. - Commercial boarding facility kennel license.

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

- (1) Application for licenses under this section shall be made to the department on the form furnished by the department and approved by the director. The department shall conduct the investigation necessary to determine the applicant's qualifications for a license.
- (2) Failure to apply for a license prior to the opening of a commercial boarding facility kennel, or within thirty (30) days after the renewal date is a misdemeanor offense.
- (3) The director, after an administrative hearing, shall make a determination of whether the commercial boarding facility kennel conditions and the applicant's animal care practices meet the standards of this chapter, whether the facilities are adequate, and whether the applicant is otherwise willing and capable of complying with city ordinances. If the application is for renewal of an existing license, and the applicant has not complied with the rules and regulations established in this chapter, said director shall issue a "letter of denial of renewal and order of termination of operations" of the subject commercial boarding facility kennel upon the expiration of the current license period. Any unlicensed commercial boarding facility kennel is hereby declared a public nuisance, and shall be summarily abated by seizure and impoundment of all cats and dogs exceeding the legal number that may be kept by a resident.
- (4) Each commercial boarding facility kennel license application submitted to the department shall be accompanied by an application fee.
- (5) Corporations with Internal Revenue Service Code Section 501(c)(3) status as a non-profit organization established for the purpose of protecting and caring for stray and unwanted animals with an active animal rescue organization group license issued by

the department are exempt from requiring a commercial boarding facility ~~license~~ license.

Sec. 5-112. – Animal Rescue Organization ~~Rescue group~~ license.

No person shall operate an animal rescue organization ~~a rescue group~~ as defined in this chapter within the city, without first obtaining a license from the department. For the purposes of this section, operating an animal rescue organization includes to house in an enclosure or exchange ownership of an animal(s) to or from said organization. The director shall take into consideration the housing conditions, the history of the animal rescue organization ~~permittee~~ as it relates to sanitation, health, welfare of the animals, birds or reptiles housed, and related zoning requirements. The director may require an inspection and evaluation as part of the approval process or upon the receipt of a complaint after approval.

- (1) Applications for an original or renewal of an animal rescue organization ~~group~~ license shall be submitted to the department and shall be approved or denied by the department. The department shall investigate the applicant's qualifications for a license, and report findings to the director. ~~The director shall investigate the applicant's qualifications for a license, and report its findings to the department.~~ A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation of a license.
- (2) Failure to apply for a license, or within thirty (30) days after the renewal date, shall constitute a misdemeanor offense.
- (3) Each animal rescue organization ~~group~~ license issued by the department shall be valid for two (2) years.
- (4) ~~Rescue group license applications submitted to the department shall be accompanied by an application fee. Corporations with an Internal Revenue Service Code Section 501(c)(3) status as a non-profit organization established for the purpose of protecting and caring for stray and unwanted animals shall not be required to pay said fee.~~
- (4)(5) Organizations with an approved animal rescue organization ~~group~~ license issued by the department shall be exempt from being required to have a seller's permit or pet shop license. ~~Organizations with an approved rescue group license and the official fosters of an approved rescue group shall also be allowed to apply rules associated with an excess animal permit to those pets being temporarily fostered for the approved rescue group.~~
- (5)(6) The following outlines the appeal process for denial or revocation of an animal rescue organization ~~group~~ license:
 - a. A person, group or organization that ~~who~~ is denied a license or whose license is revoked has the right to appeal the denial or revocation by submitting written notice to the director within ten (10) working days of the denial or revocation. Upon the timely receipt of such written notice, the department shall schedule an animal

permit hearing. The person, group or organization shall be notified of said hearing by certified mail, return receipt requested. Failure ~~by~~ of the person, group or organization to appear at the hearing shall result in a final denial or revocation with no further appeal. The person, group or organization may be represented by counsel.

- b. The director shall determine whether, by a preponderance of the evidence, an animal rescue organization a license should not be denied or revoked based upon evidence, affidavits, and testimony presented at the time of the hearing by any person possessing information pertinent to such determination. The person may cross examine witnesses. A record of the hearing shall be kept. The director shall issue written factual findings and a determination as to whether the license denial or revocation should be reversed within five (5) working days after the animal permit hearing. The person shall be notified of the director's findings and determination by certified mail, return receipt requested. The result of the appeal is final

Sec. 5-113. - Livestock permits.

- (a) It shall be unlawful for any person to keep livestock in the city without first applying in writing and obtaining a permit from the department, such permit to be valid only for the location for which it was issued.
- (b) A person who keeps livestock as defined in this chapter shall pay a permit fee per year for each animal.
- (c) All fees payable under this chapter, for whatever purpose required, shall be paid to the city.

Sec. 5-114. - Cat colony permit and registration.

- (a) Each cat colony will be registered by the caretakers with the department which will serve as a clearinghouse for information on current caretakers, education for new caretakers, and assistance for persons found in violation of this section. Cat colonies with eight (8) or fewer cats are not required to be registered as a cat colony.
- (b) Any feral cat picked up by the department which has an appropriate ear tip will be returned to that colony unless veterinary care is required or the criteria listed in subsection (d) apply.
- (c) Caretakers of feral cat colonies shall obtain a cat colony permit which shall be valid for one (1) year, and implement proper management and sterilization practices as required by the department. Any person or caretaker determined to be in violation of proper management and sterilization practices required by the department shall be issued a written warning and be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance. That period of time shall not exceed ninety (90) days from issuance of the initial warning notice. Failure to comply shall result in a violation of this chapter, which may result in the issuance of a citation.

- (d) The department has the right to immediately seize and remove all, or parts of any colony for the following reasons:
 - (1) Public health and public safety concerns including rabies, other epizootic and certain zoonoses identified by the department of health; or
 - (2) Animals creating a public nuisance as defined in section 5-150.

Sec. 5-115. -Permits or License Fees. ~~when issued; failure to pay for and receive final approved permit.~~

- (a) A permit or license shall be issued after payment of the applicable fee, if any. The director is authorized to reduce or waive any fee provided for in this chapter.
- (b) Failure to pay for and be in receipt of final approved permits or license within thirty (30) days of issuance of a temporary permit or license shall require re-inspection of facilities at the applicant's expense and shall constitute a misdemeanor offense.

Sec. 5-116. - Revocation.

All permits or licenses issued under this chapter may be revoked by the director for violation by the holder thereof of any of the provisions of this chapter. Revocation of the permit or license is accomplished by mailing to the holder of such permit or license a written notice by certified mail stating ~~the~~ his permit or license is revoked. Revocation of the permit may also be accomplished by personally delivering to the holder thereof a written notice stating ~~the~~ his permit or license is revoked.

Sec. 5-117. - Impoundment of animals due to non-compliance.

If an owner of animals intentionally, knowingly, or recklessly engages in non-compliance or refusal to comply with permit ordinance requirements, the department may seek to impound and take ownership of any available animals if the city follows the process outlined below.

The department shall send certified letter of notice to the animal owner indicating the department's decision to seize the animal(s) if compliance is not achieved within ten (10) days of receipt of the letter.

- (1) The letter shall include the history of past violations, compliance requirements and instructions regarding the appeal process and deadlines.
- (2) The owner must come into compliance or request an appeal hearing to municipal court and provide notice in writing to the animal care services department within the deadline outlined in the letter.
- (3) The following outlines the appeal/hearing process:

- a. The owner must submit in writing a request for an appeal hearing to the department within ten (10) days following receipt of the notification letter. Upon receipt of the appeal request, no animal may be impounded until after the requested hearing is complete, or an additional court order is received.
 - b. A requested hearing will be scheduled no earlier than the 11th day after the date of the service of notice at a date and time determined by the court.
 - c. The municipal court shall issue an order of resolution following the conclusion of the hearing.
- (4) If the department determines that the owner did not achieve compliance, if the owner did not request a hearing/appeal within the required period of time, or if the determination of the appeal hearing finds non-compliance, the department is authorized to immediately remove the subject animal(s) via court order.
- a. The department shall take ownership of the animal immediately upon removal from the property; and
 - b. Upon taking ownership, the department has the authority to immediately dispose of the animal(s) as determined by the department.

Secs. 5-118—5-124. - Reserved.

ARTICLE VI. - RABIES CONTROL

Sec. 5-125. - Required vaccination.

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

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

- (a) Any ~~veterinarian or person~~ having knowledge ~~of that~~ an animal ~~having~~ has bitten or scratched ~~or injured~~ a person, within the city shall immediately report the ~~incident to the director~~ basis for such knowledge to the city customer services/311 department or the director of the animal care services department., ~~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 the basis for such knowledge same to the city customer services/311 department or to the director of the city's animal care services department within five (5) days.
- (c) The owner or keeper of an animal that is known to have or believed to have a zoonotic disease or to have bitten or scratched a person shall:

- (1) Immediately, give his or her name and address, information that may help locate the animal, including the animal's registered microchip information, and date of last rabies vaccination, to the person bitten or scratched or if such person is under the age of eighteen (18) years to his or her parent or guardian;
- (2) within twenty-four (24) hours of the incident report to the director, the basis for such knowledge or belief, his or her name and address, the name and address of the person bitten or scratched, information that may help locate the animal, including the animal's registered microchip information; and allow the director to inspect or examine such animal for the purpose of determining whether such animal has symptoms of rabies; and,
- (3) immediately upon request by the director submit the reported animal to an care services officer for quarantine for the purposes of determining whether such animal has rabies.

~~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 shall notify the director 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 director related to the animal and injured party.~~

- (d) The director or any appointed animal care officer shall impound any animal for rabies observation in accordance with V.T.C.A., Health and Safety Code Chapter 826. Upon the sworn affidavit of any person with knowledge that an animal has bitten or scratched a person within the city, the director, who is the local rabies control authority, may request an administrative search warrant to quarantine the animal for rabies observation. An administrative search warrant may be issued to the director, or code enforcement official of the city, for the purposes of allowing the inspection of specified premises in order to quarantine the reported animal for rabies observation for a period as prescribed in Sec. 5-127 of this chapter. If the animal care services officer is present, the owner/keeper shall immediately surrender the animal. If an animal care services officer is not present and the owner/keeper does not surrender the animal to the animal care services facility within twenty four (24) hours of the incident occurring, the director or any appointed animal care officer shall seize and impound any animal for rabies observation upon the sworn affidavit of any person with knowledge that the animal has bitten a person. An administrative search warrant shall be obtained from any municipal court judge or other magistrate to enter onto private property to search for the biting animal if permission to enter is not given.

Sec. 5-127. - Confinement of biting, scratching animals; sterilization required for biting animals.

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

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

- (b) The owner of any animal that has bitten or scratched any person shall be allowed to assume personal responsibility for confining the animal for the observation period of ten (10) days, only under the following circumstances:
 - (1) Secure facilities must be available at the home of the animal's owner, and must be approved by the director;
 - (2) The animal was currently vaccinated against rabies when the exposure incident occurred;
 - (3) The animal was not in violation of any laws or ordinances at the time of the bite; and
 - (4) The director, city veterinarian or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the director must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing by the veterinarian who will attest to the health of the animal.
- (c) If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be quarantined for observation by a veterinarian for the appropriate period as required by state law.
- (d) Violation of the observation confinement of the biting animal as provided in subsection (b) shall be just cause for seizure and confinement of the animal in the animal care services facility of the city.
- (e) All wild animals involved in exposure incidents including biting, scratching or any other direct exposure by physical contact will be humanely euthanized in such a manner that the brain is not mutilated. The brain shall be submitted to a Texas Department of State Health Services certified laboratory for rabies diagnosis.
- (f) Any dog or cat that bites a person or domestic animal without provocation or a dog that bites a person or domestic animal while the dog was found free of restraint shall be required to be sterilized within thirty (30) days following the quarantine period. For pets impounded at the animal care services facility, the director may require the sterilization surgery to be completed by the department at the owner's expense prior to its release back to the owner.

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

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

animal to be taken beyond the limits of the city after having knowledge of the animal's having bitten or having so injured another animal or a person as to cause an abrasion of the animal's or person's skin, until such animal is released by the director.

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

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

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

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

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

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

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

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

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

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

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

Any person having knowledge of any animal being infected with rabies or reasonably suspecting such infection shall immediately notify the animal care services facility or the police department of such fact or suspicion giving the name of the owner, possessor, keeper or harbinger of such animal, if the same be known, together with a description of such animal and where such animal may be found.

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

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

Sec. 5-136. - Health emergencies.

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

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

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

Secs. 5-138—5-149. - Reserved.

ARTICLE VII. - ANIMAL NUISANCES; IMPOUNDMENT

Sec. 5-150. - Animal nuisances; sterilization required for dogs free of restraint.

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

- (1) The owner or keeper shall keep the animal (except cats) restrained at all times and insure that the animal (except cats) does not roam or run unrestrained. Dogs found to be free of restraint shall be subject to mandatory sterilization at the owner's expense within thirty (30) days of notification of the violation;

- (2) The owner or keeper shall not allow animals being held on their property to create a noise disturbance in such a manner, to annoy, distress or disturb within the vicinity of hearing thereof. For the purpose of this chapter, an animal noise nuisance shall be defined as a minimum of two (2) separate recorded noise events over a period of twenty-four (24) hours where the animal can be heard continuously for a twenty (20) minute period of time one hundred (100) yards away, or behind the wall of a livable structure;
- (3) The owner or keeper shall prevent his or her animal from biting or injuring without provocation, any animal or person;
- (4) The owner or keeper shall prevent his or her animal from damaging or destroying public property or property other than its owner's private property;
- (5) The owner or keeper shall not keep more than the number of animals allowed under this chapter;
- (6) An owner or keeper creates an animal nuisance by the keeping, frequent feeding or harboring of any venomous or inherently dangerous or prohibited animal.
- (7) The owner or keeper of an outdoor cat or keeper of a cat colony shall take all steps necessary to prevent a wildlife or pest feeding nuisance. The owner or keeper of an outdoor cat or caretaker of a cat colony shall be responsible for the having outdoor cat(s) under his or her care, possession, control or custody:
 - a. Fed species-specific food in a feeding dish that is non-disposable and facilitates the removal of uneaten food;
 - b. Not provided food that is left outside in a "free feed" environment;
 - c. Not fed in excess.

Sec. 5-151. - Outdoor cats.

All outdoor cats must be spayed or neutered.

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

- (a) An animal owner commits a misdemeanor offense if by act, omission or possession he creates an animal nuisance.
- (b) The following presumptions are hereby declared applicable in the prosecution of an offense pursuant to subsection (a):

- (1) The fact that an animal in question has bitten or injured another animal or human being during the previous eighteen (18) months shall give rise to the presumption that the animal bites or injures other animals or human beings without provocation;
- (2) The fact that an animal in question has damaged or destroyed public or private property during the last twelve (12) months shall give rise to the presumption that the animal has a propensity to destroy property.

Sec. 5-153. - Impounding animals creating animal nuisance.

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

- (a) On public property, in all cases;
- (b) On private property, if:
 - (1) ~~4~~. The consent of the resident or property owner is obtained;
 - (2) ~~2~~. The officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded; or
 - (3) ~~3~~. Authorized by appropriate courts of law.

Sec. 5-154. - 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 sections 5-157, 5-158, and 5-159. Any trap, neuter and return (TNR) program that has been registered with the department shall not constitute a violation of this section.
- (b) Animal care officers or other law enforcement officers shall have the power to impound unrestrained animals for the purpose of abating the nuisance as follows:
 - (1) On public property, in all cases;
 - (2) On private property, if the consent of the resident or property owner is obtained;
 - (3) On private property, in all cases except fenced rear yards of residences, if the officer reasonably believes that the animal will run at large if not impounded.

Sec. 5-155. - Impounding procedures.

Animal care officers or other law enforcement officers authorized pursuant to sections 5-153 or 5-154 to abate a nuisance, shall, prior to impounding an animal, leave notice at the residence of the

premises where the unrestrained animal was found stating the kind and type of animal seized, the place where the animal is to be impounded, the hours when it may be reclaimed by the owner and the length of time it is to be held; provided the animal care officers or other law enforcement officers shall:

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

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

- (a) In addition to the issuance of a citation, the animal care officer may return an animal found at large to the known owner.
- (b) The owner may redeem an impounded animal during normal business hours by paying the impoundment fee, sterilization fees if any, boarding fees, and the pre-release rabies vaccination fee if required by law for the subject species and proof of valid current vaccination cannot be produced.
- (c) Upon impound of an intact dog or cat found at large, the department shall conditionally release the dog or cat with the requirement that the owner sterilize the dog or cat within thirty (30) days from the date of the conditional release. The following shall be exempt from this requirement: a dog or cat that qualifies for a certified medical exception from a city veterinarian, or a dog or cat that is an exhibition or competition animal, or a dog that is a police or military service dog. Owners of exhibition or competition animals and police or military service dogs shall provide proof to the department. The owner shall provide proof of sterilization of the dog or cat to the department within thirty (30) days from the date of the conditional release.
- (d) It shall be unlawful for anyone to whom an animal has been conditionally released under this section to fail to have the animal sterilized and provide proof of sterilization to the department within thirty (30) days from the date of the conditional release.

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

If the owner of an impounded animal can be identified, the animal care officer shall upon impoundment notify the owner at the address stated on records of the department, if any, or the address as determined by a scanned registered microchip.

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

- (a) Impounded animals shall be kept for a minimum of three (3) days, excluding the day the animal is impounded and any days the animal care services facility is not opened, and

thereafter shall be subject to humane euthanization at the discretion of the department. Notwithstanding the above, animals may be adopted, rescued or fostered after being held for two (2) days excluding the day the animal is impounded and any days the animal care services facility is not opened.

- (b) Animals may be adopted, rescued, fostered, or humanely euthanized prior to the time periods referenced above in the following circumstances:
 - (1) The owner of the animal releases ownership of the animal to the city.
 - (2) If a licensed veterinarian or designee determines an impounded animal is suffering from disease or injury such that the animal is in pain or is beyond reasonable medical help, the animal may be euthanized immediately.
 - (3) Due to their immature immune system, any abandoned animal under four (4) months of age shall become the property of the city upon delivery to the animal care services facility, for disposition at the discretion of the department.

Sec. 5-159. - Unclaimed animals.

- (a) Any animal not claimed by its owner after being held for two (2) days excluding the day the animal is impounded and any days the animal care services facility is not opened shall become the property of the city. The selection of an animal for adoption or rescue during the reclamation period or thereafter shall not confer any ownership right or right of possession to the animal.
- (b) The department may sell unclaimed livestock found running free of restraint by public auction to the highest bidder for cash after notice of the auction is posted on a public bulletin board where other public notices are posted for the city.

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

- (a) Any animal owner reclaiming an impounded animal shall, before the animal will be released to its owner, him, pay any and all fees associated with impoundment, and boarding fees vaccinations, microchipping, and species specific testing as required by the department. The director is authorized to reduce or waive any such impoundment, and/or required fees.
- (b) No animal shall be released from the animal care services facility without the owner presenting proof that the animal has had a rabies vaccination in compliance with the requirements of state law. An owner of any dog or cat who cannot provide proof of said rabies vaccination shall be subject to a fee for rabies vaccination of each dog or cat. An owner of any domestic ferret who cannot provide proof of said rabies vaccination shall be subject to a fee for rabies vaccination of each domestic ferret.
- (c) Any citizen reclaiming or adopting any animal under the provisions of this section shall be liable for any applicable fees.

- (d) All animals adopted from the animal care services facility shall be spayed or neutered within thirty (30) days unless this procedure has already been accomplished. Persons adopting animals from the animal care services facility shall pay the applicable fees for adopting a dog or cat. As an incentive for the adoption of animals, the director is authorized to advertise and reduce or waive adoption fees. A deposit may ~~will~~ be collected for each pet adopted that has not yet been spayed or neutered. This deposit may ~~will~~ be returned upon application and presentment of a valid spay/neuter certificate.
- (e) The city animal care services facility is authorized to accept animals for humane disposition from individuals who reside in the city or in other municipalities or in unincorporated areas of Bexar County. The city animal care services facility is authorized to accept animals for humane disposition from Bexar County for animals in the unincorporated areas of Bexar County as long as the city and county maintain a joint animal control program by contractual agreement. The city animal care service facility is authorized to accept animals for humane disposition from other municipalities in Bexar County as long as the city and the other municipality in Bexar County maintain a joint animal control program by contractual agreement. An animal service fee shall be charged per animal.
- (f) The department shall refund fees paid by persons who adopted an animal that dies within two (2) weeks of adoption due to apparent congenital illness or communicable disease that could have been contracted by the animal prior to adoption. Adoption fees shall be refunded as long as the terms of the adoption contract were followed.
- (g) At the time animals are reclaimed from the animal care services facility, if necessary, they will be implanted with a registered microchip so the animal, if ever lost or stolen, can be returned to its owner.
- (h) If an animal that is impounded is sterilized, currently vaccinated for rabies and has a registered microchip, the department will not charge an impound fee for the first impound only. The animal must be reclaimed within the time limits in section 5-158. The initial impound will count as a first impound in assessing fees for any future impounds.
- (i) The first impound free policy applies toward each residence.

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

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

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

- (a) Any person may, upon presentation of a duly executed affidavit stating the existence of an animal nuisance, as defined in this chapter, and identifying the name and address of the owner or owners of such animal may request the city prosecutor to file a complaint in municipal court against the owner or owners of such animal under the provisions of this chapter. The filing of a complaint by the person will result in the issuance of a court summons to the owner or owners of the animal in question.
- (b) Animal care officers and other law enforcement officers may issue the owner or owners of animals creating an animal nuisance, as defined in this chapter, a citation to appear in municipal court to answer the offense charged.

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

- (a) The provisions of this chapter shall be enforced by the department and the police department. It shall be a violation of this chapter for any person to interfere with an animal care officer or a police officer in the performance of his duties.
- (b) It shall be unlawful for a person to make a false complaint or report of an alleged violation under this chapter.

Sec. 5-164. - Mandatory sterilization requirements.

- (a) If an animal is identified by the department as requiring sterilization in accordance with this chapter, the department will issue the owner a notice of compliance notifying the owner of the sterilization requirement and allow the animal's owner thirty (30) days to provide proof of sterilization to the department.
- (b) Owners may receive a temporary extension of time to sterilize their dog or cat if a veterinarian provides documentation showing that an extension is needed for the health and safety of the animal.
- (c) The following shall be exempt from the sterilization requirement:
 - (1) A dog or cat that qualifies for a certified medical exception from a veterinarian; or
 - (2) A dog or cat that has not received more than two (2) violations over the prior year and is an exhibition or show animal or service animal.
- (d) It shall be unlawful for anyone to fail to have the animal sterilized and provide proof of sterilization to the department within thirty (30) days from the date of the notice to comply being issued.
- (e) If an owner of animals intentionally, knowingly, or recklessly engages in non-compliance or refusal to comply with any spay/neuter ordinance requirements outlined in this chapter, the department may seek to impound and take ownership of any available pets after following the process outlined in section 5-117.

SECTION 2. Chapter 20 of the City Code of San Antonio, Texas, Article II, Section 20-110, Compliance Assistance Account, is amended as follows:

Sec. 20-110. - Compliance assistance account.

- (a) Compliance assistance accounts are composed of:
 - (1) Penalties collected under subsections 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 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 managed by the animal care services department and 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 set out in chapter 5 of this Code;
 - (2) Are found ~~by the administrative hearing officer~~ to be indigent and financially unable to abate the cited violation as defined under this section as determined by the director of the animal care services department or an administrative hearing officer;
 - ~~(3) Are in compliance with section 5-100, Microchipping required, and section 5-125, Required vaccination;~~

- ~~(3)(4)~~ Filed with the animal care services department a request for funds ~~with the animal care services department for the purpose of rehabilitating and/or repairing the person's property or premises~~ that are to be used to provide reasonable measures that would abate the violation;
 - ~~(4)(5)~~ Have not have received funds from the compliance assistance account within the preceding sixty (60) months;
 - ~~(5)(6)~~ Do not qualify for other animal care and control assistance programs available through the city that would abate the violation; and
 - ~~(6)(7)~~ Own the animal at issue; ~~and~~
 - ~~(8)~~ ~~Have received written approval from the director of animal care services and the administrative hearing officer if requests do not comply with all requirements in this section.~~
- (d) 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 funds.

SECTION 3. All other provisions of Chapter 5 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this Ordinance.

SECTION 4. Violations occurring after January 1, 2021, shall be punished as provided in the revised City Code Chapter 5. Violations prior to the effective date shall be punished under the former applicable Sections which shall remain in effect for that purpose.

SECTION 5. 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.

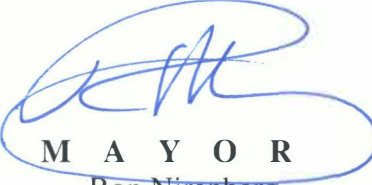
SECTION 6. The City Clerk is directed to promptly publish public notice of this Ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 7. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted in this ordinance and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 8. Penalties provided for in this revised City Code Chapter 5 shall be effective January 1, 2021, after publication by the City Clerk.


SECTION 9. This Ordinance shall become effective January 1, 2021.

PASSED AND APPROVED this 29th day of October 2020.



M A Y O R
Ron Nirenberg

ATTEST:



Tina J. Flores, City Clerk

APPROVED AS TO FORM:



Andrew Segovia, City Attorney



City of San Antonio

City Council

October 29, 2020

Item: 32

Enactment Number:

File Number: 20-6042

2020-10-29-0772

Ordinance amending Chapter 5 entitled "Animals" and Chapter 20 entitled "Municipal Court" of the City Code to regulate the retail sale of pets, expand eligibility for the animal care compliance assistance account, provide updates consistent with the strategic priorities of Animal Care Services, and establish penalties. [David McCary, Assistant City Manager; Heber Lefgren, Director, Animal Care Services]

Councilmember Rebecca Viagran made a motion to approve. Councilmember Ana E. Sandoval seconded the motion. The motion passed by the following vote:

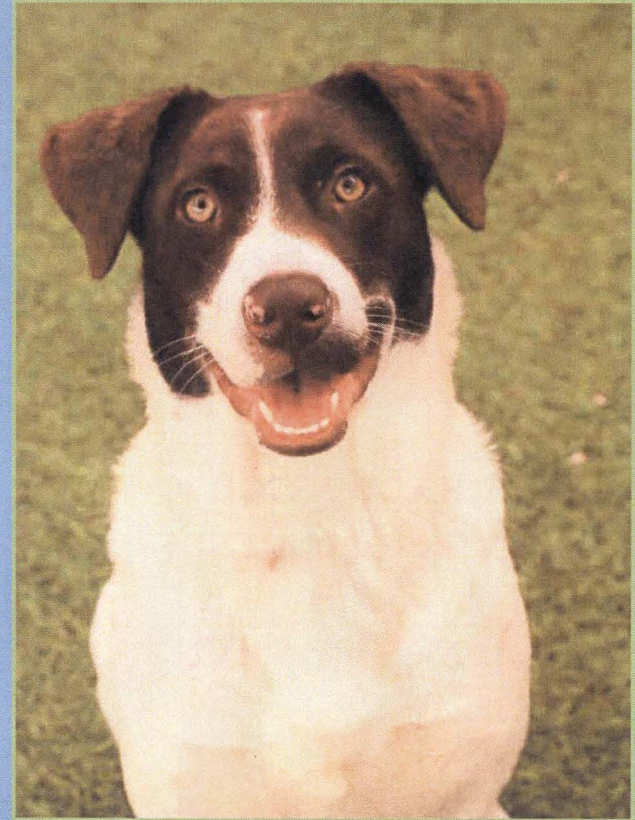
Aye: 9 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Cabello Havrda,
Sandoval, Pelaez, Courage and Perry

Nay: 1 Gonzales

Absent: 1 Rocha Garcia

City Code Amendments: Retail Pet Sales & Compliance Assistance

Presented by Heber Lefgren, ACS Director
Agenda Item 32 – City Council “A” Session
October 29, 2020



BACKGROUND



Committed to studying during
FY 2019 Budget Development



HSUS & Best Friends Animal
Society support restrictions



Previous code changes focused
on individual pet sellers

380+ Cities

Restrict the retail sale
of dogs and cats

522

Pet sales cases have been
investigated since hiring a
dedicated Officer in 2019

RESEARCH SUMMARY

- 3 out of 51 pet stores in San Antonio sell dogs and cats as part of their local business model
 - Similar ratios generally apply to pet stores throughout the U.S.
 - Pet stores in U.S. that don't sell pets earn 64% more revenue than stores that sale pets
- Most puppies being sold originate from out-of-state breeders
- State and USDA standards are below San Antonio standards



RESEARCH SUMMARY (CONT.)

- Cities across the nation have been banning or restricting retail pet sales for over a decade
 - 3 legislative city models have survived legal scrutiny.
- Retail pet sales regulations do not impact direct-to-consumer sale of pets
 - Enforce humane treatment of pets while housed by Pet stores is separate from proposed ordinance.
- Intent is to separate the City from the inhumane treatment of animals bred commercially for wholesale use

Legally Tested Retail Pet Store Regulations

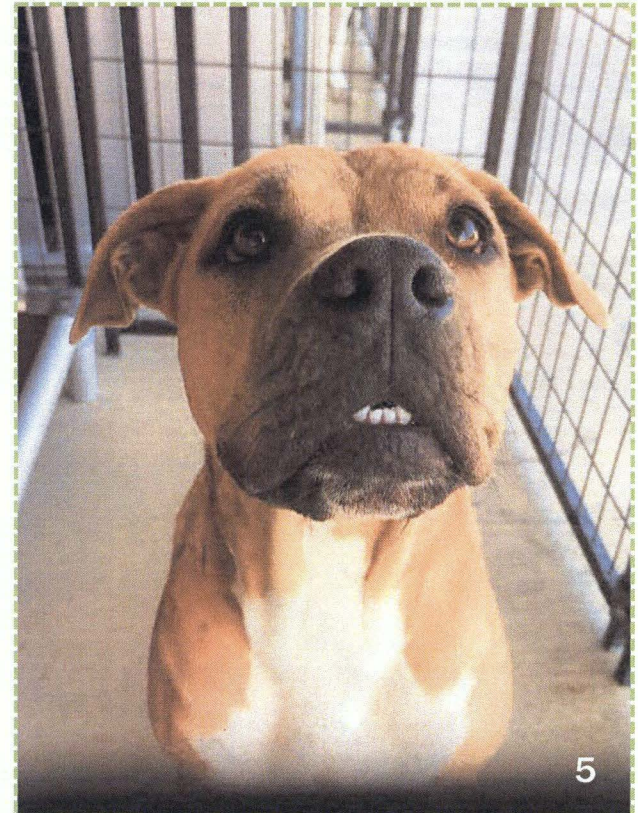
Option 1: Allow sales with no pet source restrictions

Option 2: Prohibit all sales

Option 3: Allows sales but restrict pet sources to shelters, rescues, and animal control agencies

PUBLIC ENGAGEMENT

- July 2019 "SASpeakUp" Survey
- November 2019 Advisory Board Meeting
- December 2019 CHEC
- February 2020 "SASpeakUp" Survey
- May 2020 Advisory Board Meeting
- September 2020 CHEC



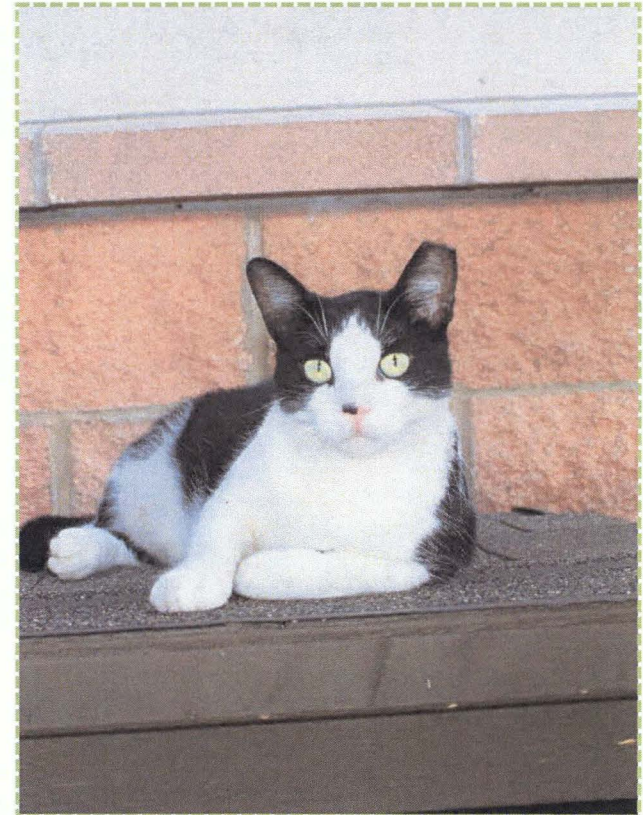
SASPEAKUP SURVEYS

- Goals:
 - Reach as many people as possible
 - Receive responses from a diverse group of residents
- Surveys were open to all and advertised through:
 - Traditional media (KSAT, WOAI, KABB, KENS 5, Telemundo 60, SA Express News, etc.)
 - Digital media (Instagram, Facebook, ACS website, SASpeakUp website, Nextdoor, etc.)
 - COSA email distribution lists and in-person events



PROPOSED CODE CHANGES: PET SALES

- New Retail dog & cat sales restrictions:
 - Must be sourced from a shelter, animal control agency, or licensed rescue organization
 - Must be sterilized, microchipped, immunized, free of parasites, and come with documentation
- Minimum fines for all pet sales offenses raised from \$100 to \$500 for first time offenses
- Sellers permit violations will require sterilization of all pets located at the place of sale
- Sellers permits are only for residents selling pets out of their primary residences



PROPOSED CODE CHANGES: COMPLIANCE

- Animal Care Compliance Assistance Account established in FY 2018
- Provides resources to assist residents with coming into compliance with Chapter 5
- Expanding eligibility by no longer:
 - Requiring residents to already be in compliance with microchip and vaccination requirements
 - Limiting improvements to property/premises



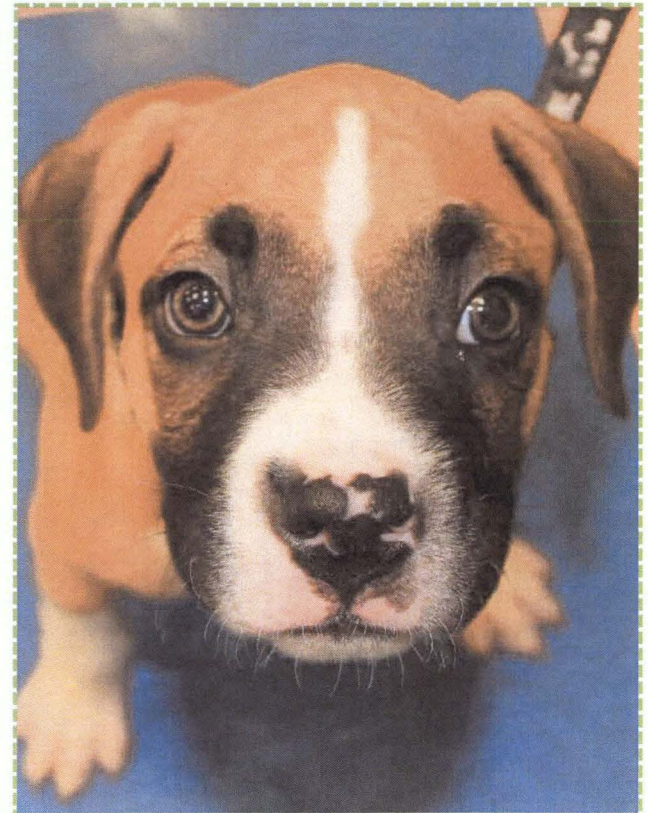
PROPOSED CODE CHANGES: OTHER

- Establishing a 30-day timeline for compliance with dangerous dog regulations
- Restrictions on "nuisance" feeding of animals
- Clarifying when an Animal Rescue Organization needs a license
- Grammatical improvements



RECOMMENDATION

- Approval of the Ordinance amending Chapter 5 and Chapter 20 of the San Antonio City Code
- Next Steps:
 - General ordinance changes go into affect January 1, 2021
 - Retail pet store requirements go into affect July 1, 2021



City Code Amendments: Retail Pet Sales & Compliance Assistance

Presented by Heber Lefgren, ACS Director
Agenda Item 32 – City Council “A” Session
October 29, 2020

