

AN ORDINANCE AMENDING CHAPTER 6, ANIMAL AND FOWL, ARTICLE I, IN GENERAL, OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR ENFORCEMENT AND PENALTY.

WHEREAS, the City Council of the City of Abilene affirms that it is committed to the deterrence of cruel and inhumane treatment of animals; and,

WHEREAS, in order to deter the cruel and inhumane treatment of animals, it is necessary to amend the City of Abilene Municipal Code to prohibit the specified cruel and inhumane treatment; now, therefore,


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- PART 1:** That Chapter 6, Animal and Fowl, Article I, In General, of the City of Abilene Municipal Code, be amended as set forth in EXHIBIT A, attached hereto and made a part of this Ordinance for all purposes.
- PART 2:** That if any provision or section of this Ordinance is held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining Ordinance provisions or sections, which shall remain in full force and effect.
- PART 3:** That any person violating any of the Care and Humane Treatment of Animals provisions of this Ordinance shall be assessed a penalty as set forth in Chapter 1, Section 1-9, General Penalty for violation of Code; continuing violations; culpable mental state not required.
- PART 4:** 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 13 day of May, 200⁴.

PASSED ON SECOND AND FINAL READING this 24 day of May, 200⁴.

ATTEST:




Jo Moore
City Secretary



Norm Archibald
Mayor

APPROVED:



Evelyn Foster
City Attorney

EXHIBIT A

ORDINANCE NO. 12-2004

Amend, Chapter 6, Animal and Fowl, Article I, In General, by adding the following definition and sections:

Sec. 6-1. Definitions.

Add: Necessary veterinary care: Veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuations, tremors, swelling, broken bone, open wounds, inability to eat or drink, blistering, irregular or abnormal breathing, partial or local paralysis, abnormal discharge or bleeding, mange, or other signs of health problems.

Add Sec. 6-16. Care and Humane Treatment of Animals.

It shall be unlawful for an owner or other person to:

- (a) Fail to provide an animal with sufficient good and wholesome food and water, adequate housing consisting of a three-sided structure with a cover or roof, and a floor that is sufficient to keep the animals dry and ensure that they do not have to lay in water, shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment;
- (b) Beat, torment, abuse, overload, seriously overwork, maim, disfigure, burn or scald, mutilate, or torture an animal;
- (c) Carry or transport an animal in any vehicle or other conveyance in a cruel or inhumane manner;
- (d) Cruelly confine an animal;
- (e) Crop a dog's ears, dock a tail, remove dew claws, or perform other surgical procedures on a dog or cat, except as provided by the Veterinary Licensing Act;
- (f) Use steel jaw or leg-hold traps or snares;
- (g) Abandon an animal, including abandoning an animal in the owner's custody without making reasonable arrangements for the assumption of custody by another person;

- (h) Instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans;
- (i) Leave any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare;
- (j) 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.
 - (1) "Unhealthy situation" shall include, but not be limited to:
 - (a) Tethering an animal in such a manner as to permit the animal access upon any public "right of way;"
 - (b) Tethering an animal in such a manner as to cause the animal injury or pain;
 - (c) Tethering an animal in such a manner that does not permit the animal to reach shelter, food, or water;
 - (d) 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;
 - (e) Failing to remove waste from the tethered area on a daily basis;
 - (f) Using a choke-type collar to tether the animal.
 - (2) It shall be minimally required that the tether used must be at least 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.
- (k) Kill an animal, except as allowed by law;
- (l) Expose an animal to any poisonous substance, whether mixed with food or not, so that the poison is likely to be ingested by an animal. Provided, however, it shall not be a violation of this section for a person, on his own property, to expose rats or mice to common rat poison intended for the purpose of exterminating the rats or mice;
- (m) Cause any of the enumerated acts (a) –(l) to be done.
- (n) Owner, as defined in Section 6-1, means the actual owner of an animal and/or the person who has the care, custody or control of such animal.

Add Sec. 6-17 Removal of Animal in Immediate Danger and Veterinary Medical Attention.

- (a) Any animal observed by a peace officer or agent of the animal control department that appears to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.
- (b) In the event the animal removed requires veterinary medical attention, the peace officer or agent of the animal control department removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. The owner will be responsible for reimbursing the City for the cost of any veterinary medical treatment, and must pay the bill before redeeming the animal, in the event the animal is allowed to be returned to the owner. If a person other than the owner is found to have violated Section 6-16, that person will be responsible for reimbursing the City for the amount of the veterinary medical bills. Such reimbursement is required before the animal will be released to the owner.
- (c) If the veterinarian determines that the animal is too severely injured, or is too ill, to have a reasonable chance of recovery, the animal control department is authorized to have the animal humanely destroyed. Any costs incurred as a result of the humane destruction of the animal may be recovered from the owner or other person who is found to have violated Section 6-16.

Add Sec. 6-18 Impoundment, Release, and Disposition of Animal.

- (a) Any peace officer or any agent of the animal control department may seize and impound any animal that appears to have been cruelly treated in violation of Section 6-16.
- (b) If the animal is not in need of immediate veterinary medical attention as provided in Section 6-17, the animal shall be held by the animal control department while an investigation is conducted to determine whether there is sufficient evidence to proceed against the owner or other person for a violation of Section 6-16.
- (c) If at the conclusion of the investigation the animal control department determines that there is not enough evidence to proceed against the owner or other person for a violation of Section 6-16, or other law prohibiting cruelty to animals, the animal shall be returned to the owner upon payment of any veterinary medical bills as provided in Section 6-17, and payment of impound fees and compliance with the associated requirements set forth in Section 6-93. Payment of the veterinary medical bills and impound fees is required before the animal will be released.
- (d) If at the conclusion of the investigation the animal control department determines that there is enough evidence to proceed against the owner or other person for a violation of Section 6-16, the animal control department may initiate a proceeding in the Municipal Court to:

- (1) prosecute the owner or other person for a violation of Section 6-16;
 - (2) determine the appropriate disposition of the animal;
 - (3) assess the appropriate amount of impound fees and veterinary medical bills required to be paid by the owner or other person found to have violated Section 6-16; and
 - (4) Impose a fine in accordance with Section 1-9.
- (e) If, after prosecution for an offense under 6-16, the Municipal Court finds the owner or other person prosecuted for a violation of 6-16 not guilty, the owner or other person prosecuted is still responsible for payment of any veterinary medical bills as provided in 6-17, and payment of any impound fees and compliance with the associated requirements set forth in Section 6-93. Full payment of veterinary medical bills and impound fees, and compliance with 6-93 is required before the animal will be released to the owner.
- (f) Nothing in this Article shall be construed to prevent the election by the animal control department to pursue criminal charges against the owner or other person for violations of the applicable animal cruelty provisions of the Texas Penal Code.

6-19 – 6-28 Reserved.

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