

Chapter 6

ANIMALS^{??}

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ARTICLE I. IN GENERAL

Sec. 6-1. Purpose.

It is the intent and purpose of this chapter to provide a safe and healthy environment within the city for both animals and people. While a person may own and keep animals within the city, the conduct of those animals and the conditions in which the animals are kept should not infringe on the surrounding homes and their inhabitants. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-2. Penalty.

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any of the provisions of the chapter shall be punished as provided in section 1-8. Each violation of this chapter shall be deemed a separate offense and each day that a violation exists shall constitute a separate offense. This penalty should not be construed as exclusive, and the city shall be authorized to pursue all other criminal and civil remedies to which it is entitled to under the authority of other ordinances or state law. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-3. Culpable mental state not required.

Unless specifically provided in this chapter, an offense under this chapter shall not require a culpable mental state. It is the intent of this chapter to impose strict liability for any violation of this chapter. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-4. Definitions.

¹**Cross references**—Health and human services, Ch. 13; nuisances, Ch. 18.

State law reference—Authority to enforce ordinances necessary to protect and preserve, health, property, good government and order, V.T.C.A., Local Government Code § 54.004.

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

Abandoned animal shall mean an animal that has been left on or about an unoccupied public or private property, premises, or location and/or occupied public property, with the intent to no longer claim ownership or provide humane care of such animal(s), or leave an animal in the care of another person without their consent.

Advisory committee shall mean the advisory committee composed of at least one (1) licensed veterinarian, one (1) city official, one (1) person whose duties include the daily operation of an animal shelter, one (1) representative from an animal welfare organization or humane society, two (2) city councilmembers, and three (3) citizens.

Animal shall mean any live, vertebrate creature, domestic or wild.

Animal control officer shall mean any person certified by a certifying agency in this state as an animal control officer and whose primary responsibility is the enforcement of this chapter and animal laws of this state.

Animal shelter shall mean any facility operated by the city or its authorized agents for the purposes of impounding or caring for animals held under the authority of this article or state law.

At large shall mean:

- (1) Off premises: any animal that is not under the complete control of the owner or caretaker by means of a leash, cord, or chain to control the actions of such animal while off the owner's or caretaker's property.
- (2) On premises: any animal not confined on the premises of the owner or caretaker by one of the following methods:
 - (i) a substantial fence of sufficient strength and height to prevent the animal from escaping therefrom;
 - (ii) secured on the premises by a leash, cord, or chain of sufficient strength to prevent the animal from escaping the premises.

Auctions shall mean any place or facility, at a location properly zoned for that activity, where animals are regularly bought, sold or traded, except for those facilities otherwise defined in this article. This section does not apply to individual sales of animals by owners.

Cat colony means a colony of feral, homeless, stray, wild or untamed cats that has been registered with the department and is maintained by a cat colony manager.

Cat colony manager means a person who provides food and water to a cat colony.

Circus shall mean a commercial variety show, at a location properly zoned for that activity, featuring animal acts for public entertainment.

Clear provocation shall mean a hit, kick, or strike to an animal by a person with any object or part of a person's body; or the pulling, pinching, or squeezing of any part of an animal's body by a person; or entry by a person into a pen or other similar enclosure in which the animal was being kept that was specifically designed and reasonably certain to prevent the animal from leaving the pen or enclosure on its own.

Dangerous animal shall mean an animal that:

- a. without clear provocation, attacks or bites a person in a place other than an enclosure in which the animal was being kept or approaches any person in an aggressive manner in a place other than an enclosure in which the animal was being kept, and the approach causes the person to reasonably believe the animal will attack or cause bodily injury to any person, OR
- b. without clear provocation, attacks or bites an animal in a place other than an enclosure in which the attacking or biting animal was being kept or approaches any animal in an aggressive manner in a place other than an enclosure in which the approaching animal was being kept, whether or not the attack is consummated, OR
- c. is certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life, animal life, or property, upon the basis of a reasonable medical probability.

Exception: A dog maintained by law enforcement and in the performance of official duties while confined or under the physical or verbal control of its handler, shall not be included in the definition of "dangerous animal."

Fowl shall mean all animals belonging to the class of Aves including members of all game birds such as, but not limited to, chickens, turkeys, geese, ducks, pheasants, quail, guinea hens, peacocks, pigeons, dove, emus, ostriches and other domestic feathered creatures and non-domestic feathered creatures, regardless of age or sex EXCEPT this definition shall not include pet birds such as, but not limited to, parakeets, parrots, canaries, love birds, finches, and cockatiels. This definition shall not include hawks or falcons kept in compliance with federal and state permitting regulations.

Guard dog or attack dog shall mean any dog trained to attack intruders that has completed such professional training and is so certified, such that its attack can be stopped on command and is registered with the city as such.

Harboring shall mean to give shelter, food, or water.

High-risk animal shall mean an animal that has a high probability of transmitting rabies such as, but not limited to, bats, skunks, raccoons, coyotes, and foxes.

Kennel shall mean any premises, at a location properly zoned for that activity, wherein any person engages in the business of boarding, breeding, buying, letting for hire or selling dogs and cats.

Licensing authority shall mean the city acting through its license or permit department, authorized veterinarians and animal control division.

Livestock shall mean domestic animals raised for food and fiber such as hogs, sheep, cattle, and horses.

Livestock management facility shall mean any on-farm breeding operation, on-farm animal feeding operation, on-farm livestock shelter, or on-farm milking and accompanying milk handling operation.

Local rabies control authority shall mean any state certified animal control officer employed by the city of Killeen.

Low-risk animal shall mean an animal that has a low probability of transmitting rabies such as, but not limited to, rats, mice, squirrels and other members of the Rodentia family, rabbits, armadillos, opossums, beaver, nutria, snakes, shrews and moles.

Owner shall mean any person, firm, partnership, or corporation that owns, has title to, has, has possession of, who harbors, keeps, causes, or permits to be harbored or kept, any animal in his care, or permits or allows an animal to remain on/or about his property for (5) five or more consecutive days. A registered cat colony manager of a cat colony shall not be considered an owner of any cat in any cat colony for which the cat colony manager holds a permit found off of the property that the cat colony manager owns.

Performing animal exhibition shall mean any spectacle, display, act or event other than a circus, at a location properly zoned for that activity, in which performing animals are used.

Person shall mean any individual, corporation, partnership, trust, estate, joint stock company, foundation, organization, association of individuals, or institution commonly recognized by law as a unit.

Pet shall mean any animal kept for pleasure rather than utility.

Pet shop shall mean a commercial establishment such as, but not limited to, pet stores, pet grooming services, pet boarding, and animal training at a location properly zoned for that activity, operated by a person, whether operated separately or in connection with another business enterprise except for a kennel.

Public nuisance shall mean any animal which:

- (1) molests passing vehicles.
- (2) trespasses on schoolgrounds.

(3) is repeatedly at large.

(4) barks, whines or howls in an excessive, continuous or untimely fashion.

Riding school or stable shall mean any place, at a location properly zoned for that activity, which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule or burro.

Secure enclosure shall mean any structure used to immediately restrict or confine an animal to a limited amount of space, including, but not limited to, a cage, pen, run, room, hutch, and approved by the animal control division.

Steel jaw trap shall mean any steel, spring setting, mechanical jaw, leghold trap or bar device trap designed for the capture of animals.

Swine shall mean any of the ungulate mammals of the family Suidae, including the pig, hog, boar and the Vietnamese pot-bellied pig.

Veterinary clinic shall mean any establishment, at a location properly zoned for that activity, maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Wild animal shall mean any non-domestic creature (mammal, amphibian, reptile, arachnid, or fowl) which is of a specie that is wild by nature and which can normally be found in the wild state and which is not naturally tame or gentle, but is of a wild nature or disposition; or which, because of its size, vicious nature and other characteristics, would constitute a danger to human life or property, if not kept or maintained in a safe and secure manner. Such creatures include but are not limited to all forms of poisonous reptiles and nonpoisonous snakes which will exceed a length of six feet when mature and nonhuman primates. Excluded from this definition are hamsters, gerbils, ferrets, domesticated breeds of rabbits, guinea pigs, rats, mice, newts and salamanders.

Zoological park shall mean any facility, at a location properly zoned for that activity, other than a pet shop or kennel, displaying or exhibiting one (1) or more species of nondomesticated animals, operated by a person.

(Code 1963, Ch. 2, art. 1, § 1 [Ord. No. 81-47, § 1, 9-22-81; Ord. No. 87-33, § 1, 5-26-87]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02; Ord. No. 03-48, § I, 9-9-03; Ord. No. 04-15, § I, 3-16-04; Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06; Ord. No. 08-026, § I, 4-22-08; Ord. No. 09-008, § II, 2-10-09; Ord. No. 09-077, § I, 11-24-09)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 6-5. Fees.

The city council by resolution or as part of the annual budget shall approve a list of fees and all fees shall be charged as set out in chapter 2, administration, article VI, fees, section 2-150(b), animal control of the city's code of ordinances. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-6. Exemptions.

The following sections, or portions of sections, do not apply to the keeping of livestock:

1. Sec. 6-38(g) & (h), Cruelty. Food and water are not required to be served to livestock in containers.
 2. Sec. 6-38(j), Cruelty (shelter).
- (Ord. No. 04-15, § I, 3-16-04; Ord. No. 04-97, § I, 12-14-04)

Secs. 6-7--6-30. Reserved.

ARTICLE II. ANIMAL CONTROL

DIVISION 1. GENERALLY

Sec. 6-31. Restrictions on agricultural projects.

(a) In this section “agricultural project” shall mean a teaching mechanism offered by a public or private school wherein animals are raised for show or sale.

(b) The sponsor of any agricultural project carried on within the city or its extraterritorial jurisdiction shall apply for approval by the city manager by filing an application with the city secretary at least 21 days prior to the start of any such project.

(c) Upon receipt of an application, the city secretary shall immediately acquire comments from city departments concerning the proposed activity. The secretary shall forward the application and department comments to the city manager within 5 days.

(d) The following standards shall be considered by the city manager in evaluating an application: whether the conduct of the proposed event or its location will:

1. substantially interrupt the safe and orderly movement of vehicular and pedestrian traffic;
2. adversely affect the safety and health of those situated adjacent to the location of the event;
3. pose a high degree of probability or likelihood to cause or tend to cause injury or damage to persons or property;
4. be so close to a school, church, hospital, or other place at which a specific lawful activity normally requires for its accomplishment quiet and orderly deliberation or consideration or freedom from loud noises associated with the project.

(e) The city manager shall, within seven (7) days after receipt of an application, approve, modify and approve, or deny it. If modified or denied, the reasons shall be clearly stated in writing by the city manager.

(f) For violation of the city of Killeen code of ordinances, applicable state laws, or requirements of this permit, the city manager may revoke a permit previously issued under this chapter, by written order stating the reasons for the action.

(g) In the event the city manager modifies an application, denies an application, or revokes a permit, the affected party may appeal the manager's decision to the city council by filing a written letter with the city manager within 3 business days after receiving notice of the city manager's decision. The appeal letter must specifically state each and all points of contention with the city manager's determination. The city manager shall immediately cause the appeal to be placed on the next regular meeting agenda of the city council for discussion and action. At that meeting, the city council shall consider the standards contained in this chapter, the city manager's reasons for modifying, denying, or revoking a permit, the points raised in the letter of appeal, and relevant surrounding facts.

(h) An agricultural project, approved by the city manager shall not be required to adhere to any of the provisions of this chapter not specifically enumerated in the approval of the project.

(i) Any approved agricultural project which violates the terms and conditions of its approval shall at that time forfeit its waiver of the provisions of this chapter, and the permit is subject to revocation.

(Code 1963, Ch. 2, art. 2, §§ 1--4 [Ord. No. 77-45, § 1, 8-23-77]; Ord. No. 00-1, § I, 1-11-00; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-32. Disposition of fees and penalties.

It shall be the duty of anyone collecting any fees or penalties under this article to pay all such monies to the director of finance. (Ord. No. 04-97, § I, 12-14-04)

Sec. 6-33. Enforcement.

(a) Enforcement of this chapter shall be the primary responsibility of the animal control department; however, city police officers, code enforcement officers, and such other persons as are designated by the city may also enforce the provisions of this chapter.

(b) No person shall interfere with, obstruct, resist, or oppose any officer while such person is apprehending an animal or performing any other duties.

(c) Any animal control officer or police officer has a right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.

(Code 1963, Ch. 2, art. 2, §§ 1--4 [Ord. No. 77-45, § 1, 8-23-77]; Ord. No. 00-1, § I, 1-11-00; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-34. Animal advisory committee.

An animal advisory committee shall be appointed by the city manager and shall be composed of at least one (1) licensed veterinarian, one (1) city official, one (1) person whose duties include

the daily operation of an animal shelter, one (1) representative from an animal welfare organization or humane society, two (2) city councilmembers, and three (3) citizens. The animal advisory committee shall advise and make recommendations to the city council pertaining to animals and this chapter. (Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

Cross reference(s)--Boards and commissions generally, § 2-116 et seq.

Sec. 6-35. Public nuisances; abatement.

(a) No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

(b) If any animal is shown to be a public nuisance, as defined herein, based upon a written and sworn affidavit of a resident who has personal knowledge of the public nuisance animal, the city shall notify the owner of the animal that the owner has forty-eight (48) hours in which to abate the nuisance. Should the owner fail to abate the nuisance within forty-eight (48) hours, or should subsequent affidavits for the same nuisance be filed within thirty (30) days after the giving of the original notice to abate, the city thereafter shall have the authority to take any or all of the following actions:

- (1) impoundment of the animal.
- (2) revocation of the license for the animal.
- (3) filing with the municipal court a charge of maintaining a nuisance.
- (4) removal of the nuisance animal from the city.

(c) If any animal is shown to be a public nuisance as defined herein, and an animal control officer observes the nuisance behavior, an animal control officer may issue a citation or file with the municipal court a charge of maintaining a nuisance.

(Code 1963, Ch. 2, art. 1, §§ 3(b), 4(b) [Ord. No. 81-47, §§ 3,4, 9-22-81]; Ord. No. 92-60, § I(A), 8-25-92; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06; Ord. No. 07-027, § I, 3-13-07)

Sec. 6-36. Restraint.

(a) All animals, including but not limited to dogs, cats, horses, fowls, sheep, goats, cattle and hogs, shall be kept under restraint. For the purposes of this article, restraint shall mean that the animal is:

- (1) Confined to the premises of the owner within a house, building, cage or other enclosure. If the premises are enclosed with a fence, then the animal should not be able to reach any part of its body over, under or through the fence. If the animal is confined outside in a crate or cage, the enclosure should be ventilated, large enough for the animal to stand up freely with extended tail and raise its head comfortably, be at least 100 square feet per dog that is six months or older, and contain food and water containers that are securely positioned to avoid spillage or soiling with fecal matter.
- (2) Restrained by a tether, where:

- a. a person responsible for the animal is outside with the animal and is in visual contact of the animal at all times; AND
 - b. the tether is at least 10 feet long, swivels at each end, is attached to a pulley or trolley mounted cable that is mounted no more than seven feet above ground level, is attached to a properly fitted collar or harness worn by the animal, does not unreasonably hinder the animal's movement, and does not become entangled around trees, poles, or other obstacles.
 - c. It is an affirmative defense to prosecution under this subsection that the animal is tethered temporarily for purposes of exercise.
- (3) During travel, confined within an automobile or restrained by a leash of a length to preclude the animal from getting out of the vehicle. No animal will be unrestrained in the back of an open pickup or truck bed. In addition, the owner/caretaker must be present or within the immediate vicinity of the animal to insure that the animal is not left unattended for an extended period of time and to prevent undue suffering and/or possible death during the hot and cold periods of the year; or
- (4) Held or controlled by some person by means of a rope, leash, or chain.

(b) Upon conviction of any subsequent offense under this subsection, the minimum fine assessed shall be \$200.00. Upon conviction of a third or subsequent offense under this subsection, the minimum fine assessed shall be \$500.00.

(c) The owner/caretaker of any dog or cat in heat shall be required to confine such animal in a building or secure enclosure in a manner that such animal cannot come into contact with another animal except for planned breeding.

(d) Animal control officers and police officers are hereby authorized to trap animals at large by means of live traps and to issue live traps to citizens for trapping animals at large. Any person tampering with a live trap or releasing an animal confined in a live trap is guilty of a misdemeanor.

(e) It shall be unlawful for any person to in any manner tease, annoy, disturb, molest, or irritate an animal that is confined to the owner's property.
(Code 1963, Ch. 2, art. 1, § 4(a), (b)--(g) [Ord. No. 81-47, § 4, 9-22-81]; Ord. No. 97-3, § I, 1-14-97; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06; Ord. No. 07-027, § I, 3-13-07; Ord. No. 09-032, § I, 5-26-09)

State law reference(s)--Certain dogs prohibited from running at large, V.T.C.A., Health and Safety Code § 822.011; municipal authority to restrain dogs and cats, V.T.C.A., Health and Safety Code § 826.033.

Sec. 6-37. Destruction.

(a) When any dog, cat or other animal displays fierce, dangerous or vicious propensities or has bitten, scratched or otherwise attacked any person and such dog or other animal is at large and is unable to be caught and impounded, such dog or other animal may be destroyed by an animal control officer or any police officer without notice to the owner.

(b) Any dog or other animal which is found to be injured to the extent that it is past recovery, in the opinion of an animal control officer or police officer, may be destroyed by such official if the owner thereof is unable to be determined, or if the owner cannot be located after reasonable inquiry in the neighborhood where the dog or other animal was located.

(c) Any dog or other animal which, in the medical opinion of a licensed veterinarian, should be euthanized for humane reasons may be destroyed by the animal control division. (Code 1963, Ch. 2, art. 1, § 7 [Ord. No. 81-47, § 7, 9-22-81]; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 08-038, § I, 5-27-08)

Sec. 6-38. Cruelty to animals.

(a) No person shall cause, instigate or permit any combat between animals and humans.

(b) No person shall crop a dog's ears, or dock an animal's tail, except a licensed veterinarian. All cosmetic surgery on an animal shall be done by a licensed veterinarian.

(c) Chickens or ducklings younger than eight (8) weeks of age may be sold within the city; provided however, that no chickens or ducklings younger than eight (8) weeks of age may be sold if the natural coloring has been altered.

(d) No person shall give away any live animal, fish, reptile or bird as a prize for, or as an inducement to enter, any contest, game or other competition, or as an inducement to enter a place of amusement; or offer such animal, fish, reptile or bird as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

(e) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the police or animal control department.

(f) No person shall expose, leave, or spread any known poisonous substance, whether mixed with food or not, so that the poisonous substance may be ingested or absorbed by an animal. However, it shall be lawful for a person to expose on his own property common rat poison mixed only with vegetable substances. This subsection does not prohibit the city from participating in a city or county wide animal eradication program.

(g) No owner shall fail to provide his animal with sufficient nutritious and wholesome food, served to the animal in clean containers, and such wholesome and nutritious food shall be available to the animal daily in order to maintain the animal in good health.

(h) No owner shall fail to provide his animal with clean and wholesome water served to the animal in a clean container, such water to be available to the animal at all times in order to maintain the animal in good health.

(i) No owner shall fail to provide his animal with veterinary care as may be necessary for diseased or injured animals.

(j) No owner of an animal (other than livestock) shall fail to provide his animal, whether indoors or outdoors, with proper and adequate shelter. Adequate shelter shall conform to the following:

- (1) All animals kept outdoors shall have access to shelter that provides protection from the weather; i.e. sun, wind, precipitation, or other inclement weather conditions.
- (2) The shelter for an animal shall have a roof, enclosed sides, a doorway, and a solid, level floor except that plastic and metal barrels are allowed for shelter. The entrance to the shelter shall allow the animal's entry and exit. The structure shall be structurally sound and in good repair.
- (3) If there are no artificial heat sources, the structure shall be small enough to allow the animal to warm the interior of the structure and maintain his or her body heat, but large enough to permit standing and normal postural adjustments.

(k) No person having charge or custody of an animal shall place or confine an animal in a motor vehicle or trailer under such conditions for such a period of time as may endanger the health, safety, or well-being of such animal including but not limited to heat, cold, lack of food and/or water, or other circumstances that may cause heat distress, heat exhaustion, heat stroke, disability, or possible death.

1. Any police officer or animal control officer finding an animal in violation of this section may obtain a locksmith or break and enter the vehicle or trailer if necessary to remove the animal, said animal shall be transported to the animal shelter and held for a period of not less than 10 days unless sooner reclaimed by the owner. The officer shall upon removal of the animal, leave a written notice attached to the vehicle or trailer with date, time, impounding officers' name, and the address and telephone number of the animal shelter where said animal is located.
2. An owner may claim his or her animal upon full payment of all charges and fees for the removal, maintenance, veterinary treatment, and impoundment.

(l) No person shall beat, hit, strike, or punch an animal nor shall a person bully, harass, intimidate, or mentally abuse any animal.

(m) No person shall place a chain around the neck or attach a chain to any collar of an animal that would hamper or hinder the animal's movement.

(n) No person shall tie, chain, tether or stake a dog under such conditions, or for such period of time, as may endanger the health, safety, or well-being of such animal, including, but not limited to heat, cold, lack of food and/or water, or susceptibility to attack or harassment, or other circumstances that may cause distress, disability, or possible injury and/or death.

(o) If a person has a final conviction for cruelty to animals, he cannot own, possess, harbor, keep, or have custody of any animal within the corporate limits of the city. Said person is further prohibited from allowing, causing or permitting any animal to be harbored or kept on his property within the corporate limits of the city. If any animal is found on the premises of an

individual that has been convicted of cruelty to animals, an animal control officer shall remove said animal and take it to the city's animal shelter to be held for a period of ten (10) days. If the animal is not reclaimed by its owner, who has not been convicted of cruelty to animals or who does not reside in the same household as the person convicted of cruelty to animals, within ten (10) days, the animal shall become the property of the city and shall be placed for adoption in a suitable home or humanely euthanized.

(Code 1963, Ch. 2, art. 1, § 8 [Ord. No. 81-47, § 8, 9-22-81; Ord. No. 86-84, § 2, 11-25-86]; Ord. No. 92-60, § I(B), 8-25-92; Ord. No. 94-61, § I, 9-13-94; Ord. No. 97-3, § II, 1-14-97; Ord. No. 02-22, § I, 5-28-02; Ord. No. 03-48, § I, 9-9-03; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-39. Traps prohibited.

No person shall use, or place in use any steel, spring setting, mechanical jaw, leg hold trap or bar device trap designed for the capture of animals. It is an exception to this section for governmental agencies and entities to use such traps and equipment as necessary and as permitted by state law or regulation and with permission and approval by the city of Killeen. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-40. Pen regulations.

Small animals such as rabbits, guinea pigs, white rats, white mice and hamsters shall be located at the minimum distance of fifty (50) feet from every building or structure used for sleeping, dining, or living, except the home of the animal's owner. (Code 1963, Ch. 2, art. 1, § 4(f) [Ord. No. 81-47, § 4, 9-22-81]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02; Ord. No. 03-48, § I, 9-9-03; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-41. Prohibited wild animals.

(a) It shall be unlawful to keep, maintain, harbor, or possess any of the following animals, fowl, or reptiles within the corporate limits of the city:

- (1) Class Reptillia. Family Heldermatidea (venomous lizards such as, but not limited to gila monster and Mexican beaded lizard); Family Viperidae (rattlesnakes, copperheads, cottonmouths, adders, bushmasters, other pit vipers and true vipers); Family Elapidae (coral snakes, cobras, asps, mambas, and other elapids); the following listed species of Family Colubridae *Dispholidus typus* (boomslang), *Hydrodynastes gigas* (water cobra), *Bioga* (mangrove snake), and *Thelotornis* (African twig snake) only; Order Phidia, Family Boidae (racers and water snakes); and Order Crocadilla (crocodiles, alligators, caimans, and gavials).
- (2) Class Mammalia. Order Carnivora, Family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats; Family Canidae (such as wolves, wolf-dog, hybrids, dingos, coyotes, and jackals), except domesticated dogs; Family Mustelidae (such as weasels, skunks, martins, mink, and badgers) except domestic ferrets (*Mustela putorius furo*); Family Procyonidae (raccoon); Family Ursidae (such as bears); Order Marsupialia (such as kangaroos, wallabies and common opossums); Order Edentata (such as sloths, anteaters, and

- armadillos); Order Proboscidea (elephants); Order Primata (such as monkeys, chimpanzees, and gorillas); Order Rodentia (such as porcupines); and Order Ungulata (such as antelope, deer, bison, and camels), unless the Order Ungalata are located on properly zoned property.
- (3) Class Arachnida. Order Scorpiones (scorpions); Order Araneae, genus, Loxosceles (recluse spiders such as brown recluse spider); Order Araneae, genus, Latrodectus (such as black widow, red widow, and brown or gray widow spiders).
 - (4) Bats.
 - (5) Skunks.
 - (6) Animals not listed. The animal control supervisor may declare any species of animal not listed in this subsection as “prohibited” if the confinement of the animal within the city can be shown to constitute a threat to public health and safety; and does not mean any bird kept in a cage or aviary that is not regulated by international, federal, or state law, or a gerbil, hamster, guinea pig, hedgehog, or laboratory mouse or rat.

(b) No person shall own, keep, harbor or permit to be kept any prohibited wild animal as a pet.

(c) No person shall keep or permit to be kept on his premises or premises under his control any prohibited wild animal for sale, display, or for exhibition purposes, whether gratuitously or for a fee.

(d) No person shall sell, give, transfer, or import into the city any prohibited wild animal except for the transportation of a prohibited wild animal to and from a veterinary clinic.

(e) It shall be unlawful for any person to breed, raise, keep or have in his possession any poisonous reptile within the corporate city limits, except a poisonous reptile kept by an educational or a scientific institution. These institutions shall be subject to initial approval and periodic inspections by the animal control supervisor or his designee.

(f) The animal control supervisor may issue temporary approval for keeping, care, and protection of an injured, newborn or immature animal native to this area that he deems to be incapable of caring for itself. Further, the animal control supervisor shall have the power to release or order released any animal being kept temporarily under the provisions of the previous sentence.

(g) This section shall not apply to the city, veterinary clinics, licensed wildlife rehabilitators, approved zoological parks, non-profit animal humane society, performing animal exhibitions, circuses, primary and secondary schools, colleges and universities, or zoological parks owned and operated by a governmental entity.

(Ord. No. 04-97, § I, 12-14-04)

Sec. 6-42. Livestock, fowl and swine prohibited within city limits.

(a) No person shall possess, keep or permit to be kept, or have care, custody or control of any livestock, swine, or fowl within the city EXCEPT as provided herein or by the city's zoning ordinances.

(b) Paragraph (a) above shall not apply to the Killeen Independent School District, the city of Killeen, or any non-profit animal shelter.
(Ord. No. 04-97, § I, 12-14-04)

Sec. 6-43. Exemption for land zoned AG or AR-1.

(a) Notwithstanding any other provision in this chapter, section 6-42 shall not be applicable to any land zoned and used as AG (agricultural open space) or AR-1 (agricultural residential-1) designated according to the zoning ordinance of the city.

(b) No owner of any exempted property under this section shall fail to exercise proper care and control of his livestock, fowl, swine, or any other animal to prevent them from becoming a nuisance.
(Ord. No. 04-97, § I, 12-14-04)

Sec. 6-44. Livestock, fowl, or swine running at-large prohibited.

It shall be unlawful for any person to permit or allow any fowl, swine, or livestock owned or possessed by him or under his control, custody, or care to run at-large or to wander in or upon or invade the premises of any other person without such person's consent, within the corporate limits of the city. (Ord. No. 04-97, § I, 12-14-04)

Sec. 6-45. Prohibition of animals at sporting, recreational, and public events.

(a) No person shall bring, take, carry, or transport any animal to any public event, any sporting field such as, but not limited to, baseball, softball or soccer field, recreational centers, city sponsored outdoor concerts, or any organized sporting or recreational event that is held on a playing field. It is not a defense that the animal was restrained by a leash, chain, rope, cage, voice command, or any other means.

(b) Paragraph (a) above shall not apply to dogs or any other animals that are used as assistance animals, or that are participating in a public event such as a parade, pet show, etc.

(c) Animals are allowed in city parks that do not have a field used for organized sporting or recreational events, and in parks used for organized sporting and recreational events if no such event is currently underway, if the animal is under the complete control of the owner or caretaker by means of a leash, cord, chain, or any other means excluding voice control.
(Ord. No. 04-97, § I, 12-14-04)

Sec. 6-46. Keeping animals, livestock, swine, or fowl near creeks and streams prohibited.

(a) It shall be unlawful for any person to keep or maintain any animal, livestock, swine, or fowl in a pen, cage, or enclosure in, near, or on a creek or stream within the city of Killeen and cause or contribute to the pollution of said creek or stream by permitting drainage from said pens, cages, or enclosures, fecal matter or urine to enter said creek or stream.

(b) No swine shall be permitted or allowed to have access to, enter, or go in a water creek or stream within the city of Killeen.

(Ord. No. 04-97, § I, 12-14-04)

Sec. 6-47. Performing animal exhibitions.

(a) All performing animal exhibitions, circuses, or petting zoos that require federal or state license shall provide a copy of said license and USDA Class C Exhibitor's Permit Number at the time the application for a city permit is submitted.

(b) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(c) All equipment used on a performing animal shall fit properly and be in good working condition.

(d) All performing animal exhibitions, such as, but not limited to circuses, carnivals, and rodeos, may be inspected by an animal control officer to ensure that the animals are being provided adequate food, water, shelter, humane care, and treatment.

(e) All petting zoos and any other animal exhibitions that permit contact between any animal and a person shall provide adequate means for hand sterilization following contact with an animal without a fee or charge.

(Code 1963, Ch. 2, art. 1, § 10 [Ord. No. 81-47, § 10, 9-22-81]; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

State law reference(s)--Circuses, carnivals and zoos, V.T.C.A., Health and Safety Code § 824.001 et seq.

Sec. 6-48. Animal waste.

(1) The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public property or recreation areas or private property.

(2) Animal owners shall remove all animal excreta from their premises as necessary to prevent odor, unsanitary conditions, or the breeding of flies or other insects.

(Code 1963, Ch. 2, art. 1, § 12 [Ord. No. 81-47, § 12, 9-22-81]; Ord. No. 97-3, § III, 1-14-97; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-15, § I, 3-16-04)

Sec. 6-49. Signs on premises.

All dog owners with a dog(s) unattended in their backyard shall place a sign on their fence at each gate or entrance warning that there is a dog on the property. Such sign must be placed in accordance with the city's sign ordinance. (Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06)

Secs. 6-50--6-60. Reserved.

DIVISION 2. IMPOUNDMENT, REDEMPTION, ETC.

Sec. 6-61. Impoundment authorized.

(a) Unrestrained animals except any feral cats with an ear tip amputation performed by a veterinarian, farm animals or livestock shall be taken by any police officer or animal control officers, to the city animal shelter and there confined in a humane manner. Animal control shall return a cat that has an ear tip amputation which appears to have been performed by a veterinarian to the colony unless veterinary care is required or the criteria in subsection 6-129(f) apply.

(b) Any person other than a police officer or an animal control officer, who impounds any animal under the provisions of this chapter shall immediately give notice to the animal shelter of said impoundment. Any resident who delivers said animal to the animal shelter will not be charged a fee.

(c) Any animal that is impounded by a court order, property manager/owner release or as a result of a law enforcement action shall be held a minimum of (10) ten working days unless sooner claimed by the owner/family member or their designee.
(Code 1963, Ch. 2, art. 1, § 5(a) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 09-077, § I, 11-24-09)

Sec. 6-62. Retention period.

Unless stated otherwise, animals impounded under this division shall be kept for not less than three (3) working days, unless sooner claimed by the owner. (Code 1963, Ch. 2, art. 1, § 5(c) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86] Ord. No. 02-22, § I, 5-28-02)

Sec. 6-63. Notice to owner.

If, by a license tag or other means, the owner of an impounded animal can be identified, the animal control division shall, immediately upon impoundment, notify the owner by telephone, in person or by leaving a written notice on the door of the owner's residence. (Code 1963, Ch. 2, art. 1, § 5(c) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-64. Redemption of impounded animal.

(a) An owner reclaiming an impounded animal or reptile such as, but not limited to a cat, dog, lizard, snake, or bird shall pay a fee in accordance with the city's fee schedule.

(b) An owner reclaiming an impounded animal shall provide proof to animal control within 10 business days that the animal has been microchipped for identification purposes. An owner reclaiming an impounded animal for the second time shall provide proof to animal control within 30 days that the animal has been sterilized.

(Code 1963, Ch. 2, art. 1, § 5(d)--(f) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 92-60, § I(D), 8-25-92; Ord. No. 94-61, § I, 9-13-94; Ord. No. 00-65, § II, 8-29-00; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-020, § I, 3-10-09; Ord. No. 09-077, § I, 11-24-09)

Sec. 6-65. Exception.

The above sections do not apply to unrestrained farm animals or livestock as the impoundment of these animals are within the jurisdiction of the Bell County Sheriff's Department pursuant to state law. (Ord. No. 04-97, § I, 12-14-04)

Sec. 6-66. Adoption fees.

(a) The city shall charge an adoption fee and said adoption fee shall be paid by the person adopting an animal from the city's animal shelter at the time the animal is adopted.

(b) The new owner shall obtain a rabies vaccination for the animal and deliver proof of such vaccination to the animal control division within thirty (30) days of adoption or prior to the animal reaching the age of four (4) months, whichever is later.

(c) Sterilization and microchipping/tattooing of animals adopted from the animal shelter shall be the responsibility of the new owner and performed by a veterinarian within the required time specified in the adoption sterilization agreement as required by state law.

1. The new owner shall have sterilization completed as follows:
 - a. by the 30th day after adoption of an adult animal; or
 - b. by the 30th day after an adopted infant animal becomes six (6) months old.
2. The new owner shall deliver to the animal control division a letter within seven (7) days from the date that:
 - a. the animal has been sterilized and microchipped/tattooed as required by state law. This letter must be signed by the veterinarian performing the surgery, or;
 - b. the animal has died stating the cause of death, if known, or;
 - c. the animal was stolen or lost and the circumstances surrounding the disappearance.

(d) If before the agreement is completed, new owner wishes to transfer ownership to another person, both parties must meet at the animal shelter to complete an agreement transfer. (Code 1963, Ch. 2, art. 1, § 5(k), (l) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 91-73, § I, 12-17-91; Ord. No. 94-61, § I, 9-13-94; Ord. No. 00-65, § III, 8-29-00; Ord. No. 02-22, § I, 5-28-02; Ord. No. 06-121, § I, 11-14-06)

Sec. 6-67. Surrender fee.

(1) If the owner of an animal surrenders the animal to the city because the animal is sick, injured or unwanted, a fee shall be charged to the owner in accordance with the city's fee schedule.

(2) Only animals owned by residents of the city of Killeen, residents of Bell County who do not reside in a municipality, or residents of Bell County who reside in a municipality that does not have an animal shelter, shall be accepted for surrender by the animal shelter. Proof of residency is required, and the residency requirement shall be established by the owner presenting a current utility bill to the animal shelter at the time the animal is surrendered. (Code 1963, Ch. 2, art. 1, § 5(m) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-68. Disposition of unredeemed animals.

Any animal impounded under this division not reclaimed by its owner within three (3) working days shall become the property of the city and shall be placed for adoption in a suitable home or humanely euthanized. (Code 1963, Ch. 2, art. 1, § 5(g) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-69. Notice of violation.

In addition to, or in lieu of, impounding an animal found at large, the animal control officer or police officer may issue to the owner/caretaker of such animal a citation for said violation. Failure to appear at the municipal court to enter a plea to such charge within ten (10) days following the issuance of such notice shall result in the issuance of a warrant for the violator's arrest. (Code 1963, Ch. 2, art. 1, § 5(h) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-70. Suit authorized.

The owner of an animal impounded under this division may be proceeded against for any violation of this article. Such suit may be criminal, civil or equitable in nature. (Code 1963, Ch. 2, art. 1, § 5(i) [Ord. No. 81-47, § 5, 9-22-81; Ord. No. 86-75, § 2, 9-23-86]; Ord. No. 02-22, § I, 5-28-02)

Secs. 6-71--6-80. Reserved.

DIVISION 3. RABIES CONTROL^{??}

Sec. 6-81. Rabies vaccinations requirement.

1. All dogs, cats and ferrets shall be vaccinated by the age of four (4) months and within each subsequent twelve (12) month interval thereafter or as prescribed by the Texas Board of Health against rabies with a vaccine approved by the United States Agriculture and administered by a licensed veterinarian.

2. A veterinarian who vaccinates a dog, cat, or ferret against rabies shall issue the current owner a vaccination certificate and a metal tag. The tag shall be attached to the animal's collar and shall be worn by the animal when outdoors and not in the presence of the owner or caretaker.

3. Vaccination certificates shall be in the current owner's name. Should a person acquire a currently vaccinated animal the new owner shall have a period of ten (10) days to transfer the rabies certificate into their name.

(Ord. No. 02-22, § I, 5-28-02)

Sec. 6-82. Reports of possible exposure to rabies.

1. Any person having knowledge of an animal bite or scratch to a human or another animal shall report the incident to the animal control department as soon as possible, but no later than twenty-four (24) hours from the time of the incident.

2. The animal control department shall investigate each bite or scratch incident.

(Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-83. Quarantine of biting animals.

(a) Should any dog, cat or ferret bite or scratch any person or domestic animal, the biting animal shall be quarantined for an observation period of not less than two hundred forty (240) hours. Any animal under this division not current on rabies vaccinations and city registration shall not be vaccinated against rabies nor registered during the observation period, however the animal shall be required to be vaccinated and registered at the end of the quarantine period, and before released from quarantine. The two hundred forty (240) hours observation period will begin on the day of the incident.

1. When the owner of such animal has been identified; the owner or caretaker shall confine said animal in a building or other secure enclosure to prevent the escape or injury to said animal and to prevent contact with other persons or animals. Failure of the owner or caretaker of said animal to act herein described shall constitute an offense, and each hour of failure to comply with these provisions after receipt of knowledge of the incident shall constitute a separate offense.

¹**State law reference**—Rabies control, V.T.C.A., Health and Safety Code §§ 826.001 et seq., 826.041 et seq.

2. When the owner of such animal is unidentified, said animal shall be considered a stray and placed in quarantine at the city animal shelter.
 - (i) If said animal remains unclaimed after seventy-two (72) hours, said animal may be euthanized by the local rabies control authority and the specimen shall be submitted to the Texas Department of Health for rabies testing or shall remain in quarantine for the remainder of the quarantine period.
 - (ii) Should a person appear to claim such animal within seventy-two (72) hours that person shall be considered the owner and shall be required to comply with all requirements of this division.

(b) If the biting or scratching animal is a high-risk animal, it shall be euthanized by the local rabies control authority or a licensed veterinarian and the specimen shall be submitted to the Texas Department of Health for rabies testing.

(c) If the biting or scratching animal is a low-risk animal, neither quarantine nor rabies test will be required unless the local rabies control authority has cause to believe that the biting animal is rabid, in which case the animal shall be euthanized and the specimen submitted to the Texas Department of Health for rabies testing.

(d) The local rabies control authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations to the face, head, or neck of a person to be euthanized and the specimen submitted to the Texas Department of Health for rabies testing.

(e) If the biting or scratching animal is not included in (a), (b), (c), or (d) of this section, the animal shall be euthanized and the specimen submitted to the Texas Department of Health for rabies testing or the local rabies control authority may require the animal to be confined for a thirty (30) day observation period as an alternate method.

(Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 08-038, § I, 5-27-08)

Sec. 6-84. Time limit for quarantine compliance.

Quarantine arrangements for a dog, cat, ferret, or animal required by this division shall be made by the owner or caretaker of such animal within twenty-four (24) hours of the bite or scratch. Failure to make quarantine arrangements and so advise the animal control department may result in the animal control department making application to a judge of the municipal court of the city for a warrant to seize the animal. The animal shall be quarantined at the city animal shelter and the owner will be responsible for all fees incurred. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-85. Method of quarantine.

Quarantine of a dog, cat, ferret or animal under this division shall be accomplished by one (1) of the following methods as allowed by the local rabies control authority:

1. City animal shelter:

- a. A current kennel cough vaccine is required.
 - b. A fee shall be charged to, and be payable by, the owner of such animal for each day or part of a day an animal is quarantined at the city animal shelter. Such fee is to be paid prior to the release of the animal from quarantine.
2. The animal may be quarantined at a commercial boarding kennel, animal hospital or clinic of any licensed veterinarian. All fees are the responsibility of the animal owner.
3. The animal owner may request the animal be euthanatized by a licensed veterinarian and the specimen submitted to the Texas Department of Health for rabies testing. All fees are the responsibility of the animal owner.
4. The owner may request permission from the local rabies control authority for home quarantine if the following criteria can be met:
 - a. The animal is currently vaccinated against rabies. Exception: animals that are 3 months of age and younger are not required to have a current rabies vaccination.
 - b. The animal was not at large at the time of the bite or scratch.
 - c. Secure facilities must be available at the home of the animal's owner, and must be approved by the local rabies control authority.
 - d. Home quarantine is defined as:
 - (1) The animal must be kept in a secure building.
 - (2) The animal cannot be allowed to come into contact with people or other animals outside the immediate household.
 - (3) The animal is allowed to be taken outside by the owner, on a leash, in order to urinate and/or defecate, then immediately placed back inside the secure building.
 - (4) The animal and quarantine location must be made available to the animal control department for periodic inspections.
 - (5) The owner shall observe the animal for any signs of illness and report such changes to the animal control division immediately.
 - (6) The animal shall not be moved from the known quarantine location without prior permission and approval of the local rabies control authority.
5. Such animal may be quarantined at other locations upon the approval of the local rabies control authority.
6. Any animal required to be quarantined under this division which cannot be maintained in a secure quarantine, shall be euthanatized and the specimen submitted to the Texas Department of Health for rabies testing.
7. Regardless of the place of quarantine, a licensed veterinarian or the local rabies control authority shall examine the animal on the first day of the two hundred forty (240) hour quarantine period.

8. Regardless of the place of quarantine, a licensed veterinarian or the local rabies control authority shall examine the animal on the last day of the two hundred forty (240) hour quarantine period.

(Ord. No. 02-22, § I, 5-28-02; Ord. No. 03-48, § I, 9-9-03; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-86. Attacks on public employees.

Should any dog or other animal kept, maintained or harbored within the city attack, bite, scratch, injure or cause an injury to an employee of the city, county, state, federal government, a public utility, or cable television company, while in the performance of the employee's official duties, the owner or custodian of such dog or other animal may be cited for keeping, maintaining or harboring a nuisance. Upon conviction of the offense, the person convicted shall be punished as provided in section 1-8. Any subsequent conviction for an attack by the same animal shall be grounds for the court ordering that such animal shall be delivered to the animal control department and euthanized. (Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-87. Biting and bitten animals.

Should an animal be bitten or directly exposed by physical contact with a rabid animal or its fresh tissues it shall be handled by one (1) of the following methods:

1. If not currently vaccinated the exposed animal shall be immediately vaccinated against rabies, placed in strict isolation for ninety (90) days, and given booster vaccinations during the third and eighth weeks of isolation. For young animals, additional vaccinations may be necessary to ensure that the animal receives at least two (2) vaccinations at or after the age prescribed by the United States Department of Agriculture for the vaccine administered. All fees incurred are the responsibility of the animal owner.
2. If currently vaccinated the exposed animal shall be given a booster rabies vaccination immediately and placed in strict isolation for forty-five (45) days. All fees incurred are the responsibility of the animal owner.
3. Euthanasia. All fees incurred are the responsibility of the animal owner.

The above provisions apply only to domestic animals for which and approved rabies vaccine is available.

(Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 08-038, § I, 5-27-08)

Sec. 6-88. Destruction.

Any animal suspected of being infected with rabies shall be euthanized immediately upon the recommendation by a licensed veterinarian and the specimen submitted to the Texas Department of Health. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-89. Declaration of nuisance.

Any dog or other animal kept, maintained or harbored within the city which has bitten, scratched or otherwise attacked any person is hereby declared to be a nuisance. (Code 1963, Ch. 2, art. 1, § 6(1) [Ord. No. 81-47, § 7, 9-22-81]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-90. Court proceeding against nuisance.

(a) Upon written complaint wherein any dog or other animal is alleged to be a nuisance as defined in this article, the municipal court shall have the authority to order and hold a hearing upon giving notice to the owner of such dog or other animal. If the court determines at such hearing that such dog or other animal has bitten, scratched or attacked any person, the court may order that:

- (1) Such dog or other animal be kept muzzled;
- (2) Same be kept within a sufficient enclosure;
- (3) Same be delivered to the animal control division and by it destroyed;
- (4) A fine as established in section 1-8 be assessed against the owner; or
- (5) Any of the foregoing.

(b) A copy of such order for hearing detailing the time, date, place and purpose therefor, personally delivered or enclosed in a correctly addressed envelope to such owner, postage prepaid, and deposited in the United States mail not less than ten (10) days prior to the date of such hearing shall be deemed sufficient and proper notice. Provided, however, if it appears upon trial thereof that any person attacked, scratched or bitten was trespassing upon the property of the owner or person having control of such animal, or if any person attacked, scratched or bitten was provoking or teasing such dog or other animal, such conduct shall be a complete defense to any complaint brought hereunder. (Code 1963, Ch. 2, art. 1, § 6(m) [Ord. No. 81-47, § 7, 9-22-81] Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

Secs. 6-91--6-120. Reserved.

DIVISION 4. DANGEROUS ANIMALS^{??}

Sec. 6-121. Prohibition.

(a) It shall be unlawful for any person to own, keep or harbor a dangerous animal within the city limits, except as provided in this division.

(b) For purposes of this division, a person learns that the person is the owner/possessor of a dangerous animal when:

¹**State law reference**—Keeping a vicious dog, V.T.C.A., Penal Code § 42.12. Ord. No. 09-008, § I, adopted February 10, 2009, repealed Division 5, Vicious Animals, and replaced with Division 5, Dangerous Animals.

1. the owner/ possessor knows of an attack or bite committed by the animal as described in the definition of dangerous animal; or
2. the owner/ possessor is informed by animal control that the animal is a dangerous animal; or
3. the owner/ possessor receives notice that the municipal court has found that the animal is a dangerous animal.

(Code 1963, ch. 2, art. 3, § 2; Ord. No. 90-80, § I, 8-28-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-122. Determination of a dangerous animal.

(a) If a person believes an animal to be a dangerous animal, the person may make a complaint by filing a sworn affidavit with animal control detailing the alleged incident, to include:

1. name, address and telephone number of complainant and other known witnesses;
2. date, time and location of any incident involving the animal;
3. description of the animal;
4. name and address of the animal's owner/possessor, if known;
5. statement describing facts upon which the complaint is based; and
6. statement describing any incidents where the animal has exhibited dangerous propensities in past conduct, if known.

(b) After a sworn statement is filed or upon personal observation of an animal control officer, an animal control officer shall determine whether the animal is a dangerous animal based on the alleged complaint and/or other circumstances known by animal control. If the animal is determined to be a dangerous animal, animal control shall notify the owner/possessor in writing of that fact.

(c) An owner/possessor, not later than the 10th business day after the date the owner/possessor is notified that an animal owned by the person is a dangerous animal, must:

1. comply with the city's requirements for owners/possessors of dangerous animals found in this division;
2. surrender the animal to animal control; OR
3. appeal the determination of animal control to the Killeen municipal court and release the animal to animal control pending the hearing.

(Code 1963, ch. 2, art. 3, § 8; Ord. No. 90-80, § I, 8-28-90; Ord. No. 90-84, § II, 9-25-80; Ord. No. 02-22, § I, 5-28-02; Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-123. Appeal determination of dangerous animal.

(a) If animal control determines that an animal is dangerous under this article, that decision is final unless the dog owner/possessor files a written appeal with the municipal court along with a copy of the notice of dangerous animal within 10 (ten) business days of receiving the notice that the animal has been determined to be dangerous.

(b) Upon appeal, the owner/possessor must immediately release the animal to an animal control officer to keep such animal at the animal shelter or provide proof of shelter at a veterinarian's clinic at the owner's/possessor's expense, until the hearing is held by the municipal court for a final disposition. The owner/possessor is liable for all fees pertaining to the animal's impoundment awaiting hearing. Each day the animal has not been surrendered to animal control shall constitute a separate offense.

(c) The appeal standard is a substantial evidence review and is a civil proceeding for the purpose of affirming or reversing animal control's determination of dangerousness. (Code 1963, ch. 2, art. 3, § 5; Ord. No. 90-80, § I, 8-28-90; Ord. No. 90-106, § I, 8-28-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-124. Hearing.

(a) The court, on receiving a timely request for hearing to appeal the determination of animal control regarding a dangerous animal, shall set a time for a hearing to determine whether the animal is a dangerous animal. The hearing must be held no later than the 10th business day after the date of the request.

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

1. the owner/possessor of the animal or the person from whom the animal was seized; and
2. the person who made the complaint.

(c) The court may receive testimony at the hearing to determine if the animal determined by animal control to be dangerous is a dangerous animal.

1. Upon the court's determination that an animal is dangerous, the court shall:
 - A) order the animal to be permanently removed from the city of Killeen within 10 business days and provide proof to animal control;
 - B) order the animal be euthanized in a humane manner; OR
 - C) order the owner/possessor to register the animal as a dangerous animal and comply with the requirements for owners/possessors of dangerous animals found in this division.
2. Upon the court's determination that an animal is not dangerous, the Court shall order the return of the animal back to the owner/possessor.
3. To order removal, euthanasia, or registration as a dangerous animal, the court must find the following facts to be true:
 - A) the animal is a dangerous animal; and
 - B) the removal, euthanasia, or registration is necessary to preserve the public health, safety, and welfare of the community.

(Code 1963, ch. 2, art. 3, § 6; Ord. No. 90-80, § I, 8-28-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-125. Requirements for owners/possessors of dangerous animals.

(a) Unless the person is appealing animal control's determination that the animal is a dangerous animal, not later than the 10th business day after a person learns that the person is the owner/possessor of a dangerous animal, the person shall:

1. register the dangerous animal with the animal control authority and pay applicable registration fee once a year;
2. restrain the dangerous animal at all times either indoors or within a double secured enclosure outdoors, where each of the two enclosures consists of a substantial fence or enclosure measuring at least 100 square feet secured by a lock to include a secure top and concrete bottom, and of sufficient strength and height to prevent the animal from escaping or reaching any part of its body over, under, or through;
3. obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority;
4. have the animal sterilized by a veterinarian if the animal is over six (6) months old, or sterilized by the 30th day after the animal becomes six (6) months old;
5. have the animal identified by a microchip device and provide proof to animal control;
6. identify the animal with a dangerous animal tag provided upon registration to be worn by the animal at all times; and
7. pay any kennel fees accrued due to the seizure of the animal by the city.

(b) It is an exception to subsection (a)(2) if the animal is being transported to or from a veterinary or kennel appointment and is secured by means of a leash, cord, or chain to control the actions of such animal or secured within the passenger compartment of a motor vehicle.

(c) The owner/possessor of a dangerous animal who does not comply with subsection (a) shall deliver the animal to the animal control authority no later than the 10th business day after the owner/possessor learns that the animal is a dangerous animal.

(d) Upon being found at-large after being deemed dangerous, the animal shall be impounded by animal control and may be humanely euthanized.

(Code 1963, ch. 2, art. 3, § 7; Ord. No. 90-80, § I, 8-28-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-126. Public notice of dangerous animal.

The city of Killeen may, after notification to the owner/possessor that an animal has been determined to be dangerous, provide public notice of the determination.

- (a) The notice may include the animal's description, place of residence, and any other public information the city deems relevant to maintain the public health, safety, and welfare.
- (b) The city may provide notice of the dangerous animal by publishing notice in a newspaper or other periodical in circulation in the area where the dangerous animal resides, posting notices in the area where the dangerous animal resides, or posting notice on the city's website.
- (c) Providing public notice in the manner described above is discretionary.

(Code 1963, ch. 2, art. 3, § 4; Ord. No. 90-80, § I, 8-22-90; Ord. No. 90-94, § I, 9-25-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-127. Search and seizure.

(a) Animal control officers and Killeen police officers shall be authorized to obtain a search and seizure warrant if there is reason to believe that:

- (1) An animal determined to be dangerous by animal control presents a credible threat to public health, safety, and welfare prior to a hearing;
- (2) An animal ordered to be removed from the city for being dangerous has not been so removed; OR
- (3) An owner/possessor has failed to comply with one or more of the requirements for owners/possessors of a dangerous animal.

(b) A dangerous animal seized and impounded under this section shall not be returned to the owner/possessor unless the:

- (1) The court orders the animal to be returned after a hearing under section 6-124; OR
- (2) The owner/possessor complies with all the requirements for owners/possessors of a dangerous animal.

(c) If all the fees have not been paid and all requirements have not been met within 72 hours of a seizure under section 6-127(a)(2) or 6-127(a)(3) , the dangerous animal may be humanely euthanized.

(Code 1963, ch. 2, art. 3, § 3; Ord. No. 90-80, § I, 8-28-90; Ord. No. 02-22, § I, 5-28-02; Ord. No. 09-008, § II, 2-10-09)

Sec. 6-128. Animal control authority's right of defense.

Upon attack by an animal, the animal control authority, by taking such means as he deems necessary in that situation, may defend himself or any other person endangered by such attack. This grant of authority is in addition to the common-law right all persons have to reasonably defend themselves against attack by an animal. (Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-008, § II, 2-10-09)

DIVISION 5. FERAL CATS

Sec. 6-129. Cat colony permit.

(a) A cat colony manager shall obtain a permit from animal control for each cat colony that the manager intends to feed or water prior to the date on which the cat colony manager commences to feed or water the colony. All cat colony managers feeding colonies prior to the effective date of this ordinance shall register each colony within 10 business days from the effective date of this ordinance.

(b) To apply for a permit to feed or water a cat colony, a person must present evidence to animal control of satisfactory completion of a trap, neuter, and release educational course.

(c) It shall be a violation of this chapter to feed a cat running-at-large outside of the property owned by the person feeding the cat, without first obtaining a cat colony permit and maintaining proper management and sterilization as required by subsection 60-130.

(d) A cat colony manager shall implement proper management and sterilization practices as required by animal control to maintain a valid permit.

(e) Any cat colony manager determined to be in violation of proper management and sterilization practices required by animal control shall be issued a written warning and allowed a period of time, which shall not exceed ninety (90) days, to come into compliance. Failure to comply within the given time period is a violation of this chapter.

(f) Animal control may immediately seize and remove all, or parts of any colony for the following reasons:

1. Public health or safety concerns including, but not limited to rabies or other epizootic and certain zoonoses identified by the department of health;
2. Animals creating a public nuisance by interfering with passing vehicles, trespassing on schoolgrounds, or crying or whining in an excessive, continuous or untimely fashion.

(Ord. No. 09-077, § I, 11-24-09)

Sec. 6-130. Proper management and sterilization.

(a) A cat colony manager must provide animal control with a reasonable estimation of the number of cats in each cat colony on an annual basis or as required by animal control.

(b) A cat colony manager must sterilize at least 50% of the unsterilized cats of each permitted cat colony annually and show proof to animal control of the number sterilized.

(c) A cat colony manager must provide adequate fresh food and water to the cats in the feral cat colonies that the cat colony manager has obtained a permit for on a daily basis.

(d) A cat colony manager must make all reasonable efforts to catch a sick or injured cat within the cat colony that the cat colony manager has obtained a permit for and take the cat to a veterinarian.

(e) A cat colony manager shall ensure that all cats which the cat colony manager has caused to be sterilized will be vaccinated for rabies and obtain an ear tip amputation performed by a veterinarian.

(f) A cat colony manager shall submit annual reports to animal control as to the estimated number of cats per colony that the cat colony manager has obtained a permit for, the number of cats vaccinated for rabies and sterilized, and the location of the veterinary clinic used.

(g) A cat colony manager must obtain written permission of the landowner or the landowner's agent where the cats congregate or are fed to obtain a permit for the cat colony and provide a copy of the written permission to animal control.

(h) A cat colony manager may apply for a waiver of any provision of this section. The ruling of animal control on the application is final and non-appealable.
(Ord. No. 09-077, § I, 11-24-09)

Sec. 6-131. Revocation of permit.

(a) A permit issued under this chapter may be revoked by the animal control manager or authorized representative, for any violation of the provisions of this chapter by the holder thereof.

(b) Animal control shall provide written notice of the revocation to the holder by sending the notice certified mail or by personally delivering the written notice to the holder of the permit.
(Ord. No. 09-077, § I, 11-24-09)

Secs. 6-132--6-135. Reserved.

ARTICLE III. ANIMAL VENDORS AND OTHER COMMERCIAL ACTIVITIES^{??}

DIVISION 1. GENERALLY

Sec. 6-136. Premises; regulations.

¹Cross reference—Licenses, permits and miscellaneous business regulations, Ch. 15.

It shall be unlawful for any person to sell, trade, lease, rent or give away any live animal on any roadside, public right-of-way, commercial or private parking lot, or flea market within the city limits.

(Code 1963, Ch. 3, art. 14, § 2 [Ord. No. 69-45, § 2, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-137. Kennel, pet shop, riding school or stables, or other commercial activities.

No person shall engage in any commercial business concerning animals such as, but not limited to, a breeding operation that lends more than two litters per household per year, a kennel, pet store, riding school or stables, at a location not properly zoned for that activity, whether operated separately or in connection with another enterprise. (Ord. No. 04-97, § I, 12-14-04; Ord. No. 06-121, § I, 11-14-06)

Sec. 6-138. Breeder license.

Any person who breeds animals for sale or otherwise shall be required to obtain a breeder license for each litter within 30 days of the birth of the animal(s) and make the breeding location available for inspection by animal control. A breeder license may be obtained for up to two litters per year per household. One license only may be obtained per year per animal. (Ord. No. 06-121, § I, 11-14-06; Ord. No. 09-020, § I, 3-10-09)

Secs. 6-139--6-150. Reserved.

DIVISION 2. LICENSE

Sec. 6-151. Required.

Any person who shall engage in the business of selling animals within the city limits shall be required to have a license to do so. Such a license issued under this division is non-transferable. This provision does not apply to the city animal shelter. (Code 1963, Ch. 3, art. 14, § 1 [Ord. No. 69-45, § 1, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-152. Compliance.

Each person applying for a license under this division shall comply with the standard set forth in this article. (Code 1963, Ch. 3, art. 14, § 1 [Ord. No. 69-45, § 1, 9-22-69]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-153. Exemptions.

It shall not be required for any person who sells their own animals from their residence to have a license; however, if the person sells animals on a commission for someone else, even

though it is out of their own residence, they must have a license as required by this chapter. (Code 1963, Ch. 3, art. 14, § 5 [Ord. No. 69-45, § 5, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-154. Application.

All applications for a license required by this division must be filed with the city building official and shall be made in writing on a printed form provided for such purpose. (Code 1963, Ch. 3, art. 14, § 1 [Ord. No. 69-45, § 1, 9-22-69]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-155. Inspection of premises.

Upon request for a license to sell animals within the city, the building official, animal control officer, or health department official shall inspect the premises for which the license is requested to determine whether or not the premises meet the criteria of this article and all applicable city codes. (Code 1963, Ch. 3, art. 14, § 3 [Ord. No. 69-45, § 3, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-156. Issuance; fee.

License required by this division shall be issued annually by the building official upon payment of a license fee. (Code 1963, Ch. 3, art. 14, § 1 [Ord. No. 69-45, § 1, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-157. Expiration.

Each license issued under this division shall expire on December 31st of each year and a new application as provided in this division, shall be required for renewal. (Code 1963, Ch. 3, art. 14, § 4 [Ord. No. 69-45, § 4, 9-22-69]; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-158. Periodic inspections on license; revocation of license.

The building official, animal control officer, or health department official may make unannounced periodic inspections during normal business hours on each licensee to see if they continue to comply with the health standards imposed under this article.

The building official shall have the power and authority to revoke a license issued under the provisions of this division at any time for good cause, but only after notice has been given to the owner or manager of the business of a hearing to be held not less than ten (10) days after the service of such notice by registered or certified United States mail. (Code 1963, Ch. 3, art. 14, § 6 [Ord. No. 69-45, § 6, 9-22-69]; Ord. No. 94-61, § I, 9-13-94; Ord. No. 02-22, § I, 5-28-02)

Sec. 6-159. Turtles.

No person or retailer shall sell or give away any turtle with a carapace length of four (4) inches or less. "Carapace" shall mean the length of the shell measured from anterior to posterior. (Ord. No. 02-22, § I, 5-28-02)

Sec. 6-160. Reserved.

ARTICLE IV. BEEKEEPING

Sec. 6-161. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed in this section, unless the context of their usage clearly indicates another meaning:

Apiary means a place where bee colonies are kept.

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

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

Director means building official.

Hive means a structure intended for the housing of a bee colony.

Tract means a contiguous parcel of land under common ownership.

Undeveloped property means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school, or governmental facilities or other structures or improvements intended for human use occupancy and the grounds maintained in association therewith. The term shall be deemed to include property developed exclusively as a street or highway, or property used for commercial agricultural purposes. (Ord. No. 93-40, § II, 5-25-93)

Sec. 6-162. Purpose; certain conduct declared unlawful.

(a) The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas, and to require a license to insure compliance. Such license shall be issued annually by the director or his designee. There shall be no fee for such license. Existing apiaries shall be allowed to continue in their present locations and conditions, if registered with the director within sixty (60) days from the date of the passage of this article, unless there is found to be a danger to the public health and safety.

(b) Notwithstanding compliance with the various requirements of this article, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.
(Ord. No. 93-40, § II, 5-25-93)

Sec. 6-163. Hives.

All bee colonies shall be kept in Langstroth-type hives with removable frames, which shall be kept in sound and usable condition. (Ord. No. 93-40, § II, 5-25-93)

Sec. 6-164. Fencing of flyways.

In each instance in which any colony is situated within twenty-five (25) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall, fence, dense vegetation, or combination thereof, that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in vicinity of the apiary. It is a defense to prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least twenty-five (25) feet from the property line of the apiary tract.
(Ord. No. 93-40, § II, 5-25-93)

Sec. 6-165. Water.

Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact. (Ord. No. 93-40, § II, 5-25-93)

Sec. 6-166. General maintenance.

Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other beeproof enclosure. (Ord. No. 93-40, § II, 5-25-93)

Sec. 6-167. Queens.

In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly requeen the colony. Queens shall be

selected from stock bred for gentleness and nonswarming characteristics. (Ord. No. 93-40, § II, 5-25-93)

Sec. 6-168. Colony densities.

(a) It shall be unlawful to keep more than the following numbers of colonies on any tract within the city, based upon the size or configuration of the tract on with [which] the apiary is situated:

- (1) One-quarter (1/4) acre or less tract size: Four (4) colonies.
- (2) More than one-quarter (1/4) acre but less than one-half (1/2) acre tract size: Eight (8) colonies.
- (3) More than one-half (1/2) acre but less than one (1) acre tract size: Twelve (12) colonies.
- (4) One (1) acre or larger tract size: Sixteen (16) colonies.
- (5) Regardless of tract size, where all hives are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
- (6) Regardless of tract size, so long as all property other than the tract upon which the hives are situated, that is, within a radius of at least two hundred (200) feet from the hive, remains undeveloped property, there shall be no limit to the number of colonies.

(b) For each two (2) colonies authorized under colony densities (subsection (a)), there may be maintained upon the same tract one (1) nucleus colony in a hive structure not exceeding one (1) standard nine-and-five-eighths-inch depth ten-frame hive body with no supers attached as required from time to time for managements of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

(Ord. No. 93-40, § II, 5-25-93)

Sec. 6-169. Marking hives; presumption of possession.

(a) In apiaries, the name and telephone number shall be branded, painted, or otherwise clearly marked upon the structure of at least two (2) hives and placed at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name and telephone number of the beekeeper. It is a defense to prosecution under this subsection that a colony is kept upon the same tract upon which the owner resides.

(b) Unless marked in accordance with subsection (a), it shall be presumed, for purposes of this article, that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address, and telephone number of the other person who is acting as the beekeeper.

(Ord. No. 93-40, § II, 5-25-93)

Sec. 6-170. Inspection.

An animal control officer shall enforce the provisions of this subchapter, and he or his representative, upon presentation of proper identification to the owner, agent, or tenant in charge of such apiary shall have the right to inspect any apiary during all reasonable hours except in cases of an emergency, in which case this limitation shall not apply. Where practicable, prior notice shall be given to the beekeeper if he resides at the apiary or if his name is marked on the hives. (Ord. No. 93-40, § II, 5-25-93; Ord. No. 04-97, § I, 12-14-04)

Sec. 6-171. Compliance.

(a) Upon receipt of information that any colony situated within the city is not being kept in compliance with this article, the director shall cause an investigation to be conducted. If he finds that grounds exist to believe that one (1) or more violations have occurred, he shall cause a written complaint affidavit to be issued to the beekeeper.

(b) The complaint affidavit shall set forth the following:

- (1) the date, time and place at which the hearing will be conducted;
- (2) the violation(s) alleged;
- (3) that the beekeeper may appear in person or through counsel, present evidence, cross examine witnesses, and request a court reporter; and
- (4) that the bees may be ordered destroyed or removed from the city if the hearing officer finds that they have been kept in violation of this article.

Notices shall be given by certified United States mail or personal delivery. However, if the hearing officer is unable to locate the beekeeper, then the notice may be given by publication one (1) time in a newspaper of general circulation at least five (5) days prior to the date of the hearing.

(c) The hearing shall be conducted by the director or his designee. The burden shall be on the city to demonstrate by a preponderance of credible evidence that the colony or colonies have in fact been kept in violation of this article. If the hearing officer finds that the colony or colonies have been kept in violation of this article, then he may order that the bees be destroyed or removed from the city within a time not to exceed thirty (30) days, and that bees not thereafter be kept upon the tract for a period of two (2) years. In instances where the hearing officer finds that the violations were not intentional and that the beekeeper has employed corrective actions that will probably be effective to cure the violations alleged, then he may issue a warning in lieu of ordering the bees destroyed or removed. Upon failure of the beekeeper to comply with the order, the hearing officer may cause the bees to be destroyed and the hive structures to be removed. In each instance in which a bee colony is destroyed, all usable components of the hive structure that are not damaged or rendered unhealthy by the destruction of the bees shall, upon the beekeeper's request, be returned to the beekeeper, provided that the beekeeper agrees to bear all transportation expenses for their return.

(d) The decision of the hearing officer may be appealed by filing a notice of appeal with the city secretary within ten (10) calendar days following the date that the hearing officer announces his decision or, if the decision is not announced at the conclusion of the hearing, then within fifteen (15) days following the date that the hearing officer places written notice of his decision in the mail to the beekeeper. An appeal shall stay the hearing officer's decision, and the beekeeper is not required to remove the bees from the city pending the determination of the appeal.

(e) The provisions of this section shall not be construed to require a hearing for the destruction of:

- (1) any bee colony not residing in a hive structure intended for beekeeping;
- (2) any swarm of bees; or
- (3) any colony residing in a beekeeping hive which, by virtue of its condition, has obviously been abandoned by the beekeeper.

(Ord. No. 93-40, § II, 5-25-93; Ord. No. 04-97, § I, 12-14-04)