

ORDINANCE NO. 1076

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, AMENDING CHAPTER 5 OF THE CITY OF KYLE CODE OF ORDINANCES IN ITS ENTIRETY; ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING COMPREHENSIVE REQUIREMENTS FOR THE KEEPING AND CARE OF ANIMALS AND FOWL; PROVIDING FOR THE CONTROL, REGULATION, LICENSING, PERMITTING AND VACCINATION OF DOGS AND CATS; PROVIDING REGULATIONS AND REQUIREMENTS FOR OTHER ANIMALS, FOWL, LIVESTOCK AND WILD AND EXOTIC ANIMALS; PROVIDING FOR IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE OR OTHERWISE IN VIOLATION OF THIS ORDINANCE; PROVIDING PROCEDURES FOR RABIES REPORTING AND CONTROL; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FINES AND PENALTIES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

Whereas, the proper care, regulation and control of animals, fowl and livestock is necessary for the health, safety and quality of life of the citizens of the City of Kyle, Texas (herein the "City");

Whereas, the establishment of reasonable requirements for the care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public;

Whereas, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law to unusual circumstances and conditions that arise from time to time with respect to the keeping, care and control of domestic, wild and exotic animals; and

Whereas, the rules, regulations and requirements established by ordinance may not be inconsistent with State law;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

Section 2. Substandard Building Regulations Adopted. The City Council hereby adopts animal control regulations within the City of Kyle to read as set forth in the attachment hereto entitled "Chapter 5. Animals" attached to and incorporated in this ordinance as though fully transcribed herein for all purposes.

Section 3. Amendment of Ordinances. Chapter 5, of the Kyle Code of Ordinances is hereby amended to read as set forth in this Ordinance. Any ordinances regulating animal control are hereby amended in their entirety, and all other ordinances or parts thereof in conflict herewith are amended to the extent of such conflict

only. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

Section 4. Savings Clause. All rights and remedies of the City of Caldwell are expressly saved as to any and all violations of the provisions of any ordinances affecting animal control within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. Severability. It is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

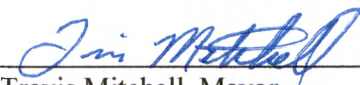
Section 6. Effective Date. This ordinance shall take effect immediately upon its approval and passage and publication as required by law.

Section 7. Open Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Texas Government Code.

PASSED AND APPROVED on this the 21st day of January, 2020.

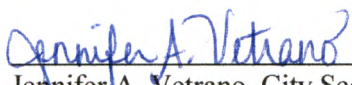
FINALLY PASSED AND APPROVED on this the 4th day of February, 2020.

The City of Kyle, Texas



Travis Mitchell, Mayor

ATTEST:



Jennifer A. Vetrano, City Secretary

Chapter 5. Animals

ARTICLE I. - General Provisions.

Sec. 5-1. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter except where the context clearly indicates a different meaning:

Abuse means to mistreat through intent to abuse or reckless neglect of any animal in a manner that causes or is likely to cause stress or physical injury or as otherwise stated in this chapter.

Animal means any living, vertebrate creature, domestic or wild, other than *homo sapiens*.

Animal Control Division, Animal Control Authority, or Animal Control Officer means the Animal Control Division of the Kyle Police Department, the Department's animal control officers, and police officers. The terms also include code enforcement officers designated by the City of Kyle to perform animal control enforcement and duties.

Animal Shelter means a public or private facility designated by the city council for the purpose of impounding, quarantining, safekeeping, or controlling and caring for animals held under the authority of this chapter.

Animal Welfare Group means an association or nonprofit corporation who has as one of its purposes providing for the welfare and/or protection of animals of any kind.

Cat means the male and the female of any domesticated member of the feline species of animal.

Chapter or this chapter means Chapter 5 of the Kyle, Texas, Code of Ordinances.

Chief of Police means the Chief of Police or the Chief of Police's designee responsible for the administration of this chapter.

City means the City of Kyle, Texas.

Code means the Kyle, Texas, Code of Ordinances.

Day means a workday including Saturday and excluding Sunday and City Holidays.

Distance between structures, where a minimum setback or distance between any enclosures for an animal from a residence is required, means the most direct line distance between the two structures unless otherwise provided.

Dog means the male and the female of any domesticated member of the canine species of animal.

Domestic Animal means any animal whose physiology has been determined or manipulated through selective breeding and does not occur naturally in the wild; any animal which can be

vaccinated against rabies with approved rabies vaccine; and any animal which has an established rabies quarantine observation period.

Exotic species means any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including non-venomous reptiles and fish.

Fish means any of the cold-blooded animals that extract oxygen from water through the use of gills.

Governmental entity means an agency or political subdivision of the state or an agency or department of the federal government.

Habitual offender or habitually means or refers to an owner who has received two or more final convictions of this chapter, an owner whose animal has been the subject of impoundment in the animal shelter three or more times during a 12 month period, the animal has been in the possession of the Animal Control Division for any amount of time after being contained by the Animal Control Division or any other individual three or more times in a 12 month period, or any combination of convictions and impoundment totaling three incidents.

Harbor means to possess while in the act of keeping and caring for an animal; or of providing a location to which the animal returns for food, shelter, or care for a period of three days or longer.

Keep, keeping, or kept means the care and control of animals for a period of longer than five days.

Livestock means cattle, horses, mules, asses, sheep, goats, llamas, alpacas, miniature livestock, exotic livestock, including elk and elk hybrids, and hogs, unless otherwise defined.

Local Rabies Control Authority or Authority means the person designated by the Kyle City Council to carry out the duties of the appointment per Texas Health and Safety Code Chapter 826, as amended.

Microchip means a small, electronic chip enclosed in a glass cylinder that is about the same size as a grain of rice. It is activated by a scanner that is passed over the area, the chip then transmits the identification number to the scanner, and the number is then displayed on the screen of the scanner. The device is implanted by a licensed veterinarian, by a person duly authorized and supervised by a licensed veterinarian, or by a person duly and professionally trained in the procedure.

Neutered means any animal, male or female rendered incapable of breeding or being bred, through for example, castration or orchiectomy in the male and spaying or ovariohysterectomy in the female.

Owner or presumed owner means any person who has purchased, adopted, or who owns, keeps, maintains harbors or has care, custody or control of one or more animals. Ownership may be determined by identifying an adult resident of the premises upon which the animal is kept, maintained, harbored, or otherwise resides and such adult shall constitute the owner of the animal upon such

premises. Each actual adult resident of the premises shall be the owner or presumed owner and charged with responsibility for the animals thereon maintained or harbored.

Person means and includes an individual human, partnership, co partnership firm, company, limited liability partnership or other such company, joint venture, joint stock company, trust, estate, government entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Poison means a substance with an inherent property that tends to destroy animal life or impair animal health.

Policy means the policies and procedures adopted consistent with this chapter and applicable to the Animal Control Division of the Kyle Police Department.

Premises mean a definite portion of a legal lot of real estate or land, together with any appurtenances or buildings.

Public place means any places open to the public and to which the public has access. It shall include, but is not limited to, shops, stores, outdoor locations, markets, and flea markets. A commercial animal enterprise open to the public or to which the public has access is a public place under this definition.

Residence means any place of human habitation at any time, day, or night, including, but not limited to, any single-family or multifamily dwelling, church, school, convalescent center, or nursing home.

Stray animal (including estray) means any animal, of which there is no identifiable owner or presumed owner, which is found to be at large within the city limits of Kyle.

Tag means a vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or an animal for purposes of identification of an animal.

Tattoo means a permanent mark which is made on the skin of an animal by puncturing the skin and inserting indelible color, and which is used to show ownership. Tattoo also means a permanent mark used by a licensed veterinarian to identify that an animal has been neutered.

Undeveloped property means any property that is not improved or under improvement for human use or occupancy, including property developed as a street or highway, or used for a commercial or agricultural purpose.

Vaccination or rabies vaccination means the inoculation of an animal with a rabies vaccination that is licensed by the United States Department of Agriculture for use in that species and which is administered according to the label's directions by a licensed veterinarian for the purpose of immunizing the animal against rabies.

Veterinarian means any person duly licensed to practice veterinary medicine by the Texas Board of Veterinary Medical Examiners or successor authority, or who is exempt from such licensing.

Zoning ordinance means the Kyle, Texas, Code of Ordinances, Chapter 53.

Zoological park or zoo means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of animals, operated by a person or under the auspices of a governmental entity.

Sec. 5-2 - Purpose.

(a) It is the intent and purpose of this Chapter to:

- (1) Protect the public health, safety, and welfare within the City for both animals and people;
- (2) To provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled;
- (3) Affirm that while a person may own and keep animals within the City, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants; and
- (4) To encourage responsible animal ownership.

Sec. 5-3 - Penalty for violation of chapter.

(a) A person who violates or fails to comply with any requirement or provision of this Chapter within the city limits shall be deemed guilty of an offense and may be assessed a fine not to exceed \$500.00. Such penalty shall be in addition to all the other remedies provided in this chapter. Each day the violation exists constitutes a separate offense.

(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this chapter to an animal control officer, police officer, or other person authorized to enforce provisions of this chapter.

(c) A person commits an offense if the person reports to a person authorized to enforce provisions of this chapter an offense or incident within that person's concern knowing that the offense or incident did not occur.

Sec. 5-4 - Enforcement; filing of complaints; and policy.

(a) The provisions of this Chapter may be enforced by animal control officers, police officers, and such other persons designated by the City. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, estray, control or impoundment, or other animal related matters.

(b) It shall be unlawful for a person to:

- (1) Interfere with, obstruct, resist or oppose any animal control officer or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties or investigation;
- (2) Take or attempt to take an animal from an animal control officer or from a vehicle used by the officer to transport an animal;
- (3) Take or attempt to take an animal from the animal shelter or other kennel or confinement area used to impound an animal.

(c) In all instances of a violation of any provision of this chapter, whether the animal is impounded or not, the owner or person keeping the animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter. The Animal Control Division may adopt a policy establishing a conditional written warning procedure relating to registrations, displaying of tags, and general “at large” violations. The receipt of such written warnings does not preclude the Animal Control Division from citing the recipient if the conditions of the written warning are not met in a timely fashion.

(d) In the enforcement of this chapter, properly trained or licensed representatives of the Animal Control Division shall have the authority to utilize firearms to kill or otherwise disable an animal to protect the animal from enduring further pain or suffering as a result of disease or injury. The authorized representatives shall also have the authority to tranquilize or trap any animal, fowl, livestock, or wildlife consistent with humane policies adopted by the Animal Control Division.

(e) Unless specifically provided in this Chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this chapter to impose strict liability for violation of the requirements of this chapter.

(f) To aid in the administration of this chapter, the Animal Control Division shall by policy making authority of the Chief of Police, adopt administrative policies and operational procedures consistent with the purpose and intent of this chapter. The form of notices required in this chapter shall be provided for by policy.

(g) In the event that a violation of this Chapter is occurring and is not observed by an animal control officer, police officer, or designee, a person may report the violation by completing a citizen complaint form. By completing the form, a complainant represents the following:

- (1) The complaint form is completed voluntarily, truthfully, and accurately by the complainant, signed and then submitted to Municipal Court.
- (2) The complainant agrees to testify if the case proceeds to trial with Municipal Court.

- (3) The complainant agrees to provide evidence of the violation, such as photographs, audio or video recordings, or supporting documents, to Municipal Court along with the complaint form.

Sec. 5-5 - Powers and duties of citizens.

- (a) Any person who finds an animal running at large on the person's own property, property over which the person exercises control, or on public property may take control of the animal (as provided in section 5-103) and may deliver the animal to an animal control officer, the animal shelter, or an animal emergency medical facility, the person must report the action taken to an animal control officer or the animal shelter within 24 hours.
- (b) The animal shall be surrendered to the Animal Control Division or animal shelter if the person feels the animal has been neglected or cruelly treated and the animal's condition may require enforcement for violations of this chapter. The person shall advertise the found animal in the local newspaper lost and found section and with the lost and found page for the animal shelter. If the animal is wearing a tag of any kind or has a tattoo, brand, or other identifying mark, that information shall be included in the report to the animal control officer or animal shelter. If the owner of the animal is located, the owner shall report to the Animal Control Division or the animal shelter that the animal has been returned.
- (c) The cost associated with the animal's care shall be the responsibility of the person that found the animal while under their care.

Sec. 5-6 - Prima facie evidence.

In a prosecution charging a violation of this Chapter proof the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained proof the defendant named in the complaint was at the time of alleged violation the registered owner of the animal or proof the person with legal rights to reside on premises was the owner or presumed owner of the animal, is admissible and shall constitute prima facie evidence that the person failed to comply with this chapter.

Sec. 5-7 - Abatement of conditions not complying with chapter.

Whenever any premises where animals are kept in unsanitary conditions, or the facilities are not in keeping with provisions of this chapter or any other regulations herein, the Animal Control Division, by written notice clearly stating the intent of this section, to the person responsible for the condition of the premises, may order the abatement of the conditions which are not in accordance with the ordinance or other regulations, or conditions which constitute a nuisance by Kyle Police Department policy. Failure to comply with such order shall, in addition to any criminal or administrative proceedings, be grounds for and entitle the City to obtain relief by injunction. Nothing herein precludes the City's use of any public health ordinance or law in lieu of nuisance abatement or injunctive relief herein provided.

Sec. 5-8 - Compliance with chapter not relief from compliance with other regulations.

The keeping of any animal in accordance with provisions of this chapter shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the City.

Sec. 5-9 – 5-29 - Reserved.

Article II - General Regulations.

Sec. 5-30 - Definitions.

Apiary means a place where a bee colony is kept.

Bee means any stage of the common domestic honeybee, *Apis mellifera* species.

Colony means a hive and related equipment and appurtenances including bees, comb, honey, pollen, and brood.

Hive means a structure intended to house a colony.

Tract means a contiguous parcel of land under common ownership.

Sec. 5-31 - Identification for animals.

Except as provided herein, all animals within the City shall be marked by some type of identifying license, tag, microchip, band, tattoo, and/or brand by which the animal's owner can be identified. Animals exempted from this requirement are mice, rats, rabbits, guinea pigs, hamsters, gerbils, ferret, fowl, and snakes.

Sec. 5-32 - License required.

(a) *License issuance.* All animals four months of age or older which are kept, harbored, or maintained within the city limits of the City shall be licensed. Licenses shall be provided by the animal control officer or his agents, the Kyle Police Department Records Division and Veterinary Clinics approved by the Kyle Police Department, upon payment of the required fee for each animal. Before a city license will be issued for a cat or dog, the owner must present a current certificate from a licensed Veterinarian showing that such cat or dog has been vaccinated for rabies. The owner shall state his name and address, and the breed, color, and sex of the animal to be licensed. Such license shall be valid for one year from date of issuance. Any owner previously found to be a habitual offender and having previously had their license revoked under section 5-33 may be deemed not eligible for current licensure. Appeals of such ineligibility shall follow the procedures set out in Section 5-33 for revocations.

(b) *Tag and collar.* Upon payment of the license fee, where applicable, the City shall issue a unique alpha numeric numbered metal tag to the owner. The tag shall be also registered by the owner with PetHub in order for all the features of the tag to be activated with PetHub. Such

tag shall at all times be securely attached to a collar or harness around the neck of the animal. In case a tag is lost, a duplicate will be issued by the animal control officer or his agent, the Kyle Police Department Records Division, upon presentation of the receipt showing the payment of license fee for the calendar year. Tags shall not be transferable from one animal to another, and no refunds shall be made.

(c) *License renewal.* A renewal tag shall be issued for license renewal only if the tag is no longer able to be scanned for its QR code or has been lost or damaged.

Sec. 5-33 - Revocation of license, notice of determination and appeals.

(a) The Animal Control Division may revoke any license or permit, or deem an animal not eligible for a license or permit, after one or more of the following incidents has occurred:

- (1) The animal was impounded at the animal shelter three or more times during a 12 month period;
- (2) The animal has been in the possession of the Animal Control Division for any amount of time after being contained by the Animal Control Division or by an individual and delivered to the Animal Control Division three or more times during a 12 month period;
- (3) The owner of the animal has incurred two or more final convictions for violating this Chapter; or
- (4) Any combination of subsections (1), (2) and (3) of this section totaling three incidents have occurred;

(b) Notice of revocation of the license or permit or notice of a determination of ineligibility to obtain a license or permit shall be provided to the owner or presumed owner in writing.

(c) Appeal of a notice of revocation or ineligibility determination must be filed with Municipal Court within ten days of receiving the notice.

(d) Municipal Court shall provide a hearing date notification on the appeal to the owner or presumed owner in writing.

(e) The decision of the court is final.

(f) Upon expiration of ten days after written notification of revocation is delivered to the owner or presumed owner of the animal, an animal which has had its license or permit revoked or deemed not eligible for a license or permit shall not be kept, maintained, or harbored within the city limits.

(g) Upon revocation of a license or permit or being deemed not eligible for a license or permit, the owner or presumed owner of the animal shall notify the Animal Control Division of the location to which the animal is being removed.

(h) Each 24 hour period that the animal remains within the city limits shall constitute a separate violation.

Sec. 5-34 - Counterfeiting; destruction of tags, certificates.

- (a) It shall be unlawful for any person to intentionally or knowingly:
 - (1) Counterfeit a rabies vaccination tag or certificate or a license.
 - (2) Destroy a rabies vaccination tag or certificate.

Sec. 5-35 - Negligent care.

- (a) It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with:
 - (1) Proper food, water, adequate natural or artificial shade from direct sunlight at all times;
 - (2) Adequate shelter as defined below;
 - (3) Veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal; and
 - (4) Humane care and treatment.
- (b) Documentation shall be provided by the owner from the animal's veterinarian to prove that the animal is under the veterinarian's care and is not in a state of pain or suffering.
- (c) To ensure adequate shelter for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:
 - (1) The structure must provide protection from the weather for example sun, wind, precipitation (in whatever form), or other inclement weather conditions. The structure must have a roof and three sides with adequate ventilation.
 - (2) If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.
 - (3) Plastic air shipping containers and /or pet carriers shall not be used as outdoor shelters.

Sec. 5-36 – Other enclosure requirements.

- (a) An enclosure or structure of any kind used to confine an animal, shall be maintained in a sanitary condition.
- (b) Enclosures or structures used to confine animals other than dogs shall be of sufficient size to maintain all of the animals comfortably and in good health.

(c) An outdoor enclosure used as the primary living area for a dog or used as an area for a dog to regularly eat, sleep, drink, and eliminate must have at least 150 square feet of space for each dog six months of age or older.

Sec. 5-37 - Abandonment.

(a) No person shall leave an animal unattended for an unspecified amount of time, and in no instance for more than 24 hours, or release an animal on private property under circumstances that create a threat to the health of the animal, or release the animal on private property without adequate food, water, and shelter.

(b) No person shall intentionally desert an animal on public or private property.

Sec. 5-38 - Cruel treatment.

It shall be unlawful for a person to beat, ill treat, torment, mentally abuse, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

Sec. 5-39 - Animals in state of pain or suffering.

(a) If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the Animal Control Division may dispose of the animal in any humane manner without complying with the three-day (72-hour) waiting period as set out herein.

(b) If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the Animal Control Division may dispose of the animal in a humane manner.

(c) Animal owners shall bear full cost of expenses incurred by the City in the care, medical treatment, impoundment or other costs associated with their animal.

Sec. 5-40 - Molesting animals.

It shall be unlawful for a person to in any manner tease, annoy, disturb, molest, or irritate an animal that is confined to the owner's premises.

Sec. 5-41 - Removal of animals from confinement.

(a) *Removal prohibited.* It shall be unlawful for a person to remove or allow an animal to escape from a place to which the animal has been confined or ordered to be confined by the City, without the consent of the Animal Control Division.

(b) *Release prohibited of confined animals.* It shall be unlawful for any person to knowingly or intentionally enter upon the property of another person without permission for the purpose of releasing a confined or tethered animal.

(c) *Interfering with officers during impounding.* It shall be unlawful for a person to interfere or attempt to interfere with an animal control officer or other authorized person while retrieving and impounding an animal.

Sec. 5-42 - Trapping and shooting.

(a) *General prohibition.* It shall be unlawful for a person, other than animal control officers or trappers tasked with wildlife control by the City, to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, a steel-jawed, leg hold trap, or other trapping device to capture an animal. This subsection does not prohibit prudent use of live traps and rodent traps on one's own property to control rodents.

(b) *Use of live traps.* Consistent with the provisions herein, the Animal Control Division is authorized to utilize humane "live traps" and may conduct trapping operations throughout the City as needed. A person may use their own live traps to trap on their property. The person is responsible for ensuring a captured animal is treated consistent with state law and local law.

(c) *Loan of live traps.* Live traps may be loaned to persons residing within the City limits over the age of 18 by the Animal Control Division for no more than 14 days. The person shall sign a trap agreement prior obtaining a live trap. If the trap is damaged, lost, or stolen while in the person's possession, the person shall pay the City a fee of \$100.00.

(d) *Hunting prohibited.* It shall be unlawful for any person to hunt, shoot, intentionally injure, or kill any wild bird, animal, mammal, or reptile within the City limits. It shall be unlawful for any person to hunt, shoot, or kill, within the City, any domestic bird, animal, mammal, reptile, or pet that is not owned by such person. This subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit the Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or city policy.

(e) *Domestic animals.* It shall be unlawful for any person to shoot a domestic animal within the City limits. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presented an immediate threat to personal or public safety. This subsection shall not be construed or interpreted to prohibit the Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or city policy.

Sec. 5-43 - Tampering with traps and equipment.

No person shall remove, alter, damage, or otherwise tamper with a trap or equipment belonging to or set out by the Animal Control Division.

Sec. 5-44 - Duty of motor vehicle operator to report accident involving animals.

(a) A person who strikes an animal while operating a motor vehicle within the City shall report the incident to the Police Department within a reasonable amount of time if the animal stricken

is on or near the roadway and is a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

(b) A person who strikes a domestic animal while operating a motor vehicle within the City shall report the incident to the Police Department within a reasonable amount of time.

Sec. 5-45 - Storage of feed.

All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

Sec. 5-46 - Giving animals as prizes or inducements.

(a) No person shall give away any live animal, reptile, fowl, livestock, or wildlife as the following:

- (1) A prize for or as an inducement to enter any contest, game, or other competition;
- (2) An inducement to enter a place of amusement; or
- (3) An incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade.

(b) This section shall apply to carnivals, fairs, and circuses.

(c) This section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show, or as part of a Future Farmers of America, 4-H or similar project.

Sec. 5-47 - Sale of animals.

No person shall sell, trade, barter, lease, rent, give away, and convey ownership of any animal within the city limits. This section shall not apply to a permitted commercial animal enterprise, an animal shelter, or a non-profit animal welfare, rescue or adoption group.

Sec. 5-48 - Selling dyed animals.

It shall be unlawful for a person to sell or offer for sale, raffle, offer or give as a prize, premium, or advertising device, or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

Sec. 5-49 - Animal fights and fighting paraphernalia.

(a) It shall be unlawful for a person to intentionally, knowingly, recklessly, or with criminal negligence use, or permit to be used, property that he owns or controls to conduct animal fights.

(b) It shall be unlawful for a person to possess animal fighting equipment within the City.

Sec. 5-50 - Use of poisonous substances.

(a) It shall be unlawful for any person to administer poison to an animal belonging to another person. No person shall expose any known poisonous substance to an animal, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person.

(b) It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the City.

(c) The provisions of subsection (a) and (b) of this section shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits use to control insects and rodents.

Sec. 5-51 - Creating a health hazard.

A person who harbors or keeps animals on one's own premises or on premises one controls, and allows the premises to give off obnoxious or offensive odors due to the activity or presence of such animals and become a hazard to the general health and welfare of the community, shall be guilty of a class C misdemeanor.

Sec. 5-52 - Slaughtering of animals.

Animals may be slaughtered for human or animal consumption within the City, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

Sec. 5-53 - Pet sitting, dog walker apps, and fostering animals.

(a) Pet sitting and dog walker apps.

(1) All animal owners using pet sitting or dog walker apps shall make a current rabies vaccination certificate available at their residence for the pet sitter or dog walker in the event that the animal is involved in a bite case or other incident where the Animal Control Division is notified of a complaint regarding the animals.

(2) The animal owner shall comply with any requirements imposed by the City to cure violations of this chapter while it is in the care and custody of the pet sitter or dog walker. Citations may be issued to the pet sitter or dog walker for violations that occur while the animal is under their care and custody.

(b) Foster animals.

(1) Individuals fostering an animal for a nonprofit animal shelter or animal rescue organization shall be provided with the animal's current rabies vaccination certificate by the organization.

(2) If an animal is not being fostered for a nonprofit animal shelter or animal rescue organization, the individual fostering the animal shall comply with the rabies vaccination and city license requirements in this chapter.

(3) The individual fostering the animal shall comply with any requirements imposed by the City to avoid violations of this chapter while the animal is under their care and custody.

(4) Contact information for the nonprofit animal shelter or rescue organization shall be provided to the Animal Control Division from the foster if needed for notification of any incidents involving the animal.

Sec. 5-54 - Honeybees.

(a) Restrictions.

A person may not keep a bee colony that causes a threat to human or animal health or interferes with normal use and enjoyment of public or private property.

(b) Apiary maintenance.

(1) A person shall keep a colony in a Langstroth-type hive with removable frames that is maintained in sound and usable condition.

(2) A person shall provide a source of water to a colony to prevent the bees from congregating at a water source used by humans, birds, or domestic pets.

(3) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

(c) Hive location.

(1) A person shall not locate a hive within ten feet of the property line of a tract, as measured from the nearest point of the hive to the property line.

(2) A person, who keeps a bee colony within 25 feet of the property line of a tract, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.

(d) Control of aggressive colony.

(1) A person shall immediately replace the queen in a colony that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. A person required to replace a queen under this subsection shall select the replacement from bee stock bred for gentleness and non-swarming characteristics.

(2) As required for swarm management, a person may maintain a nucleus colony for each two colonies allowed under this Chapter. A person may house a nucleus colony

in a structure not exceeding a standard 9 5/8- inch depth ten-frame hive body with no supers attached. A person shall dispose of or combine a nucleus colony with an authorized colony not later than the 30th day after the date the nucleus colony is acquired.

(e) Colony density.

(1) A person may not keep more than:

- a. Two colonies on a tract one-quarter acre or smaller.
- b. Four colonies on a tract larger than one-quarter acre but smaller than one-half acre.
- c. Six colonies on a tract one-half acre or more but smaller than one acre.
- d. Eight colonies on a tract one acre or more.

(2) A person may keep an unlimited number of colonies on a tract:

- a. On which all hives are located at least 200 feet from each property line of the tract; or
- b. Adjacent to undeveloped property for at least 200 feet from any hive.

(f) Hive identification and ownership.

(1) Except as provided in (f)(2) below, a person shall:

- a. Brand, paint, or otherwise clearly mark the apiary owner's name or telephone number on at least two hives placed at opposite ends of an apiary; or
- b. Post a conspicuous sign displaying the apiary owner's name and telephone number at the entrance to the apiary tract.

(2) A person is not required to place owner identification on or near a colony located on a tract on which the owner resides.

(g) Destruction of wild or abandoned bees.

(1) The Animal Control Division can obtain an order from Municipal Court for the relocation of bees described in subsection (g)(2)a.-c. if the relocation of the bees can be done without threatening human or animal health or interfering with the normal use and enjoyment of public or private property.

(2) If relocation of bees under subsection (g)(1) is not possible then, the Animal Control Division may order destruction:

- a. A colony not residing in a hive;
- b. A swarm of bees; or

c. A colony residing in an abandoned standard or man-made hive.

Sec. 5-55 – 5-75 - Reserved.

Article III - Permits and Licensing.

Sec. 5-76 - Definitions.

Circus means a commercial variety show featuring animal acts for the public at a fee or a part of a charity.

Commercial Animal Enterprise means, but not limited to, animal breeders, kennels, pet shops, feed stores where animals are sold, riding stables, performing animal exhibitions, animal training services, grooming shops, petting zoos, aviaries, or similar enterprises relating to animals.

Kennel means an establishment designed or used for the selling, breeding, or overnight boarding of animals.

Multi-pet owner means a person who keeps or harbors five or more cats or dogs or any combination of five or more cats and dogs.

Performing Animals means animals used in a spectacle, display, act or event.

Sec. 5-77 - General Permit Provisions.

(a) Permits required.

(1) Permits shall be required for commercial animal enterprises, guard dogs, and multi-pet owners. A person who keeps or harbors five or more animals on any one lot or residence shall be considered a multi-pet owner.

(2) Commercial Animal Enterprise permits shall be required for residences with common household pets having "litters" of puppies or kittens.

(b) Permit duration and fee; revocation.

(1) Permits shall be valid for one year from date of issuance and must be renewed annually within 30 days prior to the expiration date. The permit fee shall be according to the schedule established in Appendix A to this Code.

(2) Following an inspection noting violations of permit requirements or this article, an animal control officer may file an application with the municipal court to revoke a permit issued under this article. In addition to conducting a full revocation hearing, the Municipal Court judge may temporarily suspend a permit pending a full hearing if such immediate action is determined reasonably necessary to protect the public health or the safety of an animal.

(3) A permit may be revoked at any time if the owner's facility is found to be in violation of this chapter, zoning, health, or ~~y~~ other applicable City ordinance, state

law, or the facility is maintained in such a manner as to be detrimental to the health, safety, or welfare of the persons residing within a 200 foot radius of the premises.

Sec. 5-78 - Guard dog permit.

(a) Guard dog permit applications shall include the following information:

- (1) The business name, address, and telephone number of the commercial property where the guard dog(s) are to be used;
- (2) The name, address, and telephone number of the dog's handler(s) who can be reached at any time during the day or night;
- (3) The number of dogs to be used and a general description of their use;
- (4) Description of the dogs, proof of their current rabies vaccination and city license;
- (5) The location(s) where the guard dogs are to be housed; and
- (6) Any other information that the Animal Control Division deems necessary.

(b) Permit holders shall notify the Animal Control Division if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.

(c) Upon receipt of an application to obtain or renew a guard dog permit, an animal control officer or his designee shall inspect the facilities where the guard dogs are or will be used and housed.

(d) If the inspection reveals that the requirements of this section are met, a permit fee for each commercial property shall be paid to the City and a permit will be issued.

(e) The permit shall be displayed at the approved commercial property, and a rabies vaccination and the city license tag shall be affixed to the collar of each dog used.

(f) Nothing in this subsection shall exempt guard dogs from any of the other provisions of this chapter.

(g) A guard dog permit shall be valid for the period of one year and must be renewed annually within 30 days prior to the expiration date.

(h) Each permit must be obtained prior to housing or utilizing guard dogs at the commercial properties where guard dogs are in use.

(i) This section does not apply to dogs used by federal, state, county or municipal law enforcement agencies, or correctional institutions.

Sec. 5-79 - Commercial animal enterprise permit.

(a) Requirements for a Commercial Animal Enterprise permit.

(1) Upon inspection of the facility or premises by the Animal Control Officer, the permit shall be issued if the following conditions are met:

- a. The facility or premises shall be of sufficient size as to allow each animal kept to move about freely. The size of a facility or premises shall be in proportion to the size of the individual animal's height and weight unless otherwise determined by this chapter.
- b. Adequate food and water shall be provided to each animal.
- c. Animals kept shall be maintained in good health and free of malnutrition and dehydration.
- d. The facility or premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.
- e. The animals and the facility must be kept free of odor or stench offensive to a person of ordinary sensibilities.
- f. The animals must be maintained in a manner which does not pose a danger to the health of the animals or to adjacent animals.
- g. The animals must not cause noise offensive or disturbing to a person of ordinary sensibilities within a 200 foot radius of the premises.
- h. All animals must be vaccinated and must wear current rabies vaccination tags and city license tag at all times in accordance with this chapter.
- i. The applicant or holder of the permit shall not have been issued citations for violation of this chapter on two or more separate occasions, or animals covered by or to be covered by the permit have not been impounded on two or more separate occasions, or animals covered by or to be covered by the permit have not been in the possession of the Animal Control Division for any amount of time or delivered to the Animal Control Division on two or more separate occasions.
- j. The Chief of Police shall adopt standard operational procedures for the Animal Control Division to follow during the inspection of the premises or facility proposed for permitting and during the periodic monitoring of such premises or facility.
- k. A commercial animal enterprise located in a residential area shall obtain written permission from property owners within a 200 foot radius of the premises or facility to operate. The commercial animal enterprise premises or facility shall comply with all other City ordinances relating to a home-based business.

(b) The Animal Control Division shall periodically inspect the facility or premises to ensure compliance with this chapter.

Sec. 5-80 - Multi-pet owner permit.

(a) No person shall maintain, harbor, or care for more than five cats or dogs in any combination without having obtained a multi-animal owner permit.

(b) A multi-pet owner shall spay or neuter all dogs and cats greater than six months of age prior to obtaining a multi-pet owner permit. Each dog must have a minimum of 150 square feet per dog six months of age or older in its outdoor enclosure or fence.

(c) Upon inspection of the premises set aside for the animals by the Animal Control Officer, the permit shall be issued if the following conditions are met:

(1) Premises shall be of sufficient size as to allow each animal kept to move about freely. Any indoor enclosures shall be in proportion to the size of the individual animal's height and weight.

(2) Adequate food and water shall be provided to each animal.

(3) Animals shall be maintained in good health and free of malnutrition and dehydration.

(4) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects, and flies that could be harmful to the animal's health and/or to the health of the general public.

(5) The premises and the animals shall be kept free of odor or stench offensive to a person of ordinary sensibilities.

(6) The animals must not cause noise offensive or disturbing to a person of ordinary sensibilities within a 200 foot radius of the premises.

(7) All animals must be vaccinated and must wear current rabies vaccination tags and city license tag at all times in accordance with this chapter.

(8) The applicant or holder of the permit shall not have been issued citations for violation of this chapter on two or more separate occasions, or animals covered by or to be covered by the permit have not been impounded on two or more separate occasions, or animals covered by or to be covered by the permit have not been in the possession of the Animal Control Division for any amount of time or delivered to the Animal Control Division on two or more separate occasions.

(9) The Chief of Police shall adopt standard operational procedures for the Animal Control Division to follow during the inspection of such premises proposed for permitting and during the periodic monitoring of such premises.

(10) A multi-pet owner located in a residential area shall obtain written permission from property owners within a 200 foot radius around the premises for approval of the permit.

(d) The Animal Control Division shall periodically inspect the premises to ensure compliance with this chapter.

Sec. 5-81 - Applicability.

(a) This article does not apply to:

- (1) Zoological parks accredited by the American Association of Zoological Parks and Aquariums;
- (2) Federally licensed research institutions;
- (3) A government agency that uses the animals for an agency related education, propagation, or behavior program;
- (4) A person holding a valid rehabilitation permit from the Texas Parks and Wildlife Department but only for animals which are in rehabilitation and scheduled to be released to the wild;
- (5) A research facility as defined by the Animal Welfare Act (7 USC 2132) and licensed by the U.S. Department of Agriculture;
- (6) A dangerous wild animal in the custody and control of a circus company or other similar entity not based in the City and the animal is in transit;
- (7) An animal subject to this article in the temporary custody and control of a television or motion picture production company during production activities; or
- (8) Any federal, state, or local government entity acting in official capacity and engaging in zoological activities.

Sec. 5-82 – 5-101 - Reserved.

Article IV - Dogs, cats, and other small animals.

Sec. 5-102 - Definitions.

Proper outdoor enclosure for a dog means a fence or kennel used as a primary or secondary means of restraining the dog. The fence or kennel must have a minimum dimension of 150 square feet and be at least four feet in height. The fence or kennel must form an enclosure secured such that the dog cannot climb, dig, jump, or otherwise escape of its own volition. Invisible fences or similar technology shall not constitute a proper primary enclosure.

Running line system or trolley system means a system of restraint for dogs that is made of a cable attached to two stationary points with an additional cable hanging down from the stationary cable that is attached to the dog. This system allows for a dog to run more freely and is less likely to be tangled by the cable in comparison to a tether attached to a stationary object on the ground.

Workday means Monday through Friday, excluding City holidays, from 8:00 a.m. until 5:00 p.m. and other hours designated by the Animal Control Division or the by the animal shelter.

Sec. 5-103 - Running at large.

(a) *Responsible party.* It shall be unlawful for any person who owns, keeps, harbors, or otherwise has control over any animal within the City to allow or permit such animal to run or be at large within the City.

(b) *Cats.* The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tag and city license tag. The prohibition shall apply to all other cats including those cats not spayed or neutered by six months of age.

(c) *Restraint required.* An animal shall be considered at large if it is:

(1) Off premises as follows:

- a. Any animals, except pet cats, which is not restrained by means of a leash or other physical apparatus of sufficient strength and length to control the actions of such animal while off-premises.
- b. Any cat which is creating a nuisance off the owner's property.

(2) On premises as follows:

- a. Any animal, except pet cats, not confined to the premises of the owner by a substantial fence of sufficient strength and height to prevent the animal from escaping;
- b. Any animal, except dogs, secured on the premises by a running line system or leash under immediate control of the owner, sufficient in strength to prevent the animal from escaping the premises and so arranged that the animal will remain upon the premises when the running line system or leash under the immediate control of the owner is stretched to full length;
- c. An animal intruding upon the property of a person other than the owners' property shall be defined as "at large;"
- d. Any animal within a vehicle in a manner that would prevent that animal's escape or contact with people or animals shall not be defined as "at large."

(3) Not under the control of its owner either by a leash or other suitable material attached to a collar or harness;

(4) Not restrained on the property of the owner by a fence. Secondary reinforcement may be required as a remedial measure due to violation of this chapter. Secondary reinforcement shall include but is not limited to wood, metal fencing materials, and secondary invisible fence or similar technology.

(5) An animal inside a vehicle parked in a public place or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

(d) *Snakes.* It shall be unlawful for a person to have a snake in a park or other public place unless the snake is kept in an appropriate cage or enclosure.

(e) *Impoundment.* The animal control officer for the City may impound any animal observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the animal control officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the animal control officer may impound the animal or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the animal control officer may enter the property, other than a private dwelling for the purpose of impoundment or issuance of a citation, or both.

(f) *Prima facie evidence.* Proof that an animal was found at large in violation of this section, together with proof that the defendant was the owner of such animal at the time, shall constitute *prima facie* evidence that the defendant allowed the animal to be at large.

Sec. 5-104 - Impoundment generally.

(a) Animals owned or harbored in violation of this chapter or state law or animals in situations or circumstances addressed in this article, shall be taken into custody by the Animal Control Division and impounded under the chapter.

(b) A dog or cat shall have a microchip implanted by shelter staff if no microchip is located in the animal at the time of impoundment.

(c) Owners of impounded animals shall pay all fees and costs related to the impoundment as set by the City's impoundment facility.

Sec. 5-105 - Redemption of impounded animal.

(a) Except as may be provided elsewhere in this chapter, the owner of an animal impounded in accordance with this chapter may reclaim, on any workday, such animal upon showing satisfactory proof of ownership and paying all impoundment fees and any other expenses incurred by the City or its agent in keeping the animal or attempting to locate the owner of the animal. If the owner does not pay such fees or secure an alternate fee satisfaction option provided for in Article IX relating to Fees, the animal may be adopted or otherwise disposed of by the City or its agent.

(b) If a dog or cat has been impounded on a prior occasion, the dog or cat must be spayed or neutered before being released to the owner and the following actions shall be taken:

- (1) The dog or cat shall have a microchip implanted by shelter staff if no microchip is located in the dog or cat at the time of impoundment.
- (2) The fee for the microchip and impoundment shall be paid by the owner to the animal shelter.
- (3) The owner of the dog or cat shall arrange the spay or neuter surgery.
- (4) The dog or cat will be transported to the veterinarian by an animal control officer or an employee or agent of the animal shelter.
- (5) The cost to spay or neuter the dog or cat shall be paid by the owner to the veterinarian.
- (6) After the surgery is performed, the veterinarian may release the dog or cat to the owner.

Sec. 5-106 - Disposition of dogs and cats.

(a) With no identification. All dogs and cats impounded by an animal control officer or brought to the animal shelter by a person other than the presumed owner or owner shall be held for a minimum of 72 hours during which time the owner may present proof of ownership at the shelter. After paying all applicable fees, the owner may reclaim the dog or cat. If the dog or cat is not claimed after 72 hours in the shelter, the dog or cat shall become property of the animal shelter.

(b) With identification. Dogs and cats wearing traceable identification or whose owner is known impounded by an Animal Control Officer, or brought to the animal shelter by a person other than the presumed owner or owner of, shall be held in the shelter for a minimum of five complete days from the time of arrival. The animal control officer will notify the owner. The owner must claim the animal during the five-day period or notify the animal control officer or animal shelter in writing of the intention to claim the dog or cat, the date by which the dog or cat will be claimed, and arrange for payment of all applicable fees. If a dog or cat is not claimed within the five-day period or the owner does not respond to the notification, the animal shall become the property of the animal shelter on the sixth day.

(c) Surrendered by the owner or presumed owner. An animal surrendered by the owner or presumed owner to the Animal Control Division shall become the property of the City upon completion of the surrender form.

(d) Animals other than dogs, cats, or estrays impounded. All animals other than dogs, cats, strays, or animals holding current restricted animal permits that are impounded by the animal control officer or brought to the animal shelter by a person other than the owner or presumed owner shall become the property of the animal shelter unless such ownership is prohibited by state or federal law.

(e) Disposition. An animal that cannot be adopted or transferred to an appropriate agency or organization shall be euthanized by an injection of substances approved for euthanasia by the American Veterinary Medical Association and/or the Texas Veterinary Medical Association and administered in compliance with policy and the laws of the state. All animals listed as endangered or protected shall be transferred to the proper authority at the earliest possible date.

Sec. 5-107 - Animals held on complaint.

If a complaint has been filed in Municipal Court against the owner of an impounded animal for a violation of this chapter, the animal may be held on the order of the Municipal Court judge. The Municipal Court judge may also direct the owner to pay any penalties for violation of this chapter in addition to all impoundment fees. Surrender of an animal to the Animal Control Division does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this chapter.

Sec. 5-108 - Tampering with animal shelter or impoundment vehicle.

It shall be unlawful for any person to break into, open, pull down the enclosure of or make any opening into the animal shelter or any enclosure belonging to or used by the City to impound or keep animals. It shall also be unlawful for any person to turn out or release, cause to be turned out or released, or aid and abet the turning out or release of any animal from the animal shelter, from an impoundment vehicle or from an enclosure used by the City for the impoundment of animals.

Sec. 5-109 - Nuisance animals.

(a) As used in this article, a nuisance animal shall be defined as an animal that:

- (1) Molests or chases pedestrians, passersby or passing vehicles, including bicycles, or molests, attacks or interferes with other animals or persons on public property or private property other than the owners’;
- (2) Is repeatedly at large; specifically, three or more times per 12 month period (excluding domestic cats);
- (3) Damages, soils or defiles public property or private property, other than property belonging to or under the control of the owner;
- (4) Repeatedly defecates on property not belonging to or under the control of its owner, unless such waste is immediately removed and properly disposed of by the owner of the animal (including domestic cats);
- (5) Produces odors or unclean conditions sufficient to annoy persons living in the vicinity; or
- (6) Is unconfined when in heat.

(b) If the animal control officer determines that any animal is a nuisance, the animal control officer may issue an order requiring that the owner meet certain remedial requirements to

correct the conduct of the animal. The order, the form of which shall be provided for by policy, shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file a written appeal to this order clearly stating the reasons for the appeal, to Municipal Court within ten days of service. Municipal Court shall conduct a hearing to determine the issues stated in the written appeal. Nothing herein precludes the City from seeking other remedies if owners fail to comply with the remedial requirements stated or the decisions rendered in the appeal process.

(c) Persons residing within 200 feet radius of a person who harbors or keeps an animal that they believe to be a nuisance may initiate a written, signed complaint, the form of which shall be provided for by policy, with the Animal Control Division. The Animal Control Division shall investigate the merits of such complaints to determine if the stated animal is a nuisance animal as defined in this section. If the animal is determined to be a nuisance animal, the procedure set forth in subsection (b) of this section shall apply.

Sec. 5-110 - Animal defecation in certain areas.

(a) *Prohibited.* It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly, or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than the owners' property. That the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

(b) *Exception.* It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

Sec. 5-111 -Confinement during estrus.

(a) *Secured enclosure required.* Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building, or secure enclosure and the area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animals except for controlled breeding permitted by the owner of the female. The owner shall have a Commercial Animal Enterprise permit if the animal is being used for breeding purposes.

(b) *Tethering the animal with running line system.* Additionally, if the dog's owner or handler remains outside within visual range of the dog throughout the period of restraint, the female dog or cat shall not be tethered on a running line except in a secured enclosure. During the time the animal is within a secured enclosure, the female dog may not be tethered in a manner that prevents her from defending herself or from avoiding a male.

(c) *Removal of the animal.* Owners who do not comply shall be ordered to immediately remove the animal in heat to a veterinary hospital or the animal shelter. Failure to comply with the removal order of the animal control officer shall be a violation of this chapter and the dog

or cat will then be impounded as prescribed herein. All expenses incurred, as a result of this confinement, shall be paid by the owner.

Sec. 5-112 - Animals in motor vehicles.

(a) It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, or recklessly, or with criminal negligence endanger the animal's health, safety, or welfare. It shall be unlawful for any person to leave an animal in an unattended standing or parked vehicle or enclosed space without providing the animal with adequate air ventilation and protection from environmental temperature variations, including heat and cold. An animal control officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety, or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to the animal shelter or to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where the officer can be contacted, and the location where the animal may be claimed by the owner shall be attached to the vehicle. A person that violates this section shall bear the full cost and expense incurred by the City in the care, medical treatment, impoundment cost, and disposal of the animal, including the removal from a vehicle, in addition to any criminal penalty imposed under this section.

(b) In instances where occupants of motor vehicles are involved in a traffic accident or other vehicle-related incidents which result in animals being left uncontrolled or unattended, animal control officers are authorized to take custody of the animals. Officers are authorized to transport such animals to the animal shelter, a veterinarian, or animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Owners shall bear the full cost and expense incurred by the City in the care, medical treatment, impoundment costs, and/or other associated costs.

Sec. 5-113 - Tethered animals.

(a) As a secondary means of restraint to a proper enclosure, a dog may be attached to a running line system providing that:

- (1) A running line system is set inside a proper fence to prevent any person or child from entering the area occupied by said dog;
- (2) Only one dog may be attached to each running line system;
- (3) Tethers and cables attaching the dog to the running line system must be made of a substance which cannot be chewed by the dog and shall not weigh more than 1/18 of the weight of the dog being tethered;
- (4) A running line system must have a swivel installed at each end of the tether or cable attached to the dog. The system must be attached to a stationary object that cannot be moved by the dog;

- (5) The running line system must be at least ten feet in length and mounted at least four feet and no more than seven feet above ground level;
- (6) The length of the tether from the running line system to the dog's collar should allow access to the maximum available exercise area and allow the dog access to food, water, shelter, and shade;
- (7) The system is attached to a properly fitted harness or collar with enough room between the collar and the dog's throat through which two fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering a dog to a running line system;
- (8) The dog is tethered at sufficient distance from any other objects to prohibit the tangling of the cable, prohibit the dog from extending over an object or an edge that could result in injury or strangulation of the dog, and the tether is of sufficient distance from any fence to prohibit the dog access to the fence;
- (9) It shall be unlawful to tether within 500 feet of a school;
- (10) Feces is removed from the tethered area on a daily basis; and
- (11) The dog shall not be allowed to remain tethered during a severe weather event. A severe weather event includes conditions in which:
 - a. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - b. A heat advisory has been issued by local or state authority or jurisdiction;
 - or
 - c. A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(b) It shall be unlawful for any person to tether or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained, or fastened on public property or private property. It shall be unlawful to tether or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, shade, food, or water.

Sec. 5-114 – 5-134 - Reserved.

Article V - Livestock, fowl, and rabbits.

Sec. 5-135 - Definitions.

Brand means a mark typically used with livestock made on the skin of an animal to indicate the ownership of the animal.

Estray means stray livestock, stray exotic livestock, and stray exotic fowl or as otherwise defined in Texas Agriculture Code chapter 142, as amended.

Fowl means and includes all birds, chickens, turkeys, pheasants, quail, guineas, geese, ducks, peafowl, and other domestic feathered creatures and nondomestic feathered creatures, regardless of age or sex.

Hen means a female chicken.

Miniature livestock means a dwarfed variety, or a species bred to be smaller than its standard counterpart. Whether a particular variety or species is miniature livestock may be validated by reference to the published breed definition for registration by a nationally recognized breeding association of a particular variety or species.

Sec. 5-136 – Livestock and Miniature Livestock.

(a) It shall be unlawful for the owner of livestock and/or miniature livestock to:

- (1) Cause or permit livestock and/or miniature livestock to be pastured, herded, staked, or tied in a roadway, park, or other public place;
- (2) Tie, stake, pasture or permit the tying, staking, or pasturing of an animal on private property within the City without the consent of the owner or occupant of such property, or to permit livestock to trespass upon a roadway or other public place or private property; or
- (3) Permit any livestock and/or miniature livestock to be or remain during the nighttime secured by a stake or secured in any manner other than by enclosing such animal in a pen, corral, or barn sufficient and adequate to restrain such livestock.

(b) It shall be unlawful for any person to keep or harbor any livestock and/or miniature livestock within the City unless the property is zoned agriculture.

(c) It shall be unlawful for any person to keep or harbor any livestock and/or miniature livestock within the City in a pen or other enclosure on property with less than one acre of area for each head of livestock and/or miniature livestock.

(d) A livestock and/or miniature livestock owner shall provide the Animal Control Division with current contact information and the current locations of their livestock.

(e) This article does not apply to an animal that is an FFA or 4-H project and that is in good standing. The animal should be on the official list of authorized projects filed with the City by the authorized sponsor of such FFA or 4-H program. Such exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the Animal Control Division that the animal is not being maintained and cared for in compliance with the standards of such FFA or 4-H program, or is, otherwise, no longer an authorized FFA or 4-H project.

Sec. 5-137 - Hens, other fowl, and rabbits.

(a) No more than six hens and/or two other fowl and/or two rabbits may be kept at a residence.

(b) All hens, other fowl, and rabbits kept at a residence shall have a pen, coop, or hutch constructed and available to such animals. All hens, other fowl, and rabbits must remain on the owner's property behind a fence, on a leash, or on a tether.

(c) The pen, coop, or hutch shall be at least 20 feet from neighboring residences and at least ten feet from the owner's residence.

(d) The keeping of roosters at a residence is prohibited.

Sec. 5-138 - Impoundment of estray and livestock and miniature livestock.

The animal control officer, upon receipt of a report or upon discovery of an estray within the City, shall as soon as possible notify the Hays County Sheriff's Department, report the presence of the estray, and the location where the estray can be found if an owner is not located for the estray in a reasonable amount of time after a diligent search of available livestock owner information. The Hays County Sheriff's Department will then notify their designee to impound the estray per Texas Agriculture Code section 142.009, as amended.

Sec. 5-139 - Impounded estray, livestock, and miniature livestock.

(a) Notice of impounded estray shall be governed by section 142.009 of the Texas Agriculture Code, as amended.

(b) Recovery of impounded estray shall be governed by section 142.010 of the Texas Agriculture Code, as amended.

(c) Disposition or sale of impounded estray shall be governed by section 142.013 of the Texas Agriculture Code, as amended.

(d) Recovery by owner of sale proceeds shall be governed by section 142.014 of the Texas Agriculture Code as amended.

(e) Use of estrays shall be governed by section 142.011 of the Texas Agriculture Code, as amended.

(f) Death or escape of impounded estray shall be governed by section 142.012 of the Texas Agriculture Code, as amended.

Sec. 5-140 - Estray, other livestock and fowl.

(a) It is unlawful for the owner or person in control of any horse, mule, jack, jenny, cattle, hog, goat, sheep, or miniature livestock (estray) to permit the animal to run at large on land not owned or under the control of the owner, on a roadway, or other public place in the City.

(b) It is unlawful for the owner or person in control of any chicken or other fowl to permit the animal to run at large on another's property, on a roadway, or other public place in the City.

(c) It is unlawful and constitutes a nuisance for the owner or any person in charge or control of any pigeons in the City to allow such pigeons to run or fly at large in the City.

Sec. 5-141 - Other restrictions.

(a) *Keeping of animals near City water supply.* It is unlawful and constitutes an offense for any person, whether for himself or as the agent of another or others, to keep or to participate in keeping any horse, hog, cattle, sheep, goat, other livestock and/or fowl in any pen or lot used to confine any such multiple animal operation within 500 feet of any water supply wells from which the City obtains its principal water supply as specified in Title 31 of the Texas Administrative Code section 290.41, as amended.

(b) *Dead animals and fowl.* It shall be unlawful for a person to place, cause to be placed, or allow a dead animal to remain in or near the person's premises, the premises of another person, or on the streets or other public roadways.

Sec. 5-142 - 5-168 - Reserved.

Article VI - Dangerous animals.

Sec. 5-169 - Definitions.

Dangerous animal means an animal which:

- (1) Has inflicted a bite on a human being without provocation on public or private property;
- (2) Has killed or severely injured a domestic animal without provocation while off the owner's property;
- (3) Is trained or harbored for fighting which may be determined based on whether the animal exhibits behavior and/or bears physical scars or injuries which indicate that the animal has been trained or used for the purpose of fighting;
- (4) Is a warm-blooded mammal which is known to carry or be susceptible to the rabies virus and which cannot be effectively vaccinated against that virus with any vaccine approved by the Texas Department of State Health Services or its successor;
- (5) Is a hybrid animal or any pet wildlife which has attacked a human or which is apprehended or observed unrestrained; or
- (6) Is a venomous or carnivorous fish or reptile.

Serious injury means bodily injury resulting from severe attack or bite from an animal which produces severe pain, trauma, loss of blood or tissue, and which requires medical treatment of wounds inflicted by the animal.

Severe attack means an attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.

Severe bite means a puncture or laceration made by an animal's teeth which breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without considerations of rabies prevention alone.

Unprovoked means an action by an animal that is not:

- (1) In response to being tormented, abused, or assaulted by any person with an object or part of a person's body;
- (2) In response to pain or injury;
- (3) In protection of itself or its food, kennel, immediate territory, or nursing offspring;
- (4) In response to an assault or attempted assault on a person; or
- (5) In response to any part of the animal's body being pulled, pinched, or squeezed by a person.

Sec. 5-170 - Purpose.

It is the intention of this article to provide a means for dealing with an animal that is dangerous or, by its conduct, has indicated that it may represent a danger in the future. In interpreting the definitions contained in this article and in implementing its provisions, the Animal Control Division shall recognize the right of a person to use an animal as a protector; however, the Animal Control Division shall also take into consideration the right of a neighborhood to be free from fear that an animal may leave the premises of its owner or keeper and attack and injure a person or other domestic animal.

Sec. 5-171 - Reporting of incident.

A person shall report an incident involving a dangerous animal as defined by section 5-169 to the Animal Control Division within 24 hours of the incident. The Animal Control Division shall investigate the animal and alleged incident.

Sec. 5-172 - Pending investigation of incident.

- (a) The Animal Control Division shall investigate all reports of an attack or unprovoked act by an animal.
- (b) Sworn statements shall be obtained from any witnesses or victims of the incident.
- (c) The sworn statement shall contain the following:
 - (1) Nature and the date of the incident;
 - (2) The location of the incident;
 - (3) The name and address of the owner of the animal in question; and
 - (4) The description of the animal in question.

(d) Pending the completion of the investigation the animal shall be held in a designated location for impoundment. The Animal Control Division shall issue a notice requiring that the animal be delivered to the designated location within 24 hours. If the animal is at large at the time of the incident the animal shall be immediately impounded by the Animal Control Division.

(e) If the owner or presumed owner fails to deliver the animal to a designated location for impoundment, the Municipal Court judge shall order and issue a warrant authorizing the Animal Control Division to seize the animal.

(f) The animal shall not be released from the designated location until the investigation proves unfounded or the final determination of a dangerous animal and disposition of the animal is made in compliance with this Chapter.

(g) Upon impoundment, the animal shall have a microchip placed for identification and the microchip number shall be provided to the Animal Control Division.

(h) The owner of an animal subject to this article shall bear full cost and expense incurred by the City in the care, medical treatment, and impoundment of the animal.

Sec. 5-173 - Notification of determination that an animal is dangerous.

(a) If an animal commits an act described in the definition of dangerous animal and an investigation determines that the animal is a dangerous animal, notice of the determination shall be provided to the owner or presumed owner.

(b) The notice of dangerous animal determination shall be provided to the owner or presumed owner in writing and as otherwise required by City policy.

(c) The owner or presumed owner may surrender the animal to the animal shelter at any point during the investigation and shall notify the Animal Control Division that the animal has been surrendered.

Sec. 5-174 - Hearing.

(a) A hearing shall be conducted within 10 days of the owner receiving the dangerous animal notification to determine the disposition of the animal. The Municipal Court shall give written notice of the time and place of the hearing to the owner or presumed owner of the animal and to the Animal Control Division.

(b) Any interested party, including the city attorney, is entitled to present evidence at the hearing.

(c) The Municipal Court shall make a determination on the question of whether the animal is a dangerous animal as defined by this chapter, based on the preponderance of evidence presented.

(d) If the owner or presumed owner of the animal does not appear at the hearing, the Municipal Court may proceed with evidentiary findings without the owner's or presumed owner's presence.

(e) Upon conclusion of a hearing if the court finds that the animal is a dangerous animal the court shall order that the owner comply with one of the following requirements:

(1) Removal of the dangerous animal from within the City limits. The owner must provide, in writing, the destination address for the animal and proof that the owner has alerted the agency responsible for animal control in the destination area to the animal control officer in charge of the case prior to release of the animal; or

(2) Authorize the location where the dangerous animal is held to proceed with humane euthanasia; or

(3) Registration and compliance with all of the requirements in this chapter for keeping a dangerous animal, at the owner's expense, prior to the animal's release from the designated location where the animal is being held.

(f) The Municipal Court shall give written notice of the court's determination and order to the owner or presumed owner of the animal.

(g) The owner or presumed owner may appeal the decision of the Municipal Court in the manner described by Texas Health and Safety Code section 822.0424, as amended. During the pendency of such appeal, the animal shall remain at the designated location. The Municipal Court shall determine the estimated costs to house and care for the impounded dangerous animal during the appeal process and shall set an appeal bond adequate to cover those estimated costs.

Sec. 5-175 - Registration requirements for owner of dangerous animal.

(a) The owner must comply with the following to register a dangerous animal:

(1) Present proof of liability insurance or financial responsibility in the amount of at least \$250,000.00 to cover damages resulting from an attack by the dangerous animal. The insurance requirements contained herein shall be maintained at all times and shall not be cancelled by the owner, until the owner ceases to own the dangerous animal;

(2) Present proof of current rabies vaccination in the form of a rabies vaccination certificate for the dangerous animal. When the animal is revaccinated for rabies as, the owner shall provide the updated rabies vaccination certificate to the Animal Control Division;

(3) Present proof that the animal has been altered to prevent reproduction and proof of the animal has a microchip. Proof of being altered can be satisfied through visual inspection of the tattoo or mark placed at the time of surgery if the certificate of sterility is not available or the medical record is unavailable;

(4) Provide a proper enclosure for the dangerous animal which meets or exceeds the following requirements:

- a. The enclosure is a house, a building, a fence, pen or other structure;
- b. The fence, structure, or pen measures at least six feet in height;
- c. The structure or pen is a minimum of 150 square feet in space.
- d. The fence, structure, or pen forms an enclosure suitable to prevent entry of young children and must be locked and secured such that the animal cannot climb, dig, jump, or otherwise escape of its own volition.
- e. The enclosure shall be securely locked at all times and have secured sides to prevent a dangerous animal from escaping.
- f. The enclosure shall provide protection from the elements for the animal.
- g. The enclosure must have a secure top that provides shade and a concrete floor.

(5) Invisible fences or similar technology shall not constitute a proper enclosure.

(6) The enclosure shall be inspected by an animal control officer and if found compliant with the requirements of this section, the enclosure shall be approved by the officer.

(7) Enclosures erected to confine dangerous animals must comply with all zoning and construction regulations of the City.

(8) The perimeter fence around the property where the dangerous animal is kept shall be locked and secured to prevent entry into the property.

(9) Post a minimum of three signs on the premises warning that there is a dangerous animal on the property. The signs will be provided to the owner by the City of Kyle with the payment for the dangerous animal registration. The owner of a dangerous animal shall post signs giving notice of the presence of the dangerous animal on the property in the form and in the locations designated by the Animal Control Officer or a court order. Additional signs may be required as per policy.

(10) A dangerous animal collar provided to the owner by the City of Kyle upon payment for the dangerous dog registration will be placed on the animal.

(11) Any further identification required and designated by the order of the City.

(b) It is a violation of this Chapter for the owner of a dangerous animal to fail to post signs in accordance with this Chapter, or to remove signs that are required by this Chapter and fail to replace them.

(c) It shall be unlawful for any person to keep a dangerous animal in a house or building when the windows are open or when screened windows, screened doors, or other penetrable barriers are the only obstacles preventing the dangerous animal from exiting the structure and running

at large. If a house or building is used as a proper enclosure there must be a secondary door on the exterior on all exits or a secondary safety gate inside the house or building keeping the dangerous animal away from direct access to the exits.

(d) When the dangerous animal is taken outside of the approved enclosure, the animal must be securely muzzled in a manner that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent it from biting a person or other animal. The animal must be restrained by a nylon leash that does not exceed six feet in length and is under the immediate control of the area into which the animal has been moved. The leash shall be in the immediate control of a person over the age of 18. The leash shall be attached to a properly fitted collar or harness with a safety carabineer.

(e) Prior to selling or moving the dangerous animal either inside or outside the City limits, the owner must notify the Animal Control Division of his intentions. In the event the animal is moved permanently outside the City limits, the owner must comply with state law by notifying animal control in charge of the area to which the animal has been moved. The owner must also provide to the animal control officer in charge of the case the destination address for the animal and proof that the owner has alerted the agency responsible for animal control in the destination address.

(f) A person who brings an animal into the City limits that has been declared dangerous by another animal control authority must notify the Animal Control Division of the new address where the animal will be kept and upon presentation of the animal's prior registration tag that has not expired shall pay a registration fee . The Animal Control Division shall issue a new tag to be placed on the animal's collar or harness. The owner must also comply with all requirements set out in this chapter prior to bringing the dangerous animal into the City.

(g) The Animal Control Division shall periodically inspect the location and premises of all dangerous animals to ensure compliance with this chapter. The Animal Control Division shall have the right to inspect the residence and proper enclosure for the dangerous animal.

(h) Responsible pet ownership education shall be completed by the owner or presumed owner of a dangerous animal. The course will be completed online and proof of successful completion of the course shall be provided to the Animal Control Division prior to the animal's release from the designated location of impoundment.

Sec. 5-176 - Registration.

(a) The owner must register the animal with the Animal Control Division, and pay the fees as required by state law not later than 30 days after the owner is notified that the dog is dangerous by the Animal Control Officer and upheld by Municipal Court. The fee will include the costs of required dangerous dog signs and dangerous dog collar provided to the dog owner.

(b) Two color photographs of the animal shall be provided with the application that clearly identifies the animal.

(c) The registration shall not be transferable and shall be valid for the period of one year and must be renewed within 30 days prior to the expiration date.

(d) A current copy of the liability insurance policy for the dangerous animal and rabies vaccination certificate shall stay on file with the Animal Control Division at all times.

(e) Registration shall be completed after all requirements for owning the dangerous animal is met and prior to the animal being released from the designated location for impoundment.

Sec. 5-177 - Notifications.

(a) The owner or presumed owner of a dangerous animal shall immediately notify the Animal Control Division of the following:

- (1) All attacks by the dangerous animal;
- (2) Death of the dangerous animal;
- (3) The sale of the dangerous animal or moving of the dangerous animal;
- (4) The dangerous animal is at large;

Sec. 5-178 - Violations.

(a) Upon determination by an animal control officer that the owner or presumed owner of a dangerous animal has failed to keep the animal in compliance with this chapter, the Animal Control Division shall request a hearing before Municipal Court to determine the disposition of the dangerous animal.

(b) The Animal Control Division is authorized to impound a dangerous animal that is not kept in compliance with this chapter until a hearing is held pursuant to this section. If the owner or presumed owner does not deliver the dangerous dog or refuses to relinquish the dangerous animal to Animal Control, the Municipal Court may order the Animal Control Division to seize the dangerous animal and issue a warrant authorizing the seizure.

(c) The Municipal Court shall set a time for a hearing to determine whether the owner or presumed owner of the dangerous animal has complied with all the requirements for keeping a dangerous dog. The hearing must be held not later than the tenth day after the date on which the dangerous animal is seized or delivered.

(d) The Municipal Court shall give written notice of the time and place of the hearing to the owner or presumed owner of the dangerous animal and to the Animal Control Division.

(e) Any interested party, including the city attorney, is entitled to present evidence at the hearing.

(f) If the owner or presumed owner of the animal does not appear at the hearing, the Municipal Court may proceed with evidentiary findings without the owner's or presumed owner's presence.

(g) The Municipal Court shall make a determination, based on the preponderance of evidence presented, whether the owner or presumed owner of the dangerous animal has complied with all the requirements for keeping a dangerous animal.

(h) If the Municipal Court finds that the owner or presumed owner has complied with all of the requirements of this chapter, the Municipal Court shall order the animal returned to its owner or presumed owner. The animal shall be returned to the owner or presumed owner upon full payment of the cost of seizure, impoundment, and care of the animal.

(i) If the Municipal Court finds that the owner or presumed owner has failed to comply with the requirements of this chapter, the Municipal Court shall order one of the following:

(1) The humane destruction of the dangerous animal by the designated location where the animal is held on or after the eleventh day after the date of the order; or

(2) The immediate removal of the dangerous animal from the City. In the case of removal, the owner must provide, in writing, the destination address for the animal and proof that the owner has alerted the agency responsible for animal control in the destination area to the animal control officer in charge of the case prior to release of the animal.

(j) If the dangerous animal is found to be within the City on or after the eleventh day after the date of the order, the court will issue a warrant authorizing the Animal Control Division to seize the animal and order the humane destruction of the animal.

(k) The owner or presumed owner may appeal the decision of the Municipal Court in the manner described by Texas Health and Safety Code 822.0424, as amended. During the pendency of such appeal, the animal shall remain at the designated location. The Municipal Court shall determine the estimated costs to house and care for the impounded dangerous animal during the appeal process and shall set an appeal bond adequate to cover those estimated costs.

Sec. 5-179 - Defenses.

(a) No animal may be declared dangerous if:

(1) The threat, injury, or damage was sustained by a person who at the time:

a. Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;

b. Was tormenting, abusing, or assaulting the animal or has in the past been observed or reported to have tormented, abused, or assaulted the animal and the animal was not at large at the time of the offense;

- c. Was committing or attempting to commit a crime;
- d. If the animal was protecting or defending a person while in that person's control from an unjustified attack or assault; or
- e. If the animal was injured and responding to pain.

(2) The person's animal was on a leash and the person was in immediate control of the animal during the incident.

(3) The animal caused bodily injury to another animal and both animals were at large when the injury occurs, or the injured animal was running at large when the injury occurred.

(4) If the incident occurs at a City dog park within the fence of the park.

(b) The provisions of this article shall not apply to animals under the control of a governmental law enforcement, correctional, or military agency.

(c) The provisions of this article shall not apply to a dog whose conduct has brought it within the coverage of Texas Health and Safety Code Chapter 822.

Sec. 5-180 – 5-200 - Reserved.

Article VII - Wild Animals and Prohibited Animals.

Sec. 5-201 - Definitions.

Dangerous wild animal means a lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, gorilla, or any hybrid of these listed animals and as otherwise provided in Texas Health and Safety Code chapter 822, as amended.

Prohibited animals means any animal prohibited by state or federal law and including any individual species and/or subspecies of the following animals: antelope, lions, tigers, ocelots, bobcats, lynx, cougars, leopards, cheetahs, jaguars, hyenas, bears, lesser pandas, ferrets born in natural habitats, binturong, ostriches, emus, elephants, Vietnamese pot belly pigs, miniature pigs, apes, or such other nondomestic species of animal not common to the City and surrounding area.

Wild animal or wildlife means prohibited animals and a nondomestic creature (mammal, amphibian, reptile, or fowl) that is of a species wild by nature, normally found in a wild state, and which is not naturally tame or gentle, or which, because of its size, vicious nature, and other characteristics, constitutes a danger to human life or property.

Sec. 5-202 - Prohibited animals.

(a) No person may possess a prohibited animal within the City limits. Prohibited animals shall include, but are not limited to, animals prohibited by state or federal law a hybrid of prohibited

animals, or other class of animals determined to be dangerous by the Animal Control Division or a dangerous animal added to the list of a high risk animal in the Texas Rabies Control Act, as amended, and as follows:

(1) Class mammalian.

- a. Family Canidae (such as wolves, coyotes, fox, and hybrids) except domesticated dogs;
- b. Family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except ferrets;
- c. Family Procyonidae (such as raccoons);
- d. Family Ursidae (such as bears); and
- e. Order Chiroptera (such as bats).

(2) Poisonous reptiles, cobras, and their allies (Elapidae and Hydrophiidae); vipers and their allies (Crotalinae and Viperidae); Boonslang and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators, and their allies (Order Loricata).

(3) Any venomous spiders.

Sec. 5-203 - Dangerous wild and other nondomestic animals—Prohibited.

(a) The animals specified in this section as dangerous wild animals shall be deemed as contraband and no person may possess any individual species and/or subspecies of the following dangerous wild animals:

- (1) Order Carnivora, family felidae (such as lions, tigers, jaguars, leopards and cougars, ocelot, lynx, bobcat, and cheetahs)
- (2) Hyenas;
- (3) Bears;
- (4) Lesser pandas;
- (5) Ferrets from natural habitats;
- (6) Suborder Strepsirrhini and Haplorrhini (such as monkeys, chimpanzees, and apes).

(b) No person may possess any individual species of the following animals:

- (1) Antelope;
- (2) Binturong;
- (3) Family Suidae (such as wild or domestic pigs, miniature pigs, and Vietnamese pot belly pigs);
- (4) Elephants;

(5) Such other nondomestic species of animal not common to the City and surrounding area.

Sec. 5-204 - Wild animals or wildlife.

- (a) No person shall possess, keep or have care, custody, or control of a prohibited animal, wild animal or wildlife within the City except as provided herein.
- (b) It shall be unlawful for a person to sell, give, transfer or import a wild animal into the City.
- (c) This section shall not apply to an approved zoological parks or circuses. Nor shall this section apply to zoological parks owned or operated by a governmental entity.
- (d) It shall be a defense to prosecution under this section that the wild animal being kept was an infant or injured animal which was not capable of surviving on its own and such animal was kept for three days or less, or for such reasonable time as was necessary before surrendering the animal to a licensed wildlife rehabilitator.

Sec. 5-205 - Exhibitions of certain animals prohibited.

No person shall keep, or permit to be kept, on his premises a dangerous wild animal or prohibited animal for display or exhibition purposes, whether gratuitously or for a fee. This section shall not apply to a zoo or circus, as defined in section 5-76.

Sec. 5-206 - Violations.

- (a) It shall be a violation of this article for a person to possess an animal described in sections 5-202, 5-203, and 5-204. Each day of violation for each animal shall constitute a separate offense.
- (b) It shall be a violation of section 5-205 for a person to keep or permit to be kept on his premises a dangerous wild animal or prohibited animal for display or exhibition purposes and each day of violation for each animal shall constitute a separate offense.
- (c) In addition to any criminal penalty for a violation of section 5-203, the person is liable for a civil penalty of not less than \$200.00 and not more than \$2,000.00 for each dangerous wild animal or prohibited animal for each day the violation continues. The city attorney may bring suit to collect the civil penalty and costs allowed by statute and the civil penalty shall be retained by the City.
- (d) It shall be a violation of this article to operate a circus or zoo without a valid permit issued pursuant to this article and each day of operation shall constitute a separate offense. In addition to any criminal penalty, if the circus or zoo at the time of violation is in possession of any dangerous wild animal, the liability for the civil penalty detailed in subsection (c) of this section, may be imposed for each dangerous wild animal possessed.

Sec. 5-207 – 5-227 - Reserved.

Article VIII - Rabies Control.

Sec. 5-228 - Definitions.

Quarantine means a period of ten days used for observation of a domestic or pet animal to determine the health status of that animal in relation to the rabies virus.

Quarantine by owner means an owner who quarantines an animal with the local rabies control authority's permission under the following conditions:

- (1) The animal must have a current rabies vaccination and be registered with Animal Control Division;
- (2) The animal must be housed or maintained in an enclosed structure, such as a house or garage, and must remain there for ten days;
- (3) If maintained outside, the animal must be behind a fence from which it cannot escape and inside a kennel from which it cannot escape;
- (4) The animal must be kept away from other animals and people except those in the immediate household;
- (5) The animals may not be removed from the City limits while under quarantine;
- (6) The owner shall notify the local rabies control authority immediately if the animal becomes sick or displays any behavioral changes;
- (7) The animal must be examined by the local rabies control authority or designee by the first day of home quarantine and again on the final day of quarantine. Upon final examination the authority may declare the animal to be free of the rabies virus or under questionable circumstance defer such examinations to a licensed veterinarian. In such instances, the owner shall be responsible for all associated costs and when required, produce proof of such veterinarian examinations;
- (8) The owners must allow the local rabies control authority, with reasonable notice, to view and confirm the health of the animal during the rabies quarantine period.

Rabies vaccination means the vaccination of a dog, cat, or other domesticated animal with an antirabies vaccine approved by the Texas Department of State Health Services or successor authority and administered by a veterinarian licensed by the state.

Sec. 5-229 - Vaccinations.

- (a) All dogs or cats four months of age or older within the City shall be vaccinated against rabies. Such vaccinations shall be repeated at the intervals prescribed by the Texas Department of State Health Services, or its successor.
- (b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate on a form approved by the state department of health. The veterinarian shall also issue a metal tag with the veterinarian's address and the year of the

vaccination stamped thereon. Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certificate of vaccination. The veterinarian shall retain a duplicate copy of the certificate and one copy shall be filed with the owner. Such certificate shall contain the following information:

- (1) The name, address and telephone number of the owner of the vaccinated dog or cat;
- (2) The date of vaccination;
- (3) The type of rabies vaccine used;
- (4) The year and number of the rabies tag; and
- (5) The breed, age, color and sex of the vaccinated dog or cat.

(c) Concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated animal a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance.

(d) It shall be unlawful for any person within the city to own, keep, possess, harbor or allow remaining upon premises under his control any dog or cat which has not been vaccinated as required herein. Any person establishing residence within the city shall comply with this article within ten days of establishing such residency.

Sec. 5-230 - Vaccination of impounded animals.

(a) After impoundment, all animals which are required to be vaccinated by this article which are redeemed by an owner from the animal shelter must be vaccinated against rabies in accordance with the requirements of this article, or the owner thereof must present a veterinarian's certificate showing a current vaccination.

(b) In order for an animal not vaccinated in accordance with the requirements of this article to qualify for final release, the animal shall be taken to a veterinarian for a rabies vaccination within seven days of conditional release of the animal. The animal shall be confined to the owner's residence until the rabies vaccination is completed. A rabies certificate shall be presented along with an application to obtain a current City license for the animal within seven days of conditional release. Failure to present the vaccination certificate to the Animal Control Division within the stated time shall be grounds for the immediate return of the animal to the animal shelter, and such animal may be destroyed immediately or otherwise disposed of. Such failure shall also constitute a misdemeanor punishable as set out in section 5-3, except that the minimum fine shall be \$200.00.

Sec. 5-231 - Proof of vaccination; dismissal; fine.

The failure of a dog or cat to wear a vaccination tag on a collar shall be prima facie evidence of the failure to vaccinate the animal as required by this article. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense

shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of an administrative fee.

Sec. 5-232 - Reporting rabid animals or rabies exposure.

- (a) It shall be the duty of animal owners, veterinarians, physicians other persons to report to the Animal Control Division cases of rabies observed brought to their attention. The report shall be made immediately upon diagnosis or suspicion of a case of rabies.
- (b) Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to an animal control officer within 24 hours of the occurrence.
- (c) Every physician or medical practitioner who treats a person for an animal bite or scratch that occurred within the city shall report the occurrence to an animal control officer within 12 hours of treatment to the animal control officer. The physician or medical practitioner shall provide the name, age, sex and precise location of the injured person and such other information as the officer may require.
- (d) Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Animal Control Division stating precisely where such animal may be found.
- (e) If a known suspected rabid animal bites or scratches a domestic animal, the incident shall be reported immediately to the Animal Control Division.

Sec. 5-233 - Animal bites and scratch reports; submission to quarantine.

- (a) *Report by victim.* A person who is bitten or scratched by an animal shall report the injury to the Animal Control Division within 24 hours of the occurrence. If the person bitten or scratched is a minor under the age of 17 years, the parent or guardian of the minor with knowledge of the incident, shall report injury to the Animal Control Division within 24 hours of the occurrence.
- (b) *Report of owner.* A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite or scratch shall report the injury to the Animal Control Division within 24 hours of the occurrence.
- (c) *Custody.* The animal committing the act shall be submitted to the animal shelter for quarantine. When the local rabies control authority goes to the premises where the animal that bit or scratched a person is being kept, the animal control officer may take immediate custody of the animal. Where suitable arrangements are made, the local rabies control authority may permit the animal to be transferred to another location for the remainder of the quarantine period. This duty to submit the animal to quarantine shall apply to any person who owns, keeps, harbors, has possession of or allows an animal to remain on premises under his control. If convicted of violating this section, a minimum fine of \$100.00 shall be imposed by the Municipal Court.
- (d) *Observation.* Any owned dog or cat having bitten or scratched a person shall be observed for a period of ten days from the date of the occurrence. The procedure and place of observation shall be designated by the investigating officer or responsible agency in compliance with state

law. If the dog or cat is not confined on the owner's premises for owner's quarantine, confinement shall be by impoundment in the animal shelter, or at a veterinary hospital of the owner's choice. Such confinement shall be at the owner's expense.

(e) *Strays.* Stray dogs and cats, or other animals whose owners cannot be located shall be confined in the animal shelter for a period of 96 hours and if unclaimed may be destroyed and the brain of such animal immediately submitted to a qualified laboratory for rabies examination.

(f) *Surrender of animal.* The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce the dog or cat for impoundment, as prescribed in this Chapter.

(g) *Home quarantine.* Home quarantine may be allowed only in those incidents where permitted by state law and agreed to by the animal control officer. Refusal to produce such dog or cat constitutes a violation of this section, and each day of such refusal shall constitute a separate and individual violation.

(h) *Wild, exotic or dangerous animals.* Any wild, exotic or dangerous animal that is considered high risk by state law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Wild animals which are classified as low risk animals shall be handled as dictated by state law.

Sec. 5-234 - Contents of required reports.

(a) An individual under a duty to report an incident in which an animal has bitten or scratched a person or animal, or to report an animal known or suspected to be rabid, shall report to the animal control officer the following information:

- (1) The location where the bite or scratch occurred.
- (2) The location where the animal which committed the act, or which is known or suspected to have rabies or have been exposed to rabies can be located.
- (3) The name and address of the person who was bitten or scratched.
- (4) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies can be found.

Sec. 5-235 - Quarantine and release.

(a) When an animal is required to be placed in quarantine, the animal shall be submitted for quarantine at the animal shelter. Only with the prior approval of the local rabies control authority may be animal be held in quarantine at any other location.

(b) An animal placed in quarantine shall be held for a period of ten days from the date of the bite or scratch. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.

(c) Upon release of an animal from quarantine, if the ownership of the animal is known, the owner has five days to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of as provided in this article without waiting for an additional 72 hours.

Sec. 5-236 - Submission of head for rabies diagnosis.

(a) If the animal that inflicted a bite or scratch on a person is a wild animal, the animal shall be humanely destroyed in such a manner that the brain is not mutilated. The head shall then be submitted to a laboratory certified by the Texas Department of State Health Services, or successor authority, for rabies diagnosis.

(b) If an animal under quarantine becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall be submitted to a laboratory certified by the Texas Department of State Health Services, or successor authority, for rabies diagnosis. The head of an animal that dies while in quarantine shall also be submitted for rabies diagnosis.

Sec. 5-237 - Cost of quarantine or rabies diagnosis.

(a) If, at the end of the required quarantine period, a quarantined animal is found to be free of rabies, the local rabies control authority shall order the release of the animal to the owner if the rabies vaccination provisions of this article have been satisfied and impoundment fees have been paid by the owner.

(b) If a head is submitted to the state for rabies diagnosis, the cost of removing the head and shipping it shall be paid by the owner of the animal.

(c) The local rabies control authority may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:

(1) The animal has a rabies vaccination certificate;

(2) The animal was on property under the control of the animal's owner when the bite or scratch occurred; and

(3) The bite or scratch occurred when the animal was acting to defend its owner or the property, or after provocation.

(d) If the animal is a wild animal, the local rabies control authority may order that all fees be paid by the person who was bitten or scratched.

Sec. 5-238 - Enforcement.

For the purpose of discharging the duties imposed by this article and to enforce the provisions in this chapter, the Animal Control Division is empowered to enter the premises where an animal is kept or harbored and to require the owner to produce the animal, the registration license or rabies vaccination tag for the animal in accordance with the provisions of this article. The Animal Control Division may also conduct random citywide canvassing and checks for compliance with this chapter.

Sec. 5-239 – 5-259 - Reserved.

Article IX - Fees.

Sec. 5-260 - Fees

(a) *Fee schedule.* The fee schedule in Appendix A to this Code shall apply to animals and owners or presumed owners of animals kept or harbored within the city limits of Kyle. The City shall not be required to bear the costs associated with processing an animal under this chapter that has an owner. The owner shall reimburse the City for any actual expenses and

shall be responsible for all fees set forth in Appendix A of this Code. The City may recover all fees, costs, and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this chapter or the state law in addition to a fine being charged. In extraordinary circumstances, certain fees related to redemption of impounded animals may be administratively waived for owners by supervisory approval by the animal shelter. Such administrative actions shall be guided by policy.

(b) Management cost. The City hereby establishes fees to defray the cost of operating the Animal Control Division and for the protection of public health. The fees shall be assessed against the owner or presumed owner of every animal kept or harbored within the City limits. The fees in Appendix A of this Code may be amended by ordinance of the City Council.

(c) Expenses of animal. In addition to other fees, the owner of an animal kept or harbored within the City limits shall also pay for veterinarian or drug expenses incurred for the animal while in the custody of the Animal Control Division or animal shelter.