



**City Council
Agenda Memo**

City Council Meeting Date: 8/13/2015

TO: Robert Hanna, City Manager

FROM: Jon James, AICP Director of Planning and Development Services

SUBJECT: Ordinance: (First reading) on an ordinance amending “Chapter 6 – Animals” of the City of Abilene Code of Ordinances and setting a public hearing for August 27. (James)

GENERAL INFORMATION

As part of an effort to update and modernize the City Code, as well as bringing city ordinances in line with requirements of State law, City staff began the process of updating Chapter 6 of the City Code of Ordinances related to the regulation of animals within the city. A citizen committee, the Animal Ordinance Review Committee, including general citizens, veterinarians, and representatives from local animal organizations met to discuss the ordinance and review various options for amendments. The attached ordinance represents the consensus recommendation of that group, City staff in Animal Services and Legal, along with the recommendation of the Animal Services Advisory Board.

The primary substantive changes include changes regarding the limitation on the number of animals allowed per household, regulation of roosters, cleanup after dogs, setting traps, adequate shelter, tethering of dogs, and the definition, procedures, and requirements for dangerous dogs.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the proposed ordinance.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

	Description	Type
☐	Ordinance	Ordinance
☐	Ordinance Exhibit	Ordinance
☐	Summary of Changes	Backup Material

ORDINANCE NO. _____

AN ORDINANCE AMENDING, CHAPTER 6 OF THE CODE OF THE CITY OF ABILENE BY ADOPTING A COMPREHENSIVE REVISION OF CHAPTER 6: ANIMALS AND FOWL; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to modernize the city code of ordinances, including Chapter 6, Animals and Fowl;

WHEREAS, a citizen committee, the Animal Ordinance Review Committee has worked with city staff to make recommendations regarding the content of an animal ordinance revision; and

WHEREAS, the Animal Services Advisory Board has endorsed these revisions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

- PART 1:** That Chapter 6 of the Code of Ordinances be amended in its entirety and superseded by the new Chapter 6, as set forth in Exhibit A, attached hereto.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 4:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 13th day of August, 2015.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 9th day of August, 2015, the same being more than 24 hours prior to a public hearing being held in the

Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 27th day of August, 2015, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 27th day of August, 2015.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Exhibit A

**CHAPTER 6
ANIMALS**

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ARTICLE I. GENERAL.

SEC. 6-1.1. DEFINITIONS.

In this chapter:

- (1) **ADOPTER** means a person, eighteen (18) years of age or older, who adopts an animal from a City of Abilene animal shelter.
- (2) **ANIMAL SERVICES** means the department or division designated by the city manager for the purpose of animal care, control and enforcement of this chapter.
- (3) **ANIMAL SERVICES MANAGER** means the person designated by the city manager or designee to supervise all aspects of Animal Services.
- (4) **ANIMAL SHELTER** means a city authorized facility established for impoundment, quarantine, care, adoption, euthanasia, and other disposition of unwanted, stray, diseased, or dangerous animals.
- (5) **ANIMAL WELFARE ORGANIZATION** means a non-profit organization incorporated under state law, whose principal purpose is to prevent animal cruelty, rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and place them through adoption.
- (6) **CITY ENFORCEMENT AGENT** means any Animal Services officer or peace officer certified by the State of Texas.
- (7) **CURRENTLY VACCINATED** means vaccinated against rabies by a licensed veterinarian, with a rabies vaccine licensed by the U.S. Department of Agriculture, and:
 - (a) not more than twelve (12) months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a one-year rabies vaccine or was the animal's initial vaccination; or
 - (b) not more than thirty-six (36) months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a three-year rabies vaccine and the animal is a dog or cat that has received at least two vaccinations.
- (8) **DWELLING UNIT** has the meaning given to it in the City of Abilene Land Development Code, as amended.
- (9) **FERAL** animal means any homeless, wild, or untamed animal.
- (10) **KENNEL** means any lot, building, structure, enclosure, or premises wherein six (6) or more animals, four (4) months of age or older, are kept or maintained for the purpose of breeding, training, boarding, or raising for profit or pleasure.
- (11) **LIVESTOCK** means any fowl, horse, mule, burro, ass, cattle, sheep, swine, goat, llama, emu, ostrich, camel, or other common farm animal.

- (12) MICROCHIP IMPLANT means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of the animal by its owner.
- (13) OWN means to have legal right of possession, harbor or to otherwise have care custody, possession, or control of an animal.
- (14) OWNER means a person, 18 years of age or older, that owns an animal.
- (15) PET means a domestic animal to be kept as a human's companion
- (16) PROHIBITED ANIMAL means any
- (a) Bat;
 - (b) Skunk;
 - (c) Poisonous reptile;
 - (d) wild animal whose normal mature weight exceeds forty (40) pounds or
 - (e) "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (17) PROTECTIVE CUSTODY means the holding of an animal at a City of Abilene animal shelter:
- (a) due to the arrest, eviction, hospitalization, or death of the animal's owner; or
 - (b) at the request of a law enforcement agency.
- (18) RESTRAIN means
- (a) to have an animal under the control of a person by leash;
 - (b) to have an animal properly tethered in a rear yard;
 - (c) to confine an animal in a fenced yard or other enclosed structure or
 - (d) to have an animal under constant and immediate control by a competent person's voice command.
- (19) SERVICE ANIMAL means the definition given by the Americans with Disabilities Act, as amended.
- (20) STRAY means any unrestrained domestic animal whose owner has not been located.
- (21) WILD ANIMAL means any animal of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.

SEC. 6-1.2 PURPOSE; SCOPE.

- (1) It is the purpose of this chapter:
- (a) To provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled in the city;

- (b) To decrease the number of unwanted and stray dogs and cats in the city;
- (c) To encourage responsible animal ownership; and
- (d) To protect the public health, safety and welfare of the city.
- (e) The provisions of this chapter shall not be construed to authorize the keeping of any animal in violation of any other city ordinance, state or federal statute or law.

SEC. 6-1.3. ENFORCEMENT.

It shall be the duty of the city enforcement agent to enforce the provisions of this chapter unless otherwise provided by law or this chapter.

SEC. 6-1.4. RIGHT OF ENTRY.

City enforcement agents have the right to pursue and apprehend animals running at large on private property while enforcing the provisions of this chapter.

SEC. 6-1.5. INTERFERENCE WITH A CITY ENFORCEMENT AGENT.

A person shall not interfere with, hinder, or molest a city enforcement agent in the performance of official duties.

SEC. 6-1.6. ADULT'S ULTIMATE RESPONSIBILITY.

If an animal is in the possession of a minor, the parent or guardian of said minor is responsible for all actions required of an owner in this chapter and shall be liable for any violations of this chapter by the minor.

SEC. 6-1.7. FEES.

All fees shall be determined by the city council from time to time and placed on file in the office of the city secretary.

ARTICLE II. ANIMAL SERVICES; CITY ANIMAL SHELTERS.

SEC. 6-2.1. STATE LAW; LOCAL RABIES CONTROL ESTABLISHED AND AUTHORITY DESIGNATED.

- (1) Authority under this Chapter shall be vested in and delegated to the officials and decision-makers designated in Article I of this Chapter under the Charter of the City of Abilene, the constitution and laws of the state of Texas, and this Code.
- (2) The city council shall establish a local rabies control authority for purposes of Chapter 826 of the Texas Health and Safety Code, as amended, and shall authorize the city manager or designee to perform the duties required of a local rabies control authority under rules adopted by the Texas Board of Health pursuant to that chapter.

SEC. 6-2.2. SHELTERS ESTABLISHED.

The city council shall have the authority to select and establish one or more animal shelters in the city for impoundment, quarantine, care, adoption, euthanasia, and other humane disposition of unwanted, stray, diseased, or dangerous animals.

SEC. 6-2.3. POLICIES AND PROCEDURES.

It shall be the responsibility of the Animal Services Manager to develop written policies and procedures for all animal services operations, including standards for city animal shelters; the training of animal services personnel; the care, euthanasia, and disposition of animals in the custody of animal services; the form and maintenance of records relating to impounded animals; and the transfer and adoption of dogs and cats or other domesticated animals.

SEC. 6-2.4. QUARANTINE OF ANIMALS.

- (1) The animal services manager or designee is authorized to quarantine an animal as provided in Chapter 826 of the Texas Health and Safety Code, as amended, and the rules adopted by the Texas Board of Health under that chapter.
- (2) Upon notification to the animal's owner that an animal has bitten or scratched a person the owner must either:
 - (a) immediately surrender the animal to an animal shelter; or
 - (b) immediately deliver the animal to a veterinary clinic, approved by the animal services manager, for quarantine at the owner's expense.

SEC. 6-2.5. IMPOUNDMENT OF ANIMALS.

- (1) City enforcement agents are authorized to seize and impound:
 - (a) any unrestrained animal;
 - (b) any trapped cat that does not have a current registration tag, microchip implant or has not been sterilized,;
 - (c) any animal subject to protective custody;
 - (d) any animal that is being or has been inhumanely treated pursuant to Section 6-3.5, Inhumane Treatment;
 - (e) any animal required to be quarantined pursuant to Section 6-2.4, Quarantine;
 - (f) any animal seized pursuant to a dangerous dog or owner non-compliance complaint, investigation, warrant or court order;
 - (g) any prohibited animal kept in the city in violation of Section 6-6.1, Prohibited Animals; or
 - (h) any animal posing a threat to the public health or safety.
- (2) If an animal described in Subsection (a) is on private property or property of the animal's owner, the impounding city enforcement agent may enter the property for the purpose of impoundment or issuance of a citation, or both.
- (3) If any of the animals named in this chapter are found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify a city enforcement agent to come and impound such animal. When so notified, it shall be the duty of the city enforcement agent to have such animal impounded as provided in this article.
- (4) No animal impounded at a city animal shelter or in the custody or control of animal services may be sold, released, or otherwise disposed of for research purposes without the permission of the animal services manager or designee.

SEC. 6-2.6. REDEMPTION OF IMPOUNDED ANIMALS.

- (1) To redeem an impounded animal from a city animal shelter, the owner of the animal must provide proof of ownership and pay to Animal Services the following applicable fee(s):
 - (a) Impoundment fee;
 - (b) Boarding fee;
 - (c) Rabies vaccination fee for a dog, cat, or ferret if the owner cannot show either:
 1. a current certificate of vaccination for the animal; or
 2. proof that the animal was not vaccinated due to health reasons as verified by a licensed veterinarian;

- (d) Registration fee for a dog or cat, if the owner cannot show proof of current registration;
- (e) Microchip implant and initial national registration of a dog or cat, fee unless:
 - 1. the animal was injected with a microchip implant prior to impoundment; or
 - 2. a licensed veterinarian certifies that the animal should not be injected with a microchip implant for health reasons.
- (2) The redemption period for an animal impounded in the City of Abilene animal shelter, other than for quarantine or pursuant to a court order, is:
 - (a) Three (3) business days after the date of impoundment, unless Paragraph (b) or (c) of this subsection applies to the animal;
 - (b) Five (5) business days after the date of impoundment if:
 - 1. the animal is wearing a legible tag or has a microchip implant identifying its owner; or
 - 2. the animal services manager or designee has reason to believe the animal has an owner; or
 - (c) Five (5) business days after the date of impoundment if the animal is being held for protective custody.
- (3) The redemption period for an animal impounded pursuant to a court order is the time set forth in the court order or, if no provision is made in the court order, five (5) business days after the owner's time to appeal said order has elapsed.
- (4) The redemption period for an animal impounded for quarantine is three business days after completion of the quarantine period.
- (5) If an animal is not redeemed within the appropriate time period specified in Subsections (2) through (4), the animal will become the property of the city and may be placed for adoption, euthanized, or otherwise disposed of as recommended by the animal services manager or designee.
- (6) An owner of an impounded animal shall not remove or attempt to remove the animal from a city animal shelter without first paying all applicable fees as set forth in Subsection (a) of this section.

SEC. 6-2.7. ADOPTION OF ANIMALS.

- (1) To adopt a dog or cat from a City of Abilene animal shelter, the prospective adopter shall, as required by Animal Services complete an adoption profile and upon approval:
 - (a) sign an adoption agreement; and
 - (b) pay Animal Services any applicable fees including,

1. a non-refundable adoption fee for a dog or cat (which includes, but is not limited to, the costs of any required vaccination, microchip implant, initial national registration, and sterilization); and
 2. a registration fee per dog or cat the prospective adopter intends to adopt.
- (c) sign a sterilization agreement for each dog or cat the prospective adopter intends to adopt.
- (2) The adoption policies and procedures for all other animals in the possession of Animal Services shall be determined by the Animal Services Manager, or designee, and made known to the public in a timely manner.
 - (3) The Animal Services Manager, or designee, may deny or rescind the approval of an adopter if:
 - (a) the prospective adopter has previously been convicted of violating a provision of this chapter or has been convicted of animal cruelty as defined by Chapter 42 Texas Penal Code;
 - (b) the Animal Services Manager has evidence that indicates that the health, safety, or welfare of the animal would be endangered by the prospective adopter.
 - (4) Failure to sterilize an adopted animal shall be considered an offense under this Chapter.
 - (5) If a completed sterilization voucher or appropriate veterinarian records are not provided to Animal Services prior to the expiration date on the voucher issued at the time of adoption, it shall be presumed that the adopter has failed to sterilize the animal.
 - (6) It is an affirmative defense to prosecution under this section that prior to the sterilization date the animal was:
 - (a) deceased;
 - (b) lost or stolen;
 - (c) given away/relinquished.
 - (7) Notification of the above reasons for failing to sterilize an adopted animal must be provided to the Animal Services Manager in writing, explaining the circumstances, within seven (7) days of the event occurring. Failure to notify the Animal Services Manager in writing waives the affirmative defense, and may result in the issuance of citation and/or reclamation of the animal.

SEC. 6-2.8. EUTHANASIA AND ERADICATION OF ANIMALS.

- (1) The animal services manager or designee is authorized to euthanize, or to allow a licensed veterinarian to euthanize any animal if:
 - (a) the animal services manager or designee or a licensed veterinarian determines that euthanasia is necessary to prevent the unnecessary pain and suffering of the animal;

- (b) the animal services manager or designee or a licensed veterinarian determines that recovery of the animal from injury, disease, or sickness is in serious doubt; or
 - (c) the animal is not redeemed from a city animal shelter within the applicable time period required under Section 6-2.6 of this chapter.
- (2) An animal may only be euthanized by using a barbiturate or derivative substance approved for that purpose by the Federal Food and Drug Administration and administered under the direction of a licensed veterinarian. This section does not apply to action authorized by Subsection (3) of this section.
 - (3) The animal services manager or designee is authorized to eradicate, by appropriate and available means, any animal that poses an imminent danger to a person or domestic animal.

ARTICLE III. CARE AND TREATMENT OF ANIMALS.

SEC. 6-3.1. PROPER RESTRAINT; TETHERING.

- (1) An owner shall restrain his animal at all times.
- (2) An owner shall not tether his dog in any place other than a rear yard unless the owner is within 10 feet of the dog at all times
- (3) An owner shall not tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian.
 - (a) “Unhealthy situation” shall include, but not be limited to:
 1. Tethering an animal in such a manner as to permit the animal access upon any public “right-of-way;”
 2. Tethering an animal in such a manner as to cause the animal injury or pain;
 3. Tethering an animal in such a manner that does not permit the animal to reach shelter, food, and water;
 4. Tethering an animal in such a manner that it is subject to attacks by persons or other animals, stinging bites from outdoor insects, or other similar hazards that pose an unreasonable threat of injury to the animal;
 5. Failing to remove waste from the tethered area on a daily basis;
 6. Using a choke, pinch or prong-type collar to tether the animal.
 - (b) The tether used must be at least ten (10) feet in length, equipped with swivel ends, positioned in such a manner as to prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving any part of its owner’s property, and that is secured to the animal using a properly fitted collar or harness.

SEC. 6-3.2. CONFINEMENT REQUIREMENTS FOR DOGS KEPT OUTDOORS.

- (1) An owner that uses a fenced yard or enclosed structure, as the primary living area for his dog or uses as an area for the dog to regularly eat, sleep, drink, and eliminate shall ensure that the area is:

- (a) a sufficient size for the number and size of dogs present;
 - (b) designed, constructed, and composed of material sufficient to prevent the dog's escape; and
 - (c) designed in a manner that provides the dog access to the inside of an enclosed structure that meets all requirements of Subsection (2) of this section;
 - (d) sufficient to prevent the dog's head from extending through or beyond the fence
- (2) A doghouse or other building or enclosed structure for a dog must:
- (a) have a weatherproof top, bottom, and sides;
 - (b) have an opening on no more than one side that allows the dog to remain dry and provides adequate shade during daylight hours to prevent overheating or discomfort to the dog;
 - (c) have a floor that is level and dry;
 - (d) be of adequate size to allow the dog to stand erect with the dog's head up, to turn around easily, and to sit and lie down in a comfortable and normal position;
 - (e) have sufficient clean and dry bedding material or other means of protection from the weather that will allow the dog to retain body heat when the weather is colder than what a dog of that breed and condition can comfortably tolerate;
 - (f) provide a suitable means for the prompt elimination of excess liquid;
 - (g) be structurally sound, maintained in good repair, and constructed with material that protects the dog from injury; and
 - (h) allow the dog easy access in and out.

SEC. 6-3.3. SANITARY CONDITIONS, MAINTENANCE OF PREMISES AND EXCESSIVE NOISE.

- (1) An owner of an animal shall:
- (a) keep any cage, pen, other enclosed structure, or other area in which the animal is kept in a sanitary condition; and
 - (b) remove all animal excreta from the cage, pen, enclosed structure, or other area in which the animal is kept as often as necessary to maintain a healthy environment.
- (2) An owner shall not:
- (a) In accordance with Chapter 19 of this Code, permit any yard, grounds, premises, or structure belonging to, controlled by, or occupied by him/her to become nauseating, foul or offensive in odor, or otherwise become injurious to the public health.
 - (b) Allow an animal that unreasonably barks, howls, crows, or makes other unreasonable noise near a private residence. Barking, howling, crowing, or other

unreasonable noise for more than fifteen (15) minutes continuously shall be presumed unreasonable.

SEC. 6-3.4. TRAPPING ANIMALS.

- (1) A person shall not use, place, set, or cause to be set any steel jaw trap, spring trap with teeth or perforated edges on the holding mechanism, snare, or any type of trap with a holding mechanism designed to reasonably ensure the cutting, slicing, tearing or otherwise traumatizing of the entrapped animal.
- (2) A person shall not interfere with, remove, alter, damage or otherwise tamper with equipment belonging to or set out by Animal Services.
- (3) It is a defense to prosecution under Subsection (1) that the trap was:
 - (a) specifically designed and used to eradicate common rodents such as rats and mice, and the trap was not placed in a manner or location that would endanger other animals or humans; or
 - (b) specifically designed to humanely trap and was used under the direction of the city enforcement agent, the city environmental health officer, or an agent of another governmental entity authorized by the animal services manager to trap in the city.

SEC. 6-3.5. INHUMANE TREATMENT AND DISPOSITION OF ANIMALS.

- (1) Animals shall not be cared for, treated, maintained, or transported in an inhumane manner, including but not limited to:
 - (a) docking an animal's tail or removing dew claws of a puppy over five (5) days of age, or cropping an animal's ears of any age, unless the person is a licensed veterinarian;
 - (b) physically removing offspring from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, or rabbit less than six (6) weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
 - (c) abandoning any animal at a location other than an authorized animal shelter or animal welfare organization during its normal business hours;
 - (d) overdriving, overloading, driving when overloaded, or overworking any animal, or allowing a dog to participate in a weight pull;
 - (e) torturing, cruelly beating, mutilating, clubbing, shooting or attempting to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means killing or injuring any animal, wild or owned;

- (f) while transporting an animal in a vehicle, failing to effectively restrain such animal so as to prevent the animal from leaving or being ejected from the vehicle during its normal operation;
 - (g) owning any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human, without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
 - (h) failing to provide an animal, at all times, with adequate food, potable water, shelter from inclement weather or veterinary care;
 - (i) raising or killing a dog or cat for the skin or fur;
 - (j) attaching a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
 - (k) placing a poisonous substance in a manner that is accessible to a domestic animal;
or
 - (l) leaving any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare.
- (2) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions, as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this chapter.
- (3) This section shall not be interpreted to restrict hunting, rodeos, 4H Clubs, FFA Club activities and operations that are conducted in compliance with applicable state and local laws.

SEC. 6-3.6. SEIZURE OF INHUMANELY TREATED ANIMALS

- (1) City enforcement agents shall utilize the authority granted by the laws of the State of Texas and section 6-2.5(1)(d) of this Chapter to lawfully seize and impound any animal if the investigating city enforcement agent has reason to believe that an animal has been, or is being cruelly treated.
- (2) Any animal seized and impounded by a city enforcement agent pursuant to section 6-2.5 (1)(d) may be removed from such situation by the quickest and most reasonable means available.
- (3) In the event the seized animal requires veterinary medical attention, the city enforcement agent removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. In the event an animal is allowed to return to its owner, the owner or responsible party shall

reimburse the City of the cost of any medical treatment provided prior to reclaiming the animal.

- (4) If an animal seized pursuant to Section 6-3.6(1) is not in need of immediate veterinary medical attention as provided by Section 6-3.6(3), the animal shall be held by a City of Abilene animal shelter while an investigation is conducted to determine whether there is sufficient evidence to proceed against any person for a violation of Section 6-3.5.

SEC. 6-3.7 APPLICATION FOR STATUS HEARING

- (1) A city enforcement agent who acts under the authority of Section 6-3.6(1) may, by and through the city attorney or designee, apply for a hearing before any municipal court judge or justice of the peace no later than the 5th business day after the seizure.
- (2) An application for a hearing must be made in writing, state the basis for the animal's seizure and be sent to the owner and/or person alleged to have inhumanely treated the animal in the same manner provided in Section 6-5.4(3).

SEC. 6-3.8 STATUS HEARING

- (1) Upon satisfactory application, the Court in receipt of the application shall set a hearing no later than the 5th business day after the application is filed to:
 - (a) Determine the appropriate disposition of the animal; and
 - (b) Assess appropriate costs to be paid by the owner or other person found to have violated Section 6-3.5, including, but not limited to impound fees and veterinary bills.

ARTICLE IV. SPECIFIC REQUIREMENTS FOR PET OWNERSHIP

SEC. 6-4.1. VACCINATION OF DOGS, CATS AND FERRETS.

- (1) All dogs, cats and ferrets, four months of age or older, owned within the city limits must have a current rabies vaccination.
- (2) An owner shall provide proof of current vaccination for the dog, cat or ferret upon request by the Animal Services Manager, designee or a peace officer.
- (3) It is a Class C Misdemeanor offense to own or keep an animal within the city limits in violation of this section.
- (4) If an owner fails to provide proof of current rabies vaccination for an impounded animal, or fails to provide a completed sterilization voucher or appropriate veterinarian records to Animal Services prior to the expiration date on the voucher issued at the time of adoption of the animal, it shall be presumed that the animal did not have a current rabies vaccination.
- (5) It is a defense to prosecution under this section that the dog, cat or ferret is unable to be vaccinated due to health reasons as verified by a licensed veterinarian.
- (6) It is an affirmative defense to prosecution under this section that prior to the vaccination voucher expiration date for an adopted animal, the animal was:
 - (a) deceased;
 - (b) lost or stolen; or
 - (c) given away or relinquished.
 - (d)
- (7) A licensed veterinarian who vaccinates a dog, cat or ferret for rabies in the city of Abilene shall issue a current certificate of vaccination to the owner and send a copy of the certificate of vaccination to the animal services manager by the tenth calendar day of the month following the month in which the dog or cat was vaccinated. The certificate of vaccination must contain the following information:
 - (a) name, address, and telephone number of the owner;
 - (b) animal identification, including species, sex, age, size (pounds), predominant breed, and color;
 - (c) vaccine used (including whether it is a one- year or three-year rabies vaccine), producer, expiration date, and serial number;
 - (d) date vaccinated and expiration date of the certificate of vaccination;
 - (e) City registration number; and
 - (f) veterinarian's signature and license number.

SEC. 6-4.2. AUTHORIZED REGISTRARS.

- (1) All registrars of dogs and cats must be approved by the animal services manager.
- (2) The animal services manager may designate a person as an authorized registrar. The animal services manager may, with cause, deny or revoke the designation of any person to act as an authorized registrar.
- (3) An authorized registrar shall not register a dog or cat without proof that the animal is currently vaccinated or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian in compliance with Section 6-4.1 of this Code.

SEC. 6-4.3. REGISTRATION OF DOGS AND CATS.

- (1) All dogs and cats, four months of age or older, owned within the city limits must be registered.
- (2) All dogs and cats must wear a collar or harness with a current registration tag issued by the animal services manager, designee or an authorized registrar, securely attached to it.
- (3) To obtain a registration receipt and registration tag for a dog or cat, the owner must present the dog's or cat's current certificate of vaccination, or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian, to Animal Services or an authorized registrar and pay any applicable registration fees annually. No refund of the registration fee will be made.
- (4) An owner shall show a current registration receipt or registration tag for the dog or cat upon request by the animal services manager, or designee, or a peace officer or provide Animal Services with proof of either no later than the 5th calendar day after the request.
- (5) It is a defense to prosecution under this section that the owner of the dog or cat has provided Animal Services with proof of the fact that he has resided in the city for less than thirty (30) calendar days. All dog or cat owners that have resided in the city for less than 30 calendar days will be given ten (10) calendar days from the request to register his dog or cat.

SEC. 6-4.5. RESERVED.

SEC. 6-4.6. SALE OF PETS IN GENERAL.

A person shall not sell, exchange, barter, or give away, or offer to sell, exchange, barter, or give away, any pet from:

- (1) public property; or
- (2) property to which the public has access if that person does not have a valid certificate of occupancy allowing the sale of animals on the property.

SEC. 6-4.7. VACCINATION REQUIRED FOR THE SALE OF DOGS AND CATS

- (1) A person shall not sell, exchange, barter, give away, transfer, offer or advertise for sale, a dog or cat four months of age or older unless the dog or cat is currently vaccinated for rabies or cannot be vaccinated for rabies due to health reasons as verified by a licensed veterinarian and the person has a current registration receipt and registration tag as required by Sections 6-4.1 and 6-4.3.
- (2) This section does not apply to a person who sells or transfers a dog or cat as a duty of employment and is employed by:
 - (a) Animal Services;
 - (b) a city authorized animal welfare organization; or
 - (c) a city authorized animal adoption agency.

SEC. 6-4.8. LIMITATION ON THE NUMBER OF DOGS AND CATS IN DWELLING UNITS.

A person shall not own more than:

- (1) three (3) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares a common wall with another dwelling unit;
- (2) four (4) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on not more than one-half acre of land; or
- (3) five (5) dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on more than one-half acre of land.

SEC. 6-4.9. DEFECATION OF DOGS

- (1) An owner of a dog shall immediately and in a sanitary and lawful manner remove and dispose of all excreta deposited on public or private property by a dog unless:
 - (a) the property was owned, leased, or controlled by the owner of the dog; or
 - (b) the owner or person in control of the property had given prior consent for the dog to defecate on the property;
- (2) This section does not apply to:
 - (a) a service dog that is specially trained to assist a person with a disability and that was in the custody or control of that disabled person at the time it defecated or was otherwise present on private property or on property located in a public place.
 - (b) a K9 being used in official law enforcement activities.

ARTICLE V. DANGEROUS DOGS

SEC. 6-5.1 APPLICABILITY.

The general laws of the state, except as specifically provided through proper ordinances and regulations of the city, shall control the handling of dangerous dogs. The City adopts and incorporates as part of this chapter all of the provisions of Title 10, Chapter 822, Subchapter D of the Texas Health and Safety Code as amended insofar as applicable.

SEC. 6-5.2. DEFINITIONS.

- (1) Except where a term is otherwise defined in Subsection (b) of this section, the definitions contained in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article by reference.
- (2) In this article:
 - (a) **BODILY INJURY** means broken skin, or other injury characterized by a bite wound, or other physical pain or impairment resulting from shaking or crushing caused by the dog's mouth.
 - (b) **DANGEROUS DOG** means the definition given in Chapter 822 of the Texas Health and Safety Code as amended and modified by adding the following criteria:
 1. any dog that makes an unprovoked attack on any dog, cat, or livestock, that causes serious bodily injury or death and occurs in a place other than its enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.
 - (c) **SERIOUS BODILY INJURY** means the definition given in Chapter 822 of the Texas Health and Safety Code as amended.
 - (d) **SECURE ENCLOSURE** means a fenced area that is:
 1. locked;
 2. capable of preventing the entry of the general public;
 3. prevents the escape or release of a dog; and
 4. meets all other requirements established by Animal Services.
 - (e) **UNPROVOKED** means an action by a dog that is not:
 1. in response to being tormented, abused, or assaulted by any person;
 2. in response to pain or injury;
 3. in protection of itself, its food, kennel, immediate territory, nursing offspring; or
 4. in response to an assault or attempted assault on a person.

SEC. 6-5.3 REPORT

- (1) A dangerous dog investigation may be initiated upon receiving a sworn statement from any person concerning a dangerous dog attack.
- (2) The animal services manager or designee shall furnish the owner of the dog subject to the investigation with written notice that a dangerous dog attack report has been received. The owner will have two (2) business days from the date the owner is notified of a report to provide the animal services manager with information regarding the allegations.
- (3) An owner of a dog subject to a dog attack investigation shall deliver the dog to the animal shelter or allow a city enforcement agent to seize and impound the dog pursuant to Section 6-2.5(1)(g) immediately upon the request of the animal services manager or designee.
- (4) The Dangerous Dog Committee (hereinafter referred to as the "Committee" shall review all reports filed under this section and issue sworn findings of fact based on its respective investigations.

SEC. 6-5.4 DETERMINATION

- (1) The Committee shall conduct a dangerous dog investigation and make a determination as to whether the dog is dangerous within 7 business days of the sworn statement, impoundment, or seizure, whichever occurs later.
- (2) The Committee or its designee shall notify the owner of its determination in writing. Notice shall include the Committee's findings of fact and must include a statement regarding the owner's right to appeal the determination.
- (3) Notice to the owner shall be sent via certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Services Manager or designee. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is deemed delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three (3) business days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of the residence.
- (4) An owner, not later than fifteen calendar days after the date that the owner is notified of a determination, may appeal said determination to the Abilene municipal court in accordance with Section 6-5.5. An owner may appeal the decision of the municipal court in the same manner as an appeal of a civil case.
- (5) An owner may reclaim his dog upon voluntarily complying with all applicable requirements at any time throughout the investigation, including payment of all costs and fees incurred during the period of impoundment.

SEC. 6-5.5 APPEAL HEARING

- (1) Upon receipt of an owner's timely filed appeal of a dangerous dog determination or appeal from notification of non-compliance with dangerous dog ownership requirements, the Abilene municipal court shall set a hearing as soon as practicable to determine whether the Committee's determination shall be upheld. The court shall give written notice of the time and place of the hearing to:
 - (a) the owner;
 - (b) and the city attorney's office.
- (2) Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- (3) The owner shall have the burden of proving that the committee's determination should be overturned.

SEC. 6-5.6 REQUIREMENTS FOR DANGEROUS DOG OWNERS.

- (1) Upon satisfactory compliance with all dangerous dog requirements, and payment of the applicable dangerous dog registration fee, the animal services manager may issue a dangerous dog registration tag.
 - (a) The dangerous dog registration tag must be purchased within fifteen (15) calendar days of a municipal court's determination in the event of an appeal, or within two (2) business days after the expiration of the appeal period in the event the owner fails to timely file an appeal.
 - (b) The dangerous dog registration tag shall be affixed to the dangerous dog at all times by collar or similar device.
 - (c) Dangerous dog registration tags shall be valid for one (1) year.
- (2) The Animal Services manager may, in extraordinary circumstances, allow additional time for the completion of the requirements for owning a dangerous dog. All requests shall be in writing, and any extension shall be at the discretion of the Animal Services Manager.
- (3) An owner of a dangerous dog shall comply with all applicable requirements for owning and keeping a dangerous dog for the duration of the dog's life.
- (4) A registered dangerous dog shall reside with the dog owner.
- (5) A dangerous dog owner shall not transfer ownership of the dangerous dog, but must return the dog to the city Animal Shelter if he/she wishes to relinquish ownership.

SEC. 6-5.8 ADDITIONAL REQUIREMENTS FOR DANGEROUS DOG OWNERS

- (1) Not later than fifteen (15) calendar days after an owner is notified of a final dangerous dog determination or forty-eight (48) hours after an owner's time to perfect his appeal has elapsed, the owner shall:
 - (a) Restrain the dog in a secure enclosure that has been inspected and approved by the animal services manager or designee at all times unless the dog is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash, while outside of its secure enclosure.
 1. The dog shall not be tethered to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or dog.
 2. The secure enclosure must be inside a secondary fence that is in good and sound repair and that is sufficient to adequately contain the dog and prevent the dog's head from extending through or beyond the fenced area. The secondary fence around the secure enclosure must be in good sound repair.
 - (b) Acquire and maintain liability insurance coverage in an amount of at least two hundred fifty thousand dollars (\$250,000.00) to cover damages resulting from an attack by the dangerous dog and provide proof of the required liability insurance coverage to the Animal Services Manager. The owner shall notify the animal services manager immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the animal services manager not less than thirty (30) days prior to cancellation or any material change in coverage;
 - (c) Microchip and register the dangerous dog with a national registry that has been pre-approved by the animal services manager. The owner must present proof of dangerous dog registration to the animal services manager or designee in order to meet this requirement.
 - (d) The dangerous dog owner must provide proof of sterilization performed by a licensed veterinarian to Animal Services within 30 days of the return of the animal to the owner.

SEC. 6-5.9 NON-COMPLIANCE

- (1) A dangerous dog owner who cannot comply with Section 6-5.6 or 6-5.8 as applicable may surrender the dog to Animal Services without penalty...
- (2) If an owner fails to notify Animal Services and deliver said dog to a city animal shelter or allow a city enforcement agent to seize a dog, the court may issue a warrant to seize said dog at any time that the court finds that probable cause to support the

fact that non-compliance exists. An owner may appeal the animal services manager's finding of non-compliance in the same manner set forth in Section 6-5.5.

- (3) If a dangerous dog is seized for non-compliance, and the owner fails to comply with the dangerous dog ownership requirements within ten (10) calendar days, or timely file an appeal with the Municipal Court, the court shall order the animal services manager or designee to humanely destroy the aggressive or dangerous dog

SEC. 6-5.10 OWNER'S DUTY TO NOTIFY OF DOG ATTACKS

The owner of a dangerous dog shall notify the Animal Services Manager of all attacks on humans or dogs, cats or livestock.

SEC. 6-5.11 OFFENSES

- (1) A person commits an offense if the person owns a dangerous dog and the dog makes an unprovoked attack on another person outside the animal's enclosure causing bodily injury.
- (2) A person commits an offense if the person owns a dangerous dog that makes an unprovoked attack on a domestic animal while the dog is outside of its enclosure, and the attack causes serious bodily injury or death to the domestic animal.

SEC. 6-5.12 AFFIRMATIVE DEFENSES

- (1) It is a defense to prosecution under Section 6-5.11 that the person injured was committing or attempting to commit a crime.
- (2) It is a defense to prosecution under Section 6-5.11 that the dog was protecting or defending a person while in the person's control, from an unjustified attack or assault.
- (3) It is a defense to prosecution under Section 6-5.11 that the person injured was teasing, tormenting, abusing, or assaulting the dog or has in the past, been reported to have teased, tormented, abused or assaulted the dog.

SEC. 6-5.13 ADDITIONAL PENALTIES FOR VIOLATIONS OF DANGEROUS DOG OWNERS

- (1) If a person is found guilty of an offense under Section 6-5-11(1) or 6-5.11(2), the municipal court may order the animal services manager or designee to impound and destroy the animal immediately in addition to other penalties in Article VII.
- (2) If impoundment of a dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the animal may be destroyed without notice to the owner. If an attempt is made to impound a dangerous animal from the premises of the owner and the impoundment cannot be made with safety, the owner will be given twenty-four (24) hours notice that if said animal is

not surrendered to Animal Services within said twenty-four (24) hour period, then the animal will be destroyed wherever it is found. After this notice, the dangerous animal may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this Section shall be in writing. A written notice left at the entrance to the premises where the dangerous animal is harbored will be considered valid notice as of the date and time of posting.

- (3) A dangerous dog impounded pursuant to this section and not reclaimed by its owner under the requirements of this section within ten (10) calendar days from the date of notice of impoundment shall be deemed relinquished to the Animal Services Manager, and shall be euthanized in a humane manner, upon receiving a court order from a court of competent jurisdiction.

SEC. 6-5.14 EXEMPTIONS

- (1) This Article does not apply to a veterinarian, a peace officer, a person employed by a city authorized animal shelter, or facility or a person employed by the state or a political subdivision of the state to deal with stray animals, and who has temporary ownership, custody or control of the dog in connection with that position.
- (2) This Article does not apply to a person that is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes and the attack occurred in connection with the course or scope of the person's employment.

ARTICLE VI. PROHIBITED AND REGULATED ANIMALS

SEC. 6-6.1. PROHIBITED ANIMALS

- (1) A person shall not own any of the following animals:
 - (a) All high risk rabies carriers, as defined in state law, including bats, skunks, coyotes, raccoons, and foxes.
 - (b) Venomous reptiles and amphibians;
 - (c) Any wild animal whose normal mature weight exceeds forty (40) pounds; or
 - (d) Any "dangerous wild animal" as defined in the Texas Health and Safety Code, as amended.
- (2) A person shall not sell, exchange, give away, or transfer a prohibited animal to any person in the city for use, retention, resale, or transfer as a pet or as a human's companion except as provided by state or federal law for:
 - (a) a federal, state, county, or municipal agency or an agent of such an agency acting in an official capacity;
 - (b) a research facility licensed by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.);
 - (c) a zoo;
 - (d) transporting an injured, sick, orphaned, or abandoned prohibited animal for care or treatment;
 - (e) a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43 of the Parks and Wildlife Code, as amended, who is temporarily treating or caring for a sick or injured prohibited animal;
 - (f) a transient circus company;
 - (g) a television or motion picture production company that has temporary custody or control of the prohibited animal during the filming of a television or motion picture production in the city;
 - (h) a college or university that owns and has possession, custody, or control of the prohibited animal solely as a mascot for the college or university;
 - (i) transporting the prohibited animal in interstate commerce in compliance with the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended;
 - (j) a person whose only business is to supply nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended;

- (k) a participant in a species survival plan of the American Zoo and Aquarium Association for the species of prohibited animal owned by or in the possession, control, or custody of the person;
- (l) exhibiting a prohibited animal at a special event conducted with written permission from the city.

SEC. 6-6.2 REGULATED ANIMALS

(1) KEEPING OF ROOSTERS.

- (a) In this section, ROOSTER means the male of a domestic fowl.
- (b) A person shall not own a live rooster on any property that is less than one acre in size unless the rooster is:
 - 1. being exhibited at the Taylor County Fair or at a special event conducted with written permission of the city;
 - 2. owned by a governmental entity or participating in a health, research, educational, or similar program conducted by a governmental entity;
 - 3. owned by a medical, educational, or research institution operating in compliance with all city ordinances and state and federal laws; or
 - 4. being held for slaughter in a slaughterhouse or meat packing plant operating in compliance with all city ordinances and state and federal laws.
- (c) A person who owns a live rooster shall:
 - 1. confine the rooster in an enclosure that is wholly or partially located more than 50 feet from any adjacent property line; and
 - 2. keep the rooster in the enclosed area at all times; and
- (d) For the purpose of calculating the distance requirement of Subsection (c)(2) of this subsection, the width of alleys, street rights-of-way, and other public rights-of-way will be used. The distance between a rooster enclosure and an adjacent property line must be measured in a straight line, without regard to intervening structures or objects, from the nearest exterior wall of the enclosure to the nearest property line.

(2) KEEPING OF SWINE.

- (a) No person who is the owner of any swine, or any person who has any swine under his management or control, shall keep the same or allow the same to remain in any pen or in any other place within the city.
- (b) This section shall not apply to or prohibit the keeping of swine by the following:
 - 1. A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity;
 - 2. Publicly or privately maintained circus, traveling show or rodeo which does not remain in the city longer than thirty (30) days out of each year;

3. Slaughterhouses;
4. Any person, persons, organization or corporation keeping swine in an agricultural open space district as provided by the City of Abilene zoning ordinance and said swine is kept no closer than six hundred (600) feet from a residential district, church or school;
5. Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

ARTICLE VII. OFFENSES AND PENALTIES

SEC. 6-7.1. OFFENSES; CRIMINAL AND CIVIL PENALTIES.

- (1) A person who violates a provision of this chapter or who fails to perform an act required of him by this chapter commits a class C misdemeanor offense.
- (2) A person violating a provision of this chapter commits a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.
- (3) Unless specifically provided otherwise in this chapter, an offense under this chapter is punishable by a fine not to exceed:
 - (a) \$2,000 if the provision violated governs public health or sanitation;
 - (b) the amount fixed by state law if the violation is one for which the state has fixed a fine; or
 - (c) \$500 for all other offenses.
- (4) Prosecution of an offense under Subsection (1) does not prevent the use of civil enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.
- (5) In addition to imposing a criminal penalty, the city may, in accordance with Section 54.012(5) of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty pursuant to Section 54.017 of the Texas Local Government Code, for each day or portion of a day during which each violation is committed, continued, or permitted.