

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND RESTATING CHAPTER 6 “ANIMALS AND FOWLS,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY PROVIDING REGULATIONS TO AND CONCERNING ANIMALS, ANIMAL SANITATION STANDARDS, INSPECTIONS, ENFORCEMENT AND REMEDIES, RESTRAINT OF ANIMALS, AGGRESSIVE AND DANGEROUS DOGS, MICROCHIPPING, RABIES CONTROL, IMPOUNDMENT AND FEES, ADOPTIONS, AND CARE AND HUMANE TREATMENT OF ANIMALS; AMENDING SECTION 7.411, “BUILDING, COMMON AREA AND OPERATIONAL STANDARDS FOR MULTIFAMILY DWELLING COMPLEXES,” SECTION 16.434 “ANIMAL CARE,” SECTION 24.3, “ANIMAL AND BIRDS,” AND APPENDIX B, SECTION 11 A-20 “DISTANCE REQUIREMENTS FOR KENNELS, NUMBER OF DOGS AND CATS AT RESIDENCES,” AND SECTION 11A-22, “KEEPING OF RABBITS, GUINEA PIGS, PIGEONS AND CERTAIN FOWL” IN CONFORMANCE WITH CHAPTER 6; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL PRIOR ORDINANCES AND REPEAL CONFLICTING ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the purpose of Chapter 6, “Animals and Fowl,” of the Fort Worth City Code reflects the City’s commitment to encourage responsible pet ownership and to protect the public health, safety and welfare of the City; and

WHEREAS, staff proposed a number of changes to Chapter 6, "Animals and Fowl," intended to promote responsible pet ownership and to address factors that contribute to aggressive dogs, stray animals, and the unwanted dog and cat population; and

WHEREAS, staff proposed a number of changes to other, animal-related chapters of the City Code; and

WHEREAS, six public meetings were held to receive public input regarding the proposed ordinance changes; and

WHEREAS, staff recommends amending the City’s dangerous dog and rabies control ordinances to be more consistent with state law; and

WHEREAS, staff recommends amending the City’s definition of service animals to be more consistent with federal law; and

WHEREAS, state dangerous dog laws only address dangerous dogs which attack or threaten humans; and

WHEREAS, staff recommends that the City should address aggressive dogs that attack other animals differently than dangerous dogs which attack humans; and

WHEREAS, staff reports that the administrative costs of pet licensure exceeds revenues from pet licensure and that the benefits of identifying animal owners can be better accomplished through preferring registered microchipping over licensing of pets; and

WHEREAS, staff recommends expanding the violations which can be dismissed through the Educate the Offender program and other programs aimed at increasing and verifying compliance; and

WHEREAS, staff recommends prohibiting the retail sale of dogs and cats within the city while preserving the ability of breeders to sell dogs and cats from the property where the dogs or cats were born; and

WHEREAS, after taking into account public feedback and professional practices, staff has revised its recommendations; and

WHEREAS, the Fort Worth City Council finds it advisable to adopt staff's recommendations.

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

SECTION 1.

Chapter 6 “Animals and Fowl” of the Code of the City of Fort Worth is hereby repealed and restated to read as follows:

CHAPTER 6: ANIMALS AND FOWL

ARTICLE I: IN GENERAL

Sec. 6-1 DEFINITIONS.

As used in this chapter, the following words shall have the meanings ascribed to them in this section.

ADEQUATE ENCLOSURE.

(1) Means an enclosure or structure that complies with all of the requirements of Sec. 6-13(b) of this code and is completely surrounded by a substantial fence or other structure of sufficient strength, height, construction, materials and design as to prevent the domestic animal from escaping from the area and to isolate the animal from the public and other animals outside of the enclosure.

(2) Adequate enclosure does not mean enclosure or confinement by an invisible or electronic fence.

ADOPTION OF A DOG OR CAT. The release of the animal from the care, custody, control or ownership of the animal care and control center to a person who agrees to assume ownership responsibilities for the care of that animal as defined in this chapter.

AGGRESSIVE DOG. Any dog that has:

(1) Made an Unprovoked Attack on another domestic animal that causes bodily injury to the animal and occurs in a place other than an enclosure in which the dog was being kept; or

(2) On more than one occasion, bitten one or more persons who are lawfully inside the dog's enclosure; or

(3) Repeatedly attempted, successfully or unsuccessfully, to climb over, dig under, chew through, break or otherwise escape from its enclosure in an attempt to attack, chase or harass a person or another domestic animal as observed by a person charged with enforcing this chapter; or

(4) Committed unprovoked acts that would cause a person to reasonably believe that the dog will attack and cause bodily injury to a person or domestic animal.

ANIMAL. Any living, vertebrate creature, domestic or wild, other than homo sapiens.

ANIMAL CARE AND CONTROL AUTHORITY. A municipal animal care and control division which is authorized to enforce the provisions of this chapter.

ANIMAL CARE AND CONTROL CENTER. Any facility operated by the City for the purpose of impounding and caring for animals as prescribed by law.

ANIMAL CARE AND CONTROL OFFICER. The Director and his or her authorized agents or employees of the animal care and control division.

ANIMAL ESTABLISHMENT. Any pet shop, kennel, grooming shop, auction, performing animal exhibition or other facility engaged in the handling of domestic animals, excluding veterinary clinics, hospitals, animal shelters and individuals caring for animals in their private residence in compliance with the terms of this chapter.

ANIMAL SHELTER. A facility that keeps or legally impounds stray, homeless, abandoned or unwanted animals.

APPLICABLE FEES. Those reasonable charges incurred for the care and maintenance provided by the animal care and control center for impounded animals.

ASSISTANCE ANIMAL. An assistance or service animal as defined under Tex. Hum. Res. Code Sec. 121.002.

AT LARGE or RUNNING AT LARGE. Any animal not kept under restraint.

BODILY INJURY. Physical pain, illness or any impairment of physical condition.

CAT. A commonly domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other prohibited animal.

CIRCUS. A commercial variety show featuring animal acts for public entertainment.

CITY. The City of Fort Worth.

DANGEROUS ANIMAL. An animal, other than a dog, that the Director determines to be or that may become a danger to human life, health, or safety.

DANGEROUS DOG. A dog that:

(1) Makes an Unprovoked Attack on a person that causes bodily injury and occurs in a place other than the enclosure in which the dog is normally kept or was being kept; or

(2) Commits unprovoked acts in a place other than the enclosure in which the dog is normally kept or was being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

DIRECTOR. The Director of the City of Fort Worth Code Compliance Department or the Director's designee.

DOG. A commonly domesticated member of the Canidae (canine) family, other than a wolf, jackal, fox, dingo, coyote or other prohibited canines.

DOG TETHERING. Using a chain, rope, tether, leash, cable or other device to attach a dog to a stationary object or trolley system.

DOMESTIC ANIMAL. Includes livestock, caged or penned fowl other than raptors, normal household pets, such as, but not limited to, dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, nonpoisonous reptiles, snakes or amphibians.

EMU. A member of a family of ratite fowl.

FERAL CAT. Any homeless, wild or untamed cat.

FOWL. Any bird.

GUARD DOG. Any dog which has been trained for the purpose of protecting property by a Guard Dog company which is required to be licensed pursuant to Tex. Occ. Code Sec. 1702, as amended from time to time.

HIGH RISK ANIMALS. Animals which have a high probability of transmitting rabies, including but not limited to, skunks, bats, coyotes and raccoons.

IMMEDIATE CONTROL. Within the owner's observation and in such close proximity as to permit the owner reasonable opportunity to control the animal should it become necessary to do so in order to protect the animal, a human or another animal from harm.

IMPOUND. To take an animal into custody by the City or the Director; impoundment begins at the time any animal care and control officer, police officer or the Director takes control of an animal.

INSTITUTION OF HIGHER EDUCATION. As defined by Tex. Educ. Code Sec. 61.003(8), as amended from time to time.

INTACT ANIMAL. An unaltered or unsterilized animal.

KENNEL. Any premises in which four or more dogs three months of age or older are kept; or where the business of buying, selling, breeding, grooming, training or boarding of dogs is conducted; does not include veterinary clinics or hospitals, or humane societies.

LICENSED VETERINARIAN. A human being authorized to practice veterinary medicine who is currently licensed by the Texas Board of Veterinary Medical Examiners.

LIVESTOCK. Cattle, horses, mules, asses, sheep, goats, llamas, alpacas, exotic livestock, including elk and elk hybrids or emu, ostrich or rhea, and hogs, unless otherwise defined.

LOCAL RABIES CONTROL AUTHORITY. The Director of the Code Compliance Department as designated by the City under the Tex. Health & Safety Code Sec. 826.017 or his or her designee.

LOW RISK ANIMALS. Animals which have a low probability of transmitting rabies, including but not limited to, all animals of the orders Marsupialia, Insectivora, Rodentia, Lagomorpha and Xenarthra.

MICROCHIPPED. Microchipped shall mean an animal that

- (1) has an identifying microchip implanted; and
- (2) the animal, owner and microchip are registered with a national microchip registry.

MINIATURE SWINE. Any member of the swine family which has, through selective breeding, been genetically manipulated so as to attain a maximum height of 20 inches at the shoulder and a maximum weight of 120 pounds.

OSTRICH. A member of a family of ratite fowl.

OWNER. Any person who owns, keeps, shelters, maintains, feeds, harbors or has temporary or permanent custody of a domestic or prohibited animal, or who knowingly permits a domestic or prohibited animal to remain on or about any premises over which that person has control. The term shall include a person who harbored, fed or sheltered the animal for three consecutive days or more.

PERSON. An individual, association, partnership, corporation, trust, estate, joint-stock company or foundation.

PET. Any animal kept for pleasure rather than utility or a Service Animal.

PET SHOP. A commercial enterprise regularly engaged in the buying, selling, grooming, breeding or boarding of animals.

PLACES OF PUBLIC ASSEMBLY. Any place where people congregate, such as public buildings, parks, schools, flea markets and recreations areas; does not include a private residence, residential or commercial street.

PROHIBITED ANIMAL.

(1) Any wild or exotic animal or any animal not normally born and raised in captivity, including, but not limited to, the following:

a. Reptiles: venomous lizards, venomous snakes, crocodiles, alligators, caimans and gharial;

b. Mammals:

1. Felines (such as lions, tigers, bobcats, jaguars, leopards and cougars), except commonly domesticated cats;

2. Canines (such as wolves, dingos, coyotes, foxes and jackals and any hybrid of a canine), except commonly domesticated dogs;

3. Mustelids (such as weasels, skunks, martins, minks, badgers and otters) except ferrets;

4. Procyonids (such as raccoons and coati);

5. Bears;

6. Marsupials (such as kangaroos, opossums, koala bears, wallabies, bandicoots and wombats);

7. Bats;

8. Sloths, anteaters, armadillo, and related species;

9. Elephants;

10. Primates (such as monkeys, chimpanzees, orangutans and gorillas);

11. Rodents (such as beavers and porcupines), except commonly domesticated rodents kept as pets including hamsters, gerbils, guinea pigs, rats, mice, and chinchillas; and

c. Amphibians: poisonous frogs.

(2) Does not include nonpoisonous reptiles or nonpoisonous amphibians.

(3) Does not include livestock, fowl or normal household pets, such as, but not limited to, dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, nonpoisonous reptiles, snakes or amphibians.

PROPERLY FITTED WITH RESPECT TO A COLLAR OR OTHER NECK RESTRAINT. A collar or other neck restraint that measures the circumference of a dog's neck

plus at least one inch. With respect to a harness, **PROPERLY FITTED** means a harness that is of an adequate size, design and construction as appropriate for the dog's size and weight.

PUBLIC NUISANCE. Whatever is declared by the Director to be dangerous to human life, health or welfare, or to threaten to become detrimental to the public health or welfare.

QUARANTINE. Strict confinement of an animal specified in an order of the Director or his or her designee: (1) on the private premises of the animal's owner or at a facility approved by the Director or his or her designee; and (2) under restraint by closed cage or paddock or in any other manner approved by the Animal Care and Control Authority. The quarantine period for a dog, cat or a domestic ferret in rabies quarantine is ten days from the date of exposure, or as recommended by the regional veterinarian of the Texas Department of Health.

RABIES. An acute viral disease of humans and animals affecting the central nervous system and usually transmitted by an animal bite.

RELEASING AGENCY. Animal care and control center, animal shelter or nonprofit organization engaged in caring for animals.

RESTRAINT. An animal is under **RESTRAINT** when the owner or responsible person exercises diligent care and control of his or her animal and:

(1) It is kept in an Adequate Enclosure or an appropriately sized portable cage with top, bottom and sides of sufficient strength, height, construction, materials and design as to prevent the animal from escaping; or

(2) It is accompanied by its owner or trainer at a bona fide dog show, field trial or exhibition; or

(3) It is secured by a leash; or

(4) It is under the Immediate Control of its owner or responsible person and

a. is subject to and responsive to the verbal, visual or other commands of the owner or other person asserting control of the animal; and

b. is not on a street or sidewalk within a residential area or a residentially zoned district; and

c. is not in violation of Sec. 20-426(i) PROHIBITED CONDUCT DURING EVENTS; and

d. is not in violation of Sec. 24-9 DOGS TO BE ON LEASH IN CITY PARKS AND RECREATION AREAS ; and

e. is not in violation of this chapter or any other ordinance or law; or

(5) It is under the Immediate Control of its owner or responsible person and it is a Service Animal in the performance of duty; or

(6) It is a Guard Dog in the performance of duty in an enclosed building or securely fenced and locked area which is marked on all sides with signs in four-inch letters stating “Guard Dog” and clearly visible to the public; or

(7) It is a Cat on the boundaries of the premises of the person who has charge, care or ownership of the cat.

RHEA. A member of a family of ratite fowl.

SANITARY. Any condition of good order and cleanliness which discourages and limits disease transmission.

SECURE ENCLOSURE. An enclosure which meets all of the requirements of an Adequate Enclosure and is of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous animal in conjunction with other measures which may be taken by the owner. Such enclosure is securely enclosed and locked and designed with secure sides, top and bottom and is designed to prevent the animal(s) from escaping from the enclosure. A building, including a residence, may be a Secure Enclosure if it meets all elements of this definition.

SERIOUS BODILY INJURY. An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonable prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

SERVICE ANIMAL. An assistance or service animal as defined under Tex. Hum. Res. Code Sec. 121.002.

STERILIZATION. Surgical or chemical treatment of the reproductive organs of a dog or cat to render the animal unable to reproduce.

STRAY. An Animal which is roaming with no restraint beyond the premises of an animal’s owner or keeper.

TRAP, NEUTER AND RETURN (TNR) PROGRAM. A program authorized by the City in which stray cats are trapped, sterilized, vaccinated, eartipped and returned to an approved person.

UNPROVOKED ATTACK BY A DOG. An incident in which a dog that attacked a human being or an animal was not hit, kicked or struck by a human being with any object or part of a human being’s body, nor was any part of the dog’s body, directly or indirectly, struck, pulled, pinched or squeezed by a human being or other animal, nor was the dog cornered, beckoned, held, taunted or teased by any human being, nor was the attacked human being or other animal in the dog’s territory on the property of the dog’s owner at the time of the attack.

VACCINATED ANIMAL. Unless otherwise indicated, a vaccinated animal:

(1) which has been vaccinated against rabies with a vaccine licensed by the United States Department of Agriculture (USDA) for that species at or after the minimum age requirement and using the recommended route of administration for the vaccine; and

(2) which has been vaccinated against rabies by or under the direct supervision of a licensed veterinarian; and

(3) the time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer.

VACCINATION CERTIFICATE. The certificate issued by a licensed veterinarian on a form approved by the Texas Department of Health

VETERINARY HOSPITAL. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries to animals.

ZOOLOGICAL PARK. Any permanent collection of living animals for public display, other than a pet shop or kennel, displaying or exhibiting one or more species of animals.

Sec. 6-2 PURPOSE AND SCOPE.

(a) It is the purpose of this chapter:

(1) To provide regulations by which the transmission of rabies to human beings and domestic animals can be prevented and controlled in the City;

(2) To decrease the number of unwanted and stray dogs and cats in the City;

(3) To promote humane animal care;

(4) To encourage responsible animal ownership and care; and

(5) To protect the public health, safety and welfare of the City.

(b) The provisions of this chapter shall not be construed to authorize the keeping of any animal in violation of any other City ordinance, state or federal statute or law.

Sec. 6-3 ANIMAL CARE AND CONTROL AUTHORITY; ANIMAL CARE AND CONTROL.

(a) The animal care and control authority shall be a unit of the Department of Code Compliance and shall be in the charge of a person having suitable qualifications and designated by the City as the Director.

(b) In addition to the duties specifically prescribed in this chapter, it shall be the responsibility of the Director to execute such other duties under the jurisdiction of the Department of Code Compliance as the Director may delegate.

(c) The Director or his or her designee shall manage the operation of the City Animal Care and Control Center.

Sec. 6-4 EXEMPTION OF CITY OFFICIALS FROM LIABILITY.

All of the regulations provided in this chapter and the functions and duties of all officers, agents, servants or employees of the City in the enforcement of this chapter are declared to be governmental and for the benefit, health and welfare of the general public. Any City official or

employee charged with the enforcement of this chapter, acting for the City in the discharge of his or her duties, shall not thereby render himself or herself personally liable by the performance of any act required or permitted in the discharge of his or her duties.

Sec. 6-5 VIOLATIONS; PENALTIES.

(a) Any violation, disobedience, omission, neglect, failure or refusal to comply with the enforcement of any of the provisions of this chapter shall be punishable by a fine not to exceed \$2,000 for each violation. Unless otherwise specifically stated in this chapter, any violation of this chapter that is punishable by a fine that does not exceed five hundred dollars (\$500) does not require a culpable mental state, and a culpable mental state is hereby not required to prove any such offense. Unless otherwise specifically stated in this chapter, any violation of this chapter that is punishable by a fine that exceeds five hundred dollars (\$500.00) shall require a culpable mental state as specified by Section 6.02(c) of the Texas Penal Code. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) If any person is found guilty of having violated Sec. 6-61 of this chapter, any permit held by such person under this chapter shall be automatically revoked.

Sec. 6-6 INCORPORATION BY REFERENCE.

Any reference made in this chapter to any other law, statute, code, ordinance, rule or regulation is intended to incorporate such material as it presently exists and also any future amendments, changes, revisions, repeals or recodifications of such material, unless otherwise expressly provided.

Sec. 6-7 INTERFERENCE WITH ANIMAL CARE AND CONTROL OFFICER.

It shall be unlawful for any person to interfere with an Animal Care and Control Officer while engaged in the performance of his or her duties. Such interference includes, but is not limited to:

(a) Releasing or causing an animal to be released after an Animal Care and Control Officer has impounded the animal; or

(b) Physically constraining the movement of an Animal Care and Control Officer or his or her vehicle or equipment by:

(1) Placing any part of the person or person's property in the way of the Animal Care and Control Officer's progress in the performance of the officer's duties; or

(2) Taking or moving an Animal Care and Control Officer's equipment which causes a time delay in the officer's ability to use the equipment.

Sec. 6-8 SANITARY STANDARDS.

(a) The owner of any animal allowed by this chapter to be kept in the City shall comply with the following standards of sanitation for that animal:

(1) Remove manure and droppings from pens, stables, yards, cages and other enclosures and handle or dispose of the excretions in such manner as to keep the premises free of any nuisance; and

(2) Place food only in impervious containers or on impervious surfaces; and

(3) Equip watering troughs or tanks with adequate facilities for draining the overflow; and

(4) Remove all refuse as defined in Chapter 16 of the City code, on the premises and dispose of same by a means approved by the Director.

(b) Such standards of sanitation shall be administered by the Director.

Sec. 6-9 INSPECTION OF ANIMALS AND PREMISES.

The City Code Compliance Department shall have the authority to inspect animals and premises. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, an Animal Care and Control Officer may enter upon private property to the full extent permitted by law.

Sec. 6-10 NONCOMPLYING PREMISES; REMEDIES.

Where premises do not comply with the provisions of this chapter or if any health, code or other ordinance or law is not observed, the Director may, upon written notice to the person owning or controlling the premises, order the correction of the objectionable conditions. In addition to any criminal proceeding, failure to comply with such order shall entitle the City to obtain relief by injunction.

Sec. 6-11 NUMBER OF DOGS AND CATS AT RESIDENCES.

(a) Except as provided by Sec. 6-23, an Owner shall not allow any residence within the City and over which that person has control to house more than three dogs over the age of eight weeks. Except as provided by Sec. 6-23, an Owner shall not allow any residence within the City and over which that person has control to house more than three cats over the age of eight weeks. It shall be an affirmative defense to prosecution under this subsection (a) that any cats in excess of three are feral or stray cats in the city's trap, neuter and return program.

(b) Residences registered with the Director as a foster for the Animal Care and Control Authority and that have been inspected by the Director within the preceding twelve months are exempt from subsection (a).

Sec. 6-12 NUISANCES DECLARED.

The keeping of any animal which causes a sound or noise in violation of Sec. 23-8 of this code is declared a nuisance in violation of this section. Whatever the Director determines to be dangerous to human life or health, or that is offensive to the senses, or that is or threatens to become detrimental to the public health, is hereby declared to be a nuisance and shall be unlawful, and the specific acts, conditions and things set forth in this chapter are, among others, declared to be nuisances and prohibited and made unlawful.

Sec. 6-12.1 PARENTAL RESPONSIBILITY.

(a) If an animal is owned or purported to be owned by an individual who is younger than 17 years of age, responsibility and liability for compliance with this chapter with respect to such an animal shall be imposed on the parent, legal guardian or other person who has the duty of control and reasonable discipline of the minor individual, regardless of whether the parent, legal guardian or other person otherwise meets the definition of “owner” with respect to the animal at issue.

(b) Financial liability imposed under subsection (a) of this provision shall not exceed limits imposed by state law.

(c) It shall be an affirmative defense to imposition of responsibility and liability under subsection (a) above that the parent, legal guardian or other person establishes by a preponderance of the evidence that he or she made a reasonable good faith effort to ensure compliance with this chapter.

Sec. 6-12.2 FERAL AND STRAY CAT TRAP, NEUTER AND RETURN PROGRAM.

The Director shall develop and administer a Trap, Neuter and Return (TNR) Program designed to reduce the number of feral and stray cats which are euthanized, to establish standards for the management of feral and stray cats, and to provide for the minimization and abatement of nuisances caused by feral and stray cats.

ARTICLE II: RESTRAINT OF ANIMALS

Sec. 6-13 RESTRAINT OF ANIMALS.

(a) It shall be unlawful for an Owner of an animal to fail or refuse

(1) to keep an animal under Restraint; and

(2) to exercise diligent care and control of his or her animal to prevent such animal from becoming a Public Nuisance.

(b) It shall be unlawful for an Owner of an animal to fail to provide for the animal an Adequate Enclosure, which is one that complies with all of the requirements of this subsection (b) and is completely surrounded by a substantial fence or other structure of sufficient strength, height, construction, materials and design as to prevent the Domestic Animal from escaping from the area and to isolate the animal from the public and other animals outside the enclosure.

(1) An enclosure shall be designed, erected and maintained in accordance with all applicable zoning and building regulations of this code.

(2) All non-building portions of an enclosure, including gates, shall be constructed of chain link, welded wire, wrought iron, brick, mortared stone, concrete block, wood stockade or other similar fencing-type material approved by the Director.

(3) Where a building forms a part of an enclosure, there shall be minimal separation between the building and the remaining parts of the enclosure to prevent escape of the animal or animals intended to be contained.

- (4) When not in use, all gates shall be closed and secured in a manner that prevents an animal from leaving the enclosure.
- (5) Broken or damaged portions of an enclosure shall be repaired with like material and provide a seamless barrier that reasonably inhibits or prevents escape.
- (6) For all dogs, an enclosure shall have an outside-perimeter barrier that is a minimum height of 48 inches when measured from the ground. For Aggressive Dogs, an enclosure shall have an outside-perimeter barrier that is a minimum height of 72 inches when measured from the ground. Any portion of a building that is intended to form part of an enclosure must have a continuous wall (inclusive of windows and doors) that meets the applicable height requirement.
- (7) If petitioned by an owner, the Director may modify or waive the requirements of subsections (2), (5) and (6) above, provided that the Director determines that proposed alternate measures will adequately contain the animal(s) intended to be restrained. In considering a petition, the Director may take into account factors that include, but are not limited to, zoning requirements, deed restrictions and covenants, and the size and physical characteristics of the animal or animals to be enclosed. The decision of the Director shall be final and non-appealable.
- (8) An outdoor enclosure confining an animal for a substantial portion of the day must provide at least 48 square feet of space for each animal that it contains that is at least six months old. It is presumed that an animal is being confined for a substantial portion of the day if a police officer, Animal Care and Control Officer, code enforcement officer or the person charged with enforcing this ordinance witnesses the animal in said enclosure at least twice on the same day at two separate times that are at least five hours apart.
- (9) Subsection (8) shall not apply to:
 - a. Registered non-profit agencies that keep animals for purposes of rescue, rehabilitation or adoption so long as such animals are otherwise maintained in accordance with the requirements of this chapter; or
 - b. Situations in which animals are being boarded for a period of less than 30 days so long as such animals are otherwise maintained in accordance with the requirements of this chapter.

(c) It shall be unlawful for a person having charge, care or ownership of a cat to fail to keep the cat from roaming beyond the boundaries of the person's premises. It shall be an affirmative defense to prosecution under this subsection (c) that the cat is a feral cat in the City's trap, neuter and return program.

(d) It shall be unlawful for a person to use a chain, rope, tether, leash, cable or other device to attach a dog to a stationary object or trolley system.

(e) It is an affirmative defense to a violation of subsection (d) above that the dog tethering:

(1) Is during a lawful animal event, veterinary treatment, grooming, training or law enforcement activity; or

(2) Is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains Immediate Control of the dog; or

(3) Occurs in the Immediate Control of the owner in a City park as provided by Sec. 24-10;
or

(4) Occurs on the owner's premises and:

a. While the dog is within the owner's Immediate Control; and

b. Prevents the dog from advancing to within 15 feet of the edge of any public street.

(f) The affirmative defenses provided in subsection (e) above are only available if the following specifications are met:

(1) The chain, rope, tether, leash, cable or other device is attached to a properly fitted collar or harness worn by the dog; and

(2) The chain, rope, tether, leash, cable or other device is not placed directly around the dog's neck; and

(3) The chain, rope, tether, leash, cable or other device does not exceed one-twentieth of the dog's body weight; and

(4) The chain, rope, tether, leash, cable or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and

(5) The dog has access to adequate shelter and clean and wholesome water.

(g) It shall be unlawful for an owner or person in control of an animal to carry or transport the animal on any public roadway in an unenclosed vehicle (such as a pick-up or flatbed truck, jeep or similar vehicle) unless the animal is:

(1) Contained in a closed, vented animal carrier that is secured in such a manner as to prevent the carrier from being thrown from the vehicle in the event of a collision; or

(2) Secured by a leash or other device that is cross-connected to prevent the animal from falling, jumping or being thrown from the motor vehicle and from strangling on a single lead.

(h) A person commits an offense if the person fails to comply with this section.

(1) An offense under this section is a Class C misdemeanor. If a person fails to comply with this section with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

(2) An offense under this section is punishable by a fine not to exceed \$2,000.

(i) This section does not prohibit a person from walking a dog with a hand-held leash.

ARTICLE III: DANGEROUS AND AGGRESSIVE DOGS

DIVISION 1: AGGRESSIVE DOGS

Sec. 6-14 NUISANCE DECLARED.

It is hereby declared to be a public nuisance that a person harbors, keeps or maintains an Aggressive Dog in the City unless the person complies with the requirements of this article.

Sec. 6-14.1 AGGRESSIVE DOG DETERMINATION.

(a) A person is the Owner of an Aggressive Dog when:

(1) the Owner knows that the dog has made an Unprovoked Attack on another domestic animal that causes bodily injury to the animal and which occurred in a place other than an enclosure in which the dog was being kept; or

(2) the Owner knows that the dog has, on more than one occasion, bitten one or more persons who are lawfully inside the dog's enclosure; or

(3) the Owner knows that the dog has repeatedly attempted, successfully or unsuccessfully, to climb over, dig under, chew through, break or otherwise escape from its enclosure in an attempt to attack a person or another domestic animal; or

(4) the Owner knows that the dog has committed unprovoked acts that would cause a person to reasonably believe that the dog will attack and cause bodily injury to a person or domestic animal; or

(5) the Owner is informed by the Animal Care and Control Authority that the Animal Care and Control Authority has determined that the dog is an Aggressive Dog.

(b) If a person reports a suspected or purported Aggressive Dog, the Animal Care and Control Authority may investigate. The Animal Care and Control Authority may accept sworn statements from all victims and witnesses to the incident. If the Animal Care and Control Authority determines that the dog is an Aggressive Dog, it shall notify the Owner in writing of the determination.

(c) Notwithstanding any other ordinance, the Owner may appeal the determination of the Animal Care and Control Authority that a dog owned by the Owner is an Aggressive Dog to the Director, no later than 15 calendar days after the date notice of the determination is mailed to the Owner.

(d) To file an appeal under Subsection (c), the owner must:

(1) file a notice of appeal of the Animal Care and Control Authority's Aggressive Dog determination with the Director;

(2) attach a copy of the determination from the Animal Care and Control Authority; and

(3) serve a copy of the notice of appeal on the Director by mailing the notice through the United States Postal Service.

(e) The decision of the Director shall be final and non-appealable.

Sec. 6-14.2 REQUIREMENTS FOR OWNER OF AN AGGRESSIVE DOG.

(a) The Owner of an Aggressive Dog shall restrain the Aggressive Dog at all times, including during any appeal of an Aggressive Dog determination:

- (1) on a leash in the direct physical control of a person, or
- (2) in an Adequate Enclosure as defined in Sec. 6-1.

Sec. 6-14.3 ATTACK BY AN AGGRESSIVE DOG.

(a) A person commits an offense if the person is the Owner of an Aggressive Dog and the dog makes an Unprovoked Attack on a person or domestic animal outside the animal's enclosure and causes bodily injury to the person or domestic animal.

(b) An offense under this section is punishable by a fine not to exceed \$2,000.

(c) If a person is found guilty of an offense under this section and the Unprovoked Attack was not on a person, the court may order that the Owner of the Aggressive Dog comply with additional requirements as deemed appropriate by the court.

(d) If an Aggressive Dog makes an Unprovoked Attack on a person, the Dangerous Dog Determination process outlined in Secs. 6-15.1 through 6-15.8 of this Code shall also apply.

Sec. 6-14.4 VIOLATIONS.

(a) A person who owns or keeps custody or control of an Aggressive Dog commits an offense if the person fails to comply with Sec. 6-14.2.

(b) Violation of any section under this division is punishable by a fine not to exceed \$2,000.

Sec. 6-14.5 DEFENSE.

It is a defense to prosecution under Sec. 6-14.3 or Sec. 6-14.4 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; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties in regards to the Aggressive Dog.

DIVISION 2: DANGEROUS DOGS

Sec. 6-15.1 NUISANCE DECLARED.

(a) It is hereby declared to be a public nuisance that an Owner or other person harbors, keeps or maintains a Dangerous Dog in the City unless the owner complies with the requirements of this article and state statutes regulating Dangerous Dogs.

(b) It is hereby declared to be a public nuisance that an Owner or other person harbors, keeps or maintains in the City or brings to the City a dog that has been declared dangerous outside of the City under one or more of the following:

- (1) Tex. Health & Safety Code Sec. 822;

(2) A local law or ordinance adopted in accordance with Tex. Health & Safety Code Sec. 822; or

(3) A statute or ordinance that is substantially similar to Tex. Health & Safety Code Sec. 822 and that was adopted by a political subdivision outside of the State of Texas.

Sec. 6-15.2 Reserved.

Sec. 6-15.3 DANGEROUS DOG DETERMINATION.

(a) The Director or his or her designee may investigate all reports of incidents as described in the definition of Dangerous Dog in Sec. 6-1. The Director may accept sworn statements from all victims and witnesses to the attack. If the Director determines that the dog is a Dangerous Dog, the Director shall notify the owner in writing of the determination.

(b) Notwithstanding any other ordinance, an owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a Dangerous Dog, may appeal the determination of the Director to municipal court.

(c) To file an appeal under Subsection (b), the owner must:

(1) file a notice of appeal of the Director's Dangerous Dog determination with the municipal court;

(2) attach a copy of the determination from the Director; and

(3) serve a copy of the notice of appeal on the Director by mailing the notice through the United States Postal Service.

(d) An owner may appeal the decision of the municipal court under Subsection (c) in the manner described by Tex. Health & Safety Code Sec. 822.0424.

Sec. 6-15.4 REQUIREMENTS FOR OWNERS OF A DANGEROUS DOG.

(a) Immediately after a person learns that the person is the owner of a Dangerous Dog, and during any appeal of a Dangerous Dog determination, the person shall

(1) restrain the Dangerous Dog at all times

a. on a leash in the immediate control of a person; or

b. in a Secure Enclosure as defined in Sec. 6-1; and

(2) Secure the Dangerous Dog with a muzzle in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the Dangerous Dog is taken off the property of the owner for any reason;

(b) Not later than the thirtieth day after a person learns that the person is the owner of a Dangerous Dog, the person shall:

(1) Register the Dangerous Dog with the Animal Care and Control Authority and pay an annual registration fee of Five hundred dollars (\$500.00); and

(2) Obtain and maintain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the Dangerous Dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the Animal Care and Control Authority; and

(3) Spay or neuter the Dangerous Dog; and

(4) Post signs in four-inch letters on all sides of the secure enclosure warning of the presence of Dangerous Dogs and shall include a symbol of Dangerous Dogs understandable by young children; and

(5) Comply with all other requirements of this Chapter.

(c) If the Director determines that the owner of a Dangerous Dog has not complied with Subsection (a) or (b) within the required times after learning that he or she is the owner of a Dangerous Dog, the Director shall provide written notice of such determination to the Owner. Said Owner shall, within 15 days of notice, deliver the dog to the Animal Care and Control Authority which shall refer the case to the municipal court for notice and hearing.

(d) The Animal Care and Control Authority may request the owner of a Dangerous Dog to show proof of compliance with subsections (a) and (b) above. If proof is requested, after the expiration of three days, if the Animal Care and Control Authority determines that the owner of a Dangerous Dog has not sufficiently presented proof that he or she is in compliance with subsections (a) and (b) above, the Director shall provide written notice of such determination to the Owner. Said Owner shall, within 15 days of notice, deliver the dog to the Animal Care and Control Authority which shall refer the case to the municipal court for notice and hearing.

(e) If, after notice and hearing as provided by Section 6-15.5, the court finds that the owner of a Dangerous Dog has failed to comply with (c) and (d) above, the court shall order the Animal Care and Control Authority to seize the dog and shall issue a warrant authorizing the seizure. The Animal Care and Control Authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

Sec. 6-15.5 COMPLIANCE HEARING.

(a) The court, on appeal of the Animal Care and Control Authority's Dangerous Dog determination under Sec. 6-15.4(c) or application by any person, including the Animal Care and Control Authority, and upon finding that the owner of a Dangerous Dog has failed to comply with Sec. 6-15.8(b), shall set a time for a hearing. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered.

(b) The court shall give written notice of the time and place of the hearing to:

(1) the owner of the dog or the person from whom the dog was seized; and

(2) the person who made the complaint.

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

(d) The court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs. An owner or person filing the action may appeal the decision of the municipal court in the manner described by Tex. Health & Safety Code Sec. 822.0424.

(e) The court shall order the animal care and control authority to humanely destroy the dog if the owner has not complied with Sec. 6-15.4 (a) and (b) before the 11th day after the date on which the dog is seized or delivered to the Animal Care and Control Authority, except that, notwithstanding any other law or local regulation, the court may not order the destruction of a dog during the pendency of an appeal under Tex. Health & Safety Code Sec. 822.0424. If, based on the recommendation of the Animal Care and Control Authority, the court determines, either after a hearing or without a hearing, that the owner has complied with Sec.6-15.4 (a) and (b) above before the 11th day after the date on which the dog is seized or delivered to the Animal Care and Control Authority, the court shall order the Animal Care and Control Authority to return the dog to the owner.

(f) An owner or person filing the action may appeal the decision of the municipal court in the manner described by Tex. Health & Safety Code Sec. 822.0424. During the appeal period, the dog shall remain in the custody, care and control of the Animal Care and Control Authority. If the appeal is ultimately unsuccessful, the owner of the dog shall be responsible for the dog's impoundment fees during the period the case was being appealed.

(g) The owner shall pay all costs and or fees assessed by the municipality related to the seizure and impoundment of the dog, including, but not limited to, boarding fees, microchip procedure and rabies vaccination, and the cost of euthanasia of the dog if ordered by the court.

Sec. 6-15.6 DANGEROUS DOG REGISTRATION.

(a) The owner of a Dangerous Dog shall notify the Animal Care and Control Authority within 24 hours if the Dangerous Dog is at large, unconfined, has attacked a human being or another animal, has died or has been sold or given away.

(b) If an owner of a registered Dangerous Dog sells or moves the dog to a new address, that owner, not later than the fourteenth day after the date of the sale or move, shall notify the Animal Care and Control Authority for the area in which the new address is located. Upon selling or moving the registered Dangerous Dog, that owner must notify the new owner or person who has care and control of the dog that he or she is keeping or taking ownership of a dog that has been declared dangerous.

(c) The owner of a registered Dangerous Dog shall notify the office in which the Dangerous Dog was registered of any attacks the Dangerous Dog makes on people or other animals.

Sec. 6-15.7 DEFENSES.

(a) It is a defense to prosecution under this division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or 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 dog; provided, however, that for any person to claim a defense under this

section, that person must be acting within the course and scope of his or her official duties with regard to the Dangerous Dog.

(b) It is a defense to prosecution under this division that the person is an employee of the institutional division of the Texas Department of Criminal Justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the Dangerous Dog.

(c) It is a defense to prosecution under this division that the dog at issue is a trained Guard Dog in the performance of official duties while confined or under the control of its handler.

Sec. 6-15.8 VIOLATIONS.

(a) A person who owns or keeps custody or control of a Dangerous Dog commits an offense if the person fails to comply with any section of this division.

(b) It shall be a separate violation of this division for any person to refuse or fail to surrender a dog subject to this article, or harbor, hide or secret, transport or secure the transport of a dog subject to this article, for the purpose of preventing its impoundment.

(c) An offense under this section is punishable by a fine not to exceed \$2,000.

ARTICLE IV: RETAIL SALE OF ANIMALS

Sec. 6-16 COMMERCE IN LIVE ANIMALS.

(a) A person commits an offense if the person exchanges a cat or dog for consideration, regardless of the age of the cat or dog, at a location other than where the cat or dog was born.

(b) A person commits an offense if the person sells, trades, barter, leases, rents, gives away, or displays for a commercial purpose a live animal on a roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreation area, commercial or retail parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(c) A person commits an offense if the person exchanges a dog or cat for consideration and fails to implant in the dog or cat an identification microchip and register the microchip with a national registry with the name, address and contact information of the new owner.

(d) This section does not apply to:

(1) the Animal Care and Control Center or an Animal Care and Control Center certified partner or a not-for-profit 501(c)(3) animal welfare organization;

(2) an event primarily for the exhibition and judging of cats or dogs; or

(3) a mobile pet adoption event at which consideration is paid if it is operated by an organization that is exempt pursuant to paragraph (d)(1) of this section.

(e) It is an affirmative defense to prosecution under subsection (a) above that the person is working on the behalf of a veterinary clinic; animal hospital; animal shelter; not-for-profit 501(c)(3) animal welfare, rescue or adoption organization; bona fide zoological park; circus; educational institution; museum; licensed laboratory; publicly owned nature center; bona fide educational or scientific association or society approved by the director of health; or organization holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes.

ARTICLE V: DOG AND CAT REGISTRATION AND PERMITS

Sec. 6-17 DOG AND CAT MICROCHIPPING REQUIRED.

(a) The owner of any dog or cat must have the animal implanted with a registered microchip before the animal attains four (4) months of age.

(b) A dog or cat is exempt from this requirement if the dog or cat is licensed by the City. Such license shall require a fee as established by City Council. A person who is the Owner of a dog or a cat that is exempt from this requirement shall, at all times, display on such dog or cat a valid City license.

Sec. 6-18 VALIDITY OF PREVIOUSLY ISSUED LICENSE.

(a) A dog or cat license which is valid at the time of the effective date of this ordinance shall continue to be valid until its expiration. On or before its expiration, the Owner shall have the animal implanted with a registered microchip or licensed in accordance with Sec. 6-17.

Sec. 6-19 MAINTAINING CURRENT MICROCHIP REGISTRATION.

(a) The owner of a microchipped dog or cat shall maintain current registration with a microchip registration company.

(b) If there is a change in contact information of an owner of a registered microchipped dog or cat, the owner shall update contact information, including new address or telephone number, with the microchip registration company within thirty (30) days of the date of the change in contact information.

(c) If there is a change in ownership of a registered dog or cat, the previous owner shall be responsible for ensuring that the microchip is no longer registered in the previous owner's name within thirty (30) days of the date of change in ownership. The new owner shall be responsible for re-registering the microchip to include any new address and telephone number and have the registration information transferred to the new owner's name within thirty (30) days after the change in ownership.

SEC. 6-20 RESERVED.

SEC. 6-21 VIOLATIONS

(a) A person commits an offense if the person owns, keeps, harbors or has custody of any dog or cat over four months of age without complying with this Article.

(b) Defenses.

(1) It is a defense to prosecution under this section that at the time of the offense the person was using the animal in a research program at an institution of higher education which is accredited by the American Association for the Accreditation of Laboratory Animal Care.

(2) It is a defense to prosecution under this section that the dog or cat owner is a nonresident of this city and is keeping the subject pet in the city for fewer than sixty (60) days;

(3) It is a defense to prosecution under this section that the dog or cat owner has been a resident of this city for fewer than thirty (30) days; or

(4) It is a defense to prosecution under this section that the dog or cat had been abandoned or lost and the temporary owner has had the dog or cat for fewer than thirty (30) days.

(5) It shall be an affirmative defense to prosecution under this section that the animal is a feral cat in the city's trap, neuter and return program.

Sec. 6-22 INTACT PET PERMIT.

(a) Offenses.

(1) A person commits an offense if the person owns, keeps, harbors or has custody of any dog or cat over six months of age that is intact unless such dog or cat is subject to a valid intact pet permit issued in accordance with this section.

(2) A person commits an offense if the person owns, harbors or has custody of an intact dog or cat at the residence or business property of an individual who has had an intact pet permit revoked under subsection (e) below, regardless of whether another person at the same property owns a dog or cat subject to a valid permit.

(3) A person commits an offense if the person advertises for sale within the City an unaltered dog or cat over six months of age and fails to include in such advertisement the identification number of the dog or cat's city-issued intact pet permit.

(b) Application.

(1) An application for an intact pet permit must be made on the form prescribed by the Director and shall include the following information:

a. The name, telephone number and physical address of the applicant; and

b. The description of the animal sought to be included under the permit and the species, breed, gender and age of the animal; and

c. A statement from a licensed veterinarian that the animal is current on all veterinary recommendations, including examinations, vaccinations, preventative medicine, and treatments; and

d. A statement affirming that the applicant is familiar with the provisions of this chapter and agrees to maintain all animals in accordance with applicable legal requirements.

(2) a. An application must be accompanied by either:

1. Payment of an application fee in the amount adopted annually by the city council; or
2. Documentation evidencing that the applicant has completed a responsible-pet-owner class approved by the Director.

b. This application fee shall be in addition to all other applicable permits and registration fees required under this chapter. An application fee is not refundable.

(3) An application must be accompanied by photographic evidence, in digital or printed form, showing the enclosure or enclosures where the unaltered animals are to be kept.

(4) The Animal Care and Control Authority may require additional information and documentation as deemed necessary to determine whether a permit should be issued.

(c) Consideration of application.

(1) An application for permit may be denied if the applicant:

- a. Fails or refuses to submit a complete application;
- b. Fails or refuses to submit any information or supporting documentation required under this section or pursuant to a request of the Animal Care and Control Authority;
- c. Fails or refuses to submit the fee or documentation required under subsection (b)(2) above;
- d. Provides false information on or in connection with the application;
- e. Has, within the preceding 24 months, been convicted of, received deferred adjudication or pleaded guilty or no contest to one or more violations of this chapter, of any state law relating to the care and humane treatment of animals, or both;
- f. Has, within the preceding 24 months failed to appear in court to respond to a citation relating to an alleged violation of any provision of this chapter or of any state law relating to the care and humane treatment of animals;
- g. Has, within the preceding 60 months, been convicted of, received deferred adjudication or pleaded guilty or no contest to one or more violations of any provision of this chapter or of any state law relating to animal cruelty;
- h. Has previously had a permit revoked pursuant to subsection (e) below; or
- i. Resides at the same physical address as another individual whose permit has been revoked pursuant to subsection (e) below.

(2) Notwithstanding subsection (c)(1) above, an application for permit may also be denied if specific circumstances exist indicating that the issuance of the permit would not be in the best interest of the animals involved or of the health and safety of the public. If a permit is denied

pursuant to this subsection (c), the Animal Care and Control Authority shall issue a written statement citing the specific reason or reasons for the denial.

(3) If an application for permit is denied, the applicant may appeal to the Director. Such appeal must be made in writing and received within 30 days of the date the application was originally rejected. The decision of the Director shall be final and non-appealable.

(d) Issuance and maintenance of permit.

(1) A permit is issued for an individual animal to an individual person. A permit is not transferable to another animal or to another person.

(2) A permit is valid unless and until it is revoked.

(3) To maintain an intact pet permit, the permit holder must keep the Animal Care and Control Authority apprised of current contact information for holder and identifying and registration information for each animal subject to an intact pet permit. In particular, a permit holder must notify the Animal Care and Control Authority of any change of address or telephone number no later 90 days after the new address or phone number is effective. In addition, within 90 days of obtaining an intact animal not subject to an intact pet permit, the permit holder must provide the animal control division with the species, breed, gender, and age of such animal.

(e) Revocation of permit.

(1) The Animal Care and Control Authority may revoke a permit if the owner of the animal issued an intact pet permit:

a. Is convicted, receives deferred adjudication or pleads guilty or no contest with respect to one or more violations of this chapter, of any state law relating to the care and humane treatment of animals, or both;

b. Fails to appear in court to respond to a citation relating to an alleged violation of any provision of this chapter or of any state law relating to the care and humane treatment of animals;

c. Is convicted, receives deferred adjudication or pleads guilty or no contest with respect to any violation of any provision of this chapter or of any state law relating to animal cruelty;

d. Is discovered to have provided false or inaccurate information on or in connection with an application for an intact pet permit;

e. Fails to vaccinate any animal in accordance with the requirements of state law or this chapter;

f. Fails to comply with the requirements of subsection (d)(3) above; or

g. Fails to provide a current statement described in (b)(1)(c) above within 30 days of when requested by the Animal Care and Control Authority .

(2) a. If a permit is revoked by the Animal Care and Control Authority, the applicant may appeal to the Director. Such appeal must be made in writing and received within 30 days of the date the application was originally revoked.

- b. The Director may:
 - 1. Reinstate the permit pursuant to its original terms;
 - 2. Reinstate the permit subject to the holder meeting additional specified conditions; or
 - 3. Affirm the revocation of the permit.
- c. The decision of the Director shall be final and non-appealable.
- d. Revocation of a permit will not result in the refund of any permit or application fee.

(f) Defenses.

(1) It is a defense to a prosecution under subsection (a)(1) or (a)(2) above if an owner produces a signed, written opinion from a licensed veterinarian that the animal in question should not be spayed or neutered due to health concerns.

(2) It is a defense to a prosecution under subsection (a)(1) or (a)(2) above that the animal was owned, kept or harbored by, or in the custody of, an Animal Establishment or Releasing Agency, was kept under restraint on the premises of the Animal Establishment or Releasing Agency, and was being offered for sale or adoption.

(3) It is a defense to prosecution under subsection (a)(1) or (a)(2) above that the person who owned the animal was not a permanent resident of the City and was keeping the animal within the City for less than 60 days.

(4) It is a defense to prosecution under subsection (a)(1) or (a)(2) above that, at the time of the offense, the person was in compliance with a valid spay neuter contract.

(5) It is a defense to prosecution under subsection (a)(1) or (a)(2) above that, at the time of the offense, the person was using the animal in a research program at an institution of higher education that is accredited by the American Association for the Accreditation of Laboratory Animal Care.

Sec. 6-23 MULTI-PET PERMIT.

(a) A person may file an application for a permit to keep dogs or cats in excess of the number allowed in Sec. 6-11. The applicant shall pay an application fee at the time of filing in an amount established by the City council.

(1) The application shall be filed with the Animal Care and Control Authority on a form provided by the Director.

(2) At a minimum, the application form shall require the applicant's name, address and telephone numbers; the number, gender (including spay or neuter status), size and species of dogs and cats currently housed at the address and their registered microchip or license information; the number of dogs and cats the applicant wants to keep at the address; and information on the type and size of the residence, the area where the animals will be kept, and the distance that such area is from abutting residences.

(3) The application form shall also contain forms and instructions for providing notice of the application to the occupants or owners of abutting residences. The applicant shall notify said occupants or owners prior to filing the application with the Animal Care and Control Authority.

(b) An inspection of the animals and the property will be conducted by the Animal Control Officer.

(1) The applicant shall demonstrate that the applicant will be able to properly care for the number of animals requested without the animals creating noise or odor nuisances or otherwise creating a Public Nuisance.

(2) The applicant shall provide proof to the Director that all persons required to be notified of the application were served with notice either in person or by certified mail, return receipt requested.

(c) At the conclusion of the inspection, the Director or his or her designee shall either approve the application, modify the application or deny the application.

(d) The Director may deny the application if the applicant:

(1) Has not met the requirements in subsections (a) and (b) above;

(2) Has within the preceding 24 months been cited for violating this chapter, been the subject of animal nuisance complaints or been charged with violating state law relating to the care and humane treatment of animals;

(3) Has not properly vaccinated and microchipped or licensed all dogs and cats at the residence in accordance with this chapter; or

(4) Has not complied with Sec. 6-22 or has more than 3 intact dogs over 6 months of age or more than 3 intact cats over 6 months of age irrespective of compliance with Sec. 6-22.

(e) If the Director determines that the applicant will not be able to care for the number of animals requested without the creation of noise or odor nuisances or without being otherwise detrimental to the public health, the Director may modify the application and approve the keeping of more than three dogs or more than three cats, but fewer than the number requested in the application.

(f) A permit issued under this section shall be valid for an indefinite term, but shall be subject to revocation for violation of its conditions. The permit shall specify the number of animals the permittee shall be able to keep, and shall not be specific to individual animals. The permit shall remain valid if the permittee moves and properly notifies the Director of the change of residence.

(g) A permit issued under this section is subject to the following conditions:

(1) A permittee shall notify the Director, in writing, prior to changing residences;

(2) A permittee shall keep all dogs and cats housed at permittee's residence vaccinated and microchipped or licensed in accordance with this chapter;

(3) A permittee shall comply with Sec. 6-22 and have no more than 3 intact dogs over 6 months of age or no more than 3 intact cats over 6 months of age irrespective of compliance with Sec. 6-22.

(4) A permittee shall not maintain any animal odor or noise which creates a Public Nuisance at the residence;

(5) A permittee shall keep his or her animals under Restraint at all times in accordance with this chapter;

(6) A permittee shall cooperate with the Animal Care and Control Authority should any of the animals be involved in a bite or otherwise create a condition which could reasonably expose or transmit rabies to any human being, and shall follow all rabies quarantine procedures as outlined by the Rabies Control Act of 1981, Tex. Health & Safety Code Sec. 826 and this chapter. If the Director determines that any of the permittee's dogs is a Dangerous Dog, such determination shall subject the permit to revocation;

(7) A permittee shall comply with all other reasonable conditions placed upon the permit by the Director.

(h) If the Director determines that grounds exist to revoke a permit issued under this section or if requested by an occupant or owner of an abutting residence, the Director may set a hearing, providing the following:

(1) Written notice shall be served on the permittee in person or by registered mail at least ten days prior to the hearing. The notice shall specify the date, time and place of the hearing, as well as any allegations of permit condition violations.

(2) Notice that is mailed shall be deemed received five days after it is placed in a mail receptacle of the United States postal service.

(3) No decision may be rendered at a hearing by reason of the permittee's failure to appear unless proof of actual service is shown.

(4) A decision to revoke a permit shall be based on a preponderance of the evidence. The City shall have the burden of proof. At the conclusion of the hearing the Director's designee shall make written findings of fact and shall issue a written decision within 30 days.

(i) At revocation hearings, the following shall apply:

(1) The Director's designee shall be empowered to administer oaths, to promulgate procedural rules for the conduct of the hearing and shall act as the hearing officer.

(2) A hearing under this section shall exhaust all administrative remedies of the applicant or permittee.

(j) Revocation of a permit will not result in the refund of any permit or application fee.

(k) Whenever any deadline specified in this section falls upon a Saturday, Sunday or a City-recognized holiday, the deadline shall be the next regular city business day.

Sec. 6-24 PENALTY.

(a) A person who violates a provision of this article shall upon conviction be deemed guilty of a misdemeanor, and shall be fined a sum not to exceed \$2,000. However, a violation of Sec. 6-17 is subject to a penalty not to exceed \$500.

(b) Each day that a violation continues shall constitute a separate offense.

Sec. 6-25—6-40 RESERVED.

ARTICLE VI: RABIES CONTROL

Sec. 6-41 RABIES VACCINATION.

(a) Vaccine required.

(1) A person commits an offense if the person owns, keeps, harbors or has custody of a dog or cat over four months of age that has not been immunized against rabies as required by Tex. Health & Safety Code Sec. 826.021.

(2) The same animal must receive a booster within the 12-month interval following the animal's initial vaccination.

(3) The same animal must be revaccinated against rabies according to the maximum labeled duration of immunity for the most recently administered vaccine or at a minimum of at least once every three years.

(4) In the prosecution of this subsection (a), it is an exception that the dog or cat was kept, harbored or in the custody of an Animal Shelter.

(b) Every owner of a dog or cat immunized against rabies shall procure a rabies vaccination certificate from the veterinarian administering the vaccine.

(c) The provisions restricting the use and sale of rabies vaccine for animals as set forth in the state statute enacting the "Rabies Control Act of 1981" are hereby adopted by reference, as contained in Tex. Health & Safety Code Sec. 826, a copy of which is on file in the office of the city secretary, and as amended from time to time.

(d) It shall be unlawful for a person to administer, sell or distribute rabies vaccine for animals in a manner not authorized by subsection (c) above.

(e) Every veterinarian whose office or place of business is located within the City and every designated veterinarian, whose office or place of business is located within or outside the City, shall keep detailed records of animal rabies vaccinations and, upon request of the Director, shall provide rabies vaccination information to the animal care and control section.

Sec. 6-42 DOMESTIC ANIMALS THAT REASONABLY EXPOSE HUMANS TO RABIES.

(a) When a domestic dog, cat or ferret bites or otherwise creates a condition which could reasonably expose or transmit rabies to any human being, the animal shall be immediately quarantined as provided in Texas Administrative Code Sec. 169.27 for a minimum period of ten days from the date that the bite or exposure occurred, or longer as the Local Rabies Control Authority may deem necessary.

(b) The owner shall submit the subject animal within 24 hours of notification by the Local Rabies Control Authority for quarantine in a Texas Department of Health approved facility or a licensed veterinarian's clinic in the City which has the facilities for isolation cages, or in a home quarantine as provided in subsection (c) below.

(c) Home quarantine. The owner or custodian of the dog, cat or ferret may request permission from the Local Rabies Control Authority to place the animal in home quarantine if the following criteria can be met:

(1) A Secure Enclosure approved by the Local Rabies Control Authority must be used to prevent escape; and

(2) The animal has been vaccinated against rabies and the time elapsed since the most recent vaccination has not exceeded the manufacturer recommendations for the vaccine. If an unvaccinated animal is not over 16 weeks of age at the time of the potential exposure, it may be allowed home confinement; and

(3) During the confinement period, the animal's custodian must monitor the animal's behavior and health status and immediately notify the Local Rabies Control Authority if any change is noted; and

(4) The Local Rabies Control Authority or a veterinarian must observe the animal on the first and last days of the home confinement; and

(5) The animal must not be a stray, as defined in Tex. Health & Safety Code Sec. 826.002, at the time of the potential exposure.

(d) High risk animal. If the animal, whether owned or unowned, is a High Risk Animal which bit, scratched or created a condition which may have exposed or transmitted the rabies virus to a human being or another animal, it shall be euthanized and a suitable sample submitted to the Texas Department of Health laboratory for rabies diagnosis.

(e) Low risk animal. If the animal is a cage-raised, Low Risk Animal which bit, scratched or created a condition which may have exposed or transmitted the rabies virus to a human being, neither quarantine nor a rabies test will be required unless the Local Rabies Control Authority has cause to believe the animal is rabid, in which case it should be euthanized and tested for rabies.

(f) Human bitten. A domestic animal which has bitten a human and has been designated by the Local Rabies Control Authority as unclaimed or unowned may be humanely euthanized and a suitable sample shall be submitted to the Texas State Department of Health laboratory for rabies diagnosis.

(g) Multiple bite wounds. The Local Rabies Control Authority may require an animal which has inflicted multiple bite wounds, punctures or lacerations to a human being to be humanely euthanized and a suitable sample submitted to the Texas Department of Health laboratory for rabies diagnosis.

(h) Quarantine. Any animal required to be quarantined under this section which in the determination of the Local Rabies Control Authority cannot be or is not being maintained in a secure quarantine, shall be humanely euthanized and a suitable sample submitted to the Texas Department of Health laboratory for rabies diagnosis.

(i) Humanely killed or confinement. If the animal is not included in subsection (a), (d), (e), (f) or (g) of this section, the animal will be humanely euthanized and a suitable sample tested for rabies or the Local Rabies Control Authority may require the animal to be confined for a 30-day observation period at a licensed veterinarian's animal clinic or the Animal Care and Control Center. Home quarantine described in subsection (c) above does not apply in this subsection (i). Notwithstanding any other ordinance, the veterinarian or Local Rabies Control Authority may not destroy an animal following the final day of the quarantine period unless the veterinarian or Local Rabies Control Authority has notified the animal's owner, if available, of the animal's scheduled destruction.

(j) Owner. The owner of any animal that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that the owner knows or suspects to be rabid or to have bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall submit such animal for quarantine to the Local Rabies Control Authority or to any police officer. If the animal dies prior to its quarantine, the owner shall submit the animal to the Animal Care and Control Center for rabies diagnosis.

(k) Knowledge. Any person who has knowledge of any animal that exhibits symptoms of, or has been exposed to rabies, or of any animal which has bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal, shall immediately report the incident to the Local Rabies Control Authority. The report shall include the name and address of the victim and owner of the animal, if known, and any other information he or she has relating to the incident or animal.

(l) Veterinarian. Every veterinarian or other person who is called to examine or professionally attend any animal with rabies or any other reportable communicable disease shall within 24 hours thereafter, report the following in writing to the Local Rabies Control Authority:

- (1) Species and description of the animal; and
- (2) Location of such animal; and
- (3) Name and address of the owner thereof; and
- (4) Type and character of the disease.

(m) Investigation and record. The Local Rabies Control Authority shall investigate and record all cases of rabies and suspected rabies.

(n) Animal's body. The body of any animal that has died of rabies or that dies or is destroyed while in quarantine shall not be disposed of except as directed by the Local Rabies Control Authority.

(o) Owner of any animal quarantined. The owner of any animal quarantined under this section shall pay all reasonable costs of the quarantine and disposition of the animal, including charges for shipment of animal tissues, if required, to the Texas Department of Health laboratory for testing.

(p) Release of quarantined animal. An animal which has been quarantined may be released by the Local Rabies Control Authority at the end of the observation period upon a written release from a licensed veterinarian under the following conditions:

(1) Proof of vaccination or receipt of vaccination has been provided to the Local Rabies Control Authority prior to release from quarantine; and

(2) All applicable costs have been paid; and

(3) The animal is not being held for legal proceedings.

(q) Unlawful to expose others. It shall be unlawful for the owner of an animal that has rabies or symptoms which could reasonably indicate rabies, or that bites, scratches or otherwise creates a condition which may expose or transmit the rabies virus to any human being or other animal to fail or refuse to comply with any provisions of this article.

(r) Currently vaccinated guide dogs or police dogs. Currently vaccinated Service Animals or currently vaccinated police dogs shall not be required to be placed in quarantine when a bite is inflicted in the line of duty.

ARTICLE VII: ANIMAL CONTROL IMPOUNDMENT; FEES

Sec. 6-43 IMPOUNDMENT; NOTICE; DISPOSITION.

(a) Animals may be impounded by the Director under any of the following circumstances:

(1) An animal is At Large; or

(2) An animal is reasonably suspected of having inflicted bodily harm on any human being or animal, or poses a threat to public safety or constitutes a public nuisance; or

(3) A dog, cat or domestic ferret does not have a valid current rabies vaccination; or

(4) A miniature swine does not have valid, current vaccinations for erysipelas, parvo virus and leptospirosis; or

(5) The animal is a prohibited animal; or

(6) An animal is not cared for in violation of Sec. 6-65; or

(7) An animal has rabies or symptoms thereof, or is an animal that a person could reasonably suspect as having rabies, or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal; or

(8) An animal is not kept in conformity with this chapter or state law; or

(9) A cat is roaming beyond the boundaries of the premises of the person having charge, care or ownership of the cat. A feral cat that is otherwise in the City's trap, neuter and return program shall not be subject to capture by the City merely for being At Large.

(b) In order to abate the nuisance of unrestrained and unwanted animals, the Director shall be the designated caretaker of an animal at the time the Director

(1) takes custody of an impounded animal, or

(2) identifies an unrestrained animal as a nuisance.

(c) Immediately upon intake, the Director, as the designated caretaker, is authorized to provide each impounded animal with appropriate immunizations and parasite treatment and to implant a microchip for permanent identification. A licensed veterinarian or a person under the veterinarian's supervision shall perform any procedure or treatment that the veterinarian recommends or determines is appropriate.

(d) If, by a microchip, tag or other means, the owner of an impounded animal can be identified, the director shall, as soon as practicable after impoundment, notify the owner, if reasonably possible, that if the impounded animal is not redeemed within ninety-six hours after impoundment, disposition of the impounded animal shall occur in accordance with this chapter.

Sec. 6-44 TIME; FEES: IMPOUNDMENT; BITE; BOARDING; VACCINATION OR LICENSE.

(a) Impounded dogs, including those released from quarantine, shall be kept for ninety-six hours from the date of impoundment. If the owner of such impounded animal does not redeem it within ninety-six hours after impoundment, the disposition of the animals will be in accordance with Sec. 6-45. The animal may be disposed of prior to the expiration of such time if, in the professional opinion of the Director, disposition is necessary to avoid the unnecessary suffering of a sick or injured animal.

(b) Impounded animals not found to have a microchip, including those released from quarantine, shall have a microchip implanted in the animal by the Animal Care and Control Authority.

(c) Impounded animals may be sterilized by the Animal Care and Control Authority if the Director determines that the animal has no microchip or tag and a veterinarian determines that sterilization is appropriate for the animal.

(d) Impounded and quarantine released domestic animals shall be available for immediate redemption to their owner upon presenting photo identification, of which the City shall keep a copy, and paying all applicable fees.

(e) Impounded prohibited animals shall be available for immediate redemption by the owner after presenting photo identification, of which the City shall keep a copy, and after paying all applicable fees and signing an agreement with the City stipulating that the owner

(1) shall, within 72 hours, lawfully remove from the City limits the prohibited animal and shall not allow the prohibited animal to return to the City; and

(2) consents to the City humanely destroying the prohibited animal if the animal is found within the City limits. If the owner of a prohibited animal fails to comply with this subsection (d), the prohibited animal may be either euthanized or removed from the City as determined by the Animal Care and Control Authority. The owner of a prohibited animal shall pay to the City the applicable fees and costs of impoundment and handling.

(f) Amounts of the “applicable fees” are established by the City council. Types of “applicable fees” which must be paid by the animal owner to reclaim impounded or quarantined animals shall be determined in accordance with this subsection (f).

(1) An impoundment and boarding charge will be charged for all reclaimed animals. This charge shall take into account and reflect the species of the animal in question and whether such animal is a prohibited animal, is currently vaccinated against rabies, or is microchipped, or spayed or neutered.

(2) The impoundment and boarding charge shall also reflect whether the animal required quarantine. This charge will also reflect, apart from any quarantine issue, whether the animal could be housed with one or more others or required its own cage due to size or temperament. This charge shall also take into account and reflect the number of times that any dog or cat belonging to the same owner has been impounded at the Animal Care and Control Center within the preceding 12 months, for whatever reason. In each instance, the factors affecting the amount of the impoundment and boarding charge shall be itemized in the invoice provided to an owner at the time the animal is reclaimed.

(3) A microchip implantation fee will be charged if the impounded or quarantined animal does not have microchip or other approved identification as provided by this chapter prior to being impounded or quarantined.

(4) For any animal released pursuant to a sterilization and vaccination agreement, a deposit may be charged in an amount established annually by the City council. If an owner fails to provide proof to the Animal Care and Control Authority from a veterinarian that each animal subject to such agreement was sterilized and vaccinated within 30 days from the date the animal was reclaimed, the amount of such deposit shall be forfeited and used to defray costs associated

with additional staff time required to ensure that each animal in question was sterilized and vaccinated.

(5) An impoundment and boarding charge will be made for every day and any part of a day that the animal is in the custody of the Animal Care and Control Center.

(6) Where an owner cannot provide proof to the Animal Care and Control Authority at the time of release from impoundment that the impounded animal is currently vaccinated against rabies, then a charge for the legally required vaccination will be made and a voucher provided to the owner to receive vaccination services from a veterinarian.

(7) A schedule of the current “applicable fees” for reclaiming impounded or quarantined animals is available for review at the Animal Care and Control Center.

(8) It is not a defense to prosecution of any citations that applicable impoundment, bite, boarding, vaccination, microchip or license fees have been paid.

(9) Based on the criteria established in the policy approved by the Director, the Director can waive or reduce fees for impoundment and boarding charges based upon the owners existing or agreed compliance with this chapter, or after the owners participation in the Animal Care and Control Authority’s responsible pet ownership class, volunteer or community service programs.

Sec. 6-45 RELEASE FROM IMPOUNDMENT.

Conditions for release of impounded animals are as follows:

(a) Before releasing any animal to the owner, the Director shall require sufficient proof that reasonable precautions have been taken to prevent further violations of this chapter. If the owner does not submit sufficient proof of such precautions, the animal may continue to be impounded for three additional days. Upon the expiration of that second three-day period, the Director shall determine the disposition of the impounded animal in accordance with the provisions of this chapter.

(b) No impounded animal suffering from disease, ailment or injury may be redeemed until the Director is provided with sufficient information to determine that arrangements have been made for proper treatment of the animal by a licensed veterinarian.

(c) Except where otherwise provided in this chapter or by state law, animals not redeemed within ninety-six hours following impoundment or release from quarantine shall become the property of the City and shall at the direction of the Director be placed for adoption in a suitable home, transferred to a qualified rescue or humane group, kept for City purposes, or be humanely euthanized.

**ARTICLE VIII: ADOPTIONS AND STERILIZATION FOR ADOPTED DOGS AND CATS;
MANDATORY STERILIZATION FOR UNRESTRAINED DOGS AND CATS**

Sec. 6-46 REQUIREMENTS FOR ADOPTION AND RECLAMATION.

(a) (1) The Animal Care and Control Center may not release a dog or cat for adoption unless the animal:

- a. Has a microchip or other approved license;
- b. Has been sterilized; and
- c. Has received rabies vaccination according to Sec. 6-41.

(2) Vaccination and sterilization are not required if the release is made to an owner who has signed an agreement to have the animal sterilized and vaccinated by a private veterinarian and who has paid the deposit, if required, in compliance with Sec. 6-44(f)(4).

(b) (1) The Animal Care and Control Center may not release a dog or cat for reclamation unless the animal:

- a. Has a microchip implanted or has an approved license in compliance with Sec. 6-17;
- b. Has been sterilized; and
- c. Has received rabies vaccination according to Sec. 6-41.

(2) Vaccination is not required if the release is made to an owner who provides proof that the animal is current on its vaccinations or has signed an agreement to have the animal vaccinated by a private veterinarian and has paid the deposit, if required in compliance with Sec. 6-44(f)(4).

(3) Sterilization is not required if the release is made to an owner who has signed an agreement to have the animal sterilized by a private veterinarian and has paid the deposit, if required by Sec. 6-44(f)(4), or to an owner who provides proof that:

- a. The animal has been previously sterilized; or
- b. A veterinarian has issued a signed, written opinion that sterilization would jeopardize the animal's health; or
- c. The animal is the subject of a valid intact pet permit and has not been previously impounded in the City.

(4) Sterilization is not required if the release is made to an owner who applies for an intact pet permit at the time of the release and who has paid a non-refundable after-the-fact application fee in the amount of \$500. The after-the-fact application fee may not be waived or reduced by participation in the Animal Care and Control Authority's responsible pet ownership class.

(c) The sterilization and vaccination agreement must contain:

(1) A sterilization completion date, which is:

- a. The thirtieth day after the date of adoption or reclamation in the case of an adult animal;
- or

b. The thirtieth day after a specific date estimated to be the date an infant animal becomes six months old; and

(2) A statement, printed in conspicuous, bold print, that sterilization and vaccination of the animal are required, and that if the animal is not sterilized on or before the appropriate date or is not vaccinated within a reasonable time, the owner commits a criminal offense punishable as a Class C misdemeanor and forfeits any deposit paid under Sec. 6-44(f)(4).

(d) Except as provided by this subsection (d), an owner who signs a sterilization and vaccination agreement under this section shall have the animal sterilized on or before the sterilization completion date stated in the agreement. If the sterilization completion date falls on a Saturday, Sunday or legal holiday, the deadline is extended to the first day that is not a Saturday, Sunday or legal holiday. The Animal Care and Control Center may extend the deadline for 30 days on presentation of a written report from a licensed veterinarian stating that the life or health of the animal may be jeopardized by surgery. There is no limit of the number of extensions that may be granted for this reason.

(e) When adopting or reclaiming an animal from the City's Animal Care and Control Center, an owner must sign an adoption or reclamation agreement and must present government-issued photo identification to the City so that the City can make a copy of it.

(f) It shall be unlawful for a person who adopted or reclaimed a dog or cat from the Animal Care and Control Center and executed a sterilization or vaccination agreement for the subject animal:

(1) To fail or refuse to have the subject animal vaccinated within a reasonable time; or

(2) To fail or refuse to have the subject animal sterilized by the date specified in the agreement or in subsequent extension of the deadline as may be granted by the Animal Care and Control Center pursuant to subsection (d) above.

Sec. 6-47 CONFIRMATION OF STERILIZATION AND VACCINATION, DEATH OR LOST OR STOLEN ANIMAL.

(a) Except as provided by subsection (b) and (c) of this section, every owner who signs a sterilization and vaccination agreement under Sec. 6-46 of this article shall provide the Animal Care and Control Center from which the owner adopted a dog or cat, a certificate of sterilization or vaccination or both signed by the veterinarian who performed the surgery or vaccination or both, as applicable; this certificate must include a brief description of the animal and provide the date of sterilization or vaccination or both, as applicable. It shall be unlawful for a person who adopts or reclaims a dog or cat from the Animal Care and Control Center and who has executed a sterilization and vaccination agreement for the subject animal to fail or refuse to provide a certificate of sterilization or vaccination or both, as applicable, for the animal to the Animal Care and Control Center by seven days from the date the animal is sterilized or vaccinated or both.

(b) If the adopted or reclaimed animal dies on or before the deadline provided by Sec. 6-46 of this article, the owner shall provide to the Animal Care and Control Center, no later than seven days from the date of the animal's death, a signed letter stating that the animal has died,

describing the cause of death, if known, and providing the date of death. The letter required by this subsection (b) is in lieu of the certificate required by subsection (a) of this section.

(c) If an adopted or reclaimed animal is lost or stolen before the sterilization completion date, the owner shall deliver to the animal care and control center a signed letter stating that the animal is lost or stolen. The letter must be delivered not later than the seventh day after the date of the animal's disappearance and must describe the circumstances surrounding the disappearance and provide the approximate date of the disappearance. The letter required by this subsection (c) is in lieu of the certificate required by subsection (a) of this section.

Sec. 6-48 NONCOMPLIANCE WITH STERILIZATION AGREEMENT; ANIMAL CARE AND CONTROL CENTER RIGHT OF RECLAMATION.

The Animal Care and Control Center may promptly reclaim the adopted animal from the new owner if the Animal Care and Control Center does not receive the following from the new owner after the expiration of the seventh day after the sterilization completion date agreed to under Sec. 6-46:

- (a) A certificate of sterilization under Sec. 6-47(a);
- (b) A letter stating the animal has died under Sec. 6-47(b); or
- (c) A letter stating that the animal is lost or stolen under Sec. 6-47(c).

Sec. 6-49 RESERVED.

Sec. 6-50 RESERVED.

Sec. 6-51—6-60 RESERVED.

ARTICLE IX: CARE AND HUMANE TREATMENT OF ANIMALS

Sec. 6-61 UNLAWFUL ACTS ENUMERATED.

(a) It shall be unlawful for a person to crop a dog's ears, dock a tail, remove dew claws or perform other surgical procedures on a dog or a cat except as provided by the "Veterinary Licensing Act," Tex. Occ. Code Sec. 801, as amended from time to time.

(b) It shall be unlawful for a person to sell or deliver live chickens, ducklings, goslings or rabbits less than eight weeks of age to any person in quantities of less than five.

(c) It shall be unlawful for a person to sell, offer for sale, barter or display any living chickens, rabbits, ducks or any other fowl or animal which has been dyed, colored or otherwise treated so as to impart to them an artificial color.

(d) It shall be unlawful for a person to give away any live animal as a prize or inducement for the purpose of attracting trade or business.

(e) It shall be unlawful for a person to use steel jaw or leg-hold traps except in the case of rat control.

(f) It shall be unlawful for any person to beat, starve, overwork or to otherwise abuse any animal.

(g) It shall be unlawful for an owner or other person having care and control of any animal to abandon said animal.

(h) It shall be unlawful for a person to confine an animal in a parked or standing vehicle in such a way as to endanger the animal's health, safety or welfare. It is presumed that an animal's health, safety or welfare is endangered when the animal is confined in a parked or standing vehicle for a period of five or more minutes when the ambient outside air temperature measures above 85°F or below 35°F.

(i) Except as provided for in Section 6-13 (e), it shall be unlawful for a person to use a chain, rope, tether, leash, cable or other device to attach a dog to a stationary object or trolley system. Restraint under such conditions is presumed to be cruel confinement for purposes of this chapter.

(j) (1) Except as otherwise provided in this subsection (j), it shall be unlawful for a person to confine an animal for a substantial portion of the day in an outdoor enclosure that provides less than 48 square feet of space for each animal that it contains that is at least six months old. It is presumed that an animal is being confined for a substantial portion of the day if a police officer, Animal Care and Control Officer, code enforcement officer or the person charged with enforcing this ordinance witnesses the animal in said enclosure at least twice on the same day at two separate times that are at least five hours apart.

(2) The prohibition in this subsection (j) shall not apply to:

a. Registered non-profit agencies that keep animals for purposes of rescue, rehabilitation or adoption so long as such animals are otherwise maintained in accordance with the requirements of this chapter; or

b. Situations in which animals are being boarded for a period of less than 30 days so long as such animals are otherwise maintained in accordance with the requirements of this chapter.

(k) (1) It shall be unlawful for a person to knowingly manufacture, buy, sell, barter, exchange, possess, advertise or otherwise offer equipment used for training or handling a fighting bird, including, but not limited to, a cage, decoy, pen, house for keeping a fighting bird, feeding apparatus, training pen or a gaff, slasher or other sharp implement designed for attachment to a fowl with the intent that the equipment be used in bird fighting. For purposes of this provision, **GAFF** means an artificial steel spur designed to attach to the leg of a fowl to replace or supplement the fowl's natural spur, and **SLASHER** means a steel weapon resembling a curved knife blade designed to attach to the foot of a fowl.

(2) For purposes of this subsection (k), it is presumed that equipment is intended to be used for bird fighting if the decoy or gaff, slasher or other implement:

a. Bears blood or other biological matter or residue; or

b. If a police officer, Animal Care and Control Officer, code enforcement officer or other person charged with enforcing this article witnesses the decoy or implement:

1. Attached to a bird; or
2. In the pen, coop or yard in which the bird is located.

(l) The actions prohibited by this section are in addition to any prohibitions existing elsewhere in this code or any applicable state or federal law. Nothing in this section shall be construed to limit any duty imposed on an owner by any other provision of this code or any applicable state or federal law.

(m) (1) Public safety officers, including officers in the City code compliance department, public health, fire and police departments, shall have the authority to seize any animal that is the subject of any violation of this section if doing so is believed to be necessary to protect the animal's health, safety or welfare.

(2) If an officer personally witnesses a violation of any provision of this section occurring in plain view from or on public property, the officer may seize the animal without seeking issuance of a warrant even if doing so requires entering onto or into private property.

(3) If an animal is seized without a warrant under subsection (m)(2) above, a timely post-seizure hearing shall be held to satisfy the constitutional requirements of due process.

(n) Nothing in this section shall be construed to prevent public safety officers, including officers in the City code compliance department, public health, fire and police departments from euthanizing animals when authorized to do so by any statute, ordinance or law, or when such action is deemed necessary to spare the animal unreasonable pain and suffering or in the interest of the public health and safety.

(o) It shall be unlawful for an owner or other person having care and control of a dog or cat to fail to promptly remove and dispose of, in a sanitary manner, feces left by the dog or cat. It shall be an affirmative defense to prosecution under this subsection (o) that the person in control of the dog or cat is the owner of the premises, or the agent of the owner of the premises, where the dog or cat deposits feces.

(p) It shall be unlawful to allow accumulation of animal feces and urine in violation of Appendix B of the code of the City of Fort Worth.

(q) It shall be unlawful to keep Large Animals in violation of Appendix A of the code of the City of Fort Worth

(r) It shall be unlawful to keep swine in violation of Appendix B of the code of the City of Fort Worth.

(s) It shall be unlawful to keep pigeons and certain fowl in violation of Appendix B of the code of the City of Fort Worth.

(t) It shall be unlawful to ride, tether or pasture any animal in parks or recreation areas in violation of Sec. 24 of the code of the City of Fort Worth.

(u) It shall be unlawful to walk a dog without a leash in a city park or in an event area or otherwise be in violation of either Sec. 24 or Sec. 20 of the code of the City of Fort Worth.

(v) It shall be unlawful to walk a dog or ride a horse within the confines of the Fort Worth Botanic Garden in violation of Sec. 24 of the code of the City of Fort Worth.

Sec. 6-62 KEEPING OF CERTAIN ANIMALS PROHIBITED.

It shall be unlawful for a person to sell, offer for sale, barter, trade, keep, own, maintain, use or have in a person's possession or on premises under such person's control any of the following:

(a) Any Dangerous Animal, pursuant to a final determination by the Director and in accordance with this Chapter that the animal is dangerous;

(b) Any Prohibited Animal unless that person is exempted by Tex. Health & Safety Code Sec. 822.102, Subchapter E, Dangerous Wild Animals, as amended; or

(1) A Prohibited Animal is exempt from this section if:

a. The animal belongs to a bona fide zoological park, circus, educational institution, museum, licensed laboratory, publicly owned nature center or the animal is kept by bona fide members of an educational or scientific association or society approved by the director of health, or persons holding permits from an agency of the state or the United States for the care and keeping of animals for rehabilitative purposes. If a person holds a permit from the Texas State Department of Parks and Wildlife to operate a wildcare center in the City, the permit holder must also comply with the City comprehensive zoning ordinance, as amended, and must keep any and all animals or reptiles in cages of sufficient size, construction and strength to restrain the animal or reptile at all times; or

b. The animal is a Service Animal, as defined herein, that has been registered with the City and the following information has been provided to the Director:

1. Records of vaccination appropriate for the species of animal;

2. Documentation from a veterinarian that the animal is healthy;

3. Proof of proper restraint for the animal; and

4. Proof that the animal has been or is being trained to perform tasks of an assistance or service animal.

Sec. 6-63 GUARD DOGS.

(a) All Guard Dogs shall be registered with the Director prior to being used as Guard Dogs and thereafter registered annually.

(b) A Guard Dog that commits an unprovoked bite upon a human being or animal shall be quarantined as required in Sec. 6-42. If a person committing a crime is bitten by a Guard Dog that is protecting life or property, the animal may be observed at a kennel, or at the animal care and control center as directed by the Director or his or her authorized representative.

(c) That portion of the "Private Security Act," Tex. Occ. Code Sec. 1702, which refers to Guard Dog companies and restrictions on the use of Guard Dogs, is hereby adopted by reference.

Sec. 6-64 DEAD ANIMAL PICKUP.

(a) If the City is asked to pick up a small dead animal from premises which are used for nonresidential purposes, the owner of the animal or the person in control of the premises on which the animal is located shall pay the sum established by City council for each animal which the City picks up.

(b) Owners are responsible for the proper disposition of large dead animals other than a dog or cat.

Sec. 6-65 PROPER CARE OF ANIMALS.

Every owner or other person having care and control of any animal shall provide the following for each animal under his or her care and control:

(a) Sufficient nutritious and wholesome food, served to the animal in clean containers, to maintain the animal in good health;

(b) Sufficient clean and wholesome water, served to the animal in a clean container, such water to be reasonably available to the animal at all times;

(c) Adequate shelter, which shall allow the animal to remain dry and protected from the elements at all times and which shall provide either natural or artificial shade for the animal to avoid direct sunlight. If the shelter is provided by enclosure, the enclosure shall allow for adequate ventilation; and

(d) Veterinary care as needed to prevent suffering.

It is a defense to prosecution under subsection (c) that the animals are livestock animals kept in accordance with generally accepted and otherwise lawful animal husbandry or agriculture practices.

Animals kept on or brought to day care center premises shall be in compliance with this Chapter and with Sec. 16-434 of this code.

Sec.6-66 WILDLIFE ABATEMENT.

Notwithstanding any other ordinance, the Director may use lethal methods approved by the American Veterinary Medical Association for humane euthanasia for control and abatement of nuisance wildlife within the City.

ARTICLE X: ANIMAL ESTABLISHMENTS

Sec. 6-67 COMPLIANCE.

(a) It shall be unlawful for an Animal Establishment to sell, trade or give away any dog or cat, over three months of age, unless the dog or cat has been microchipped or licensed and vaccinated as required by this chapter.

(b) The Director shall be permitted to inspect any Animal Establishment and all animals and the premises where such animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions of this chapter.

Sec. 6-68 MINIMUM STANDARDS FOR ANIMAL ESTABLISHMENTS.

(a) In addition to the other requirements of this article, Animal Establishments shall comply with the following minimum standards:

(1) Remove manure and droppings from pens, yards, cages and other enclosures daily and handle or dispose of the excretions in such manner as to keep the premises free of any nuisance;

(2) Place food in impervious containers on impervious surfaces;

(3) Remove all refuse on the premises and dispose of same by a means approved by the City health officer;

(4) Such standards of sanitation shall be administered by the City Health Officer; and

(5) Such establishments will comply with all laws and City ordinances.

(b) It shall be unlawful for any Animal Establishment to fail or refuse to comply with any minimum standard set forth in this section.

Sec. 6-69 MULTIFAMILY DWELLING COMPLEXES.

In accordance with Sec. 7.411 of this code, as it may be amended, the landlord of a multifamily dwelling complex in which tenants or guests are allowed to own, keep or harbor cats or dogs must require that each allowed animal, at the time of leasing and upon each renewal of a lease, is in compliance with Chapter 6 of this code, including that each animal over 4 months of age has a registered microchip or license in compliance with Sec. 6-19; and that each animal over 6 months of age is spayed, neutered or subject to an intact pet permit in compliance with Sec. 6-22.

ARTICLE XI: MINIATURE SWINE

Sec. 6-70 MINIATURE SWINE GENERALLY.

Miniature Swine, as defined in Sec. 6-1, may be kept as pets in the City of Fort Worth. The following requirements shall apply to the keeping of Miniature Swine within the City of Fort Worth.

(a) There shall be a maximum of two swine per household or business. The swine may be of any age. Under no circumstances may a person keep more than two Miniature Swine per household or business.

(b) All swine must be either spayed or neutered. Under no circumstances may a person engage in the propagation or breeding of Miniature Swine within the city limits of the City of Fort Worth.

(c) It shall be unlawful for any person to keep or maintain Miniature Swine outdoors. A person may permit Miniature Swine outdoors for brief periods (but not to exceed one hour per occurrence), as necessary for exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the swine may not escape. Miniature Swine are subject to all other sections of this chapter, including sections on restraint of animals.

Sec. 6-71 VACCINATION REQUIREMENTS.

(a) It shall be unlawful for any person to keep or maintain Miniature Swine unless the swine have received annual vaccinations against erysipelas, parvo virus and leptospirosis. The first inoculations for such diseases must be received before the animal is four months of age.

Sec. 6-72 REGISTRATION REQUIREMENTS.

(a) All Miniature Swine kept within the City of Fort Worth shall be microchipped or licensed and be registered with a national registry within 14 days from the time the animal is taken to its place of residence.

Sec. 6-73 CONDITIONS.

All locations where Miniature Swine are kept shall be kept in a clean and sanitary condition. Exercise areas shall be cleaned of swine excrement on a daily basis.

Sec. 6-74 VIOLATIONS; PENALTIES.

(a) Any violation, disobedience, omission, neglect or failure or refusal to comply with the enforcement of any of the provisions of this article shall be punishable by a fine not to exceed \$2,000 for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) If any person is found guilty of having violated any provision of this article, such violation may result in revocation of such person's authorization to keep or maintain Miniature Swine.

ARTICLE XII: ANIMAL SHELTER ADVISORY COMMITTEE

Sec. 6-75 CREATION.

(a) There is hereby created, pursuant to Tex. Health & Safety Code Sec. 823.005, an animal shelter advisory committee.

(b) The purpose of the committee shall be to assist animal shelters located in the City with compliance with Tex. Health & Safety Code Sec. 823. Additionally, the committee may provide recommendations to the City regarding its compliance with the Rabies Control Act of 1981, being Tex. Health & Safety Code Sec. 826, and may recommend ways to improve the efficiency and cost effectiveness of the City's animal care and control program.

(c) The committee shall consist of seven members appointed by a majority vote of the City council. Committee members shall serve two-year terms except as provided in subsection (d) below.

(d) Appointments shall be as follows:

(1) Places 1, 3, 5 and 7. Terms expire each October first, each odd-numbered year.

(2) Places 2, 4 and 6. Terms expire each October first, each even-numbered year.

(e) The composition of the committee shall include at least one licensed veterinarian, at least one municipal official, at least one person whose duties include the daily operation of an animal shelter, and at least one representative from an animal welfare organization. The same person shall not be appointed to fulfill more than one of these requirements.

(f) Members of the committee shall be subject to removal at any time by the City council. Any vacancy in the membership of the committee shall be filled by the City council for the unexpired term of the member whose place has, by removal or otherwise, become vacant. Vacancies shall be filled within 60 days after the City council removes the member or within 60 days after the City council receives notice of the member's resignation.

Sec. 6-76 MEETINGS.

(a) The committee shall meet a minimum of three times per calendar year.

(b) A quorum of the committee shall consist of a majority of the members, excluding any vacancies. The presence of a quorum of the committee shall be required prior to a meeting being called to order.

(c) Approval of all items before the committee shall require a majority vote of those in attendance.

(d) The committee may adopt rules for the conduct of its meetings.

SECTION 2.

That Section 7-411, "Building, Common Area and Operational Standards for Multifamily Dwelling Complexes," of the Code of the City of Fort Worth, Texas (2015) is hereby amended in pertinent part as follows:

(b) *Pet requirements.*

(1) The landlord of a multifamily dwelling complex in which tenants or guests are allowed to own, keep or harbor cats or dogs must require that each allowed animal, at the time of leasing and upon each renewal of a lease, is in compliance with Chapter 6 of this Code, including that each animal over 4 months of age has a registered microchip or license in compliance with Sec. 6-19; and that each animal over 6 months of age is spayed, neutered or subject to an intact pet permit in compliance with Sec. 6-22. ~~The landlord of a multifamily dwelling complex in which~~

~~tenants or guests are allowed to own, keep or harbor cats, dogs, miniature swine or any animal subject to a separate municipal or state registration requirement must provide each tenant, at the time of leasing and upon each renewal of a lease, with a form to register the pet with the city. The form shall be as promulgated by the director. The landlord must advise the tenant to complete and return the form to the landlord within 14 days of the date that the tenant first occupies the premises. The landlord must forward the form to the director within 30 days of the date the tenant first occupies the premises.~~

SECTION 3.

That Section 16-434, “Animal Care,” of the Code of the City of Fort Worth, Texas (2015) is hereby amended in pertinent part as follows:

(a) Animals kept on or brought to day care center premises shall be in compliance with Chapter 6 of this Code, including that each animal over 4 months of age has a registered microchip or license in compliance with Sec. 6-19; and that each animal over 6 months of age is spayed, neutered or subject to an intact pet permit in compliance with Sec. 6-22; and be licensed shall be vaccinated against rabies if required by the City code. Documentation of such vaccinations and microchipping or licensing registration shall be kept on file at the facility.

SECTION 4.

That Section 24-3, “Animals and Birds,” of the Code of the City of Fort Worth, Texas (2015) is hereby revised to add a new subsection (c) to read as follows:

(c) This section does not apply to Animal Care and Control Officers as defined by this Code who are performing duties within the scope of their employment with the City.

SECTION 5.

That Section 11A-20, “Distance Requirements for Kennels; Number of Dogs and Cats at Residences,” in Appendix B of the Code of the City of Fort Worth, Texas (2015) is hereby amended in pertinent part as follows:

(e) A person commits an offense if the person keeps, houses or maintains more than three dogs or three cats at the person’s residence ~~without a valid permit issued by the department of health to do so.~~ in violation of Sec. 6-23.

~~–(f)– A person commits an offense if the person has a valid permit issued by the department of health to keep, house or maintain more than three dogs or three cats at the person’s residence, and keeps, houses or maintains more dogs or cats at the residence than allowed by the permit.~~

SECTION 6.

That Section 11A-22, “Keeping of Rabbits, Guinea Pigs, Pigeons and Certain Fowl,” in Appendix B of the Code of the City of Fort Worth, Texas (2015) is hereby retitled and amended in pertinent part as follows:

Sec. 11A-22 KEEPING OF ~~RABBITS, GUINEA PIGS,~~ PIGEONS AND CERTAIN FOWL.

(a) In this section, REGULATED ANIMAL means any ~~rabbit, guinea pig~~ or pigeon and any fowl as defined by this section. For purposes of this section, the term FOWL shall include any bird used for food or sport or kept as a pet but shall not include pigeons, emus, ostriches or rheas. For the purposes of this section ROOSTER shall mean a male chicken (species Gallus domesticus).

(b) A person commits an offense if the person knowingly keeps or maintains any number of ~~rabbits, guinea pigs,~~ pigeons and/or fowl within 50 feet of any regulated structures as defined in subsection (f) below.

SECTION 7.

That these ordinances shall be cumulative of all other ordinances of the City of Fort Worth, Texas, and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 8.

That all rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that 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, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of these ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these ordinances shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of these ordinances, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 10.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of these ordinances shall be fined not more than Two Thousand Dollars (\$2,000) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 11.

That the City Secretary of the City of Fort Worth, Texas, is hereby directed to publish these ordinances for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by the V.T.C.A. Local Government Code Subsection 52.013.

SECTION 12.

These ordinances shall take effect after adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

ATTEST:

Matthew A. Murray
Assistant City Attorney

Mary J. Kayser, City Secretary

Date: _____

ADOPTED: _____

EFFECTIVE: _____