

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

Abandon means left without the needed protection, care, or support by the owner, a person, partnership, or corporation.

Altered or sterilized means the surgical removal of the reproductive organs of a dog or cat or the use of nonsurgical methods and technologies approved by the United States Food and Drug Administration or the United States Department of Agriculture to permanently render the animal unable to reproduce.

Animal means every nonhuman species of animal, both domestic and wild.

Animal at large means any animal not under the restraint (as defined in this section) of a person capable of controlling the animal on or off the premises of the owner.

Animal care means the responsible practice of good handling, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when deemed necessary by an animal control officer to prevent suffering or impairment of health.

Animal ~~Welfare~~ ~~control~~ officer or humane officer means any person designated by the city as a law enforcement officer who is qualified to perform such duties as required by this chapter and/or state law.

Animal welfare authority means a municipal office with authority over the area where the dog is kept.

Animal shelter means any facility operated by a humane society, or municipal agency or its authorized agents, for the purpose of impounding stray, homeless, abandoned or unwanted animals under the authority of this chapter or state law for care, confinement, return to owner, adoption or euthanasia.

Animal welfare organization means any non-profit organization that has tax-exempt status under United States Internal Revenue Code Section 501(c)(3) and takes unwanted, abandoned, abused, or stray animals and places them into permanent or foster homes. Animal welfare organization does not include an entity who breeds animals; or in exchange for payment or compensation, obtains any cat or dog from a person or entity who either breeds cats or dogs or facilitates the sale of cats or dogs that were obtained from a person or entity that breeds cats or dogs.

Auction means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Bite means puncturing or tearing of the skin by an animal's teeth.

Bullhook means a tool or device, also known as an elephant goad or an ankus, used in handling and training elephants, consisting of a spike, hook or combination thereof, attached to a shaft or handle.

Cat means any live or dead felis catus.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any retail pet shop, grooming shop, guard dog or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

Cruel manner includes a manner that causes or permits intentional pain or suffering.

Currently vaccinated means vaccinated and satisfying the following criteria:

- (1) The animal must have been at least four months of age at the time of vaccination;
- (2) At least 30 days have elapsed since the initial vaccination; and
- (3) The time elapsed since the most recent vaccination has not exceeded the recommended interval for booster vaccination as established by the manufacturer.

Designated custodian means a person who has possession or control or responsibility of an animal in their direct supervision and is performing veterinary treatment, grooming, training, law enforcement activity, or any other animal related service where the owner and the custodian have agreed to the animal related service or activity.

Dangerous dog means a dog that:

- (1) makes an unprovoked attack on a person that causes bodily injury 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.

Dog means any live or dead canis familiaris.

Domestic animal means tame, domesticated, of or pertaining to the family or household.

Ear tipping means the painless removing of the tip of the left ear of a cat while the cat is anesthetized by a licensed veterinarian.

Feral cat means any unowned, homeless, wild, or untamed cat which is too poorly socialized to be handled (and therefore must be trapped and sedated for examination) and which cannot be placed into a typical home as a domestic pet.

Feral cat colony means a group of cats that congregate together, more or less as a unit, who are fed and cared for by a feral cat colony caregiver.

Feral cat colony caregiver means a person who is approved by a sponsor who feeds feral cats, performs trap-neuter-return, and provides long-term care and monitoring for adult feral cats.

Food means access to food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, except as prescribed by a veterinarian.

Fowl means a bird of any kind; domestic cock or hen (gallus gallus).

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard dog means any professionally trained dog that will detect and warn its handler that an intruder is present in or near an area that is being secured.

Identification means any acceptable method such as micro-chipping, registration tag, or tattoo readily traceable to the current owner.

Kennel or cattery means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; and/or a facility for keeping more than four animals of the same species.

Licensed veterinarian means a veterinarian licensed to practice veterinary medicine in one or more of the 50 states.

Livestock means domestic animals used or raised on a farm, especially those kept for a profit; specifically, horses, ponies, mules, donkeys, cattle, goats, sheep and swine, regardless of age, sex or breed.

Local health authority or rabies control officer. The city sanitarian shall be designated as the rabies control officer and shall handle all duties required under the Rabies Control Act of 1981 (V.T.C.A., Health and Safety Code § 826.001 et seq.).

Microchip implant means a passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for the purposes of animal identification and recovery by the animal's owners.

Observation period means the ten days following a bite incident during which the biting animal's health status must be monitored. The ten-day observation period will begin on the day of the bite incident (day one).

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more, or if it returns to a residence or business on three separate days.

Performing animal exhibition means any spectacle, display, act, or event, in which performing animals are used. This shall include animal amusement vendors such as, but not limited to, pony-go-round rides, commercial horseback pictures, etc.

Pet or companion animal means any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Retail pet shop means a for-profit retail establishment or place of business, where cats or dogs are sold, leased, offered for sale, traded, or given away for consideration. This does not include a private residence not generally open to the public, an animal shelter, or a facility operated by an animal welfare organization.

Possible exposure to rabies means the receipt of a bite or scratch from any warm-blooded animal, animal to human or animal to animal, is reason to suspect exposure to rabies.

Properly fitting means, with respect to a collar or harness used for a dog, a collar or harness that does not impede the dog's normal breathing or swallowing, and is attached to the dog in a manner that does not allow for escape and does not cause injury to the dog.

Provocation means any purposeful act that causes an animal to bite, scratch, or attack in protection of self, owner, or owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with city ordinances would be considered provocation, irrespective of the reason for such entrance.

Public nuisance means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" means and includes, but is not limited to, any animal that:

- (1) Is repeatedly at large or stray;
- (2) Damages the property of anyone other than its owner;

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- (3) Molests or intimidates pedestrians or passersby;
 - (4) Trespasses on school grounds;
 - (5) Chases vehicles;
 - (6) Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
 - (7) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
 - (8) Causes insanitary conditions in enclosures or surroundings where the animal is kept or harbored;
 - (9) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or
 - (10) Attacks other domestic animals.

Quarantine means strict confinement, for the purpose of preventing the spread of disease, under restraint by closed cage, isolation, kennel, rabies chamber, paddock, or in any other manner approved by the local health authority on the private premises of the owner or at a facility approved by the state department of health.

Quarantine period means that portion of the observation period during which a biting animal is physically confined for observation as provided for under section 6-109.

Rabies means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Registered feral cat colony means a managed feral cat colony registered with a sponsor and meeting all requirements of this chapter.

Releasing agency means a public or private animal pound, shelter, or humane organization. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

Restraint means that an animal is secured by a leash or lead and under the control of a responsible person and obedient to that person's commands. At all other times, a dog or other such animal shall be confined to the realty or premises of the owner of such dog or other animal by a substantial fence of sufficient strength and height to prevent such dog or other animal from escaping therefrom; or inside a house on such premises; or secured on such premises by a leash consisting of a material of sufficient strength to prevent such dog or other animal from escaping from such premises. It shall be unlawful for the leash to be arranged in a manner that allows the dog or other animal to get on or across or within eight feet of any street, park, or other public land or within eight feet of any sidewalk, public way, place or building when such leash is stretched to its full length. Any animal so arranged shall be considered dangerous to the public in general and declared a nuisance and shall be impounded. Although cats shall be exempt from the leash requirement while on the premises of the owner, any cat straying on the property of anyone except its owner shall be deemed a public nuisance animal and will be subject to impoundment.

Riding school or stable means any place that has available for hire, boarding, and/or riding instruction, any horse, pony, donkey, mule, or burro; or any place that regularly buys, sells, or trains the above animals, including a racetrack, trotting track, or rodeo.

School zone means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

Scratch means a scrape left by the claws or nails of an animal and of sufficient severity to break the skin and draw blood.

Secure enclosure means a fenced area or structure that is:

- (1) locked;
- (2) capable of preventing the entry of the general public, including children;
- (3) capable of preventing the escape or release of a dog;
- (4) in conformance with the requirements for enclosures established by the local animal control authority.

Shelter means provision of and access to housing that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that is sufficient to protect the animal from cold and promote the retention of body heat; and, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Sick animal means any animal that appears to be suffering from an infectious, contagious, or communicable disease; or that is showing evidence of a physical injury, physical disorder, or traumatic injury; or that has an elevated temperature.

Sponsor is any animal welfare group partnered with and approved by the city that agrees to comply with the requirements of the ordinance from which this definition derives for sponsors and provides written notice to the city that it will serve as a sponsor.

Stray means animal running free or at large, with no physical or verbal restraint.

Tether means any leash, chain, cord, rope, or other means of restraining an animal or the act of chaining, tying, fastening or otherwise securing an animal to a fixed point so that it can move, lie down or range only within certain limits.

Traceable identification means a type of identification, such as a tag, microchip, or tattoo that can be readily used by an animal control officer or animal welfare personnel to identify the current ownership of an animal.

Trap, neuter and return (TNR) program shall mean a nonlethal, humane alternative to deal with the feral cats which are captured, vaccinated, altered and returned back to their location in order to encourage the stabilization of the free-roaming feral cat population in the city.

Unowned animal means any animal for which an owner has not been identified.

Vaccinated means properly injected with a rabies vaccine licensed for use in the subject species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Vicious animal means any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals; or an individual animal which the local

health authority has reason to believe has a dangerous disposition, likely to be harmful to humans or other animals.

Water means provision of and access to clean, fresh, drinkable water that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian.

Wild animal means any animal except the common domestic species (including, but not limited to, dogs, cats, horses, cattle, swine, sheep, and goats), regardless of the state or duration of captivity.

Wild state means living in its original, natural condition; not domesticated.

Wildlife means any animal that occurs naturally in the wild state.

Zoological park means any facility operated by a person, partnership, corporation, or government agency, other than a pet shop or kennel, displaying or exhibiting one or more species of no domesticated animals.

(Code 1961, § 3-1; Ord. No. 2006-51, § 1, 6-12-06; Ord. No. 2014-58, § 2, 8-11-14; Ord. No. 2019-54, § 2, 8-13-19; Ord. No. 2021-20, § 2, 3-22-21; Ord. No. 2022-77, § 2, 10-24-22; Ord. No. 2023-64, § 1, 9-11-23)

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Definitions pertaining to rabies, V.T.C.A., Health and Safety Code § 826.002.

Sec. 6-2. Animal control officer.

An animal control officer(s) shall be appointed to enforce all provisions of this chapter, including gathering and impounding or quarantining any livestock, fowl, cats, dogs, or other domestic and nondomestic animals found running at large (stray) within the city limits.

(Code 1961, § 3-2; Ord. No. 2021-20, § 3, 3-22-21)

Cross reference(s)—Administration, ch. 2.

Sec. 6-3. Enforcement of chapter.

The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this chapter to interfere with an animal control officer or humane officer in the performance of his duties.

(Code 1961, § 3-27)

Sec. 6-4. Fee schedule.

(a) *Standard licensing fee.* The licensing fee for dogs and cats, as required under this chapter, shall be as follows:

- (1) Unneutered dog or cat: Annual fee of \$5.00.
- (2) Neutered dog or cat: Lifetime of animal fee of \$5.00.

The lifetime license will only be valid when accompanied by a current rabies vaccination certificate.

(b) *Permits.* A permit shall be issued after payment of the applicable fee:

- (1) Kennel authorized to house fewer than ten dogs or cats\$ 50.00
- (2) Kennel authorized to house ten to 49 dogs or cats100.00

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- (3) Kennel authorized to house 50 or more dogs or cats150.00
 - (4) Pet shop100.00
 - (5) Riding stable100.00
 - (6) Auction100.00
 - (7) Zoological park200.00
 - (8) Circus200.00
 - (9) Performing animal exhibition50.00
 - (10) Grooming shop50.00
 - (11) Petting zoo150.00
 - (12) Guard dog training center200.00
 - (13) Obedience training center50.00
- (c) *Impoundment fee.* An impoundment fee must be paid for each animal captured, as follows:
- (1) Unneutered dog or cat\$ 35.00
 - (2) Neutered dog or cat20.00
 - (3) Fowl or other small animals25.00
 - (4) Livestock50.00
 - (5) Zoological and/or circus animal100.00
 - (6) Puppies and kittens under three months of age20.00
 - (7) A feral cat that is otherwise in a sponsor approved trap, neuter, and return feral cat colony shall not be subject to impoundment fees under this section.
- (d) *Boarding fee.* A boarding fee must be paid for each animal confined by the animal shelter, as follows:
- (1) Dog or cat, per day of confinement: Set by the animal shelter.
 - (2) Fowl or other small animal, one-time charge\$ 10.00
 - (3) Livestock animal, per day of confinement25.00
 - (4) Zoological and/or circus animal, per day of confinement300.00

(Code 1961, § 3-28; Ord. No. 95-13, § I(3-28), 3-27-95; Ord. No. 2014-58, § 3, 8-11-14)

Sec. 6-5. Penalty for violation of chapter; schedule of fines.

- (a) Any person who shall violate any of the provisions of this chapter, or fail to comply therewith or with any of the provisions thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than \$25.00 and not more than \$2,000.00, unless specifically listed on the minimum penalty schedule in subsection (b), and each and every day's violation shall constitute a separate and distinct offense. Subsequent convictions for any violation of this chapter within a 12-month period shall double the minimum applicable fine listed in subsection (b), up to and including the maximum allowed by law. If any person is found guilty of violating section 6-76, pertaining to animal care, such person's permit to own, keep, harbor, or have custody of animals shall be deemed automatically revoked and no new permit may be issued.
- (b) Upon conviction of the specific ordinance violation listed, the minimum fine imposed shall be as follows:

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- (1) Animal abandonment\$100.00
 - (2) No rabies vaccination50.00
 - (3) Not registered/licensed30.00
 - (4) Failure to obtain permit before opening200.00
 - (5) Failure to renew permit by due date30.00
 - (6) Allowed to run at large, stray:
 - a. Unneutered dog or cat40.00
 - b. Neutered dog or cat25.00
 - c. Any other animal25.00
 - (7) More than four dogs or cats, per animal30.00
 - (8) Unconfined and/or nonmuzzled vicious animal200.00
 - (9) Unconfined female dog or cat in heat30.00
 - (10) Failure to surrender animal for rabies observation200.00
 - (11) Failure to comply with section 6-76100.00
 - (12) Failure to comply with section 6-79500.00

(Code 1961, § 3-29; Ord. No. 2019-54, § 2, 8-13-19; Ord. No. 2021-20 , § 4, 3-22-21)

Secs. 6-6—6-25. Reserved.

ARTICLE III. ANIMAL CONTROL

Sec. 6-51. Restraint.

- (a) All dogs, cats and other animals shall be kept under restraint and not allowed to run at large or stray. This section shall not be so construed as to prohibit trained dogs that are a part of a canine unit operated by a law enforcement agency from being unrestrained while in the performance of their law enforcement and public safety functions within the city limits.

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

- (b) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.
- (c) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.
- ~~(d) Any animal within the city that shall bite, scratch, or otherwise attack a person who is not at the time trespassing upon the property of the owner or person having control of such animal, nor provoking or teasing such animal, shall be deemed vicious or dangerous to persons or other animals and the city may order, following the procedures listed in this section, that such animal be kept muzzled, or that such animal~~

~~be kept within a sufficient enclosure, or that such animal be permanently removed from the corporate limits of the city, or that such animal be delivered to the animal control officer or humane officer to be humanely euthanized.~~

- ~~(e) The local health authority may receive a complaint from any animal control officer, humane officer, police officer, or any other responsible person concerning an animal which has bitten a human being or attacked and killed another animal. The local health authority may also be the complainant concerning an individual animal which he has reason to believe has a dangerous disposition likely to be harmful to humans or other animals. A complainant must file with the local health authority a written sworn complaint which contains the following information, as applicable:~~
- ~~(1) Name, address, and telephone number of complainant and any other witnesses to the incident;~~
 - ~~(2) Date, time and location of the incident;~~
 - ~~(3) Description of the animal;~~
 - ~~(4) Name, address and telephone number of the animal owner;~~
 - ~~(5) A statement that the animal attacked and killed another animal;~~
 - ~~(6) A statement that the animal attacked or bit a human being (refer to definitions of "vicious" and "provocation" in section 6-1);~~
 - ~~(7) A statement that the animal has exhibited vicious propensities in past conduct, if known; and~~
 - ~~(8) Other facts or circumstances of the incident.~~
- ~~(f) After a sworn complaint is filed with the local health authority, he shall investigate the complaint and if there is sufficient evidence he may request the chief of police or designee to set a time and place for a hearing. The chief of police or designee shall give notice of the hearing to the animal's owner by personal service or certified mail, return receipt requested, at least ten days prior to the hearing date.~~
- ~~(g) The chief of police or designee shall hold the hearing under this section and shall determine at the hearing if the animal specified in the complaint should be ordered to be kept muzzled, kept within a sufficient enclosure, removed from the city limits, or destroyed for the protection of the public health, safety and welfare of the community. The chief of police or designee shall receive testimony at the hearing concerning the incident under investigation.~~
- ~~(1) To order the removal or destruction of the animal for the public health, safety and welfare, the chief of police or designee must find all of the following facts to be true:~~
 - ~~a. The animal attacked or bit a human being or attacked and killed another animal;~~
 - ~~b. The animal is the same animal which committed the acts described in subsection (g)(1)a of this section;~~
 - ~~c. Destruction of or removal of the animal is necessary to preserve the public health, safety, and welfare of the community.~~
 - ~~(2) To order the muzzling or keeping of an animal in a sufficient enclosure for the public health, safety and welfare, the chief of police or designee must find all of the following facts to be true:~~
 - ~~a. The animal attacked or bit a human being or another animal; or the animal has a known propensity to attack, bite, or injure human beings or domesticated animals because of temperament, conditioning, or training; or it is demonstrated by the local health authority that the animal has a dangerous disposition, likely to be harmful to humans or other animals;~~
 - ~~b. The animal is the same animal which committed the acts described in subsection (g)(2)a of this section;~~

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- ~~c. Muzzling or keeping of the animal in a sufficient enclosure is necessary to preserve the public health, safety, and welfare of the community.~~

~~If the chief of police or designee orders muzzling, keeping within a sufficient enclosure, destruction or removal of the animal and the owner is not present at the hearing, he shall notify the owner of the decision by personal service or certified mail, return receipt requested. If the chief of police or designee does not order destruction of or removal of the animal, the animal control officer shall, if the animal was impounded and if any required rabies observation quarantine period has been completed, return the animal to the owner upon payment of any fees due, with the understanding that any orders requiring muzzling or keeping within a sufficient enclosure must be followed as long as the animal remains within the city limits.~~

- ~~(h) An owner of an animal may appeal a destruction or removal order to a court of competent jurisdiction within five days of the decision. If the chief of police or designee receives written notice of the intent to appeal within five days of the decision, he shall suspend the destruction or removal order pending final determination of the court. If such appeal is perfected by the filing of a petition in a court of competent jurisdiction within ten days of the order of destruction or removal, he shall suspend the destruction or removal pending the outcome of the appeal. In such event the owner will have 48 hours' notice to pick up the animal if it was impounded and if any required rabies observation quarantine period has been completed, and hold the animal pending the appeal. All fees due must be paid before the animal is released to the owner and the animal must be kept muzzled or within a sufficient enclosure if so ordered. Failure to claim the animal within 48 hours of such notice will result in the execution of the removal or destruction order.~~
- ~~(i) If any animal is discovered in violation of any removal or destruction order described in subsection (g) of this section, the animal shall be immediately seized and humanely euthanized. Any animal discovered in violation of any order requiring muzzling or keeping within a sufficient enclosure shall be seized and impounded, and the owner shall be prosecuted under the provisions of subsection (j) of this section.~~
- ~~(j) It shall be unlawful for any person to harbor or keep on his premises, or in or about his premises, or premises under his control, any vicious animal except as directed by this chapter.~~
- ~~(k) No part of this chapter shall preclude at any time the filing of a complaint in the court of competent jurisdiction under the provisions of the dangerous dog law (V.T.C.A., Health and Safety Code § 822.041 et seq.).~~

(Code 1961, § 3-6; Ord. No. 2014-58, § 5, 8-11-14)

State law reference(s)—Restraint, V.T.C.A., Health and Safety Code § 826.033 et seq.

Sec. 6-57. Dangerous Dog and Aggressive Dogs

- (a) Any person may report an incident to the City Animal Welfare authority as described in section 6-1; "dangerous dog."
- (b) Upon the receipt of a sworn statement by the victim, witnesses, or Animal Welfare staff, the Animal Welfare Division shall investigate to determine if the dog is dangerous. The sworn statement complaint must contain the following information:
- (1) Name, address, phone number, and email of complainant and any other witnesses to the incident;
 - (2) Date, time and location of the incident;
 - (3) Description of the animal in question;
 - (4) A statement of the incident

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- (5) Name, address, phone number, and email of the animal owner;
 - (6) Other facts or circumstances of the incident.
 - (c) Animal Welfare Division may seize and impound the dog at the owner's expense pending the determination of whether the dog is dangerous if:
 - (1) The dog has caused bodily injury to any person; or
 - (2) With due diligence, Animal Welfare Division cannot locate the owner of the dog. If the owner of the dog has not been located before the 15th day after seizure and impound, Animal Welfare Division may order the dog to be humanely destroyed.
 - (d) The Animal Welfare Division shall have authority to determine whether any dog has engaged in the behaviors specified in section 6-1 Dangerous dog. At the conclusion of the Animal Welfare Division investigation, Animal Welfare Division shall:
 - (1) Determine that the dog is not dangerous, and if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or
 - (2) Determine that the dog is dangerous and order its owner to comply with the requirements for ownership of a dangerous dog set forth in section 6-57-10 (a). and, if the dog is impounded, release the dog to its owner after compliance with all applicable requirements of section 6-57-10(a).
 - (e) If a dog is determined to be dangerous, Animal Welfare Division shall notify the dog owner, in writing either in person or by certified mail, return receipt requested:
 - (1) That the dog was determined to be a dangerous dog;
 - (2) What the owner must do to comply with requirements for ownership of a dangerous dog in the City and to reclaim the dog, if impounded; and
 - (3) That the owner has a right to appeal the determination of dangerousness.
 - (f) An impounded dog determined by Animal Services Department to be dangerous must remain impounded and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this Article.
 - (g) If the owner of an impounded dog has not complied with section 6-57-10 within 30 days after a final determination is made that an impounded dog is dangerous, then the dog becomes the property of the City and may be humanely destroyed. For the purposes of this Chapter, final determination means the date on which the Animal Welfare Division notified the owner of its determination that the dog is dangerous, if said determination is not appealed or the date on which the Municipal Court issues its order pursuant to section 6-57-10

Sec. 6-57-10. Dangerous Dog - Requirements for keeping a dangerous dog.

- (a) Not later than the 30th day after a person learns of the final determination that the person is the owner of a dangerous dog, the person shall:
 - (1) Register the dog as a dangerous dog with City of New Braunfels Animal Welfare Division;
 - (2) Obtain liability insurance coverage or show financial responsibility in the amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to Animal Welfare Division;
 - (3) Provide a secure enclosure that will prevent the dog from leaving the enclosure on its own and will reasonably prevent any persons except the owner of the dog from entering the enclosure. Such enclosure

must be inspected and approved by Animal Welfare Division before the dog is registered with Animal Welfare Division;

- (4) Obtain and maintain a current City pet license;
- (5) Post a clearly visible sign on the secure enclosure in which the dog is kept identifying the presence of a dangerous dog on the property. The sign should be readable from any public sidewalk or street adjacent to the enclosure;
- (6) Affix a tag provided by Animal Welfare Division to the collar of the dangerous dog and ensure it remains in place; and
- (7) When removed from its secure enclosure, muzzle the dog in a way to not cause injury to the dog, nor interfere with the dog's vision or breathing, but to prevent the dog from biting another animal or a person and restrain the dog at all times on a leash capable of restraining the dog without breaking and not more than six feet in length.
- (b) Prior to selling or moving a dog registered with Animal Welfare Division as a dangerous dog, the owner must notify Animal Welfare Division of the intention to move the dog and provide Animal Welfare Division with a clear description of the location where the dog is to be moved.
- (c) Any person bringing a dog into the City limits that has been determined dangerous by another animal control agency must notify Animal Welfare Division of the presence of the dangerous dog and then comply with all the requirements for the keeping of a dangerous dog set out in this Article.
- (d) The owner of a dangerous dog who does not comply with section (a) shall deliver the dog to Animal Welfare Division no later than the 30th day after the owner learns that the dog is a dangerous dog.

Sec. 6-57-11. Dangerous Dog - Appeals; hearing.

- (a) If the Animal Welfare Division determines that the dog is dangerous that decision is final unless the owner files a written appeal with the Municipal Court within 15 days after the date that written notification was delivered that the dog has been determined to be dangerous.
- (b) The Municipal Court shall set a date, time and place for a hearing not later than ten days after receipt of the appeal to determine the outcome of the appeal and provide written notification of the hearing to the owner and Animal Welfare Division.
- (c) At the conclusion of the hearing, the Court may:
 - (1) Uphold the determination by the Animal Welfare Division that the dog in question is a dangerous dog and order:
 - a. The owner of the dog in question to permanently remove the dog in question from within the City limits of New Braunfels;
 - b. The owner of the dog in question to comply with the requirements for keeping of a dangerous dog set forth in Sec. 6-57-10; or
 - c. Order the Animal Welfare Division to humanely destroy the dog.
 - (2) Find the dog is not a dangerous dog and order the dog released to the owner of the dog or a person authorized to take possession of the dog.

Sec. 6-57-12. Dangerous Dog - Status of dog pending appeal.

- (a) If Animal Welfare Division has possession of the dog at the time the owner files an appeal of the dangerous dog determination, Animal Welfare Division will maintain possession of the dog and keep it in a secure and humane manner until final determination is made, unless the owner of the dog requests custody of the dog in question and complies with Sec. 6-57-10.
- (b) If the owner of the dog has possession of the dog in question at the time the owner files an appeal of the dangerous dog determination:
 - (1) The owner may keep possession of the dog until final determination has been made provided that the owner satisfies the requirements of Sec. 6-57-10 (3 & 7):
 - (2) The owner may keep the dog confined at a licensed veterinary clinic, cost of which will be borne by the owner, until final determination is made; or
 - (3) The owner may surrender the dog to Animal Welfare Division representatives, and Animal Welfare Division will maintain possession of the dog and keep it in a secure and humane manner until a final determination is made.
- (c) If the owner violates the requirements of Sec. 6-57-10 (3 & 7), while the appeal is pending, an Animal Welfare Division representative will impound the dog and it will be kept by Animal Welfare Division in a secure and humane manner until final determination is made.

Sec. 6-57-13. Dangerous Dog- Violation of requirements for keeping of a dangerous dog.

- (a) On receiving a report that the owner of a dangerous dog has failed to comply with Section Sec. 6-57-10, Municipal Court shall set a time for a hearing to determine whether the owner of the dog has complied with Sec. 6-57-10. The hearing must be held not later than the tenth day after receipt of the report.
- (b) Municipal Court shall give written notice of the time and place of the hearing to:
 - i. The owner of the dangerous dog; and
 - ii. The person who made the complaint or report.
- (c) Any interested party, including the City Prosecutor, is entitled to present evidence at the hearing.
- (d) If Municipal Court finds after notice and hearing that the owner of a dangerous dog has failed to comply with Section Sec. 6-57-10, the Court shall order Animal Welfare Division to seize the dog and shall issue a warrant authorizing the seizure. Animal Welfare Division shall seize the dog and impound the dog in secure and humane conditions.
- (e) The owner shall pay any cost or fee assessed by Animal Welfare Division related to the seizure, acceptance, impoundment or destruction of the dog.
- (f) Municipal Court shall order Animal Welfare Division to humanely destroy the dog if the owner has not complied with Subsection Sec. 6-57-10. before the 11th day after the date on which the dog was seized. The Court shall order the authority to return the dog to the owner if the owner complies with Subsection Sec. 6-57-10. before the 11th day after the date on which the dog was seized.
- (g) Municipal Court may order the humane destruction of the dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.
- (h) An owner or person filing the action may appeal the decision in the manner provided for the appeal of cases from Municipal Court.

Sec. 6-57-14. Dangerous Dog- Defense to determination of a dangerous dog.

- A. It is a defense to prosecution under this Division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or person employed by the State or a political subdivision of the State to deal with stray animals and has temporary ownership, custody or control of the dog; provided, however, that for any person to claim a defense under this Section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.
- B. It is a defense to prosecution under this Division that the person is an employee of the Institutional Division of the Texas Department of Criminal Justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this Section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.
- C. It is a defense to prosecution under this Division that the dog at issue is a trained guard dog in the performance of official duties while confined or under the control of its handler.

Sec. 6-57-15. Dangerous Dog- Violations.

- A. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with any section of this Article.
- B. An offense under this Chapter is punishable by a fine not to exceed \$2,000.00.

Sec. 6-58. Aggressive dog classifications.

The following classifications shall be based upon specific behaviors exhibited by a dog:

- A. Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior.
- B. Level 2 behavior is established if a dog, while at large, causes a severe injury to any domestic animal or livestock except poultry.
- C. Level 3 behavior is established if:
 - 1. A dog, while at large, kills or causes the death of any domestic animal or livestock except poultry; or
 - 2. A dog classified as a Level 2 aggressive dog that repeats the behavior in Subsection B. after the owner or keeper receives notice of the Level 2 classification.

Sec. 6-58.10 Aggressive dog determination and classification.

- A. Upon report by any person, Animal Welfare Division shall investigate to determine if a dog has exhibited the specific behaviors in Section 6-58.
- B. Animal Welfare Division may seize and impound the dog at the owner's expense pending the determination of whether the dog is aggressive if:
 - 1. The dog has exhibited Level 3 behavior; or

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- 2. With due diligence, Animal Welfare Division cannot locate the owner of the dog. If the owner of the dog has not been located before the 15th day after seizure and impound, Animal Welfare Division may order the dog to be humanely destroyed.
 - C. At the conclusion of Animal Welfare Division investigation, Animal Welfare Division shall:
 - 1. Determine that the dog has not exhibit any of the specific behaviors established in Section 6-58; or
 - 2. Determine that the dog has exhibited a specific behavior in Section 6-58 and classify the dog in the corresponding aggressive dog level and order the owner to comply with the requirements of ownership of said dog set forth in Section 6-58.13.
 - D. Animal Welfare Division shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors specified in Section 6-58 if Animal Welfare Division 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.
 - E. Animal Welfare Division shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.
 - F. If the dog is classified as aggressive, Animal Welfare Division shall notify the dog owner either in person or by certified mail, return receipt requested:
 - 1. That the dog was classified as aggressive;
 - 2. The restrictions applicable to the dog based upon the classification; and
 - 3. That the owner has the right to appeal the classification.
 - G. An impounded dog classified by Animal Welfare Division as aggressive must remain impounded and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership set forth in Section 6-58.13.
 - H. If the owner of an impounded dog has not complied with Subsection G. within 30 days after a final determination is made that an impounded dog is aggressive, then the dog becomes the property of the City and may be humanely destroyed.

Sec. 6-58.11 Appeals; hearing.

- A. If Animal Welfare Division classifies a dog as aggressive that decision is final unless the owner files a written appeal with the Municipal Court within 15 days after the date that written notification was delivered that the dog has been classified as aggressive.
- B. The Municipal Court shall set a date, time and place for a hearing not later than ten days after receipt of the appeal to determine the outcome of the appeal and provide written notification of the hearing to the owner and Animal Welfare Division.
- C. At the conclusion of the hearing, the Court may:
 - 1. Uphold the classification by Animal Welfare Division that the dog in question is aggressive and order:
 - i. The owner of the dog in question to comply with the requirements for keeping of an aggressive dog set forth in Section 6-58-.13; or
 - ii. Animal Welfare Division to humanely destroy the dog.
 - 2. Find the dog is not an aggressive dog and order the dog released to the owner of the dog or a person authorized to take possession of the dog.

Sec. 6-58.12 Status of dog pending appeal.

- A. If Animal Welfare Division has possession of the dog at the time the owner files an appeal of the aggressive dog determination, Animal Welfare Division will maintain possession of the dog and keep it in a secure and humane manner until final determination is made, unless the owner of the dog requests custody of the dog in question and complies with Section 6-58.13.
- B. If the owner of the dog has possession of the dog in question at the time the owner files an appeal of classification of the dog as aggressive:
 - 1. The owner may keep possession of the dog until final determination has been made provided that the owner keeps the dog in a secure enclosure that Animal Welfare Division deems to be secure enough to prevent the dog from escaping;
 - 2. The owner may keep the dog confined at a licensed veterinary clinic, cost of which will be borne by the owner, until final determination is made; or
 - 3. The owner may surrender the dog to Animal Welfare Division representatives, and Animal Welfare Division will maintain possession of the dog and keep it in a secure and humane manner until a final determination is made.
- C. If the owner fails to keep the dog in a secure enclosure required pursuant to Subsection E.1. while the appeal is pending, an Animal Welfare Division representative will impound the dog and it will be kept Animal Welfare Division in a secure and humane manner until final determination is made.

Sec. 6-58.13 Regulation of aggressive dogs.

The owner of an aggressive dog shall comply with the following conditions:

- A. Dogs classified as Level 1 dogs 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 premises whenever that dog is outside the owner's home and not on a leash. Animal Welfare Division may also order sterilization of the animal.
- B. Dogs classified as Level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's premises. In addition, Animal Welfare Division may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of \$100,000.00. In addition, the owner or may be required to complete a responsible pet ownership or dog training program as prescribed by Animal Welfare Division or the Municipal Judge. Animal Welfare Division may order sterilization of the animal.
- C. Dogs classified as Level 3 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's premises and the owner shall post a clearly visible sign on the secure enclosure in which the dog is kept identifying the presence of an aggressive dog on the property. The sign should be readable from any public sidewalk or street adjacent to the property. In addition, the Animal Welfare Division may require the owner or keeper to obtain and maintain proof of public liability insurance in the amount of \$100,000.00. The owner shall not permit the dog to be off the owner's or keeper's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person. In addition, the Animal Welfare Division may require the owner to satisfactorily complete a pet ownership or dog training program. The Animal Welfare Division may order sterilization of the animal.

The Animal Welfare Division, or upon appeal, the municipal judge, may order the animal be humanely destroyed.

- D. To ensure correct identification, all dogs that have been classified as aggressive shall be micro-chipped and photographed, and shall be fitted with a special tag or collar determined by Animal Welfare Division at the owner's expense.
- E. The owner of a Level 3 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner of any aggressive dog shall not permit the special tag or collar to be removed from the dog. The owner of an aggressive dog shall not permit the dog to be moved to a new address or change owners without providing the Animal Welfare Division with ten days prior written notification.

Sec. 6-58.14 Declassification.

- A. Declassification of Level 1 or Level 2 dogs will occur and the restrictions required by Section 6-58.13 may be removed when the following conditions have been met:
 - 1. Level 1 or Level 2 dogs have been classified for one year without further incident;
 - 2. There have been no violations of the specified regulations; and
 - 3. If ordered by Animal Welfare Division or Municipal Judge at the time of classification:
 - i. The owner provides Animal Welfare Division with written certification of satisfactory completion of obedience training for the aggressive dog with the owner or keeper; and
 - ii. The owner provides Animal Welfare Division with written verification that the classified dog has been sterilized from a licensed veterinarian.
- B. Declassification of Level 3 dogs will occur and the restrictions required by Section 6-58.13 may be removed, with the exception that the dog must be confined in a secure enclosure whenever the dog is not on leash when the following conditions have been met:
 - 1. Level 3 dogs have been classified for two years without further incident;
 - 2. There have been no violations of the specified regulations; and
 - 3. If ordered by Animal Welfare Division or Municipal Judge at the time of classification:
 - i. The owner provides Animal Welfare Division with written certification of satisfactory completion of obedience training for the aggressive dog with the owner or keeper; and
 - ii. The owner provides Animal Welfare Division with written verification that the classified dog has been sterilized from a licensed veterinarian.

Sec. 6-58.15 Defenses.

- A. It is a defense to prosecution under this Division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or person employed by the State or a political subdivision of the State to deal with stray animals and has temporary ownership, custody or control of the dog; provided, however, that for any person to claim a defense under this Section, that person must be acting within the course and scope of his or her official duties with regard to the aggressive dog.
- B. It is a defense to prosecution under this Division that the person is an employee of the Institutional Division of the Texas Department of Criminal Justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this

Section, that person must be acting within the course and scope of his or her official duties with regard to the aggressive dog.

- C. It is a defense to prosecution under this Division that the dog at issue is a trained guard dog in the performance of official duties while confined or under the control of its handler.

Sec. 6-58.16Violations.

- A. A person who owns or keeps custody or control of an aggressive dog commits an offense if the person fails to comply with any section of this Article.
- B. An offense under this Chapter is punishable by a fine not to exceed \$2,000.00.