



**AGENDA**  
**ANIMAL SERVICES ADVISORY COMMITTEE MEETING**  
**MARCH 27, 2024**

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**CITY COUNCIL CHAMBERS @ 8601 MIDCROWN**

**5:30 P.M.**

NOTICE IS HEREBY GIVEN THAT A CITY OF WINDCREST ANIMAL SERVICES ADVISORY COMMITTEE MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 27<sup>th</sup> DAY MARCH 2024, STARTING AT 5:30 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COMMISSION MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE ANIMAL SERVICES ADVISORY COMMITTEE RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF MARCH 27, 2024, AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY MARCH 28, AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETING**

The City of Windcrest Council Chambers is wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

- I. Call to Order**
- II. Ceremonial**
- III. Roll Call**
- IV. Vote to Excuse Absent Commission Members**
- V. Pledge of Allegiance & Invocation**
- VI. Citizens to be Heard.**
  - Citizens may address the Animal Services Advisory Committee on topics not on the agenda for no more than three (3) minutes.
  - Citizens shall also have the opportunity to address the Animal Services Advisory Committee during consideration of posted agenda items for no more than six (6) minutes.
  - A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.
- VII. Presentation**
  - a) The Animal Services Advisory Committee will receive a presentation on Chapter 2 Administration, Article IV of the City of Windcrest Code of Ordinances.

**VIII. Items for Discussion/Action**

- a) The Animal Services Advisory Committee will review, discuss, and may act on a recommended amendment to the City of Windcrest City Council on Chapter 6, Animals of the City of Windcrest Code of Ordinances. [Adam Astleford, City Councilmember, Place 5]
- b) The Animal Services Advisory Committee will review, discuss, and may act on setting a meeting date in April 2024. [Adam Astleford, City Councilmember, Place 5]

**IX. General Announcements & Future Agenda Items Requested**

*Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.*

**X. Adjournment**

**DECORUM REQUIRED:** *Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.*

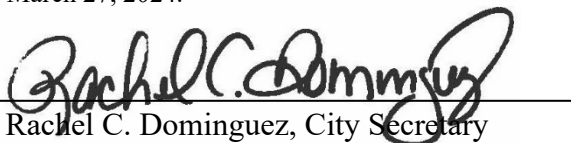
**ACTION BY COMMITTEE AUTHORIZED:** *The Animal Services Advisory Committee may vote and/or act upon any item within this Agenda. The Committee reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); § 551.087 (Economic Development); § 551.074 (Personnel Matters) and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.*

**ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS:**

*It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions, and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions, and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions, and committees whose members are in attendance.*

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the Animal Services Advisory Committee of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on March 27, 2024.

By:

  
Rachel C. Dominguez, City Secretary

**ORDINANCE 2024-004(O)**

**AN ORDINANCE AMENDING THE WINDCREST CODE OF ORDINANCES, CHAPTER 6 – ANIMALS**

**WHEREAS**, the City of Windcrest is a home-rule municipality located within Bexar County, Texas; and

**WHEREAS**, the City of Windcrest has an interest in ensuring the health and safety not only of its citizens, but of the animals which live within the corporate limits; and

**WHEREAS**, the City of Windcrest Council has become aware of instances of dogs biting Windcrest citizens and the City's animal control office not having a clear mechanism within its ordinances to address the matter; and

**WHEREAS**, the City of Windcrest Council finds that, as a whole, the current structure of Chapter 6 of the City's Code of Ordinances regarding animals has not been updated to reflect current state standards and procedures regarding animals and animal welfare; and

**WHEREAS**, the City of Windcrest Council finds that continuing to operate under the current structure of Chapter 6 leaves the City with few mechanisms by which to utilize its responsibility to protect the health and safety of its citizens and the animals which live within the corporate limits; and

**WHEREAS**, the City of Windcrest Council seeks to amend the animal code chapter and all those related in order to maintain and create a safe and desirable community; and

**WHEREAS**, the Windcrest City Council in compliance with the laws of the State of Texas and the City's municipal code in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public to amend Chapter 6 of the City's Code of Ordinances regarding animals.

**I.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS** that Chapter 6 – Animals, of the Windcrest Code of Ordinances shall be amended as follows with underlined text being additions and struck through text being deletions and shall read as follows:

## Chapter 6 ANIMALS<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 6-1. Definitions.

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

*Abandoned animal* shall means an animal which has been deserted, relinquished, or forsaken by its owner or which has no apparent owner.

*Altered* shall mean spayed or neutered.

*Animal* shall ~~mean every living dumb creature~~ any living vertebrate or invertebrate, domestic or wild, not including humans.

*Animal control officer* shall means a person ~~who is not a peace officer~~ employed by the City of Windcrest, who completes the basic animal control course in accordance with V.T.C.A., Health and Safety Code § 829.002, completes the required number of continuing education during each three-year period, and is designated by the Director. Such includes any City employee designated as an animal care officer.

*Animal waste* shall means excrement or feces of any animal.

*At large* shall mean an animal ~~means a dog off~~ beyond the premises of the owner or keeper and not under the control of said individual ~~the owner, his employee or agent~~ by means of a ~~leash, chain, rope, cord, or fencing~~ physical restraint.

*Cat, also known as a common house cat* shall means a male or female of the ~~domesticated feline species~~ family felis catus, whether altered or not.

*Boarding facility* shall mean any place where the property owner, tenant, or occupant keeps or allows others to keep or board any cats or dogs for a fee, donation, or non-monetary reward.

*Community cats* shall mean a cat which has been vaccinated and spayed/neutered through the City's or another entity's Trap-Neuter-Return program ~~a group of cats that congregate, more or less, together as a unit. Although not every cat in a colony may be feral, any non-feral cats that congregate with a colony shall be deemed to be a part of it.~~

*Community cat colony* shall mean a group of community cats that congregate, or otherwise form a unit or colony, and share a common food source. Such units or colonies can be composed of community cats regardless of whether they are feral.

*Cruelly treated* includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal and any subsequent revisions made by the state. (Definition from Subchapter B, Disposition of Cruelly Treated Animals from Health and Safety Code, Chapter 821.)

Department shall mean the division of the City's Police Department which serves as the animal control services department, comprising of the Director and all animal control officers selected by the Director to execute the duties of the animal control services department. Such division may also be referred to as the animal control and care unit.

Director shall mean the Chief of Police for the City of Windcrest or his/her designee.

Dog shall means a male or female of the *family canis familiaris* domesticated canine species, whether altered or not.

Dog and cat license shall means a printed or written permission issued by the city authorizing the holder to keep a dog or cat within the city.

Dog and cat license tag shall means a tag of a design prescribed issued by the city and bearing the corresponding number of the dog and or cat license.

Dog park shall mean a park, or a portion of a park, maintained by the City of Windcrest which has been designated for the express purpose of permitting dogs to roam about without requiring the use of any physical restraint, but under the control of their owners or keepers.

Ear-tipping means a straight line cutting of the tip of the left ear of a feral or abandoned cat done while the cat is anesthetized for spaying and neutering.

Enclosure shall mean a structure to prevent an animal from being able to run at large. For purposes of dangerous dogs, enclosure shall mean a house or a building, or in the case of a fence or a structure/pen, the fence or structure/pen must also have minimum dimensions of five (5) feet by ten (10) feet. The fence or structure/pen must form an enclosure suitable to prevent entry of young children and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition. The enclosure shall be securely locked at all times. The structure/pen must have secure sides to prevent the dangerous animal from escaping from the enclosure. The structure/pen shall provide protection from the elements for the dangerous animal. Notwithstanding any fence height restrictions in this chapter, the animal care officer shall have the right to require that the fence have a secure top and/or bottom be added to the structure/pen if the need is demonstrated. These additional requirements shall be based upon the type of animal to be kept in this enclosure and its anticipated ability to escape.

Euthanize shall means the painless and merciful ending of an animal's life in accordance with V.T.C.A., Health and Safety Code ch. 821, subch. C (V.T.C.A., Health and Safety Code § 821.051 et seq.).

Feral/abandoned cat shall means a cat that exists in a wild or untamed state, either due to birth or reversion to a wild state from domestication or which exists without an owner, that is not socialized to people.

Feral cat caregiver/(may also be called community cat caregiver shall) means a volunteer, uncompensated person who agrees to facilitate the Trap-Neuter-Return program in accordance with this chapter and any rules and regulations established by the city council.

Fowl shall mean domesticated animals belonging to the class of Aves including poultry, birds of prey, game birds, pigeons, or similar whether kept for pleasure or for profit. Fowl shall not include common indoor pet birds such as canaries, finches, or parrots.

Impoundment facility shall means a facility that keeps or legally impounds stray, homeless, or unwanted animals in accordance with V.T.C.A., Health and Safety Code ch. 823.

Livestock shall mean domestic animals generally used or raised on a farm for profit, work, or pleasure, including, but not limited to, cattle, sheep, swine, horses, donkeys, mules, domesticated game animals, and llamas. Livestock shall not include miniature pigs or pot-belly pigs.

Owner also includes keeper and shall means any person, persons, or entity who owns, has custody, or has control of an animal.

Quarantine shall mean the detention or isolation of an animal suspected of carrying an infectious or contagious disease, such as rabies ~~means to detain or isolate due to a suspicion of rabies.~~

Trap-Neuter-Return (TNR) program shall means a program under which feral or abandoned cats are trapped, evaluated, neutered or spayed, vaccinated against rabies, and returned to the areas where they congregate.

~~Vicious animal means any animal that according to the records of an appropriate authority has aggressively bitten, attacked, endangered, or has inflicted severe injury on a human being on public or private property; has more than once severely injured or killed a domestic animal while off the owner's property; has been used primarily or in part for the purpose of fighting, or is an animal trained for fighting.~~

## **Sec. 6-2. Unlawful acts; criminal penalties; civil remedies.**

- (a) Unless otherwise specifically provided for in this chapter, if it is found that a person intentionally, knowingly or recklessly violated any provision of this chapter, then upon conviction a person shall be fined an amount not less than one dollar (\$1.00) and not more than two thousand dollars (\$2,000.00) except that, in the event a person has once previously been convicted under this chapter, the person shall be fined an amount not less than one hundred dollars (\$100.00). ~~Unless otherwise specifically provided for in this chapter, if it is found that a person intentionally, knowingly, or recklessly violated any provision of this chapter, then upon conviction a person shall be fined from \$1.00 to \$2,000.00 for each day such violation occurs.~~
- (b) Nothing in this section shall limit any and all other criminal, civil or administrative remedies available to the city in seeking to enforce the provisions of this chapter. Each day's violation thereof shall constitute a separate offense. Nothing in this section shall limit the remedies available to the city in seeking to enforce the provisions of this chapter.
- (c) Where it is deemed necessary by the city manager ~~or city council~~, the city attorney's office is hereby empowered to secure injunctive relief to enforce the provisions of this chapter. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this chapter.

## **Sec. 6-3. Animal control advisory committee.**

- (a) The Windcrest City Council may appoint an animal control advisory committee, which shall consist of five (5) members. Four (4) of the members of this board shall be appointed by the city council and one (1) by the Director. Each of these appointees shall serve on said board for a term of two (2) years.

- (b) The animal control advisory committee may meet, as needed, to discuss any issues with regard to animal welfare or interactions between animals and the public at large and to provide recommendations to the Director or the city council.

~~An animal control advisory committee to study animal issues, make recommendations to the city council on animal issues and to serve as a shelter advisory committee, if necessary, is hereby authorized with the five members to be appointed by the city council.~~

#### **Sec. 6-4. Animal nuisance; presumptions.**

- (a) An animal owner commits an offense if by act, omission, or possession he creates an animal nuisance.
- (b) The following presumptions are hereby declared applicable in the prosecution of an animal nuisance offense pursuant to this subsection:
- (c) Any dog or cat can be deemed to be a nuisance under the provisions of this section by:
- (1) The filing of a noise complaint by three or more neighbors within a 12-month period, if ~~a the~~ dog barks or whines in such a manner, with such intensity, or with such continued duration so as to annoy, distress, or disturb the quiet, comfort, or repose of persons of normal nervous sensibilities. For the purpose of this ~~presumption-subsection~~, each neighbor must occupy a different residence.
  - ~~(2) The fact that an animal in question has bitten or injured another animal or human being without provocation during the previous 18 months shall give rise to the presumption that the animal bites or injures other animals or human beings without provocation.~~
  - (2) The fact that an animal in question has permanently damaged or destroyed public or private property (not to include plants, mulch, grass, or perishable items) during the last 12 months ~~shall give rise to the presumption that the animal has a propensity to destroy property.~~
  - (3) ~~Any cat can be deemed to be a nuisance under the provisions of this section by t~~  
The filing of a trespass complaint by three or more neighbors within a 12-month period. For the purpose of this ~~presumption-subsection~~, each neighbor must occupy a different residence. Any person filing a trespass complaint must have an accompanying photograph or video of the animal ~~eat~~ trespassing in their yard. ~~The owner of said cat may be issued a citation.~~

#### **~~Sec. 6-5. Vicious animal.~~**

~~It shall be unlawful for any keeper of any vicious animal to permit any such animal to be at large regardless of any other provision contained in this chapter.~~

~~(Code 1986, § 3.110)~~

#### **Sec. 6-6. Cruelty to ~~are and keeping of dogs and other animals.~~**

- (a) It shall be a violation of this Code for a person to intentionally, knowingly or recklessly beat, cruelly treat, overload or otherwise abuse any captured or uncaptured wild or domesticated

living creature anywhere in the city. A violation of this subsection is punishable as described in section 6-2. No person shall cruelly treat any dog or animal.

- (b) An animal owner shall provide his animal with veterinary care to maintain ~~ensure~~ its health and, when needed, to prevent suffering.
- (c) An animal owner shall provide ~~his~~ the animal with an area that is dry, sanitary, and free of objects not intended for animals and which could cause them bodily injury, such as rusted metal or broken glass ~~humane care and treatment~~.
- (d) Animals shall be protected from extremes of the environment including outside temperatures of heat (~~85~~80 degrees or above), cold (~~40~~32 degrees or below), and precipitation; this shall include but not be limited to shade, dog houses, lean-tos, tents, garages, or inside the owner's house.
- (e) No owner of an animal shall abandon such animal at any place or time. If an animal owner has been identified and the owned animal has been impounded by the animal control officer, no owner shall allow the animal to remain in the impoundment facility beyond the seven (7) business days for the purpose of abandoning the animal or adopting the animal at a lower cost than the fine/fee.
- (f) An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
  - (1) Between the hours of 10:00 p.m. and 6:00 a.m.;
  - (2) Within 500 feet of the premises of a school; or
  - (3) In the case of extreme weather conditions, including conditions in which:
    - a. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
    - b. A heat advisory has been issued by a local or state authority or jurisdiction; or
    - c. A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the national weather service.
- (g) In this subsection, a restraint unreasonably limits a dog's movement if the restraint:
  - (1) Weighs more than one-tenth (1/10) of the animal's body weight;
  - (2) Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
  - (3) Is a length shorter than the greater of:
    - a. Five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
    - b. Ten feet;
  - (~~4~~3) Is in an unsafe condition; or
  - (~~5~~4) Causes injury to the dog.
- (h) A dog that is tethered, crated, or otherwise restrained must have access to adequate shelter, clean water, dry ground, and shade from direct sunlight at all times.



- (i) No person shall tether a puppy, sick or injured dog, or a female dog while she is in estrus.
- (j) Due to the risk of hyperthermia, it shall be unlawful to muzzle an animal without constant supervision if temperatures are predicted to exceed seventy-five (75) degrees. Any muzzle used shall, by its design, allow the animal to open its mouth, pant, drink water, not interfere with its vision, and not cause injury to the animal. A gentle leader or halter is not considered a muzzle.
- (k) Animal control officers shall liberally utilize the authority granted by V.T.C.A., Health and Safety Code § 821.022 to seize and impound any animal that has been or is being cruelly treated. If any investigating officer has reason to believe that an animal has been or is being cruelly treated, pending a hearing before any judge of competent jurisdiction on the issues of cruelty and disposition of the animal, the seizure of the subject animal prior to receiving a warrant is hereby authorized if the investigating officer or the director believe a delay in obtaining a warrant would endanger the life of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.

#### **Sec. 6-7. Ear cropping, tail docking, dewclaw removal.**

It shall be unlawful for the owner of an animal, or a person charged with custody or care of an animal, to surgically alter an animal, including, but not limited to ear cropping, tail docking, declawing, and dewclaw removal, except when done by a licensed veterinarian.

#### **Sec. 6-8—6-30. Reserved.**

### ***ARTICLE II. ADMINISTRATION***

#### **Sec. 6-31. Designation of animal control services department and its officer's officer.**

- (a) The Director, with the city manager's approval, shall designate one or more employees of the City of Windcrest to function as the City's animal control officers.
- (b) The purpose of the animal control officers is to aide, protect, and preserve the welfare of the citizens and animals within the City of Windcrest.
- (c) Each animal control officer shall ensure that they have completed the requirements to be certified per City of Windcrest employee policy but not later than thirty (30) days from the date the person assumed animal control duties as required under Texas Health and Safety Code Ch. 829.002 and continues to comply with the requirements as outlined under Texas Health and Safety Code Ch. 829.002. The Director shall also have completed the same requirements within ninety (90) days from the date the person assumed such position.
- (d) All animal control officers shall report to the Director.

~~The city council shall create the position of animal control officer to aide and protect the citizens and the welfare of animals in Winderest and uphold (in accordance with) the State of Texas Constitution, V.T.C.A., Health and Safety Code title 10 and the terms of this article. The officer will have successfully completed certification (animal control licensing) from the state within six months of accepting the position and will maintain his license in accordance with the continuing education requirements of such license.~~

## **Sec. 6-32. Duties of animal control officer.**

The animal control officer will carry out his/her duties in accordance with the Texas Department of Health Services Animal Control Officer Basic Training Manual. Duties shall include but are not limited to:

- (a) Investigating all reports or incidents of animal cruelty;
- (b) Investigating all reports of biting incidents, animal to human and animal to animal, domestic or non-domestic;
- (c) Removing dead animals from public or private property for the protection of public health and safety and after notifying owners when possible by the use of records, tags, reports, and microchips, properly disposing of those dead animals;
- (d) Issuing violation notices including administrative notices, civil notices and issuing or ~~(contacting a police officer to issue criminal tickets or citations)~~, written warnings, and animal control fees; filing of municipal court documents, and making court appearances when necessary for violations of this chapter article ~~article~~ or the animal laws of the state;
- (e) Capturing lost or stray pets and identifying owners through the use of records, tags, reports, and microchips. All animals captured should be transported to the city's impoundment facility as soon as capture is complete;
- (f) Impounding and caring for retrieved dogs or cats at the city's impoundment facility and ~~posting pictures and description at city hall and on the website in accordance with the terms of this chapter for those animals whose owners cannot be identified~~ taking reasonable steps to identify the owners, if possible, or, if the cat is a community cat, returning said cat to the area it was found;
- (g) Posting pictures and descriptions of lost or found animals at city facilities and websites to assist the owners in locating lost pets at city hall and the website for owners seeking their lost ~~pets;~~
- (h) Maintaining relationships with rescue, foster, and adopting shelter organizations and ~~then~~ transporting pets when space is available after the holding period as described in this chapter;
- (i) Requesting verification of city registration from owners of dogs/cats when they believe necessary and verifying city registration of captured dogs once owner is known;
- (j) Maintaining ~~animal control~~ department records in accordance with the guidelines in State of Texas Officer Basic Training, Records chapter; this would include all adoption, rescue, shelter, and euthanasia records;
- (k) Maintaining animal control equipment, reporting any failures, and ~~or~~ acquiring replacements;
- (l) If animal control believes an animal, wild or domestic, is displaying symptoms of rabies, animal control will capture the animal and take it to a veterinarian for evaluation. If the animal is wild and the veterinarian believes it is rabid, the animal will be humanely euthanized and the head prepared for delivery to a state laboratory for rabies testing and subsequent reporting. In the case of domestic dog or cat this will only be done after exhausting all resources to identify and notify the owner of the animal, unless a veterinarian believes such a delay will

unnecessarily prolong the suffering of the animal. Pictures of the animal will be posted and the animal held for the required ten days in quarantine whenever medically possible for the humane care of the animal;

- (m) Overseeing the community cat program (TNR) and maintaining communication with community cat caregivers in the city;
- (n) Communicating animal control issues and animal education material to the citizens;~~and~~
- (o) Maintaining the animal control department website;-
- (p) Executing the duties as required for dangerous/aggressive dogs, including the seizure, or acceptance of delivery, of suspected dangerous/aggressive dogs, attending any hearings, ensuring owner compliance with requirements of owning a dangerous/aggressive dog, and providing means of access to a veterinarian or supervised by a veterinarian properly certified to humanely destroy/euthanize a dog when necessary under these codes or Texas state law.

**Sec. 6-33. Verification of license certificate and tag.**

~~For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal control officer is hereby empowered to request from the owner or the person having in his possession any dog or cat, such dog's or cat's current license certificate or tag issued pursuant to section 6-93. Upon presentation of a warning, the owner of the animal has ten business days to present a copy of a certificate or tag to the city. The failure of such owner or person having in his possession any dog or cat to exhibit, upon request, such license certificate or tag, shall constitute an offense under this chapter.~~

**Sec. 6-34. Interference with discharge of animal control officer's duties.**

- (a) It shall be unlawful for any person to interfere with an, ~~hinder, or harass~~ the animal control officer in the execution or performance of his/her ~~duties-duty~~ under the provisions of this chapter.
- (b) It shall be unlawful for a person to make a false complaint or report of an alleged violation under this chapter.

**Sec. 6-35. Animal control fee and citations for violations.**

~~For the purpose of enforcing this chapter, the animal control officer shall issue a written warning or animal control fee, or contact a police officer to issue citations or tickets to an owner whose animal is found to be in violation of any of the provisions of this chapter and appear as a witness thereto in court.~~

**Secs. 6-36. City Dog Park.**

- (a) Any dog park within the corporate limits of the city shall:
  - (1) Have a separate, fenced-in area only for dogs up to thirty (30) pounds.
  - (2) Have installed at least one post every two hundred square feet (200 sq.ft.) equipped with a dispenser for collecting animal waste and a garbage receptacle.
- (b) Any person visiting the dog park shall:
  - (1) Not permit entry of dogs which have not been immunized in accordance with this article;
  - (2) Not permit entry of dogs which have not been altered, if medically possible;

- (3) Not permit entry of dogs which have not been registered with the city and had a microchip implanted;
  - (4) Not permit entry of dogs which are currently declared dangerous or aggressive; and
  - (5) Immediately restrain their dog should it become aggressive or bite another dog or person.
- (c) Any violation of subsection (b) shall constitute a Class C Misdemeanor and is punishable under Section 6-2.

**Secs. 6-36.—6-58. Reserved.**

### **ARTICLE III. ANIMAL OWNERSHIP DOGS AND CATS**

#### **DIVISION 1. GENERALLY**

#### **Sec. 6-59. License, and registration, and microchipping.**

- (a) The owner or keeper of any dog or cat over four (4) months of age shall license and register such dog or cat within sixty (60) days of residency or acquisition of the pet. Renewal registration shall be within thirty (30) days of the expiration of the most recent registration in January or February of every year. Dog or cat licenses shall be issued by the city upon payment of a license fee for each dog or cat that has been spayed or neutered. Any owner of a dog or cat that has not been spayed or neutered shall pay a non-sterilized license fee. The owner shall state at the time application is made for such license and upon forms provided for such purposes, his name and address, and name, breed, color, and sex of each dog or cat. ~~Nonresident owners of dogs or cats who temporarily bring their dogs or cats within the city are exempt. The license fee for sterilized animals may be waived if the owner shows proof that the dog or cat has a microchip implanted.~~
- (b) The owner or keeper of any dog or cat must have the animal implanted with a registered microchip within ninety (90) days of residency or acquisition of the pet. This requirement does not apply to a dog or cat before it reaches four (4) months of age. A dog or cat is exempt from this requirement if the dog or cat is determined to be medically unsuitable for microchipping by a licensed veterinarian in writing. If the animal is determined to be medically unsuitable for microchipping, the owner shall obtain a metal tag which shall be worn on the animal's collar at all times. Proof of medical unsuitability for microchipping along with having obtained a metal tag reading the owner's or keeper's name, address and telephone number must be provided to the department within thirty (30) days of having received the tag. If there is a change in contact information, the owner or keeper of the animal shall update contact information with the department within thirty (30) days of the date of the change in contact information. If there is a change in ownership of the animal, the initial owner or keeper shall be responsible for notifying the department of the change within thirty (30) days of the date of change in ownership. The new owner or keeper shall be responsible for providing the department with the new owner's or keeper's name, address and telephone number within thirty (30) days after the change in ownership.
- (c) It is a defense to prosecution under this section that:
  - (1) The dog or cat owner is a nonresident of this city and is keeping the subject animal in the city for fewer than sixty (60) days;

- (2) The animal owner has been a resident of this city for fewer than thirty (30) days; or
- (3) The animal had been abandoned or lost and the temporary owner has had the dog or cat for fewer than thirty (30) days.

(d) This Article does not apply to a commercial business, non-profit organization, or governmental entity operating within the corporate limits of the City, in a properly authorized zone and under a valid business permit/license, and whose operation is for the providing of veterinary services, animal boarding services, retail sales of domestic animals, or the adoption of domestic animals.

- ~~(b) Any person whose female dog or cat has a litter shall obtain a litter permit prior to or within ten business days of the litter's birth.~~
- ~~(c) The issuance of a permit authorizes the whelping of no more than one litter per female dog or cat in any 12-month period.~~
- ~~(d) No person may offer any puppy or kitten under the age of eight weeks for sale, trade, or other compensation, or for free giveaway (except a puppy or kitten, or litter taken to any tax-exempt nonprofit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals, or any recognized rescue organization which is currently registered with the department).~~
- ~~(e) This section does not apply to caregivers of community cat colonies.~~

#### **Sec. 6-60. Vaccination.**

It shall be unlawful for the owner or keeper of any dog or cat four (4) months of age or older, to keep, maintain, or harbor such dog or cat unless it shall have been vaccinated against rabies by a licensed veterinarian at the owner's expense. Such vaccines may be of the one- or three-year variety. Before any dog or cat license shall be issued by the city, the owner must present a valid and current certificate issued by a licensed veterinarian.

#### **Sec. 6-61. Tag and collar.**

- (a) Upon payment of the license fee, the city shall issue to the owner a license receipt and a tag for each dog or cat so licensed.
- (b) Every owner shall be required to provide each dog **or cat** with a collar and tag ~~that and it shall be constantly worn unless and until the dog or cat has a microchip implanted under its skin. An owner of a dog or cat can choose to have a microchip implanted under the skin of the animal, in lieu of wearing license tags.~~ The microchip implant does not exempt the owner of the animal from registration.
- (c) In the event a dog or cat license tag is lost or destroyed, a duplicate will be issued by the city upon presentation of a receipt showing the payment of the license fee for the current year and an additional fee for such duplicate. Dog or cat license tags shall not be transferable from one dog or cat to another and no refund shall be made on any dog or cat license fee because of death of the dog or cat or the owner's leaving the city before expiration of the license.

#### **Sec. 6-62. Dogs and cats at large.**

It shall be unlawful for any person owning any dog, or unaltered cat, to permit it to be outside of such owner's fenced premises or other enclosure, unless the dog or unaltered cat shall be at all

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times under the control of the owner or his employee or agent by means of adequate physical restraint-leash, chain, rope or cord of sufficient strength to control the actions of the animal~~dog~~. When an unattended dog or unaltered cat is found to be on unfenced private or public property, or outside of an enclosure, without proper leashing, the animal control officer shall have the authority to retrieve the animal~~dog~~ from such private or public property. The owner of a ~~sexually intact (not spayed or neutered)~~ domesticated an unaltered cat shall not permit the domesticated cat to roam.

#### **Sec. 6-63. Restrictions.**

(a) It shall be unlawful:

- (1) For any person to sell, trade, barter, lease, rent, or give away any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- (2) For any person to display for a commercial purpose any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market festival, park, community center, or outdoor public place.
  - a. This section shall not apply to any tax-exempt nonprofit organization founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals or any recognized rescue organization which is currently registered with the department.
  - b. Any animal being sold, traded, bartered, leased, rented, or being given away on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place shall be subject to seizure and impoundment at the discretion of the investigating animal control officer and shall be subject to adoption, rescue, foster, or humanely euthanization ~~euthanized~~ at the discretion of the director ~~city manager~~ if not timely redeemed by payment of applicable impoundment fees for each animal impounded within the impoundment period as set out in this Code.
- (3) To expose any known poisonous substance, whether mixed with food or not, so that the same may be attractive to any warm-blooded animal or human; except that it shall not be unlawful for a person to expose, on his own property or with permission of the property owner, commercially available rat poison or other pesticides appropriately placed in accordance with the labeling directions, ~~and~~ in tamperproof bait stations, for the purposes of attracting rodents or other pests. It shall be sufficient to constitute a violation under this section that the poisonous substance was attractively exposed by such person in such a manner that the same may have been eaten, or was in fact eaten, by any human or warm-blooded animal other than a rodent or pest or human; no intent or further culpable mental state shall be required to prove a prima facie violation.
- (4) To set up or allow to be set up on his property steel jaw traps, spring traps with teeth or perforated edges on the holding mechanism, snares, or any type of trap with a holding mechanism designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of the entrapped prey for the purpose of ensnaring domestic or wild animals within the city limits, unless the use of such traps is specifically permitted or deemed necessary by the director or state director of health

~~in or~~ for the purpose of the control of communicable disease. This section is not to be construed to include those traps designed to kill common rodents, i.e., rats, mice, gophers, and groundhogs; except that the owner is responsible for taking care that any of the above said rodent traps are not placed or used on or about his property in such a manner as to reasonably ensure the trapping of any other domesticated or wild animal, or of a human. It shall be a prima facie violation of this section that the traps prescribed in this section were, in fact, set up by the person in question, or were allowed to be set up by the person in question; no intent or further culpable mental state shall be required to prove such a prima facie violation.

- (5) To transport or carry on any public roadway any animal in a motor vehicle unless the animal is safely enclosed within the vehicle; and if traveling in an unenclosed vehicle (including, but not limited to, convertibles and jeeps), the animal shall be confined by a vented container or cage, ~~or canine~~ safety belt with appropriate dimensions for the particular animal.
  - (6) To leave any animal in any standing or parked vehicle in such a way as to endanger the animal's health or safety and is presumed to have been cruelly treated as defined under this chapter. Any animal control officer or police officer is authorized to use reasonable force, including the breaking of a side window, to remove an animal from a vehicle whenever it appears the animal's health or safety is endangered, ~~and said~~. Any such animal shall be impounded pending a final disposition of the matter with relation to the owner of said animal. ~~neglected or endangered animal shall be impounded.~~
  - (7) To strike an animal with a vehicle resulting in injury to the animal, and leave the scene without rendering aid and assistance in the care of such animal if such action can be taken with reasonable safety or to call emergency services to aid the struck animal. ~~if~~ If aid cannot be rendered safely, ~~immediately call the police who will dispatch emergency animal control.~~
- (b) Regarding wWildlife indigenous to this city:-
- (1) All wild animals, fur-bearing wild animals, wild birds, and wild fowl inside the borders of this city state are considered the property of the people of this state; ~~so says the Texas Parks and Wildlife Code~~. Texas codes and statutes govern the trapping, releasing and disposition of wildlife and the permits required. The city is not a pest control provider. A licensed pest control company can assist property owners with wildlife problems.
  - (2) Any domestic animal (dog or cat) caught or trapped inadvertently shall be turned over to the animal control department or the animal's owner, if known.

#### **Sec. 6-64. Maximum animals authorized and variance.**

- (a) It shall be unlawful for any person to maintain or keep, in the aggregate, more than four adult dogs ~~and/or cats~~ on a premises within the corporate limits of the city. It shall further be unlawful for a person to maintain or keep, in the aggregate, more than four adult cats on a premises. A person may keep the maximum amount of both adult dogs and cats without

violating this section. As used in this section, the term “adult dogs or cats” means a dog or cat that is six (6) months or older. This subsection is not applicable to community cats.

- (b) The Director or his/her designee ~~city council~~, upon application for variance to this section as hereinafter provided, may grant or deny, in whole or in part, an application for variance to this section of this Code. Any person desiring to maintain or keep in the aggregate more than four dogs or cats within the corporate limits of the city may file a written application with the ~~department city secretary~~, requesting the Director or his/her designee ~~city council~~ to grant the written application for variance. A variance may be granted if the applicant establishes a need under the Americans with Disabilities Act for the applicant or the applicants immediately family occupying the premises, a temporary circumstance expected to last no more than six (6) months and is not reoccurring, or the applicant exceeding the maximum number is due to the applicant’s use of a service or law enforcement animal.
- (c) The written application must contain the following information:
- (1) The name and address of the person making such application for variance.
  - (2) The number of adult dogs or cats the applicant desires to maintain or keep in excess of the basic number of adult dogs or cats allowed by this section and whether some or all are sterilized.
  - (3) A statement of care or recommendation from the applicant's veterinarian or at minimum, the name, address, and telephone number for the applicant's veterinarian.
  - (4) Any complaints received or citations issued by animal control about animal issues against the applicant or the applicant’s animals listed in the variance application.
  - (5) Applicant's existing and intended animal housing.
  - (6) The application must be signed and dated by the applicant.
- (d) The department has fifteen (15) days to make a decision to grant or deny the variance in writing. If the department does not make a written decision within that fifteen (15) day period then the variance request shall be considered automatically denied.
- (e) The ~~department city secretary~~, upon receipt of the application for variance shall then do the following:
- (1) File ~~Place~~ such application in a location designated to keep such records ~~on the agenda of the next scheduled city council meeting.~~
  - (2) Notify the applicant of the date such application will be considered by the Director or his/her designee ~~city council~~.
- (f) The ~~department city council~~, in determining whether to grant or deny a variance application, may consider the following factors:
- (1) Whether the dogs or cats have been spayed or neutered;
  - (2) The applicant's intended animal housing;



- (3) The applicant's animal compliance history and any previous complaints or violations of animal ordinances; and
- (4) The veterinarian's statement of the applicant's animal care.
- (g) If the variance is denied, the applicant may appeal the decision to the city council within ten (10) calendar days of the denial being mailed or electronically transmitted to the applicant.
- (h) If the variance is granted, the applicant must submit a renewal application annually. Upon cause, the department has the authority to deny a renewal.
- (i) The keeping by any person of newborn offspring of dogs or cats, authorized hereby for a period of six (6) months, shall not constitute a violation of this article if the owner or keeper obtained. A litter permit is required under this chapter.

**Sec. 6-65. ~~Domestic and non-domestic animal r~~ Restrictions on Keeping of Certain Animals.**

- (a) Unless otherwise indicated, it shall be unlawful to keep livestock domestic or farm-ranch animals and fowl within the city limits. This includes, but is not limited to, hoofed stock (bovines, sheep, goats, equines, swine) poultry, pigeons, and peacocks. This provision does not preclude the keeping of common indoor pet birds such as canaries, finches, or parrots or commonly domesticated hoofed animals such as miniature pigs or pot belly pigs that do not exceed one hundred (100) pounds in weight.
- (b) Unless otherwise indicated, it shall be unlawful to keep animals or reptiles that typically are found at a wildlife refuge or zoo within the city limits. This animal/reptile restriction includes, but is not limited to, carnivorous, non-carnivorous, poisonous, constricting species such as snakes, alligators, crocodiles, great apes, monkeys, bears, big cats (any feline other than a common house cat), wolves, wolf-dog hybrids, or hoofed mammals. This provision does not preclude the keeping of such pet animals, reptiles, or insects as hamsters, gerbils, ferrets, lizards, rabbits, fish, turtles, frogs, or spiders.

**Sec. 6-66. ~~Non-domestic animal and reptile restrictions.~~**

~~It shall be unlawful to keep animals or reptiles that typically are found at a wildlife refuge or zoo within the city limits. This animal/reptile restriction includes, but is not limited to, carnivorous, non-carnivorous, poisonous, constricting species such as snakes, alligators, crocodiles, great apes, monkeys, bears, big cats, wolves, hoofed mammals, etc. This provision does not preclude the keeping of such pet animals, reptiles, or insects as hamsters, gerbils, ferrets, lizards, rabbits, fish, turtles, frogs, spiders, or pot belly pigs.~~

**Sec. 6-67. Animal waste disposal.**

- (a) ~~It shall be unlawful for the owner of any animal to allow his animal's waste to be deposited and remain upon any private property~~
- (b) It shall be unlawful for the owner or keeper of any animal to allow the animal's waste to be deposited and remain upon another's private property, or public street, roadway, sidewalk,

easement, alleyway, recreational area, dog park, or drainage ditch within the corporate limits of the city for any period of time.

- (c) It shall be unlawful for the owner or keeper of any animal to allow the accumulation of animal waste on their own private property in a quantity sufficient to create an odor offensive to a person of normal sensibilities standing on any adjacent property, or which creates a condition conducive to the breeding of flies or other pests. Such accumulation is hereby declared to be a public nuisance.
- (bd) It shall not be a defense to a violation of this section that the owner or keeper had no knowledge of the commission of the violation.

#### **Sec. 6-68. ~~Additional~~ Criminal penalty and dismissals.**

- (a) ~~Any person who shall violate any of the provisions of articles I through III article III, division 1 of this chapter shall be deemed guilty of a class C misdemeanor and, upon conviction thereof, shall be fined not less than \$25.00 and not to exceed \$200.00, in addition to any other penalties and relief allowed by law. Such offense shall be a strict liability offense to the extent no mental intent is present. Each and every day of such violation shall be deemed a separate and complete offense. Subsequent convictions for any violation under this section of article III, division 1 of this chapter within a 12-month period shall double the minimum applicable fine listed above, up to and including the maximum allowed by law.~~
- (ab) Any court which has jurisdiction over violations of Article III ~~this offense~~ may dismiss a criminal violation under article III, division 1 of chapter 6 if the defendant remedies the violation within ten (10) working days of the date of citation, upon the assessment by the judge and payment by the defendant of an administrative fee of \$20.00 for dismissal of a rabies vaccination violation, and \$10.00 for dismissal of a registration/license/microchip violation under this chapter.
- (be) Irrespective of any other penalty or enforcement methods authorized, the City may enforce this code against any person who violates any provisions of this chapter, through civil injunction, declaratory relief, and civil penalties as authorized by law, in any court of competent jurisdiction. Civil penalties shall not exceed \$1,000 per day for each day a violation is found to have occurred after notice is mailed or transmitted and the expiration of a right to cure period.

#### **Secs. 6-69. Maintaining current microchip registration.**

- (a) The owner or keeper of a dog or cat requiring a registered microchip implant shall maintain current registration with a microchip registration company or a veterinarian authorized to keep such registration on behalf of animal owners.
- (b) If there is a change in contact information of an owner or keeper of a registered microchipped dog or cat, the owner or keeper 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 initial owner or keeper shall be responsible for ensuring that the microchip is no longer registered in the initial owner's or keeper's name within thirty (30) days of the date of change in ownership. The new owner or keeper 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 or keeper's name within thirty (30) days after the change in ownership.

**Sec. 6-70. Wearing tags.**

- (a) Dogs must wear a tag at all times while outdoors, to the extent that the City provides them; except that dogs which are kept for show or exhibition purposes are not required to wear such a tag as long as the dogs are otherwise under restraint. The tag, if provided by the City, shall include either the dog's microchip number, or the current address or telephone number of the dog owner.

**Sec. 6-71. Nontransferability.**

No person may use a registered microchip number for any animal other than the one for which it was issued.

**Secs. 6-72.—6-74. Reserved.**

*DIVISION 2. DANGEROUS AND AGGRESSIVE DOGS*

**Sec. 6-75. Dangerous dogs.**

- (a) Dangerous dog means a dog that:
- (1) Makes an unprovoked attack on a person that causes bodily injury, serious bodily injury, or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
  - (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.
- (b) The department shall make a determination of whether a dog is dangerous.

**Sec. 6-76. Investigation, seizure and confinement of alleged dangerous dog and determination of a dangerous dog.**

- (a) Upon receipt of a sworn complaint the department shall investigate the complaint. The complaint may contain a description of the incident involving an alleged dangerous dog, as defined above, the date and location of the incident, the name of the owner/keeper of the dog, the address of the owner/keeper, and a description of the dog(s) involved in the incident. The animal control officer shall investigate a potentially dangerous dog without a complaint if the animal control officer personally observes the dog performing acts which fall under the definition of a dangerous dog.
- (b) After an investigation, the animal control officer shall determine if a dog is dangerous. The animal control officer shall then determine if seizure of the dog is needed as a reasonable precaution for the safety of the public.
- (c) Upon personal observation by the department that a dog has committed an act as outlined in section 6-75, the department may order the immediate seizure and impound of a dog believed to be a dangerous dog. Alternatively, after receiving a sworn affidavit of complaint detailing

that a dog is alleged to have committed an act as outlined in section 6-75, the department shall obtain an administrative search warrant from any municipal court magistrate to enter onto private property to search for the dog if permission to enter the subject premises is denied by a person in lawful possession. The director or his/her designee shall order the immediate seizure of any dog determined to be dangerous, and which is at large. If the dog cannot be safely approached, a tranquilizer projector may be used by department personnel or an assisting agency. The cost of securing said dog(s) shall be borne by the owner of the dog. If a dog is impounded under this subsection, it will remain so as instructed by the director or his/her designee or by court order. A dog that has been determined to be dangerous cannot be released back to the owner, if seized or relinquished, until the owner is able to demonstrate the ability to comply with all the requirements for dangerous dogs as outlined in section 6-79.

(d) Within five (5) working days after the dog is deemed dangerous, the department shall notify the owner or keeper of the dog, if known or readily identifiable, of the dangerous dog determination and appeal rights by written notice. Said notice shall be considered properly provided if mailed to the last known address of the owner or keeper through the United States Postal Service via regular mail and certified mail, return receipt requested.

(e) If the animal control officer determines the dog is dangerous but determines immediate seizure is not required to protect the health or safety of public, and the owner is readily identifiable, the department must, within five (5) working days after the dog is deemed dangerous, notify the owner or keeper of the dog, if known or readily identifiable, of the dangerous dog determination, appeal rights, as well as the requirement the owner/keeper has thirty (30) calendar days from the mailing or transmission of the notice, to either establish full compliance with the requirements for owning a dangerous dog outlined section 6-79 (in which case the owner/keeper of the dog may retain possession of the dog pursuant to section 6-79) or must relinquish the dog as outlined in section 6-79.

#### **Sec. 6-77. Appealing dangerous dog determination.**

(a) An owner of a dog deemed dangerous by the department may, no later than the fifteenth (15<sup>th</sup>) day after the date the owner/keeper is notified of the determination, appeal the determination of the department to the City of Windcrest municipal court of record.

(b) To file an appeal under subsection (a), the owner must:

(1) File a written notice of appeal of the department's dangerous dog determination with the court;

(2) Attach a copy of the determination from the department; and

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

#### **Sec. 6-78. Dangerous dog hearing.**

(a) Upon an appeal being filed in conformity with Section 6-77, the municipal court shall set a time for a hearing to determine whether the dog is dangerous. The hearing must be held not later than the tenth (10<sup>th</sup>) day after the date the appeal was filed with the municipal court.

(b) The court shall give written notice of the time and place of the hearing to the owner or keeper of the dog or the person from whom the dog was seized and the department. The city attorney or his/her designee, is entitled to present evidence at the hearing.

(c) The municipal court judge shall determine whether, by a preponderance of the evidence, the dog is dangerous.

(d) If the municipal court judge finds the dog dangerous as a result of causing bodily injury to another person, the municipal court judge shall order the dog to continue to be impounded and:

i. Shall give the owner no more than thirty (30) days for the owner to establish for the court that the owner can comply with the requirements of owning a dangerous dog under section 6-79. In such an event, the municipal court judge shall determine the estimated costs to house and care for the dog from the initial date of seizure or delivery until the dog is released to the owner, which will be borne by the owner and order the release of the dog; and

ii. Should the owner not establish his/her ability to comply with the requirements of owning a dangerous dog under section 6-79 before the end of the thirtieth (30<sup>th</sup>) day, the municipal court shall order the dog abandoned; and

iii. Should the dog be determined to be abandoned, the court shall authorize the City to:

a. adopt the dog to a new owner who acknowledges the adoption of a dangerous dog and can establish for the court that the adopting owner can and is willing to comply with the requirements of owning a dangerous dog under section 6-79, or

b. humanely euthanize the dog.

iv. An order authorizing a dangerous dog to be adopted or euthanized shall not be effective for a period of no less than ten (10) calendar days in order to allow an owner to appeal the order.

(e) If the municipal court judge finds the dog dangerous as a result of causing serious bodily injury to another person, the court may either order that the dog continue to be impounded and follow the procedure laid out in section 6-78(d) or have the dog humanely euthanized. The court may not order the dog euthanized if:

i. the dog was being used for the protection of a person or person's property and;

a. the attack occurred within an enclosure in which the dog was being kept;

b. the enclosure was reasonably certain to prevent the dog from leaving the

enclosure on its own;

c. the enclosure provided notice of the presence of a dog; and

d. the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack happened;

ii. the dog was not being used for protection, but the attack occurred within an enclosure in which the dog was being kept and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack occurred;

iii. the attack occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

iv. the dog was defending a person from assault, or person's property from damage or theft by the injured person; or

v. the injured person was younger than eight (8) years of age at the time the attack occurred within an enclosure in which the dog was being kept and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.

(f) If the municipal court judge finds that the dog attacked, bit, or mauled and caused the death of another person, the court shall order the dog humanely euthanized.

(f) If the municipal court judge does not find the dog dangerous, the municipal court shall issue an order finding as such and order the department to confer with the owner as to the release of the dog. There will be no assessment of costs of housing and care upon the owner.

(g) The owner of the dog or the department may appeal the decision of the municipal court in the manner described under V.T.C.A. Health and Safety Code Section 822.0424.

(h) A court may not order the destruction of a dog during the pendency of an appeal.

#### **Sec. 6-79. Requirements of dangerous dog owners.**

(a) An owner of a dog determined to be dangerous, shall comply with all of the following requirements within thirty (30) days after the owner learns of the dangerous dog determination.

(1) The dog must be registered with the department and shall annually obtain a dangerous dog permit;

(2) The dangerous dog must be kept in an enclosure as defined in section 6-1 of this chapter;

(3) The owner must present to the department a certificate of liability insurance in the amount of one hundred thousand dollars (\$100,000.00) to cover any injuries caused by the dangerous dog. The insurance shall be kept in effect continuously and shall not be cancelled unless the dog is no longer kept by the insured owner;

(5) The dangerous dog, when taken outside the enclosure, shall be kept secured by a sturdy leash of a maximum six (6) feet in length and by a muzzle properly secured upon the dog's head;

(6) The owner shall post no less than two (2) signs on his or her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public street or highway.

- (7) If the dog does not have a registered microchip, the owner shall have implanted and pay for a registered microchip beneath the skin of the dangerous dog for positive identification of the animal;
- (8) At the owner's expense, the dangerous dog, if unaltered, must be spayed or neutered at the discretion of the department by a veterinarian approved by the department prior to being released back to its owner;
- (b) If the dog determined to be dangerous has been seized, the department must release a seized dog to the owner if, within twenty (20) days of a determination, the owner provides proof to the department that the owner has arranged for the sterilization of the dangerous dog to comply with this article, has arranged for the dog to have implanted the required registered microchip if not already present in the dog, and can comply with the requirements of subsection (a) within ten (10) days of release of the dog to the owner by the department.
- (c) If the owner of a dog determined to be dangerous is unable or unwilling to comply with the ownership requirements listed above the dog must be either relinquished to the department or euthanized by an animal shelter, animal care agency, or licensed veterinarian, at the owner's expense and proof of such destruction must be provided to the department before the end of the thirtieth (30<sup>th</sup>) day after a determination is made. If the owner of a dog determined to be dangerous fails to comply with this subsection or fails to timely appeal a determination, the director shall order the dog seized and euthanized.
- (d) The owner/keeper of a dangerous dog shall notify the department within twenty-four (24) hours if their dangerous dog is loose, unconfined, has attacked another animal, has attacked a person, or has died.
- (e) If a dangerous dog is seized and no owner acknowledges a claim to the dog, the director may seek and obtain an order from the municipal court for the humane destruction of a dog, which shall not occur until at least twenty (20) days after seizure.

#### **Sec. 6-80. Notification of change of status; disposition of dangerous dog**

- (a) The owner of a dog deemed dangerous by the department or the municipal court may petition the municipal court to remove the dangerous dog finding/determination if the dog does not have a recurring event under section 6-76 for two (2) years following a dangerous dog determination. The petition must be in writing and must contain the following information:

  - (1) The name and address of the owner;
  - (2) The name, address, breed, and color of the dangerous dog;
  - (3) The date the dog was deemed dangerous by the department or the municipal court;  
and

- (4) A sworn statement that the owner has continuously complied with the city's requirements for keeping a dangerous dog for the time period encompassing the dog being deemed dangerous.
- (b) The municipal court shall set a hearing on the matter within fifteen (15) days of the petition being filed with the municipal court(c) The court shall provide written notice of the date, time, and place of the hearing to the  
owner of the dangerous dog, the department, and the city attorney's office.
- (d) If the evidence presented shows by a preponderance of the evidence that the sufficient amount of time has passed without a recurring event and that the owner has complied with the city's requirements for keeping a dangerous dog, and that the dog has successfully completed obedience training from an instructor or class accepted by the department, the municipal court judge may remove the dangerous dog determination and the owner shall no longer be required to maintain the requirements of keeping a dangerous dog.
- (e) If a dog previously deemed dangerous but had the designation removed by the municipal court subsequently commits an unprovoked act which triggers a dangerous dog hearing and is then determined to be a dangerous dog again by the department or the municipal court, the dog is considered to have committed the latest unprovoked act while designated as a dangerous dog for purposes of criminal penalties under state law.

**Sec. 6-81. Hearing to determine compliance with dangerous dog requirements.**

- (a) Upon sworn statement by any person that the owner of a dangerous dog is not complying with the requirements of owning a dangerous dog or report of an incident involving a dangerous dog as described under section 6-75 of this Division, the municipal court may conduct a hearing to determine whether the owner of a dangerous dog has complied with the requirements of owning a dangerous dog.
- (b) Upon receipt of a sworn statement or report as described above, the municipal court shall send written notice to the owner of the dangerous dog of the filing of the application or report. Not later than the fifth (5<sup>th</sup>) day after receiving written notice, the owner must deliver the subject dog to the department. Failure to do so is sufficient cause to apply for a warrant to seize the subject dog.
- (c) The municipal court judge shall conduct a hearing to determine whether a preponderance of the evidence supports the allegation that the owner has failed to comply with dangerous dog requirements. The hearing must be held not later than the tenth (10<sup>th</sup>) day after the date on which the dog is seized or delivered.
- (d) The court shall provide written notice of the date, time, and place of the hearing to the owner of the dangerous dog, the reporting party/applicant, and the investigating animal control officer. Any other interested party, including the city attorney or assistant city attorney, may appear and present evidence at the hearing.
- (e) The municipal court judge shall be the finder of fact.



- (f) At the conclusion of the hearing, if the municipal court judge finds that the owner has failed to comply with the dangerous dog requirements, the judge shall order the dog to continue to be impounded for thirty (30) days so the deficiencies regarding the requirements of owning a dangerous dog are remedied, to the satisfaction of the municipal court judge. If the owner fails to establish the owner has come into compliance or fails to appeal such a determination, the municipal court shall order the disposition of the dog consistent with section 6-78.
- (g) An owner, or the person who filed the application for the hearing, or the person who filed the report may appeal the decision of the municipal court in the manner provided for the appeal of cases from municipal courts of record.

#### **Sec. 6-82. Dangerous dog violations.**

- (a) A person commits an offense under state law, pursuant to the Texas Health and Safety Code, if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- (b) It shall be a violation of this chapter for an owner or keeper to intentionally, knowingly, or recklessly fail to prevent a dangerous dog from killing or wounding, or assisting in the killing or wounding, of any domestic animal belonging to or in the possession of another person, or for an owner or keeper to fail to prevent a dangerous dog from attacking, assaulting, biting or otherwise injuring any person or assisting in the attack, assault, bite, or other injury of any person whether out of or within the enclosure of the owner or keeper, and whether or not such dangerous dog was on a leash or securely muzzled or whether or not the dangerous dog escaped without the knowledge or consent of the owner or keeper. If a person is found guilty of an offense under this section, the court may order the dangerous dog humanely euthanized.
- (c) It shall be a violation of this chapter for the owner or keeper of a dangerous dog to:
- (1) Fail to comply with any of the requirements of section 6-78 as required;
  - (2) Fail to notify the department of a change of status as set out in section 6-80; or
  - (3) Fail to keep the dog confined at no cost to the city during any hearing process involving the dog if the dog has not been impounded by the City.
- (d) The provisions under this section shall not apply to any law enforcement agency where a dog is being used for law enforcement.
- (e) A rebuttable presumption shall exist that the owner or keeper knowingly allowed a dangerous dog to be kept in an inadequate enclosure in any criminal complaint filed under subsection (b).

#### **Sec. 6-83. Aggressive dogs; levels defined.**

Classification of a dog as aggressive shall be based upon specific behaviors exhibited by the dog<sup>2</sup>. For purposes of this chapter, behaviors establishing various levels of aggressive dogs are the following:

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<sup>2</sup> Official Comment: The classification of aggressive dogs serves as a mid-point between passive dogs and dogs which have attacked other persons. There is no state statutory mechanism for regulating dogs which have shown aggressive tendencies, but which have not yet attacked an individual, or who have attacked other person's

- (1) Level 1 behavior is established if:
- a. A dog while in the enclosure in which the animal was being kept acts to cause a person to reasonably believe that the animal will engage in an unprovoked attack and cause bodily injury to that person without actually causing bodily injury to that person; or
  - b. A dog, outside of its enclosure, when unprovoked is found to menace, chase, display threatening or unprovoked aggressive behavior, or otherwise threaten or endanger the safety of a domestic animal.
- (2) Level 2 behavior is established if a dog, outside of its enclosure, when unprovoked causes physical injury to any domestic animal.
- (3) Level 3 behavior is established if:
- a. A dog, inside or outside of its enclosure, when unprovoked kills or causes the death of any domestic animal, or
  - b. A dog classified as a level 2 aggressive dog that repeats the behavior in subsection (2) after the owner or keeper receives notice of the level 2 classification.
- (4) Notwithstanding subsections (1), (2), and (3), the director or his/her designee shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors specified in subsections (1), (2), and (3), if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other similar mitigating or extenuating circumstances.

**Sec. 6-84. Investigation, seizure, confinement, and designation of aggressive dogs.**

- (a) The department shall have authority to determine whether any dog has engaged in the behaviors specified in section 6-83.
- (b) Upon personal observation by the department that a dog has committed an act as outlined in section 6-83 and upon making a decision seizure is a reasonable precaution to ensure the health and safety of people nearby, the department may order the immediate seizure and impound of a dog believed to be an aggressive dog. Alternatively, after receiving a sworn affidavit of complaint detailing that a dog is alleged to have committed an act as outlined in section 6-83, the department may obtain an administrative search warrant from any municipal court magistrate to enter onto private property to search for the dog if permission to enter the subject premises is denied by a person in lawful possession. If the dog cannot be safely approached, a tranquilizer projector may be used by department personnel. The cost of securing said dog(s) shall be borne by the owner. If a dog is determined to be aggressive, it will remain in confinement as directed by the department. A dog that has been determined to be aggressive may not be released back to the owner until the owner is able to demonstrate the ability to comply with all the requirements for aggressive dogs as outlined in section 6-86.
- (c) The director or his/her designee shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.

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animals. As such, the consequences for owning aggressive dogs are less severe but still present and permit the City to monitor and regulate animals which have exhibited an elevated chance of attacking other persons or animals.

- (d) The department shall give the dog's owner or keeper written notice of the dog's specified behavior, of the dog's classification as aggressive, and of the restrictions applicable to that dog by reason of its classification.
- (e) Upon receipt of written notice of the dog's classification as a level 1, 2, or 3 aggressive dog the owner or keeper shall comply with the restrictions specified in the notice unless reversed on appeal. Upon final determination and after appeals are exhausted, the owner will have thirty (30) days to sterilize the animal. Failure to comply with the specified restrictions shall be a violation of this chapter for which a criminal fine or civil penalty can be imposed. Additionally, the department shall have authority to impound the dog pending completion of all appeals.
- (f) If the department's decision finds that a dog has engaged in aggressive behavior, the dog may be impounded pending the completion of any appeals.
- (g) Any dog classified as a level 3, that is found to have repeated level 3 behavior as defined under this code, shall be impounded if not already impounded. The dog shall not be released to the owner or be made available for adoption until either potential recipient of the dog has established arrangements for accommodating the animal consistent with all the security and safety requirements ordered by the department.

#### **Sec. 6-85. Appeal of aggressive dog determination to municipal court.**

- (a) An owner may appeal an aggressive dog determination within fifteen (15) days after receiving notice of the determination by:
  - (1) Filing a written notice of appeal of the department's aggressive dog determination to municipal court;
  - (2) Attaching a copy of the determination from the department; and
  - (3) Serving a copy of the notice of appeal to the department by certified mail.
- (b) A municipal court judge shall conduct a hearing to determine whether the preponderance of the evidence supports the aggressive dog determination.
- (c) The municipal court judge shall be the finder of fact.
- (d) At the conclusion of the hearing, the municipal court may affirm or reverse the aggressive dog determination.
- (f) The result of the administrative appeal hearing is final.

#### **Sec. 6-86. Regulation of aggressive dogs.**

In addition to the other requirements of this chapter, the owner or keeper of an aggressive dog shall comply with the following conditions:

- (1) Dogs classified as level 1 or 2 shall be restrained, so as not to be at large, by a physical device or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside the owner's or keeper's home and not on a leash. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).

- (2) Dogs classified as level 3 shall be confined, so as not to be at large, by a physical device or structure in a manner that prevents the dog from reaching any public sidewalk or adjoining property and must be located so as not to interfere with the public's legal access to the owner's or keeper's premises whenever that dog is outside. The owner or keeper shall restrict the dog to the owner's or keeper's property unless the dog is restrained by an adequate leash under the control of a capable person and muzzled in a manner that will not cause injury to the dog nor interfere with its vision or respiration. The owner or keeper of a level 3 aggressive dog shall post no less than two (2) warning signs on the property where the dog is being kept and shall not permit the warnings signs to be removed. In addition, the director may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of one hundred thousand dollars (\$100,000.00).
- (3) To ensure correct identification, all dogs that have been classified as aggressive shall be microchipped, photographed at the owner's expense, and obtain an aggressive dog permit from the department, to be renewed annually.
- (4) The owner or keeper of an aggressive dog shall not permit the dog to be moved to a new address or change owners or keepers without providing the director with ten (10) days' prior written notification.
- (5) At the owner's expense, the aggressive dog, if unaltered, must be spayed or neutered within thirty (30) days of the date the dog has been determined or found to be aggressive.

**Sec. 6-87. Declassification of aggressive dogs.**

Declassification will be automatic pursuant to this section.

- (1) The following conditions must be met:
  - a. Level 1 or level 2 dogs have been classified for one (1) year without further incident, and two (2) years for level 3 dogs; and
  - b. There have been no violations of the specified regulations.
- (2) When the owner or keeper of an aggressive dog meets all of the conditions in this chapter, the restrictions for level 1 and level 2 classified dogs may be removed. Restrictions for level 3 may be removed, with the exception of the secure enclosure.

**Sec. 6-88. Payment for cost of confinement.**

- (a) The owner of a dog impounded by the department must pay the costs of care of the dog while it is in the custody of the department prior to the release of the dog to the owner. Reasonable expenses for this care include, but are not limited to the cost of housing, feeding, emergency veterinary medical care, immunizations and routine veterinary medical care for the dog.
- (b) If a dog is held in impoundment by the department for more than twenty (20) days, the owner of the dog must pay the actual costs accrued for the first twenty (20) days of impoundment, and every twenty (20) days thereafter until the matter for holding the dog has been finalized. The department will mail a notice and statement of costs to the owner of the dog at the address on file with the department. All costs must be paid within a maximum of three (3) business days following the receipt of the notice and statement. If the costs have not been paid within the allotted three (3) business days, this will be considered a voluntary relinquishment of the dog by the owner and the dog shall immediately become the property of the city. The payment

of costs may be extended if the owner creates a payment agreement with the City. Failure to comply with a payment agreement shall result in voluntary relinquishment of the dog by the owner after three (3) business days of the failure to pay in accordance with said agreement.

**Sec. 6-89-6-92. Reserved.**

**DIVISION 3. ANIMAL NUISANCES; IMPOUNDMENT**

**Sec. 6-93. Impounding authority and standard.**

It shall be the duty of the animal control officer to apprehend any dog ~~or cat~~ found at large contrary to the provisions of this chapter and to impound such dog ~~or cat~~ in the city's impoundment facility until the owner can be found or for the impoundment period. Any animal impounded shall be given proper and humane care and maintenance. The animal control officer shall require the operator of the city's impoundment facility receiving any dog ~~or cat~~ pursuant to the provisions of this chapter to make a complete registry, entering the breed, color, and sex of such dog ~~or cat~~ and whether licensed or microchipped. If licensed, he shall enter the name and address of the owner and the number of the license tag or microchip.

**Sec. 6-94. Postings/scanning.**

- (a) Before the animal is impounded, the animal control officer will take a photograph of the animal and such photograph will be posted on the city's website as soon as feasible, but not more than 24 ~~twenty-four~~ (24) hours after capture. The photograph will also appear on the found animal notice that is to be posted on the doors at city hall.
- (b) The animal control officer will scan the animal for an owner identification microchip and if located, record all information on an animal retrieval form.
- (c) In order to safeguard the animals, additional checking for a microchip will be conducted by the city's impoundment facility and if found, reported back to the police communication office with the corresponding case number.

**Sec. 6-95. Notice to owner and redemption.**

- (a) Within 24 ~~twenty-four~~ (24) hours of capture of any dog ~~or cat~~, the owner, if the owner can be determined, shall be notified. Written notice, including a picture of the dog ~~or cat~~, shall be posted for seven (7) business days at a conspicuous place in the city hall describing the dog ~~or cat~~ impounded. At the same time, such notice shall also be posted on the city's designated website **and other websites utilized for such notices**. Attempts shall be made to notify area veterinary hospitals, pet shops, and animal websites by e-mail or fax of the impounded animal.
- (b) The owner may reclaim such dog or cat upon payment of:
  - (1) License fee (if unpaid).
  - (2) Animal control fee to the city written for a dog or cat being at large.
  - (3) All boarding charges due the city's impoundment facility.

- (c) The first time a dog or cat is reclaimed, no animal control fee will be charged. The waiving of this fee shall only apply once per address. The second time a dog or cat is reclaimed by its owner, an animal control fee will be charged, and each subsequent time a dog or cat is reclaimed by its owner, the animal control fee will increase. Should said owner fail to pay such charges and/or refuse to claim the animal, he shall be charged with abandonment and adjudicated accordingly.
- (d) Owners of impounded animals may arrange for the release of their animals during business hours (8:00 a.m. to 5:00 p.m.) from the police communication office. Animals will be released to owners with appropriate proof of ownership during the business hours of the city's impoundment facility. All costs incurred for the impoundment of an animal are the responsibility of the animal's owner. Owners of animals not having current rabies vaccination or written proof of current rabies vaccination will be required to provide a deposit to the city. This will allow the owner to take their pet and get the proper immunization. This immunization shall be completed in ten (10) business days, unless there is a statement from a veterinarian that immunization will endanger the health of the animal. After proof of immunization, the owners will be refunded their deposits.
- (e) Microchipping of the pets will be required at the owner's expense, before the release of their animal after the second impoundment.
- (f) The animal control officer will require proof of ownership. Proof of ownership may include a valid animal license, veterinary records, registered microchip identification or other reliable documents such as home photographs or other verifiable documentary evidence. At the expiration of the seven (7) business days as described in subsection (a) and If ownership cannot be proven by the required information, the animal in question must be adopted rather than redeemed; the person claiming unproven ownership may be afforded the opportunity to adopt the animal.

(Code 1986, § 3.106)

**Sec. 6-96. Disposition of unclaimed animals ~~dogs and cats~~.**

- (a) Animals impounded due to being at large shall be cared for in accordance with section 6-93. To the extent possible, the department shall send written notice to the owner of the animal informing them of the location of their animal and requesting them to reclaim the animal in accordance with section 6-95. It shall be the duty of the operator of the city's impoundment facility to keep all unclaimed dogs or cats delivered to it by the animal control officer for a minimum of ~~If after seven~~ ten (10) business days from the date of notice to the owner and ~~or the posting of written notice, there has been no response, the department shall cause to have published a notice in a local publication that the owner may reclaim their animal from impoundment, otherwise the owner is considered to have forfeited or otherwise relinquished ownership of the animal. If, after ten (10) days of publication, the owner has not responded to the City, the animal shall become property of the City and the department may cause the animal to-~~ If after the expiration of seven business days from the date of notice to the owner or the posting of notice, such dogs or cats not having been redeemed may be adopted, fostered, transferred to an adoption shelter if an adoption shelter is available, or humanely euthanized by a licensed veterinarian or an animal control officer certified in euthanasia; provided, however, that if the end of the seven business day period falls on a national holiday or

~~Saturday or Sunday, the operator of the city's impoundment facility shall wait until the afternoon of the next regular business day.~~

- (b) Any dangerous dogs impounded shall be kept and cared for in accordance with section 6-93 by the City during the pendency of any hearing regarding the dangerous dog.

#### **Sec. 6-97. Adoption of animals.**

- (a) In the event a dog ~~or cat~~ is released by the animal control officer or the city's impoundment facility for adoption, it shall be sterilized and microchipped. If the dog ~~or cat~~ is too young to be sterilized at the time of adoption or for some other reason the dog ~~or cat~~ cannot be sterilized and/or microchipped at the time of adoption, the person adopting the dog or cat shall sign an agreement to have the dog or cat sterilized and/or microchipped and shall pay a deposit to ensure sterilization and/or microchipping at the appropriate date. The ~~sterilization~~ agreement must contain the date of the agreement; the name, addresses and signatures of the city and the new owner; a description of the animal to be adopted; the sterilization/microchipping completion date; and a statement, printed in conspicuous, bold print, that sterilization of the animal is required under V.T.C.A., Health and Safety Code ch. 828, ~~and that a violation of this chapter is a criminal offense punishable as a Class C misdemeanor and~~ and that microchipping of the animal is required under this code and that a violation of this chapter is a criminal offense punishable under Section 6-2.
- (b) The sterilization/microchipping completion date contained in the ~~sterilization~~ agreement must be the 30th day after the date of adoption in the case of an adult animal or the 30th day after a specified date estimated to the date an adopted infant female or male dog or cat becomes ~~six months old~~ enough to be sterilized or microchipped.
- (c) Each new owner who signs an ~~sterilization~~ agreement shall deliver to the city a letter signed by the veterinarian who performed the sterilization or microchipping. The letter must be delivered in person not later than the seventh day after the date on which the animal was sterilized or microchipped. The letter must state that the animal has been sterilized or microchipped, briefly describe the animal, and provide the date of sterilization or microchipping. After such steps are followed the sterilization/microchipping deposit shall be returned to the owner.
- (d) If an adopted animal dies on or before the sterilization or microchipping completion date agreed to, the new owner shall deliver to the city a signed letter or a veterinarian's report stating the animal is dead. The letter must be delivered not later than the seventh day after the date of the animal's death and must describe the cause of death, if known, and provide the date of death.
- (e) If an adopted animal is lost or stolen before the sterilization/microchipping completion date agreed to, the new owner shall deliver to the city a signed letter stating that animal is lost or stolen. The letter must be delivered not later than the seventh (7<sup>th</sup>) day after the date of the animal's disappearance and must describe the circumstances surrounding the disappearance, to what authority the lost animal was reported, and provide the approximate date of the disappearance. If the city does not receive a letter before the expiration of the seventh (7<sup>th</sup>) day after the sterilization completion date agreed to shall cause a complaint to be filed against the new owner. It is a presumption under this law that the failure of the new owner to deliver to the city a signed letter is the result of the new owner's refusal to have the adopted animal

sterilized or microchipped. The new owner may rebut this presumption at the time of a hearing with the proof required under the above-mentioned sections.

- (f) If the city does not receive a letter after the expiration of the seventh (7<sup>th</sup>) day after the sterilization/microchipping completion date agreed to, the city may reclaim the animal from the new owner. A person may not prevent, obstruct or interfere with reclamation under this section.
- (g) A new owner that violates this section commits an offense. An offense under this section is a Class C misdemeanor.

**Secs. 6-98—6-122. Reserved.**

*DIVISION 3. COMMUNITY CAT TRAP-NEUTER-RETURN PROGRAM*

**Sec. 6-123. Program sponsored within city.**

In order to effectively and humanely control community cat populations within its jurisdictional boundaries, the city shall sponsor a Trap-Neuter-Return program. Registered caregivers for colonies, whether of one or several community cats, may be aided by the city in providing traps and transportation to a spay/neuter facility. Left ear tipping shall be used on these cats in order to be identified as spayed or neutered and a vaccinated member of a managed colony. A photographic record adequate to identify the cat shall be obtained for all cats. This is part of the city Trap-Neuter-Return program and maintained by the registered caregiver.

**Sec. 6-124. Registered caregivers.**

Registered caregivers shall attend one of the San Antonio Feral Cat Coalition workshops, and shall provide information about the colony to the animal control officer. Caregivers of a community cat or community cat colony shall be exempt under the provisions of license requirements, microchipping requirements, and animal identification requirements by furnishing the animal control officer with a signed statement agreeing to the following conditions:

- (1) Regularly feed the community cat colony including weekends and holidays, ensuring sanitary conditions at all times. Colonies shall be fed using bowls, plates, pans, or similar utensils to contain the food; food shall not be poured on the ground for the purpose of providing food. Food shall not be left out during hours of darkness to avoid attracting wildlife or vermin.
- (2) Regularly and frequently trap the community cats over the age of ~~12~~ twelve (12) weeks for purposes of sterilization.
- (3) Identify all community cats by having their left ears tipped when under anesthesia for sterilization.
- (4) All community cats must be vaccinated for rabies with a one- or three-year vaccine.
- (5) All community cats with illness and/or injury that cannot be provided with treatment shall be humanely euthanized by a veterinarian to prevent pain and suffering.
- (6) Caregivers are not permitted to release community cats on private or public property without the permission of the property owner.



- (7) Any caregiver determined to be in violation of this section shall be issued a written warning and be permitted up to and including 30 days to achieve compliance. Failure to comply may result in the issuance of a citation.

Pending CC Approval w/2.5.24 CCM Revisions

**Sec. 6-125. Animal control officer monitoring community cat colonies.**

- (a) The animal control officer shall maintain all records relating to authorized managed community colonies in the city Trap-Neuter-Return program. Other duties shall include:
- (1) Monitoring the managed community cat colonies in the city Trap-Neuter-Return program, maintaining records of registered caregivers and determining the need of additional caregivers.
  - (2) Helping to resolve complaints over the conduct of a colony.
  - (3) Maintaining records and preparing quarterly reports on the following:
    - a. Number and location of managed colonies in the city;
    - b. Total number of cats in colonies;
    - c. Number of cats and kittens spayed and neutered pursuant to the Trap-Neuter-Return program; and
    - d. Number of cats and kittens placed in permanent homes.
- (b) After receiving the permission of the community cat caregiver or a resident, the animal control officer may set up traps in the caregiver's yard to assist in trapping.

**Sec. 6-126. Enforcement.**

The city shall retain the following rights:

- (1) The right to seize or remove cats from a colony that have not been vaccinated against rabies and which are demonstrating signs of the disease.
- (2) The right to seize or remove a cat from a colony that is creating a nuisance after the caregiver has been afforded ~~30~~ thirty (30) days to remove and relocate the cat and has failed to do so.
- (3) The right to seize and remove a colony of cats when a caretaker or the animal control officer is unable to provide care and management of the colony and has not been able to obtain a replacement or substitute caregiver. When the number of cats trapped and sterilized by the city exceeds ~~400~~ four hundred (400) in a calendar year, the city will reevaluate this program.

**Secs. 6-127—6-150. Reserved.**

***ARTICLE IV. RABIES REPORTS AND QUARANTINES<sup>3</sup>***

**Sec. 6-151. Reporting of animal bites.**

It is the responsibility of any citizen with direct knowledge of an animal bite to immediately report the incident to the department police communication office. This duty includes reporting biting incidents of domestic animal to human or animal, wild animal to human, or domestic animal, whether the citizen is the owner of the animal, the victim, or a witness of the biting incident. The

report should include the date, time, and place of the incident, a detailed description of the offending animal, the animal's owner, if known, the victim's name, if known, and the reporting citizen's information. If the victim (animal or human) is bitten or skin is scratched open by the teeth of a wild or stray animal, it is their responsibility and duty to immediately seek medical care. Please note, in order to test an animal for rabies, the animal must be killed, decapitated, and the head sent to the state laboratory for testing. Whenever possible, our city will quarantine in lieu of killing and testing.

#### **Sec. 6-152. Investigations of animal bite incidents.**

In accordance with the V.T.C.A., Health and Safety Code ch. 826, Rabies Control Act 1981 and subsequent revisions, it is the duty of the animal control officer, who is also the local rabies control officer, to investigate all animal bite occurrences within our city. Information regarding the animal's description, current rabies vaccination date, owner's name, address and telephone number, the name of the animal, the address and telephone number of the person bitten, and the location of wound shall be recorded. The victim, owner, and/or witnesses to the event shall be interviewed. Exact identification of the offending animal is imperative. Observation, quarantine, or testing of the wrong animal is useless to the victim and the efforts of rabies control. Whether the bitten victim is an animal or a person, the animal control officer will obtain copies of current rabies vaccination from the offending animal's owner and provide a copy to the victim. The animal control officer will keep the bite victim informed as to the health of the offending animal during the quarantine period or the results of laboratory testing.

#### **Sec. 6-153. Domestic animal quarantine.**

(a) *Owned animals.*

- (1) It shall be the duty and responsibility of the owner of the animal that has bitten or that has been bitten to have such animal impounded at a veterinarian hospital or relinquished ~~the animal to the department animal control~~ for impoundment for a period of ten (10) days. If, however, the owner can present evidence that such animal has been inoculated against rabies within the time prescribed by law prior to the biting, and unless otherwise required by this article, such animal shall be confined on the premises of its owner and in a manner which shall prohibit such animal from biting any other animal or person for a period of ten (10) days.
- (2) It further shall be the duty and responsibility of the owner to have such animal examined by a licensed veterinarian on the first and tenth day of impoundment or confinement or as soon thereafter as possible; provided that the impoundment or confinement of the animal described above shall not be terminated until examination by a veterinarian. All charges for impoundment and veterinary exams shall be at the expense of the owner. Prior to release from quarantine, the owner shall furnish evidence of these exams to the department ~~animal control~~ for the file maintenance and record keeping.
- (3) It shall be unlawful for the owner of any animal, when notified that the animal has bitten any person to sell, euthanize, inoculate, or give away the animal or to permit or allow the animal to be taken out of the county area.

- (b) *Animals at large.* If the bite is caused by a stray domestic animal, ~~the department animal control~~ shall impound and hold the animal in quarantine for a period of ten (10) days from the date of the bite for the purpose of rabies observation.

**Sec. 6-154. Exceptions to domestic animal quarantine.**

The offending animal will be euthanized after notice to the owner and sent for pathological testing if:

- (1) The animal previously determined to be ~~dangerous vicious~~ bites again in violation of this article and the owner does not have proof of current rabies vaccination; ~~the~~ The animal control officer, after notice to the owner, shall obtain an order from the court and have the animal humanely destroyed and tested by a state laboratory for rabies;
- (2) The animal attack has caused the death of a human not on the premises of the owner; or
- (3) The animal is showing clinical signs of rabies as determined by the owner's (if the owner chooses) or city's veterinarian.

**Sec. 6-155. Dispositions of wild animals which have bitten.**

Any wild animal that bites any person or directly exposes any person to its saliva that can be positively identified as the offending animal shall be humanely killed in accordance with V.T.C.A., Health and Safety Code ch. 821, and submitted to the state diagnostic laboratory for rabies testing by ~~the department animal control~~. Killing and subsequent testing of the wrong animal is useless and dangerous to the treatment of the victim. If during the incident the victim traps or kills the animal, it shall be immediately surrendered to animal control for preparation and testing by calling the ~~department police communication office~~.

**Sec. 6-156. Animals which die of rabies.**

Animals that have died of rabies or are suspected of having died of rabies shall be turned over to ~~the department animal control~~ or a licensed veterinarian for dispatch to the nearest state diagnostic laboratory for testing.

**Sec. 6-157. Muzzling.**

~~Due to the risk of hyperthermia, it shall be unlawful to muzzle an animal without constant supervision if temperatures are predicted to exceed 75 degrees. Any muzzle used shall, by its design, allow the animal to open its mouth, pant, drink water, not interfere with its vision, and not cause injury to the animal. Muzzling of any snub-nosed animal is discouraged. A gentle leader or halter is not considered a muzzle.~~

**II.**  
**CUMULATIVE CLAUSE**

That this Ordinance shall be cumulative of all provisions of the City of Windcrest Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such existing Ordinance, in which event the conflicting provisions of such existing Ordinance are hereby repealed and this Ordinance controls.

**III.**  
**SEVERABILITY**

That it is hereby declared to be the intent of the City Council for the City of Windcrest that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

**IV.**  
**PROPER NOTICE AND MEETING**

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

**V.**  
**EFFECTIVE DATE**

This ordinance shall be effective upon passage and publication as required by state and local law.

**VI.**  
**READINGS**

**DULY PASSED ON FIRST READING**, on the 5th day of February, 2024 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

**DULY PASSED AND APPROVED**, on the \_\_\_\_\_ day of \_\_\_\_\_, 2023 at a regular meeting of the City Council of the City of Windcrest, Texas, which was held in

compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF WINDCREST, TEXAS

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Dan Reese, Mayor

**ATTEST:**

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Rachel Dominguez, City Secretary

**APPROVED:**

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Ryan Henry, City Attorney