

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF WACO, MCLENNAN COUNTY, TEXAS; AMENDING CHAPTER 5 “ANIMALS” OF THE CODE OF ORDINANCES TO REMOVE ADVISORY FROM THE TITLE OF THE BOARD, REVISE THE “DANGEROUS ANIMALS” SECTION, AND REVISE THE “IMPOUNDMENT” SECTION, AND TO REVISE OTHER PROVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A PENALTY; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

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

Section 1. That Chapter 5 “Animals” of the Code of Ordinances of the City of Waco, Texas, shall be and is hereby amended to read as follows:

ARTICLE I. - IN GENERAL

Sec. 5-1. - Definitions.

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

Abandonment means leaving an animal unattended for more than 24 hours, without making reasonable arrangements for assumption of custody by another person.

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

Animal shall mean any living creature other than a Homo sapiens. Unless indicated otherwise, the term shall include livestock, fowl, reptiles, amphibians, and wildlife, as well as dogs, cats and other creatures commonly owned as pets.

Animal care officer (“ACO”) shall mean the officer of the city primarily responsible for the enforcement of regulations regarding the control of animals.

Animal shelter shall mean a facility designated by the city council to be used for the impoundment of animals taken up by the ACO. The shelter shall be the designated caretaker of all animals upon intake.

Animal welfare group shall mean an association or nonprofit corporation which has as one of its purposes providing for the welfare and/or protection of animals of any kind.

Authority shall mean the local rabies control authority as defined in this section.

Brand shall mean a mark made on the skin of any animal which indicates the ownership of the animal; typically used with livestock.

Cat shall mean the male and the female of any domesticated member of the feline species of animals.

Community Cat shall mean any free-roaming cat, regardless of socialization or sociability, cared for by one or more known or unknown residents of the immediate area.

Circus shall mean a commercial variety show featuring animal acts for the public.

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

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

Domestic animal shall mean an animal that has been tamed and kept by humans as a work animal, food source, or pet, especially a member of those species that have, through selective breeding, become notably different from their wild ancestors.

Ear tip (cat) shall mean a surgical process performed on a cat during neutering as part of the trap-neuter-return process by a licensed veterinarian in which a one-quarter-inch diagonal cut is made to remove the point of a cat's ear, and is preferably, but not exclusively, on the cat's left ear.

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

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

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

Harbor shall mean to feed, provide shelter, or otherwise maintain an animal for 72 hours or more.

Health statement shall mean a statement from a veterinarian stating that an animal is healthy, free from signs of infectious or contagious diseases, and up to date on vaccinations. It shall include: the animal's microchip number, the animal identification such as the species, age or date of birth, sex, sterilization status and breed and must be dated within the last 24 months.

Holding Period shall mean 72 hours starting at the time an animal is impounded, but not including hours that fall on days the shelter is closed to the public.

Livestock shall include, regardless of age, sex, or breed, horses and all equine species, including mules, donkeys, and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species; and pigs and all porcine species.

Local rabies control authority shall mean the senior ACO, or an officer he designates to act in his place when he is temporarily unable to act for any reason.

Marine animal shall mean any animal, other than a mammal or bird, which lives in a marine environment.

Neutered shall mean any animal, male or female, rendered incapable of breeding or being bred, i.e., castration in the male and spaying or ovariectomy in the female.

Owner shall mean any person who has purchased or who owns, keeps, maintains, harbors, or has care, custody, control, or management of one or more animals.

Performing animals shall mean any spectacle, display, act, or event in which animals perform.

Poison shall mean a substance having an inherent harmful property which renders it, when taken into the system, capable of harming or destroying animal life.

Premise shall mean a definite portion of real estate or land, together with any appurtenances or buildings.

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

Restrained shall mean any animal secured by a leash of some sort or confined within the property limits of its owner.

Tag shall mean a vaccination tag attached to a collar as required by this chapter or some other permanent identifying device attached to a collar or to an animal.

Tattoo shall mean 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 and or sterilization.

Vaccination shall mean an injection of a rabies vaccine which is approved by the U.S. Department of Agriculture, Veterinary Biologics Division, State Veterinarian and administered by a licensed veterinarian or at an approved antirabies clinic.

Veterinarian shall mean any person duly licensed to practice veterinary medicine by the Texas State Board of Veterinary Medicine Examiners.

Wild animal or *wildlife* shall mean any nondomestic creature (mammal, amphibian, reptile or fowl) which is of a species which is wild by nature, which can normally be 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. Such creatures shall include, but are not limited to, all animals prohibited by the state or federal law and shall include, but are not limited to, the following animals:

- (1) Class mammalia: Order Carnivora, family felidae (such as lions, tigers, jaguars, leopards, and cougars) except commonly accepted domesticated cats and hybrids involving same; family Canidae (such as wolves, coyotes, and foxes) except domesticated dogs and hybrids involving same; family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except ferrets; family Procyonidae (such as raccoons); family Ursidae (such as bears); order Primata (such as monkeys and chimpanzees); and order Chiroptera (such as bats).
- (2) Poisonous reptiles, cobras, and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotalidae, Viperidae); Boonslang, and Kirtland's tree snakes; Gila monsters (Helodermatidae); and crocodiles, alligators, and their allies (order Loricata).
- (3) Brown recluse (Loxosceles) and black widow (Lactrodectus) spiders.

Zoological park or *zoo* shall mean 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.

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. 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 health, safety, and welfare of the surrounding homes and their inhabitants.

Sec. 5-3. - Enforcement.

- (a) The provisions of this chapter may be enforced by ACOs, police officers, park rangers, and such other persons as are designated by the city.
- (b) It shall be unlawful for any person to interfere with, obstruct, resist, or oppose any ACO or other person authorized to enforce the provisions of this chapter while such person is apprehending an animal or performing any other duties. It shall be unlawful to take or attempt to take any animal from any ACO or from any vehicle used by the ACO to transport any animal or to take or attempt to take any 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 keeper of such animal may be cited by an officer who has the authority to enforce this chapter for any violation of this chapter.

- (d) In the enforcement of this chapter, ACOs and police officers shall have the authority to shoot any animal to protect themselves, to protect a third person, or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock, or wildlife.
- (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.

Sec. 5-4. - Powers and duties of citizens.

Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is at large (as provided in section 5-92) and may deliver the animal to an ACO, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an ACO, the animal shelter, or an animal emergency medical facility, the person must report that he has taken control of the animal to an ACO or the animal shelter within 72 hours. If animal is wearing a tag of any kind or has a tattoo, brand, microchip, or other identifying mark, that information shall be included in the report to the ACO or animal shelter.

Secs. 5-5—5-30. - Reserved.

ARTICLE II. - ANIMAL WELFARE BOARD

Sec. 5-31. - Reserved.

Sec. 5-32. - Board composition.

The animal welfare board shall consist of one licensed veterinarian, one person whose duties include the daily operation of an animal shelter, two representatives from an animal welfare organization, a city official who shall be appointed by the city council, one McLennan County commissioner, one representative from the entity contracting with the city at the animal shelter, one appointee from each council district, and the mayor to total 13 members. A quorum for meetings shall be a majority of the members qualified and serving on said board. The term of each board member shall be two years, except that the initial appointments shall be staggered terms so that two positions expire after one year. The persons appointed to this board shall be persons who are interested in animal welfare or who have knowledge or training about animal behavior, health, or care. The board shall be composed of residents of the city and of the surrounding communities.

Sec. 5-33. - Authority and purpose.

- (a) The board shall make recommendations in connection with the operation of the animal shelter, as well as such other matters as may be requested by the city staff or the city council.

- (b) The board shall hear appeals from the decisions or actions of the authority or ACO as provided for in this chapter.
- (c) The board shall hear complaints involving animals or the care of animals initiated by residents of the neighborhood or an ACO as provided herein. These may include complaints regarding noisy animals and nuisance animals as provided in section 5-96, sanitation requirements as provided in section 5-128, negligent care of animals as provided in section 5-129, or any other conduct or action which violates a provision of this chapter.
- (d) The board shall hear requests for livestock variances listed in Sec. 5-99.
- (e) In all of its actions, the board shall seek to devise circumstances under which an owner may keep an animal; however, the board shall also give consideration to the safety of the neighborhood and the health and welfare of the animal.
- (f) The board may appoint a subcommittee of at least three members to perform the functions listed in subsections (b), (c), and (d).

Sec. 5-34. - Initiation of proceedings.

- (a) *Appeals.* To appeal the action or decision of the authority or ACO other than a dangerous animal or dangerous dog determination, a person must file a notice of appeal with the city secretary within five days of receiving notice of the action or decision.
- (b) *Complaints.* Persons residing within 600 feet of a person who harbors or owns an animal may initiate an action before the board regarding the animal for violations of this chapter or as otherwise provided herein by filing a petition signed by the residents of three percent of the households within that 600-foot area. If there are fewer than three households within 600 feet of the lot where the animal is kept, an action may be initiated by one of the households within that area. Such petition shall also contain the printed name and address of each person signing it and a statement setting forth specific facts to support the allegations it contains regarding the animal at issue. If the petition does not contain this information, the board may hold the petition to be invalid and dispense with any further action. The petition shall also designate an individual as the neighborhood contact.

Sec. 5-35. - Procedures before the board.

- (a) *Hearing.* The board shall hold a hearing on an appeal or complaint within ten days of the date the appeal or complaint was filed.
- (b) *Notice.* Notice of a hearing before the board shall be given to the person who harbors or owns the animal at issue at least 72 hours in advance unless the person waives his right to that notice. Notice shall also be given to the authority, ACO, any injured party under section 5-66 and neighborhood contact at least 72 hours in advance unless waived.
- (c) *Burden of proof.* The burden of proof in any appeal shall be upon the authority or ACO. In an action initiated by complainant or by petition of a neighborhood, the burden of proof shall be

upon the complainant or those filing the petition. This burden may be sustained by a preponderance of the evidence.

- (d) *Evidence and witnesses.* Neither the Texas Rules of Evidence nor the Federal Rules of Evidence shall apply to a hearing before the board. Any person having knowledge of relevant or material facts shall be allowed to appear and testify.
- (e) *Decision.* Upon the close of the hearing, the board shall issue a written statement of its findings, including any remedial requirements. A copy of this statement shall be sent to the person who harbored or owned the animal at issue and to the authority, ACO and neighborhood contact within ten days.
- (f) *Service.* All services of notice or statements may be by personal service or by certified mail, return receipt requested.

Sec. 5-36. - Remedial requirements.

- (a) Where the board finds against the person who harbored or owned the animal, it may place certain remedial requirements upon such person. These remedial requirements may include one or more of the following items:
 - (1) *Leash and muzzle.* The owner shall not permit the animal to go outside the kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length which is in the physical control of a person 18 years of age or older. Such animal may not be leashed to inanimate objects, such as trees, posts, buildings, etc. Additionally, such animal must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.
 - (2) *Confinement outdoors.* The animal shall be securely confined in an enclosed and locked pen or kennel except when on a leash and muzzled or when confined indoors. Such pen or kennel must have secure sides and a secure top attached or have sides that measure eight feet from the ground. The structure must be locked with a key or combination lock if an animal held to be dangerous is within the structure. The structure must have a secure bottom or floor attached to the sides of the structure, or the sides of the structure must be embedded in the ground no less than two feet. All structures erected to house the animal must comply with all zoning and building regulations. Such structures must also be adequately lighted and ventilated and be kept in a clean and sanitary condition.
 - (3) *Relocation of confinement area.* The owner may be required to relocate on his property the confinement area in which the animal is kept so that the animal does not annoy, disturb, or in some other manner offend neighbors.
 - (4) *Confinement indoors.* The animal may not be kept on a porch, patio, or in any part of a house or other structure that will allow the animal to exit such building or structure on its own volition. In addition, no animal except a cat may be kept in a house or structure when only a window or screen door prevents the animal from exiting the structure.

- (5) *Signs.* The owner of an animal held to be dangerous shall display in prominent places on the premises where the animal is kept a sign easily readable by the public which states "Beware of _____ ." A similar sign shall also be posted on the kennel or pen of the animal.
 - (6) *Insurance.* The board may require that the owner acquire insurance in an amount deemed reasonable to insure against bodily injury or property damage caused by the animal.
 - (7) *Restitution.* The board may require the payment of restitution for damages or injury caused by the animal.
 - (8) *Training.* The board may require that the person and animal engage in training necessary to eliminate the problem. The board may designate a specific training program to be followed or utilized.
 - (9) *Removal from city.* For an animal other than one held to be dangerous, the board may require that the animal be removed from the city.
 - (10) *Limit or prohibit animal ownership.* The board may set a limit on the number of animals which an individual may keep on property within the city. This limitation may be imposed for a specified time period or permanently. The board may also prohibit the person from acquiring or keeping within the city any other animal for a period of time up to five years. In connection with this prohibition, the board may require the person to sell, give away, or otherwise humanely dispose of the animals at issue in the hearing.
 - (11) *Spay or neuter.* The board may require that an animal which is being returned to an owner or which an owner shall be allowed to keep within the city be spayed or neutered.
 - (12) *Destruction.* The board may order that an animal shall be humanely destroyed.
 - (13) *Other.* Such other remedial requirements that under the circumstances the board finds will serve the interests of the owner in keeping an animal and gives consideration to the peace, safety, and welfare of the neighborhood as well as the health and welfare of the animal.
- (b) In requiring that remedial requirements be followed, the board shall also state a time frame within which the owner must comply with the required action. For good cause, the board may extend the time period to comply.

Sec. 5-37. - Return of animal.

- (a) If an animal is in the custody of the ACO, an inspection of the premises where the animal is to be kept may be made prior to the animal's return to determine whether the remedial requirements have been met. The ACO may retain custody of the animal until the owner of the animal complies with the remedial requirements. The ACO shall have the right to inspect such premises in the future at reasonable times to ensure continued compliance with the remedial requirements.

- (b) As a condition of returning an animal which has been in the custody of the ACO to its owner, the board may require the owner to pay all or a portion of the expenses incurred by the ACO to keep the animal.

Sec. 5-38. - Reporting significant events.

- (a) The owner of an animal declared dangerous shall report any of the following events within fourteen days to the ACO:
 - (1) Permanent removal of the animal from the city.
 - (2) Death of the animal.
 - (3) The birth of any offspring, including the number, markings, color, and sex.
 - (4) Change of location within the city.
 - (5) Transfer of ownership, including the name and address of the new owner and the location where the animal is to be kept.
- (b) The owner of an animal declared dangerous shall report within 24 hours to the ACO the escape of the animal or an attack or biting of a person or other domesticated animal or livestock.

Sec. 5-39. - Violation of remedial requirements.

It shall be unlawful for the owner of an animal to violate or fail to comply with the remedial requirements placed on him by the board or ACO. If such person fails to comply or violates any remedial requirement or any other provision of this chapter, the disposition of the animal may be referred back to the board for reconsideration. Such reconsideration shall require a hearing as provided for under this chapter. In lieu of seeking reconsideration by the board, a complaint for violating the order of the board may be filed in the municipal court. In addition to the remedies provided herein, a civil action may be filed to enforce the requirements of this chapter.

Secs. 5-40—5-60. - Reserved.

ARTICLE III. - RABIES CONTROL

Sec. 5-61. - 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 in accordance with state law.
- (b) A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such dog or cat a vaccination certificate in 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.

- (c) It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon premises under his control any dog or cat which has not been vaccinated as required herein.

Sec. 5-62. - 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 be released, such owner must sign a statement giving the name of the owner and the address where the animal is to be immediately taken and confined and stating that the owner will have the animal vaccinated in accordance with the requirements of this article. Within seven days of the release of the animal, a certificate of vaccination shall be presented to the animal shelter. Failure to present the vaccination certificate to the animal shelter 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 which may be punished by a fine as set out in section 1-14, except that the minimum fine shall be \$100.00.

Sec. 5-63. - Proof of vaccination.

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 has been vaccinated, 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.

Sec. 5-64. - Counterfeiting; destruction of tags, certificates.

- (a) It shall be unlawful for any person to intentionally or knowingly counterfeit a rabies vaccination tag or certificate.
- (b) It shall be unlawful for any person to intentionally or knowingly destroy a rabies vaccination tag or certificate.

Sec. 5-65. - Reporting rabid animals or rabies exposure.

- (a) It shall be the duty of all animal owners, veterinarians, physicians, or any other person to report to the ACO all cases of rabies with which he comes in contact or to which his attention has been directed. This 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 the ACO within 24 hours.

Sec. 5-66. - Animal bites and scratch reports; submission to quarantine.

- (a) Any person who is bitten or scratched by an animal shall report that fact to the ACO within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the ACO within 24 hours. There must be transfer of animal saliva for the animal to be quarantined.
- (b) A person who owns, harbors, or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the ACO within 24 hours any incident where such animal bit or scratched any person.
- (c) The animal committing the act shall be submitted to the ACO for quarantine. When the local rabies control authority goes to the premises where the animal that bit or scratched any person is being kept, the ACO 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, 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.

Sec. 5-67. - Contents of required reports.

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the ACO shall include, if the person making the report knows, 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 any person who was bitten or scratched.
- (4) The name and address of the person who owns, harbors, or has control over the premises where the animal committing the act normally can be found.
- (5) The names and addresses of the persons who own, keep, or harbor any other animal exposed to rabies can be found.

Sec. 5-68. - 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 the animal be held in quarantine at any other location.
- (b) Any animal quarantined shall be held for a period of ten days from the date of the bite. The animal shall not be released from quarantine until such release has been approved by the local rabies control authority.
- (c) An owner has 72 hours to pay all fees that are required for reclaim. Fees may include but are not limited to:
 - a. Animal Control impound.
 - b. Spay/Neuter surgery.
 - c. City of Waco animal services.

If fees are not paid within 72 hours of the animal being quarantined, the animal will be considered abandoned and become the property of the city and may be disposed of in a manner consistent with the provisions of this ordinance.

- (d) If the ownership of the animal is unknown, the animal may be disposed in a manner consistent with the provisions of this ordinance without waiting for an additional 72 hours.

Sec. 5-69. - Submission of head for rabies diagnosis.

- (a) If the animal which bit or scratched 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 state department of health for rabies diagnosis.
- (b) If an animal which is being quarantined becomes ill, it may be humanely destroyed in such a manner that the head is not mutilated. The head shall then be submitted to a laboratory certified by the state department of health for rabies diagnosis. The head of each animal which dies while in quarantine shall also be submitted for rabies diagnosis.

Sec. 5-70. - Cost of quarantine or rabies diagnosis.

- (a) If, by 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 owner has complied with the rabies vaccination provisions of this article and paid the impoundment fees.
- (b) If a head is submitted to the state department of health for rabies diagnosis, the cost of removing the head and shipping it shall be paid by the owner of the animal.

Secs. 5-71—5-90. - Reserved.

ARTICLE IV. - GENERAL REGULATIONS

Sec. 5-91. - Identification for animals.

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

Sec. 5-92. - Animal at large.

- (a) It shall be unlawful for any person who owns, harbors, or otherwise has control over any animal within the city to allow or permit such animal to be at large within the city.
- (b) The prohibition against an animal being at large shall not apply to:
 - (1) A cat which has been vaccinated as required by this chapter and which is wearing the required vaccination tags;
 - (2) A cat that can be identified as having an owner or caregiver by collar and tags, microchip, identifying tattoo, or has a left ear tip indicating trap-neuter-return; or
 - (3) If the owner or caregiver can provide documentation of the free-roaming cat's sterilization.
- (c) An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord, or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. An animal inside a vehicle parked 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) The ACO for the city may impound any animal observed to be at large, whether the animal is on public or private property. If the ACO 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 ACO may impound the animal or issue a citation for the animal at large.
- (e) 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 or permitted the animal to be at large.

Sec. 5-93. - Animal in heat.

- (a) A person who owns, harbors, or keeps any female dog or cat, other than a community cat, shall keep such dog or cat in a secured area that prevents a male animal of the same species from having access to the female while the female is in heat or in estrus.
- (b) It is a defense to prosecution under this section that:
 - (1) The owner of the female was permitted for controlled breeding of the female, and
 - (2) The female was not chained, tethered, or otherwise restrained in a manner preventing her from defending herself or avoiding a male of the same species.

Sec. 5-94. - Animal defecation prohibited in certain areas.

- (a) 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 that of the owner of the animal. 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) It shall be a defense to prosecution under 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. 5-95. - Wild animals or wildlife.

- (a) No person shall possess, keep or have care, custody, or control of a wild animal or wildlife within the city except as provided herein.
- (b) All persons shall be prohibited from selling, giving, transferring, or importing into the city any wild animal.
- (c) This section shall not apply to any person involved in temporary wildlife exhibition who holds the appropriate state and federal wildlife permits or approved zoological parks performing animal exhibitions or circuses. Nor shall this section apply to primary and secondary schools, colleges and universities, zoological parks owned or operated by a governmental entity, or any animal assisting physically handicapped persons.
- (d) It shall be a defense to prosecution under this section that the animal being kept was an infant or injured animal which was not capable of surviving on its own and that such animal was kept for 72 hours or less, or for such reasonable time as was necessary before giving the animal to a licensed wildlife rehabilitator.

Sec. 5-96. - Nuisance animals.

- (a) As used in this article, a nuisance animal shall be defined as any animal which commits any of the acts listed herein:
 - (1) Molests or chases pedestrians, passersby, or passing vehicles, including bicycles.
 - (2) Makes unprovoked attacks on other animals of any kind.
 - (3) Is repeatedly at large.
 - (4) Damages private or public property.
 - (5) Defecates on property not belonging to or under the control of its owner.
 - (6) Barks, whines, howls, crows, crackles, or makes any noise excessively and continuously, and such noise disturbs a person of ordinary sensibilities.

- (7) Is unconfined when in heat or in estrus.
- (b) The keeping of any animal in a manner that endangers the public health, annoys neighbors by the accumulation of animal wastes which cause foul and offensive odors, or poses a hazard to any other animal or human being is considered to be a nuisance under this chapter.
- (c) If the ACO determines that any animal is a nuisance, the ACO may issue an order requiring that the owner meet certain remedial requirements to correct the conduct of the animal. The order shall be given to the owner by personal service or by certified mail, return receipt requested. The owner may file an appeal to this order as provided in article II of this chapter.
- (d) Persons residing within 600 feet of a person who harbors an animal which they believe to be a nuisance may initiate an action before the board as provided for in section 5-33.

Sec. 5-97. - Honeybees.

No person shall construct, place, or maintain any beehive within 300 feet of any residence other than that of the owner except with the consent of the adult occupants of all such residences.

Sec. 5-98. - Pens and coops; location.

- (a) All fowl and rabbits shall be kept within a pen, coop, or hutch. A fenced yard shall not qualify as a pen or coop.
- (b) Any person harboring any animal, other than livestock, shall locate any pen, coop, hutch, or other housing at least 50 feet from any residence, excluding the residence of the person harboring the animals.

Sec. 5-99. - Livestock.

- (a) It shall be unlawful for any person owning or having care, custody, or control over any livestock, except the horses used by the city park rangers, to:
 - (1) Cause or permit any livestock to be pastured, herded, staked, or tied in any street, lane, alley, park, or other public place;
 - (2) Tie, stake, or pasture or permit the tying, staking, or pasturing of any animal upon any private property within the city without the consent of the owner or occupant of such property; or in such a way as to permit any livestock to trespass upon any street or other public place or upon any private property; or
 - (3) Permit any 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 harbor any livestock within the city in a pen or other enclosure situated at any point closer than 200 feet to any residence, excluding the residence

of the person harboring the livestock. This section does not apply to a person who harbors livestock on property five acres or larger in size.

- (1) Prior to a person being charged with a violation of this section (subsection 5-99(b)) a person will be given notice that they have a right to request a variance to the 200-foot requirement.
- (2) A person may seek a variance to the 200-foot requirement from the board.
- (3) The person seeking the variance must file a request for the variance with the city secretary within ten days of receiving notice of the violation of this section.
- (4) The board shall hold a hearing on the request for the variance within 30 city business days of receipt of the request for a variance by the city secretary or the variance request is automatically forwarded to the city council for action.
- (5) Notice of a hearing before the board shall be given to the person appealing the violation at least five days in advance unless the person waives the notice requirement.
- (6) Notice shall be given to persons residing in or owners of residences within 200 feet of the property where the violation occurs at least five days in advance.
- (7) The burden of proof for proving the necessity for the variance shall be upon the person applying for the variance.
- (8) Upon the close of the hearing, the board shall issue a written order setting forth its findings, within ten days.
- (9) A copy of the order shall be sent to the person who appealed the notice of violation.
- (10) A copy of the order shall also be sent to persons residing in or owners of residences within 200 feet of the property where the violation occurs.
- (11) When the board grants a variance, the order shall state the length of the variance, the conditions of the variance and that the variance is granted only to the person or persons residing on the property or the owners of the property at the time the violation occurred.
- (12) When the board grants a variance, the board may place reasonable restrictions and/or requirements that it finds are necessary to ensure the viability of the neighborhood.
- (13) When the board fails to grant a variance, the board shall state the number of days, no more than 30 that the person has to comply with this section.
- (14) A person may appeal the denial of or the requirements placed on a variance to the 200-foot requirement by the board to the city council.
- (15) The person seeking the variance must file the appeal of the board's decision with the city secretary within ten days of receiving the notice of the denial or the requirements.
- (16) The city council shall hold a hearing on the request for the variance.

- (17) Notice of the hearing before the city council shall be given to the person appealing the violation at least five days in advance unless the person waives the notice requirement.
- (18) Notice shall be given to persons residing in residences within 200 feet of the property where the violation occurs at least five days in advance.
- (19) The burden of proof for proving the necessity for the variance in shall be upon the person applying for the variance.
- (20) When the city council grants a variance, the council shall state the length of the variance, the conditions of the variance, and that the variance is granted only to the person or persons residing on the property or the owners of the property at the time the violation occurred.
- (21) When the city council grants a variance, the city council may include reasonable restrictions and/or requirements that it finds are necessary to ensure the viability of the neighborhood.
- (22) When the city council fails to grant a variance, the city council shall state the number of days, no more than 30, which the person has to comply with this section.
- (23) A person residing in or owning a residence within 200 feet of the property where the violation occurs may appeal the granting of and/or the requirements of a variance by the board to the city council.
- (24) The person appealing the granting of the variance and/or its requirements must file the appeal of the board's decision with the city secretary within ten days of receiving the notice of the denial or the requirements.
- (25) The city council shall hold a hearing on the request for the variance.
- (26) Notice of the hearing before the city council shall be given to the person appealing the variance and/or the requirements of the variance at least five days in advance unless the person waives the notice requirement.
- (27) Notice of the hearing shall be given to person that was granted the variance at least five days in advance.
- (28) The burden of proof for proving that the variance should not have been granted or the requirements are not sufficient to ensure the viability of the neighborhood shall be upon the person appealing the granting of the variance and/or the requirements.
- (29) A person may be charged with a violation of this section if the person fails to appeal the notice of violation as provided for in this section or fails to comply with the order of the board or city council granting or denying the variance.
- (30) All service of notice may be by personal service or by certified mail, return receipt requested.

- (c) It shall be unlawful for any person to keep or harbor any livestock within the city in a pen or other enclosure which has less than 600 square feet of area for each livestock.

Sec. 5-100. - 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. 5-101. - Abandonment.

- (a) A person commits the crime of animal abandonment if the person leaves a domestic animal or an equine unattended for more than 24 hours without making reasonable arrangements for assumption of custody by another person.
- (b) It is no defense to the crime defined in subsection (a) of this section that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.
- (c) The release of a community cat or ear-tipped cat into an area where food, shelter and monitoring are provided on a regular basis does not constitute abandonment within the meaning of this chapter.
- (d) All community cats or ear-tipped cats shall be returned to the area where the ACO found the cat.

Secs. 5-102—5-120. - Reserved.

ARTICLE V. - ANIMAL PROTECTION PROVISIONS

Sec. 5-121. - Animals in motor vehicles.

- (a) A person commits an offense if the person intentionally, knowingly, recklessly, or with criminal negligence leaves an animal in a standing or parked vehicle under circumstances that endanger the health, safety, or welfare of the animal.
- (b) If the owner of the vehicle cannot be located after reasonable efforts, an ACO, police officer, or park ranger may use reasonable force to remove the animal from the vehicle when the ACO, police officer, or park ranger reasonably believes the health, safety, or welfare of the animal is endangered.
- (c) The ACO, police officer, or park ranger shall take the animal to an animal shelter or veterinarian if the animal is in distress.
- (d) The ACO, police officer, or park ranger shall attach to the vehicle a written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted, and the location where the animal may be claimed.
- (e) A person who violates (a) shall pay the cost and expense incurred by the city in the rescue, care, medical treatment, impoundment fees, and disposal of the animal.

Sec. 5-122. - Duty of motor vehicle operator to report accident involving animals, fowl, livestock.

- (a) An operator of a motor vehicle within the city limits who strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard.
- (b) It is a defense to prosecution under this section that the operator struck the animal while the operator was responding to an emergency and that the operator reported the accident as soon as possible.

Sec. 5-123. - Tethered animals.

- (a) It shall be unlawful for any person to tether, chain, 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.
- (b) An owner of an animal commits an offense if he tethers the animal or allows the animal to be tethered in any manner or by any method that:
 - (1) Allows the animal to become entangled;
 - (2) Does not allow the animal access to food, water, and appropriate shelter if outside; or
 - (3) Does not meet the requirements for tethering under subsection (c) of this section.
- (c) The following requirements apply to an animal tethered within the city:
 - (1) The animal must be properly fitted with and wearing a harness or collar made of leather or nylon;
 - (2) The tether must be attached to the animal's harness or collar and not directly to the animal's neck; and
 - (3) The tether must be at least ten feet long and does not allow the animal to exit the property.

Sec. 5-123.1. - Proper restraint.

- (a) An owner of an animal commits an offense if he fails to restrain the animal at all times in a fenced yard, in an enclosed pen or structure, or by a tether or leash.
- (b) It is a defense to prosecution under subsection (a) that:
 - (1) The animal was a dog in an off-leash area;
 - (2) The animal was a dog and was tethered in a manner complying with section 5-123 of this chapter; or
 - (3) The animal was an ear-tipped cat.

Sec. 5-124. - Selling dyed animals.

No animal or fowl of any kind that has been dyed or otherwise colored artificially may be sold or offered for sale, raffled, offered, or given as a prize, premium, or advertising device or displayed in any store, shop, carnival, or other public place.

Sec. 5-125. - Giving animals as prizes or inducements.

- (a) No person shall give away any live animal, reptile, fowl, livestock, or wildlife as a prize for or as an inducement to enter any contest, game, or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs, and circuses.
- (b) The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H, or similar project.

Sec. 5-126. - Trapping.

It shall be unlawful to set, trigger, activate, or otherwise use, or cause to be set, triggered, activated, or used, any steel-jawed, leg-hold trap for the capture of any animal. This section is not intended to prohibit the prudent use of traps on one's own property to control rodents.

Sec. 5-127. - Molesting animals.

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

Sec. 5-128. - Pens and enclosures; sanitary requirements; minimum cage size; overcrowding.

- (a) The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas, and enclosures of any kind in a sanitary condition. This shall include the following:
 - (1) All animal wastes shall be disposed of promptly, and all pens and enclosures shall be cleaned as needed to prevent odors, not draw insects or other vermin, and avoid creating a nuisance.
 - (2) The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.
 - (3) Standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas, and other vectors.
- (b) Cages, pens, or enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such pen or enclosures comfortably and in good health. The animals must have enough space to allow each animal to make normal postural adjustments, e.g. turn

freely and easily stand, sit, stretch, move their head without touching the top, and assume a comfortable posture for eating and drinking.

Sec. 5-129. - 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 proper food, drink, shade, adequate shelter, or veterinary care as may be necessary for diseased or injured animals.
- (b) To provide 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 shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.
 - (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.
- (c) A notice of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court. Any person issued a notice of violation may appeal that notice to the animal grievance board.

Sec. 5-130. - Animal 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 city or its agent may provide veterinary care as needed at the owner's expense or dispose of the animal in any humane manner without complying with the holding period.
- (b) If the owner of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the ACO may dispose of the animal in a humane manner.

Sec. 5-131. - Sale of animals in public place.

- (a) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or convey the ownership of any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- (b) It shall be unlawful for any person to display any animal for a commercial purpose on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.

- (c) This section shall not apply to any tax-exempt non-profit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any organization recognized by the animal authority.
- (d) Any animal being conveyed in a manner in violation of this Code shall be subject to seizure and impoundment at the discretion of the authority and subject to applicable codes for disposition of impounded animals.

Sec. 5-132. - Reserved.

Sec. 5-133. - 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. 5-134. - Use of poisonous substances.

- (a) It shall be unlawful for any person to administer poison to an animal belonging to another without legal authority or the owner's effective consent.
- (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) 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 used to control insects and wild rodents. For purposes of this section, the term "exterminator" shall mean an individual licensed by the Texas Structural Pest Control Board, unless he or she is exempt from such licensing.

Sec. 5-135. - Health statement required for transfer or sale of dogs and cats.

- (a) The owner of any dog or cat that is sold or exchanged for valuable consideration or given away must provide to the new owner prior to completion of the transaction a health statement, as defined herein, from a licensed veterinarian issued within 30 days prior to the sale or exchange.
- (b) The original health statement must be given to the purchaser.
- (c) Copies of the health statement must be retained by the veterinarian and original owner/seller for a minimum of three years.

Secs. 5-136—5-150. - Reserved.

ARTICLE VI. - DANGEROUS ANIMALS

Sec. 5-151. - Purpose of article.

It is the intention of this article to provide a means of 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 ACO shall recognize the right of a person to use an animal as a protector or as a guard; however, the ACO 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 and attack and injure a person or other domestic animal.

Sec. 5-152. - Definitions.

- (a) "Dangerous dog" has the meaning in § 822.041 of the Texas Health and Safety Code and also includes any dog that:
 - (1) Makes an unprovoked attack on a domestic animal or livestock that causes bodily injury or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
 - (2) Is trained or harbored for fighting.
- (b) "Dangerous animal" means an animal other than a dog that:
 - (1) Makes an unprovoked attack on a person, domestic animal, or livestock that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
 - (2) Commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a person, domestic animal, or livestock; or
 - (3) Is trained or harbored for fighting.

Sec. 5-1521. - Dangerous Dogs

- (a) There is hereby adopted as part of this article all of the provisions of Title 10, Chapter 822, Subchapter D, as amended, of the Texas Health and Safety Code except Sec. 822.0422.

Sec. 5-1522. - Dangerous Animals Other Than Dogs

- (a) The requirements for an owner of a dangerous animal shall be the same as those of an owner of a dangerous dog pursuant to Sec. 822.042 of the Texas Health and Safety Code, as amended, and the owner shall obtain liability insurance or show financial responsibility in an

amount of at least \$100,000 to cover damages resulting from an attack by the dangerous animal causing bodily injury or death to a domesticated animal or livestock and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the animal is kept.

- (b) Determination that an animal is dangerous shall be conducted in the same manner as prescribed for dogs in Sec. 822.0421 of the Texas Health and Safety Code, as amended.
- (c) The court shall set a time for a hearing to determine whether an animal is a dangerous animal or whether the owner of the animal has complied with (b) in the same manner as prescribed for dogs in Sec. 822.0423 of the Texas Health and Safety Code, as amended.
- (d) A party to an appeal of a determination under (b) or a hearing under (c) may appeal the decision in the same manner as prescribed for dogs in Sec. 822.0424 of the Texas Health and Safety Code, as amended.
- (e) REGISTRATION.

- (1) An animal control authority for the area in which the animal is kept shall annually register a dangerous animal if the owner:

- (A) presents proof of liability insurance or financial responsibility required by (a), current rabies vaccination of the dangerous animal if the animal is of a species required by law to be vaccinated against rabies, and the secure enclosure in which the dangerous animal will be kept; and

- (B) pays an annual registration fee of \$50.

- (2) The animal control authority shall provide to the owner registering a dangerous animal a registration tag. The tag shall be kept on the animal's collar or enclosure.

- (3) If an owner of a registered dangerous animal sells or moves the animal to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the dangerous animal's prior registration tag and payment of a fee of \$25, the animal control authority shall issue a new registration tag to be placed on the dangerous animal's collar or enclosure.

- (4) An owner of a registered dangerous animal shall notify the office in which the dangerous animal was registered of any attacks the dangerous animal makes on people, domestic animals, or livestock.

Sec 5-153. – General Provisions.

- (a) If an animal acts as stated in Sec. 5-152, the ACO shall impound the animal immediately if it is at large; or, if it is in the possession of some person, the ACO may issue a notice requiring

that the animal be taken to a designated location for impoundment. An animal which is impounded shall not be released until a final determination is made concerning the disposition of the animal.

- (b) If the owner of a dangerous dog or dangerous animal cannot be determined or located after reasonable efforts to do so and after holding the animal for the holding period, the animal may be disposed of in a humane manner.
- (c) If the animal continues to pose a danger to humans, domestic animals or livestock, or property despite the owner's complying with the remedial requirements, an ACO may prescribe additional or different remedial requirements.
- (d) If an animal is designated as a dangerous animal by the ACO, court, or otherwise, after the time for appeal of the designation has passed, the ACO shall notify in writing all households within 200 feet of the residence of the person harboring the dangerous animal. Such notice shall be delivered, by hand, mail, or other reasonable means, within ten working days following the expiration of the appellate period.

Sec. 5-154. - Defenses.

- (a) It is a defense to prosecution under this article that the threat, injury, or damage was sustained by a person who at the time:
 - (1) Was committing a willful trespass or other tort upon the premises occupied by the owner of the animal;
 - (2) Was teasing, tormenting, abusing, or assaulting the animal or has on a prior occasion teased, tormented, abused, or assaulted the animal; or
 - (3) Was committing or attempting to commit a crime.
- (b) The provisions of this article shall not apply to dogs or other animals under the control of a law enforcement or military agency.

Sec. 5-155. – Attack by Dangerous Animal

- (a) A person commits an offense if the person is the owner of an animal determined to be a dangerous dog or dangerous animal and the animal makes an unprovoked attack on a person, domesticated animal, or livestock outside the animal's enclosure and causes bodily injury to the person, domesticated animal, or livestock.
- (b) An offense under this section is a Class C misdemeanor.
- (c) If a person is convicted or pleads guilty or no contest to an offense under this section in return for a grant of deferred adjudication, the court may order the dangerous animal destroyed by a person listed in Section 822.004, Texas Health and Safety Code.

Sec. 5-156. - Violations.

- (a) A person who owns or keeps custody or control of a dangerous dog or dangerous animal commits an offense if the person fails to comply with Section 822.042 or Section 822.0422(b) or an applicable municipal or county regulation relating to dangerous dogs or dangerous animals.
- (b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.
- (c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

Sec. 5-157. - Defense.

- (a) It is a defense to prosecution under Section 5-155 or Section 5-156 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the animal in connection with that position

Secs. 5-158—5-175. - Reserved

ARTICLE VII. - IMPOUNDMENT

Sec. 5-176. - Impoundment generally.

- (a) It shall be the duty of the local rabies control authority, the ACO, or their agents to seize and impound in the animal shelter all animals found in violation of any provision of this chapter.
- (b) Upon intake all animals will be checked for currently available methods of identification, including microchips, vaccinated to protect the animal's health, and receive any other necessary treatment the veterinarian determines is appropriate for the animal at the owner's expense.
- (c) Ear-tipped cats and community cats not requiring veterinary care shall not be impounded.
- (d) For wildlife, deterrent options to limit the attraction of wildlife to the area will be recommended where appropriate in lieu of impounding or relocation.
- (e) An animal impounded as a stray shall be made available for owner reclamation during the holding period, except:
 - (1) An ear-tipped cat admitted to the animal shelter may be immediately returned to the area where it was found;
 - (2) A community cat scheduled for spay/neuter is not subject to a holding period.
- (f) At the discretion of the animal shelter, an animal impounded as a stray may be placed in foster care or transferred to an animal welfare group prior to the expiration of the holding period, subject to the following:

- (1) The animal remains available for reclamation by its owner during the holding period and documentation of an animal transferred under this subsection, including a photograph of the animal, shall be maintained at the animal shelter and viewable by the public during the holding period.

Sec. 5-177. - Tampering with animal shelter or impoundment vehicle.

It shall be unlawful for any person in the city without proper authority 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, or cause to be turned out or released, or aid or abet the turning out or release of any animal from the animal shelter, from an impoundment vehicle or from any enclosure used by the city for the impoundment of animals.

Sec. 5-178. - Redemption of impounded animal.

Except as may be provided elsewhere in this chapter, the owner of any animal impounded in accordance with this chapter may reclaim 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 these fees, the animal will become the property of the city after the holding period expires, whereby the city may transfer ownership to another individual or animal welfare group, or the city or its agent may humanely dispose of the animal.

Sec. 5-179. - Disposition of dogs, cats, and other creatures commonly allowed to be owned as pets.

If the animal is not claimed by its owner within the holding period, the city or its agent may transfer ownership of the animal to an appropriate home through adoption or placing the animal with an appropriate animal welfare group or by humanely disposing of it.

Sec. 5-180. - Disposition of livestock.

- (a) If the animal has a brand indicating ownership, the ACO or his agent shall make a search for the owner of the animal in the county register of recorded brands. If the search does not reveal the owner, and if there is no other information from which an effort to locate the owner of the animal can be made, a notice of the impoundment of the animal shall be published in a newspaper of general circulation in the county at least twice during the 15 days after date of impoundment or posted on the County's internet website for at least 15 days after the date of impoundment and posted in a public place at the county courthouse, at city hall, and at such other places as are deemed reasonable by the ACO.
- (b) The notice referred to in subsection (a) of this section regarding the impoundment of an animal shall include the following information: the location where the animal was found, the location where the animal has been impounded, and a description of the animal, including its breed, if

known, color, sex, size, markings of any kind, and other identifying characteristics. The notice shall also state the date by which the animal must be claimed or it will be sold or otherwise disposed of.

- (c) If the owner of the animal is identified and is given notice, either orally or in writing, that the animal has been impounded at the animal shelter, the owner must reclaim the animal as provided for in section 5-178 within three days of such notice or within 15 days of impoundment, whichever time period is shorter. If the owner of the animal is not identified or not given notice of the impoundment, the animal shall be held for redemption for three days after the date of the final advertisement required by subsection (a) of this section. If an animal is not reclaimed as provided herein, the city shall have title to the animal and shall cause the animal to be sold at a public auction licensed by the United States Department of Agriculture. Title shall be considered vested in the city for the purposes of passing good title, free and clear of all claims, to the purchaser at the sale. A purchaser may take possession of the animal upon payment of the purchased price.
- (d) Within 180 days after the date of the sale of an animal under this article, the original owner may recover the net proceeds from the sale of the animal if such owner provides the ACO with satisfactory proof of ownership. The net proceeds from the sale shall be the funds remaining after subtracting all costs and expenses incurred in the impoundment and sale of the animal. If the funds are not claimed within this time period, they shall be considered to have been forfeited to the city.
- (e) If an animal cannot be sold as prescribed in this section, the city or its agent may either give the animal to some person capable of humanely caring for it or humanely dispose of the animal.

Sec. 5-181. - Fees.

The city council by resolution or as part of the annual budget shall approve a list of fees to redeem any animal impounded by the city. Such fees may include a fee for capturing the animal and a daily board fee.

Secs. 5-182—5-204. - Reserved.

ARTICLE VIII. - MICROCHIPS

Sec. 5-205. - Definitions.

The following definitions shall apply throughout this chapter:

Microchip means a small piece of semiconductor material carrying integrated circuits that provides an identification number that is specific to the animal.

Sec. 5-206. - Microchip required.

- (a) All dogs or cats in the corporate city limits must be microchipped.
- (b) All dogs or cats will be microchipped prior to leaving the animal shelter.
- (c) All impounded dogs or cats without a microchip implanted shall have a microchip inserted between its shoulder blades before being released to its owner. The owner of the dog or cat shall pay the cost for this procedure in addition to the impoundment fees.
- (d) Any dog or cat that is adopted from the animal shelter shall have a microchip inserted between its shoulder blades and the animal's new owner shall pay the cost for this procedure.
- (e) The microchip fee is not refundable and may be used only for the dog or cat for which it was issued.
- (f) Subsections (a) and (b) do not apply to a community cat or ear-tipped cat.

Sec. 5-207. - Reserved.

ARTICLE IX. - RESERVED

Secs. 5-208, 5-209. - Reserved.

ARTICLE X. - SPAY/NEUTER

Sec. 5-210. - Required; exceptions.

- (a) All dogs or cats in the corporate city limits shall be spayed/neutered. The owner of such animals must retain documentation of the spay/neuter of their animals.
- (b) All dogs or cats impounded within the corporate city limits will be spayed/neutered prior to being released to the owner. The cost to spay/neuter the animal shall be paid by the owner along with the impound fees.
- (c) The following animals will not be spayed/neutered as directed under subsection (a):
 - (1) The animal is under four months of age;
 - (2) A licensed veterinarian certifies that the dog or cat should not be spayed/neutered for health reasons or is permanently non-fertile;
 - (3) The animal is a trained animal used by or under the authority of a governmental agency in police or rescue work;
 - (4) Animals transferred to another animal shelter or a nonprofit or 501(c)3 organization that provides a written agreement to the city that the animal will be sterilized before being placed into a new home located within the corporate limits of the city; or
 - (5) Animals, picked up for the first time, belonging to a breeder that has:

- a. The animal's microchip number;
- b. A copy of the animal's health statement; and
- c. Paid the fee for first offense and all other fees associated with the impoundment of the animal. Should the animal be impounded a second time it will be spay/neutered prior to being released to the owner.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$500.00, and each day a violation exists shall be a separate offense.

Section 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 5. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 6. That this ordinance shall take effect upon its passage as provided by the City Charter of the City of Waco.

Section 7. That nothing in this ordinance shall be constructed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 7. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

FIRST READING: this _____ day of _____, _____.

SECOND READING: this ____ day of _____, 2019.

Kyle Deaver, Mayor
City of Waco, Texas

ATTEST:

Esmeralda Hudson, City Secretary

APPROVED AS TO FORM & LEGALITY:

Jennifer Richie, City Attorney