

**ORDINANCE NO. 45-2015**

**AN ORDINANCE AMENDING, CHAPTER 6 OF THE CODE OF THE CITY OF ABILENE BY ADOPTING A REVISIONS 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- PART 1:** That Chapter 6 of the Code of Ordinances be amended in its entirety and superseded by the new Chapter 6, as set forth in Exhibit A, attached hereto.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 13<sup>th</sup> 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 9<sup>th</sup> 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 27<sup>th</sup> day of August, 2015, to permit the public to be heard.

**PASSED ON SECOND AND FINAL READING this 27<sup>th</sup> day of August, 2015.**

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY

EXHIBIT "A"

Sec. 6-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them:

**Animal:** Any live, vertebrate creature, domestic or wild.

**At large:** Any animal off the property of its owner and not under the control of a competent person.

**Domestic animals:** Those animals which are naturally tame and gentle or which by long association with man have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess a disposition or inclination to escape.

**Kennel:** Any place where more than four (4) dogs or more than four (4) cats, or any combination of cats and dogs where the total exceeds four (4) animals over the age of ten (10) weeks, and where said animals are raised, trained, boarded, harbored or kept.

**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.

**Owner:** The actual owner of an animal and/or the person who has the care, custody or control of such animal.

**Restraint:** An animal shall be deemed to be restrained when it is:

- (a) Confined on the premises of the owner within a fence or enclosure, or
- (b) Fastened or picketed by a lead, rope or chain so as to keep the animal on the premises, or
- (c) Under the control of a person by a leash, or
- (d) On or within a vehicle being driven or parked, or
- (e) At heel beside a competent person and obedient to that person's command.

**Wild animal:** Those animals 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.

(Code 1965, § 5-1; Ord. No. 12-2004, pt. 1(Exh. A), 5-24-04)

Sec. 6-2. Violations—Citing to appear.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agent of the animal control department, such animal need not be impounded by the agent. The agent may, if the owner agrees to sign a citation, issue a citation which shall require the person to appear in court within ten (10) days to answer a charge of a violation of this chapter.
- (b) Signing the citation shall only be a promise to appear and is not an admission of guilt.
- (c) It shall be unlawful for any person upon being issued any citation to give the animal control employee a false name or address.
- (d) It shall be unlawful to fail to appear in municipal court within ten (10) days of the signing of the citation.

(Code 1965, § 5-2)

Sec. 6-3. Same—Impoundment.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agents of the animal control department and the owner cannot be located or refuses to sign a citation, the agent may impound the animal or file a complaint against the owner in municipal court.
- (b) When an animal is found in violation of a provision of this chapter and its ownership is not known to the agent of the animal control department, such animal shall be impounded.

(Code 1965, secs. 5-3, 5-4)

Sec. 6-4. Interference with department.

No person shall interfere with, hinder or molest any agent of the animal control department in the performance of any duty of the agent, or seek to release any animal in the custody of the animal control department, or its agents.

(Code 1965, § 5-5)

Sec. 6-5. Records.

It shall be the duty of the animal control department to keep, or cause to be kept, accurate and detailed records of:

- (a) Impoundment and disposition. Impoundment and disposition of all animals coming into its custody.

- (b) Bite cases. All bite cases reported to it and its investigation of same.
- (c) Monies received. All monies received under this chapter.

Such records shall be open to inspection at reasonable times by persons responsible for similar records of the city, and shall be audited by the city auditor in the same manner as other city records which are audited.

(Code 1965, § 5-29)

Sec. 6-6. Noise.

It shall be unlawful for any person to own, keep or be in control of any animal which causes unreasonably loud or unnecessary noise that causes material distress, or discomfort to persons, or persons of ordinary sensibilities in the immediate vicinity.

(Code 1965, § 5-6)

Sec. 6-7. Keeping certain animals—Prohibited.

(1) It shall be unlawful for any person to harbor or maintain within the city limits 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.

(Code 1965, § 5-7; Ord. No. 22-2002, pt. 1(Exh. A), 5-23-02)

☪ Sec. 6-8. Same—Exceptions.

The provisions of section 6-7 shall not apply to or prohibit the keeping of wild animals by the following:

- (a) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
- (b) Publicly or privately maintained circus, traveling show or rodeo which does not remain in this city longer than thirty (30) days out of each year.
- (c) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

(Code 1965, § 5-7)

☪ Sec. 6-9. Restraint of wild animals.

It shall be the duty of each owner of a wild animal in the city to keep the same under restraint at all times.

(Code 1965, § 5-7)

☪ Sec. 6-10. Keeping swine restricted.

(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 residential district, church or school.

(5) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.

(Code 1965, § 5-17)

Sec. 6-11. Running at large generally.

If any animal, other than dogs, cats or other domesticated pets, is found at large within the city limits, the owner thereof shall be guilty of a misdemeanor.

(Code 1965, § 5-8)

Sec. 6-12. Herding.

The driving of herds of animals, other than dogs, cats or other domesticated pets, along or upon any street, avenue or alley of the city is hereby prohibited. This section shall not apply to or prohibit the herding of animals along or upon any street, avenue or alley of the city by:

(a) Publicly or privately maintained circus, traveling show or rodeo which does not remain in this city longer than thirty (30) days out of each year.

(b) Any officer, agent or employee of the federal, state or local government or agencies thereof, if such herding is done in the performance of its official duties.

(Code 1965, § 5-8)

Sec. 6-13. Dead animals—Leaving carcass exposed a nuisance.

No person shall place or deposit the exposed carcass of any animal or fowl on any street, alley, highway or public place or upon private property or shall stand or permit to stand any truck or other vehicle containing such carcass on any street, alley, highway or public place or on private property within the city. The term "exposed" as used in this section is meant the exposure of the carcass of an animal so that putrefying odors may escape therefrom and contaminate the air.

The exposure of the putrefying carcass of a beast so that noxious or disagreeable odors may escape therefrom and contaminate the air shall be a public nuisance, and the health officer or any police officer may summarily remove such carcass to a point outside the city or may bury or burn the same, and the expense of such disposal shall be included in the fine collected from the person so violating this section.

(Ord. No. 26-1981, pt. 1, 3-26-81)

Editor's note: Ordinance 26-1981, pt. 1, adopted March 26, 1981, amended Ch. 5 of the 1965 Code with the addition of new secs. 5-45-5-47. At the editor's discretion, said provisions have been included as secs. 6-13-6-15 of the present Code.

☪ Sec. 6-14. Same-Removal by owner.

No person shall allow or permit any animal or fowl which has died and which at the time of death was owned or controlled or kept by such person to lie in or upon any street, alley, lot or other place in this city. Such person or persons shall cause the carcass of such animal or fowl to be disposed of as the health officer may direct.

(Ord. No. 26-1981, pt. 1, 3-26-81)

☪ Sec. 6-15. Same-Removal and disposal service, fees.

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Ord. No. 26-1981, pt. 1, 3-16-81; Ord. No. 65-1986, pt. 1, 8-28-86)

☪ Sec. 6-16. Care and humane treatment of animals.

For purposes of this Section 6-16, "Restraint" shall mean a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

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) Secure by use of a restraint 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" and "potentially dangerous situation for a pedestrian" shall include, but not be limited to:

(A) leaving a dog unattended by use of a restraint that unreasonably limits the dog's movement:

- (i) between the hours of 10 p.m. and 6 a.m.;
- (ii) within 500 feet of the premises of a school; or
- (iii) in the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below 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.

(B) Secure by use of a restraint an animal in such a manner as to permit the animal access upon any public "right-of-way;"

(C) Secure by use of a restraint an animal in such a manner that does not permit the animal to reach shelter, food, or water;

(C) Secure by use of a restraint 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 on a daily basis from the area in which the animal is restrained;

(F) Using a choke-type collar to on an animal in conjunction with a restraint.

(2) It shall be minimally required that 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.

(3) For purposes of this subsection 6-16(l), a restraint unreasonably limits a dog's movement if the restraint: uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog; is a length shorter than the greater of five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail or 10 feet; is in an unsafe condition; or causes injury to the dog.

(4) Notwithstanding subsections subsection 6-61(j) does not apply to:

(A) a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;

(B) a dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(C) a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;

(D) a dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(E) a dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(F) a dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(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.

☪ (Ord. No. 12-2004, pt. 1(Exh. A), 5-24-04)

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.

(Ord. No. 12-2004, pt. 1(Exh. A), 5-24-04)

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 section 6-16, the municipal court finds the owner or other person prosecuted for a violation of section 6-16 not guilty, the owner or other person prosecuted is still responsible for payment of any veterinary medical bills as provided in section 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 section 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.

(Ord. No. 12-2004, pt. 1(Exh. A), 5-24-04)

Secs. 6-19–6-28. Reserved.

## ☪ **ARTICLE II. PETS**

### ☪ **DIVISION 1. GENERALLY**

#### ☪ **Sec. 6-29. Exemption.**

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except as otherwise stated.

(Code 1965, § 5-18)

#### ☪ **Sec. 6-30. Reserved.**

Editor's note: Ordinance 69-2005, pt. 1(Exh. A), adopted Dec. 15, 2005, repealed § 6-30 in its entirety. Formerly, said section pertained to number of animals kept restricted as enacted by Code 1965, § 5-19.

#### ☪ **Sec. 6-31. Vaccination.**

No person shall own, keep or harbor a dog or cat over the age of four (4) months within the city limits unless the dog or cat has a current certificate of vaccination for an anti-rabies vaccine.

(Code 1965, § 5-20)

#### ☪ **Sec. 6-32. Restraint of dogs.**

Every person who owns, keeps or is in charge of a dog shall restrain his dog at all times.

(Code 1965, § 5-28)

#### ☪ **Sec. 6-33. Special confinement requirement for fierce, dangerous, vicious dogs.**

The owner shall confine within a building or a secure enclosure a fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure unless such dog is securely muzzled.

(Code 1965, § 5-27)

#### ☪ **Secs. 6-34–6-44. Reserved.**

### ☪ **DIVISION 2. LICENSE**

#### ☪ **Sec. 6-45. Required.**

No person shall own, keep or harbor a dog or cat over the age of four (4) months within the city unless a license has been obtained for the same.

(Code 1965, § 5-20)

Sec. 6-46. Administration by veterinarians.

The city animal control department will furnish licensed veterinarians who agree to follow the provisions of this division with application forms and license tags for dogs and cats.

(Code 1965, § 5-21)

Sec. 6-47. Application.

Written applications for dog and cat licenses shall be made upon a printed application form provided by the city and shall state the name and address of the owner or keeper of said dog or cat and the name, breed, color, age and sex of the dog or cat being licensed.

(Code 1965, § 5-23)

Sec. 6-48. Conditions for license.

The dog and cat license tags shall be issued upon payment of the license fee and the meeting of one of the following conditions:

- (a) Vaccination by a licensed veterinarian with anti-rabies vaccine, or
- (b) Presentation of a metal vaccination tag issued by a licensed veterinarian showing that such vaccination was given less than three (3) months prior to date of application for such license.

(Code 1965, § 5-25)

Sec. 6-49. Fee.

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Code 1965, § 5-24; Ord. No. 21-1980, pt. 1, 3-13-80; Ord. No. 65-1986, pt. 1, 8-28-86)

Sec. 6-50. Issuance.

Dog and cat license tags shall be issued by the animal control department and authorized veterinarians licensed in the state and practicing within the city limits or its extraterritorial jurisdiction.

(Code 1965, § 5-22; Ord. No. 121-1982, pt. 1, 10-28-82)

☪ Sec. 6-51. Collar, tag to be worn.

Every person who owns, keeps or is in charge of or in control of a dog or cat within the city shall provide and place on such dog or cat a collar or harness which shall be worn by said dog or cat at all times when off the premises of said person, and shall attach to the collar or harness the metal license tag obtained pursuant to this division.

(Code 1965, § 5-26)

☪ Sec. 6-52. Transfer.

Each dog or cat license issued under this division shall be restricted to the animal for which the same was issued and shall not be transferred.

(Code 1965, § 5-24; Ord. No. 21-1980, pt. 1, 3-13-80)

☪ Sec. 6-53. Duration.

Every license issued under the provisions of this division shall be valid for one year from the date of issuance thereof.

(Code 1965, § 5-24; Ord. No. 21-1980, pt. 1, 3-13-80)

☪ Sec. 6-54. Reimbursement by city.

The city will reimburse authorized licensed veterinarians the sum of one dollar (\$1.00) for each dog or cat license issued by such veterinarian, to help defray the cost imposed on such veterinarian for issuing said licenses in accordance with this article.

(Ord. No. 21-1980, pt. 1, 3-13-80)

Editor's note: Ordinance 21-1980, pt. 1, adopted March 13, 1980, amended § 5-24 of the 1965 Code. Inclusion of a portion of said amendment as § 6-54 has been at the editor's discretion.

☪ Secs. 6-55–6-59. Reserved.

☪ **DIVISION 3. DANGEROUS DOGS**

☪ Sec. 6-60. Authorization.

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. There is adopted as part of

this chapter all of the provisions of Title 10, Chapter 822, Subchapter D of the Texas Health and Safety Code insofar as applicable.

(Ord. No. 40-2001, pt. 1(Exh. A), 12-20-01)

Sec. 6-61. Definitions.

For the purposes of this article, the following words and/or phrases shall have the meanings respectively ascribed to them by the statute except as provided below:

“Dangerous dog” as defined in § 822.041 of the Texas Health and Safety Code, is amended to include the additional definition of:

(C) makes an unprovoked attack on a domestic animal that causes serious bodily injury or death 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.

(Ord. No. 40-2001, pt. 1(Exh. A), 12-20-01)

Sec. 6-62. Seizure.

(a) If a person reports an incident described by § 822.041(2) of the Texas Health and Safety Code as codified and amended by section 6-61 of the Abilene City Code, the animal control department shall seize and impound the dog pending investigation of the incident.

(b) The animal control department shall release the dog to the owner if the animal control department has not made a determination that the dog is a dangerous dog before the 6th working day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the animal control department from receiving more information and subsequently declaring the dog a dangerous animal.

(c) If the animal control department determines the dog is a dangerous dog, it shall continue to impound the dog until the owner complies with § 822.042 of the Texas Health and Safety Code, or until such time as the dog may legally be destroyed.

(d) The owner shall pay any cost or fee assessed by the animal control department related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.

(Ord. No. 23-2002, pt. 1(Exh. A), 5-23-02)

Secs. 6-63–6-68. Reserved.

**ARTICLE III. IMPOUNDMENT\***



## **DIVISION 1. GENERALLY**

### **Sec. 6-69. Authorized.**

Any peace officer or any agent of the animal control department shall take up and impound any animal found in violation of this chapter.

(Code 1965, § 5-9)

### **Sec. 6-70. Pets.**

The impoundment of dogs, cats or any other domestic pet shall be as provided in sections 6-89 through 6-99.

### **Sec. 6-71. Confinement by private citizen.**

If any animal is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal temporarily until he can notify the animal control department. When notified, it shall be the duty of the department to impound such animal as provided in this chapter.

(Code 1965, § 5-16)

### **Sec. 6-72. Pound fees.**

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Code 1965, § 5-15; Ord. No. 65-1986, pt. 1, 8-28-86)

### **Sec. 6-73. Disposition at superintendent's discretion.**

If any animal impounded is found to be affected with rabies, or if the animal is seriously injured, or if the animal control superintendent has determined it is not saleable, or if it cannot be sold as provided in the preceding section, it shall forthwith be destroyed or otherwise disposed of. All decisions as to the condition or saleability of the animals shall be made by the animal control superintendent.

(Code 1965, § 5-11)

### **Sec. 6-74. Redemption before sale.**

The owner of any animal not affected with a contagious disease and impounded under the provisions of this chapter may redeem the same before it is sold, by paying the required pound fees.

(Code 1965, § 5-12)

☉ Sec. 6-75. Sale of impounded animals.

The animal control department shall sell animals impounded under the provisions of this article at public auction for cash after having held the animal for at least ten (10) days and after having published public notice of the items, terms and place of sale in a daily newspaper published in the city, which notice shall appear one time at least five (5) days prior to the sale and shall describe the animals impounded and state that the animals will be sold to defray cost if not reclaimed and the cost paid before the date of sale. If not reclaimed by such date, it shall sell the animal at public auction between the hours of 10:00 a.m. and 4:00 p.m. at such date to the highest bidder.

After deducting all the expenses of the sale and taking up and keeping of the animals, the department shall return the balance of proceeds, if any, to the owner of the animals. If the owner is unknown, the balance shall be paid into the city treasury. Any time within thirty (30) days after the sale, the owner may apply to the animal control superintendent and upon satisfactory proof of his ownership, he shall be entitled to receive the balance of proceeds, which shall be the money deposited after deducting all the expenses of the sale and taking up and keeping of the animals, paid into the city treasury on account of such sale.

(Code 1965, § 5-10)

☉ Sec. 6-76. Redemption after sale.

The owner of any impounded animal sold under the provisions of this chapter may redeem it by paying to the purchaser double the amount paid by him for such animal and his reasonable expenses for keeping it; provided, that the owner shall redeem the animal within thirty (30) days after the date of sale, otherwise the animal becomes the absolute property of the purchaser.

(Code 1965, § 5-13)

☉ Sec. 6-77. Records of impoundment.

The animal control department shall keep a record for at least one year giving the description of all animals impounded, the date of impoundment, the date of sale, the amount realized for such animal, and the name and address of the purchaser.

(Code 1965, § 5-14)

☉ Secs. 6-78–6-88. Reserved.

## DIVISION 2. PETS

### Sec. 6-89. Authorized.

The agents of the animal control department are authorized to take up:

- (a) All dogs found not restrained by their owners; or
- (b) All cats which do not have a vaccination tag as provided by sections 6-31 and 6-51 and found not restrained by their owners.

(Code 1965, § 5-30)

### Sec. 6-90. Vaccinated dogs.

- (a) Period of confinement. A vaccinated dog impounded as authorized in section 6-89 shall be confined in a humane manner for a period not less than three (3) working days.
- (b) Notice. Upon impounding a dog found with current vaccination tags, the agents of the animal control department shall make a reasonable effort to notify the owner his animal has been impounded and the conditions whereby he may regain custody of such animal.

(Code 1965, § 5-31)

### Sec. 6-91. Unvaccinated dogs and cats.

Dogs and cats impounded under this division without a vaccination tag shall become the property of the animal control department after the expiration of two (2) working days.

(Code 1965, § 5-32)

### Sec. 6-92. Fees.

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Code 1965, § 5-34; Ord. No. 21-1980, pt. 2, 3-13-80; Ord. No. 65-1986, pt. 1, 8-28-86)

### Sec. 6-93. Redemption generally.

The owner shall be entitled to resume the possession of any impounded dog or cat except as hereinafter provided in case of certain dog or cat, upon compliance with the provisions of sections 6-31 and 6-51 and the payment of the impoundment fees of section 6-92.

(Code 1965, § 5-33)

Sec. 6-94. Redemption of unvaccinated animal.

The owner of any animal over the age of four (4) months, which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, shall pay to the City of Abilene Animal Services applicable fees to cover the cost of rabies vaccination and city tag for the animal before the animal can be redeemed. Upon payment of the fee, a receipt for the shots shall be given to the owner to be honored by the veterinarian designated by the owner. The owner of the animal shall have seventy-two (72) hours from the time the receipt is issued to take the animal and receipt to the veterinarian for vaccination. Failure to vaccinate within the stated time period will result in forfeiture of the rabies vaccination and city tag fees to the city. Each month all veterinarians shall turn in all receipts that they have received and the city shall reimburse them for the full value of each receipt.

(Code 1965, § 5-33; Ord. No. 69-2005, pt. 2(Exh. B), 10-25-05)

Sec. 6-95. Transfer of title; deposits for spaying and neutering.

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Code 1965, § 5-35; Ord. No. 59-1984, pt. 1, 6-28-84; Ord. No. 65-1986, pt. 1, 8-28-86)

Sec. 6-96. Placement with competent person.

The animal control department may place any animal, held at its animal shelter, in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter.

(Code 1965, § 5-35)

Sec. 6-97. Placement with humane society, fees.

The fees and charges for services furnished by the city, shall be determined from time to time and placed on file in the office of the city secretary.

(Code 1965, § 5-35; Ord. No. 65-1986, pt. 1, 8-28-86)

Sec. 6-98. Destruction of unredeemed animals.

The animal control department may humanely destroy any animal, which has not been redeemed as provided in this division.

(Code 1965, § 5-35)

Sec. 6-99. Destruction of donated, sick, injured animals.

The animal control department may destroy any animal by a humane method if it has been donated to the shelter with the request that it be destroyed or if the animal is so sick or injured that its cure is considered by the animal control department to be impractical or if death is imminent. In either of such events, such destruction may be done immediately without notice or any waiting period.

(Code 1965, § 5-35)

Secs. 6-100–6-115. Reserved.

## **ARTICLE IV. RABIES CONTROL\***

### **DIVISION 1. GENERALLY**

Sec. 6-116. Report of rabies suspect by veterinarian.

It shall be the duty of every licensed veterinarian to report to the animal control department his diagnosis of any animal observed by him as a rabies suspect.

(Code 1965, § 5-36)

Sec. 6-117. Report of bites or scratches by physicians.

It shall be the duty of every physician or other practitioner to report to the animal control department the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

(Code 1965, § 5-37)

Sec. 6-118. Killing or removing rabid animal from the city.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies or any animal which has bitten a human or suspected of having bitten a human, except as herein provided, nor remove same from the city limits without written permission from the animal control department.

(Code 1965, § 5-40)

Sec. 6-119. Surrender of carcass.

The carcass of any dead animal suspected of having been exposed to rabies shall upon demand be surrendered to the animal control department.

(Code 1965, § 5-40)

Sec. 6-120. Disposition of rabid animals.

The animal control department shall direct the disposition of any animal found to be infected with rabies.

(Code 1965, § 5-40)

Sec. 6-121. Duty to surrender animal.

No person shall fail or refuse to surrender any animal for quarantine, destruction or disposal as required herein when demand is made therefor by the animal control department.

(Code 1965, § 5-40)

**Sec. 6-122. Rabies Control Authority.**

(1) The animal services manager or designee shall be the rabies control authority 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.

Secs. 6-123–6-132. Reserved.

**DIVISION 2. QUARANTINE OF SPECIFIC ANIMAL**

Sec. 6-133. Authorized; minimum time.

Upon being presented a sworn affidavit that an animal has bitten or scratched a person, the animal control superintendent shall quarantine the animal so identified for a period of ten (10) days.

(Code 1965, § 5-38)

Sec. 6-134. Places.

Quarantine of an animal which has bitten or scratched a person shall be at the following:

- (a) Animal shelter.
- (b) A licensed veterinarian hospital in the city at the expenses of the owner, upon the owner's request.
- (c) Home quarantine. Home quarantine is permissible when the animal control superintendent agrees that home quarantine is warranted and believes the following requirements are satisfied:

- (1) The owner of the animal is a resident of this city and agrees to keep the animal at his residence in this city; and,
- (2) The animal was properly restrained at the time the bite occurred; and,
- (3) The animal was properly protected by rabies vaccination.

Animals of unknown ownership will be quarantined at the animal shelter.

(Code 1965, § 5-38)

☪ Sec. 6-135. Surrender by owner.

Upon the demand made by the animal control department, it shall be unlawful for the owner to fail to surrender any animal which has bitten or scratched a human being or which is suspected of having been exposed to rabies, for quarantine, which expenses shall be borne by the owner.

(Code 1965, § 5-38)

☪ Sec. 6-136. Released to owner.

The quarantined animal may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth in section 6-92, upon compliance with the vaccination provisions set forth in section 6-31.

(Code 1965, § 5-38)

☪ Sec. 6-137. Pathological examination—Death during quarantine.

When an animal under quarantine diagnosed by a licensed veterinarian as being rabid or suspected of being rabid dies while under observation, the animal control department shall immediately send the head of such animal to the health department for a pathological examination. The animal control department shall notify the proper health officer of reports of human contacts and then diagnosis made of the suspected animal after the pathological examination has been made.

(Code 1965, § 5-38)

☪ Sec. 6-138. Same—Emergency situation.

When an animal bites or scratches a person so that the director of the health department believes that the quarantine observation period cannot be observed because of the danger of developing rabies, the health director shall order that the animal control department immediately forward the animal's head for pathological examination.

(Code 1965, § 5-38)

Secs. 6-139–6-149. Reserved.

### **DIVISION 3. CITY-WIDE QUARANTINE**

Sec. 6-150. When authorized.

A city-wide quarantine may be invoked for a period of thirty (30) days by the city council upon the recommendation of the animal control department after it has been notified by the health department of a positive diagnosis of rabies of an animal or after an investigation has determined there exists an immediate threat of rabies.

(Code 1965, § 5-39)

Sec. 6-151. Extension of time.

In the event there are additional positive cases of rabies occurring within the thirty (30) day period of the city-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.

(Code 1965, § 5-39)

Sec. 6-152. Destruction of bitten animals.

During a period of city-wide rabies quarantine, every animal bitten by a rabid animal shall be destroyed.

(Code 1965, § 5-39)

Sec. 6-153. Confinement of animals.

It shall be unlawful for any person to take or permit any animal in the streets or any other public place during the period of quarantine.

(Code 1965, § 5-39)

Secs. 6-154–6-165. Reserved.

### **ARTICLE V. TRAPS\***

Sec. 6-166. Placement and baiting prohibited on streets and alleys.



It shall be unlawful for any person to place and bait or to permit the placing or baiting and placing of any trap, designed for trapping animals, in any highway, street, alley, or other public place within the corporate limits of the city.

(Ord. No. 14-1981, pt. 1, 2-12-81)

☛ Sec. 6-167. Prohibited within city limits; exception, areas zoned agricultural open space.

It shall be unlawful for any person to set or bait or permit the setting or baiting or placing of any steel-jawed, killer-type, toothed trap designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of entrapped prey and commonly known as a "bear trap, wolf trap, or coyote trap" in any zoning district within the city limits, except in those districts zoned agricultural open space. In agricultural open space districts, any trap must be more than three hundred (300) yards from the nearest district zoned for residential, commercial, or industrial use.

(Ord. No. 14-1981, pt. 1, 2-12-81)

☛ Sec. 6-168. When declared abandoned; impoundment.

Any traps mentioned in sections 6-166 and 6-167 found upon any public property shall be and the same are hereby declared to be abandoned property and any animal control agent/police officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the appropriate provisions of this Code.

(Ord. No. 14-1981, pt. 1, 2-12-81)

☛ Sec. 6-169. Animal trapping by animal control.

It is hereby specifically provided that the City of Abilene Animal Control Division is exempted from any provision of these animal trapping sections in the performance of their lawful duties.

(Ord. No. 14-1981, pt. 1, 2-12-81)