

ORDINANCE NO. 2023-96

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 6, ANIMALS, OF THE SAN MARCOS CITY CODE TO AMEND DEFINITIONS, DELEGATE AUTHORITY FOR DEPARTMENT TO WAIVE OR REDUCE FEES, LIMIT REASONS TO IMPOUND CATS, DELETE STRAY HOLD REQUIREMENT IN SOME INSTANCES, INCLUDE STRICTER REQUIREMENTS FOR SPAY/NEUTER AND MICROCHIPPING, CREATE AN OFFENSE FOR FAILURE TO RECLAIM OR SURRENDER PET UPON NOTICE, ADD REQUIREMENTS FOR PET SHOPS/PET STORES, INCLUDING REGULATION OF SOURCE OF PETS; AND PROVIDE FOR PERMITTING AND INSPECTIONS; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 6, Animals, of the San Marcos City Code is hereby amended to read as set forth in the document attached hereto and incorporated herein as Exhibit “A” (added language is underlined, deleted text is indicated by strikethrough).

SECTION 2. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 3. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 4. This ordinance will take effect after its passage, approval and adoption on second reading, provided however, that Section 6.065, subsection c, prohibiting pet stores and pet shops from offering for sale dogs or cats obtained from sources other than a city or county animal shelter, animal control agency, or animal welfare organization licensed by the city, shall become effective on March 21, 2024.

PASSED AND APPROVED on first reading on March 7, 2023.

PASSED, APPROVED AND ADOPTED on second reading on March 21, 2023.

Jane Hughson
Mayor

Attest:

Elizabeth Trevino
City Clerk

Approved:

Barbara L. Quirk
Interim City Attorney

Chapter 6 ANIMALS¹

ARTICLE 1. IN GENERAL—TREATMENT OF ANIMALS

Sec. 6.001. Definitions.

For the purposes of this chapter, words used in the present tense include the future, the singular number includes the plural, and the plural the singular; reference to male gender includes the female, and references to any person or animal without specifying gender includes both male and female; the word "shall" is mandatory and directory wherever it is used in this chapter. Other words defined are:

Adequate food means food that provides a nutritionally complete diet for the animal being fed with said food being free from mold, insect infestation, rancidity, or otherwise compromised in a manner that would be harmful to the animal.

Adequate shelter means a shelter that has at least a roof, three sides, a clean floor, is ventilated, is constructed in a manner to protect an animal from inclement weather, including the provision of bedding when necessary to protect the animal from cold or inclement weather.

After hours means after 5:00 p.m. and before 8:00 a.m. on weekdays, and anytime on weekends.

Animal means any living creature, except human beings, classified as a member of the Kingdom Animalia including, but not limited to, domestic or wild mammals, birds, reptiles and fish.

Animal at large means any animal (excluding sterilized cats) not under restraint of a person who has care, custody, possession or control of the animal either on or off the premises of the owner; that is found to be outside a fence or enclosure on the property to which the animal belongs; or that is otherwise off the premises of the owner of the animal or person with care, custody, possession, or control of the animal.

Animal control officer means a person designated by the City as an enforcement officer who is qualified to perform such duties to enforce city ordinances and state laws pertaining to animals, and who holds a basic animal control officer certification; also referred to as Animal Protection Officer.

Animal control agency means a municipal or county animal control office, or a state, county, or municipal law enforcement agency, that collects, impounds, or keeps stray, homeless, abandoned, or unwanted animals.

Animal services manager means the person designated by the City of San Marcos as the manager of animal services and the animal shelter.

Animal services and animal services facility means the City of San Marcos division handling animal matters and the animal facility and all services related to the operation of that facility.

Animal shelter means a facility that collects, impounds, quarantines, or keeps stray, homeless, abandoned, or unwanted dogs or cats.

¹Editor's note(s)—Ord. No. 2008-62, §§ 2—4, adopted Dec. 16, 2008, amended Ch. 6. Former Ch. 6 pertained to similar subject matter. For a complete history of former Ch. 6 see the Code Comparative Table.

State law reference(s)—Cruelty to animals, V.T.C.A., Health and Safety Code, § 821.001 et seq.; animal control, V.T.C.A., Health and Safety Code, § 822.001 et seq.

Animal dealer means any person, partnership or corporation engaging in the business of buying, selling or trading animals to others; including, but not limited to, sales of any animal at a roadside stand, booth, flea market, or other temporary site. This definition does not include nonprofit animal shelters, rescue groups, or government operated animal shelters.

Animal establishment means any facility or business that has custody or control of animals including, but not limited to, pet shops, pet grooming facilities, or commercial kennels. This term does not include veterinary or medical facilities, research or other facilities licensed by governmental agencies.

Animal exhibition means any exhibition or act featuring performing animals, including circuses, temporary animal exhibits, petting zoos and private zoos. Such exhibitions shall not include resident or nonresident dog and cat shows, and other animal shows sponsored or sanctioned by Hays County held at the Hays County Exhibition Center.

At large means an animal (excluding sterilized cats) that meets one of the following criteria:

- (1) On premises of owner: Any animal not confined to the premises of the owner by some physical means of sufficient height, strength, length, or manner of construction to preclude the animal from leaving the premises of the owner. Any animal being contained by a fence that, because of the fence's lack of height or general disrepair, cannot properly restrict the animal, shall be considered at large.
- (2) Off premises of owner: Any animal which is not physically and continually restrained by some person by means of a leash or chain of proper strength and length that precludes the animal from making unsolicited contact with any person, their clothing, their property, or their premises.
- (3) The term shall not include dogs that are within the boundary of any city owned or sanctioned dog park with the owner or caretaker present.

Animal welfare organization means a duly incorporated nonprofit organization that has tax-exempt status under section 501(c)(3) of the United States Internal Revenue Code whose mission is in whole or significant part devoted to the welfare, care and adoption of stray, abandoned or surrendered animals and which does not breed animals. A person shall not be considered an animal welfare organization if the person obtains animals from a breeder or broker in exchange for payment or compensation or resells animals obtained from a breeder or broker and provides payment or compensation to such breeder or broker. A person shall not be considered an animal welfare organization if the person auctions, barter, displays for sale, offers for sale, gives away or sells animals; however, an animal welfare organization may accept an adoption fee that does not exceed the cost of boarding, feeding and care of the animal being adopted.

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

Bite means any puncturing or tearing of the skin by an animal's teeth that could result in the exchange of blood and saliva.

Breeder means a person who sells, exchanges or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or otherwise transfers only animals kept primarily for reproduction.

Cat means any cat (*Felis Catus*).

Cats and related terms are defined as follows:

Ear tipping means a technique for painless removal of a quarter-inch off the top of a cat's left ear by a licensed veterinarian, while the cat is anesthetized for sterilization, for the purpose of permanently identifying a cat as sterilized.

Feral cat means any cat which is too poorly socialized to be handled (and therefore must be trapped and sedated for examination) and cannot be placed into a typical pet home.

Community Cat means a free roaming cat that may or may not be socialized. Community cats who are ear tipped are sterilized and have received at least one vaccination against rabies. Ear tipped and sterilized community cats are exempt from stray, abandonment and at-large provisions directed towards owned animals. A cat without an ear tip or means of identification may be considered a community cat for the purposes of trap, neuter, and return (TNR).

Community cat caregiver means a person who provides food, shelter or medical care to a community cat, while not being considered the owner, custodian, harbinger, controller or keeper of a community cat or to have care or charge of a community cat. Caregivers must make every effort to ensure cats are sterilized, ear tipped and rabies vaccinated to minimize the impact on local wildlife, feed the proper quantity of food for the number of cats in appropriate food containers, discard food containers daily and feed only on their property or with the permission of another landowner (city, state or federal public property).

Cat colony means three or more cats, who gather in close proximity and who have been fed and cared for at some level but are not claimed by any one person. Cats within a colony may be socialized (friendly) or unsocialized (feral).

Free roaming cat means cats which are not confined to the house or an enclosure and are at large.

Managed cat colony means a group of free-roaming cats living in close proximity together, all of which have been sterilized and vaccinated and are provided daily food and shelter by a community cat caregiver. The caretaker follows the most structured form of trap, vaccinate, alter, return and manage ("TVARM").

Stray cat means cats which are currently or recently owned which may be lost from their homes. A free-roaming cat is not an indicator that the cat is lost/stray.

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

City veterinarian means a veterinarian, licensed in the State of Texas, and employed or designated by the city to serve as its veterinarian.

Commercial establishment means establishments that engage in activities that include animal dealer, animal establishment, and animal exhibition, as those terms are defined herein.

Dangerous animal means:

- (1) Any individual animal which, because of its physical nature or vicious propensity, would constitute a danger to human life or property; or any animal that is possessed of tendencies to attack or to injure human beings or other animals;
- (2) An animal that commits an unprovoked attack on a human being that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own;
- (3) An animal that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the animal will attack and cause bodily injury to that person; or,
- (4) An animal that makes an unprovoked attack on a domestic animal or domestic fowl that causes bodily injury or death; and which occurs when such animal is at large.

Dangerous wild animal means any animal not normally considered domesticated which, because of its size, vicious nature, or other natural characteristic would constitute a danger to human life, property or domestic animals, or any animal that is restricted from ownership by any state or federal law including, but not limited to, the following animals:

- (1) Reptiles: venomous reptiles, crocodiles or alligators;

-
- (2) Birds: emus, ostriches, rheas, and any species illegal to own under federal or state law;
 - (3) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, bobcats, wolves, dingoes, coyotes, jackals, elephants, weasels, martins, minks, badgers, pandas, bears, raccoons, bats, foxes, skunks, cheetahs, servals, caracals, hyenas, baboons, chimpanzees, orangutans, gorillas or any species illegal to own under federal or state law, and any animal which is, or may be hereafter, listed as a "high risk" animal in the Texas Rabies Control Act;
 - (4) Marsupials, kangaroos, kinkajous; or,
 - (5) Any hybrid of any animal classified as dangerous wild animal.

Dog means any *Canis Familiaris*

Domestic animal means any animal normally adapted to live in intimate association with humans or for the advantage of humans.

Estray means any unbranded sheep, cattle, horses or mules found running at large, or any branded sheep, cattle, horses or mules found running at large, or any swine found running at large: but it does not mean nor include any unweaned animal specified in this section that is running with its mother.

Exotic animal means any animal that is not livestock or typical domestic animals, including but not limited to the following: lemurs, sloths, kinkajous, capybaras, undomesticated felines or feline hybrids, undomesticated canines or canine hybrids, kangaroos, wallabies, coaimundis, non-human primates, non indigenous birds or fowl.

Foster means to provide voluntary and temporary care or to nurture animals until a suitable or permanent home can be found in accordance with guidelines set by San Marcos Animal Services.

Fowl means a bird of any kind, domestic or wild, and includes chickens, turkeys, pheasants, ducks, geese, pigeons and all similar domestic birds and poultry, whether kept for use or pleasure.

Free-roaming means any animal not under restraint or kept in an enclosure.

Government-operated facility means any facility owned or operated by a governmental entity at which animals are handled, kept or displayed.

Grooming shop means any facility or commercial establishment where animals are bathed, clipped, plucked or otherwise groomed. *Guard dog*: 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. Any dog that is utilized to protect commercial property.

Guard dog permit means any permit issued for each commercial establishment where guard dogs are to be used or where guard dogs are kept or boarded.

High risk animal means an animal which has a high probability of transmitting rabies including, but not limited to, skunks, bats, raccoons, coyotes, and species of foxes indigenous to North America.

Housing facility means any room, building, or area used to contain a primary enclosure or enclosures.

Handler means any person having immediate responsibility for, or control of, an animal.

Humanely killed means to cause the death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
- (2) Utilizes anesthesia produced by an agent which causes painless loss of consciousness and death following such loss of consciousness.

Identification means any acceptable method such as microchipping, registration or other tag, or tattoo readily traceable to the current owner.

Impound (or impoundment) means the collecting, placing, or confining of an animal in the city's animal services facility, or, the taking into custody of an animal for the purposes of transportation to the city's animal services facility.

Inhumane treatment of animals means any treatment of an animal prohibited by any provision of law, including federal, state and local laws, ordinance or rules.

Isolation means the separation of animals exposed or potentially exposed to rabies or other diseases.

Kennels (commercial for the purpose of this chapter only), means any establishment where a person, partnership or corporation keeps dogs or cats primarily for the purpose of boarding, breeding, buying, selling, trading, showing, or training such animals.

Livestock means or includes, regardless of age, sex or breed, horses of all equine species including, mules, donkeys and jackasses, cows consisting of all bovine species, sheep consisting of all ovine species, llamas or alpacas, goats consisting of all caprine species, and pigs consisting of all swine species.

LRCA means the Local Rabies Control Authority.

Microchip means a permanent method of electronic identification that is implanted subcutaneously (just under the skin) between the shoulder blades at the back of an animal's neck. A microchip has a unique number that is detected using a microchip scanning device.

Microchipped means an animal that has a microchip implanted and registered through a national microchip registry with the current owner's name and contact information.

Microchip reader or scanner device means an electronic scanner with an operating frequency that is able to detect a microchip that has been implanted in an animal and display the number of the microchip to its operator. The microchip reader shall be of a type that activates and displays the number of a microchip manufactured by multiple vendors.

Miniature goat means:

- (1) A pygmy goat, which is any goat that has been bred to attain a maximum shoulder height of 23 inches and a maximum weight of 70 pounds; or
- (2) A dwarf goat, which is any goat that has been bred to attain a maximum shoulder height of 23.5 inches and a maximum weight of 80 pounds.

Miniature swine means any swine that has been bred to attain a maximum shoulder height of 18 inches and a maximum weight of 90 pounds.

Neutered means any animal, male or female, rendered incapable of breeding or being bred.

Offer for sale means to proffer, display, or advertise for the sale, adoption, or other commercial transfer of an animal.

Owner means any person, partnership, corporation, association or legal entity that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of household of any premises where an animal remains for 72 hours or more shall be rebuttably presumed to be the owner of such animal, unless the animal has been reported to the city animal services as a stray animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this chapter. If a person under the age of 17 years owns an animal subject to the provisions of this chapter, the head of the household of which such person under the age of 17 years is a member shall be the person responsible for the animal under this chapter. Such household head may himself be under the age of 17 years and therefore subject to prosecution under this chapter. There may be more than one person responsible for an animal.

Person means an individual, corporation, animal establishment, partnership, or any other legal entity.

Pet animal means any animal that may be kept as a pet within the City of San Marcos so long, as all the required provisions of this article are met, and is not a dangerous wild animal or a wild animal, including but not limited to the following animals:

- (1) Reptiles: Any non-venomous reptile that is not protected from ownership by any federal or state law;
- (2) Birds: Any birds commonly kept as pets that are not protected from ownership by any state or federal law, or any bird kept for falconry purposes by a state and federally permitted falconer;
- (3) Fish: Any fish commonly kept as pets that are not protected from ownership by any state or federal law;
- (4) Mammals: Includes any mammal commonly kept as pets including dogs, cats, ferrets, rabbits, guinea pigs, hamsters, hedgehogs, rats, mice, chinchillas, and sugar gliders but not limited to these;
- (5) Livestock: Includes any single livestock temporarily kept as part of a bona fide school project, such as for Future Farmers of America.

Pet shop/store means a business establishment, whether licensed or not by the department, where animals including dogs, cats, fish, birds, reptiles, or rodents are sold, offered for sale, bartered, traded, given away, or otherwise transferred are kept for sale or commercial barter. For purposes of this chapter, pet shop and pet store are interchangeable terms. The term does not include an individual who sells, gives, or otherwise transfers dogs or cats raised, bred, or both by the individual.

Pony ride means the use of any horse, pony, mule, donkey or burro to provide rides to, or to pull wagons containing, individual s other than the animals' owners, whether gratuitously or for a fee.

Positive control means to be confined to a quarantine facility where the animal cannot make physical contact with other animals or humans, other than a licensed veterinarian, animal control officer, or shelter operator.

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

Poultry means any species of domesticated birds commonly kept for eggs and/or meat.

Private owned animal sale means the individual sale of a pet animal by private owners to other private owners that occurs at the residence of either the seller or the buyer.

Provocation means any purposeful act that causes an animal to bite, scratch, or attack in protection of itself or its owner or its 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 health administrator means the director of the department overseeing environmental health and animal services, or designee.

Public nuisance means the conduct of any owner in allowing an animal to:

- (1) Engage in conduct which establishes such animal as a "dangerous animal," such as attacking other domestic animals or humans;
- (2) Damage, soil, defile or defecate on private property other than the owner's or on public property, unless such waste is immediately removed and properly disposed of by the owner of the animal;
- (3) Be "at large" (excluding sterilized cats);
- (4) Cause a disturbance by excessive barking or noise making, near the private residence of another or to the extent that the barking or noise disturbs the peace or quiet of any neighborhood or can be heard from within the residence of another;

-
- (5) Produce odors or unclean conditions sufficient to offend a person of normal sensibilities or which creates a condition conducive to the breeding of flies or other pests;
 - (6) Chase vehicles, molest, attack, intimidate, or interfere with other animals or persons, or is at large on public or private property (except at a designated dog park); or
 - (7) Create a condition that is dangerous to human life or health, renders the ground, the water, the air or the food a hazard or injurious to human life or health or that is offensive to the senses, or that is detrimental to public health.

Purchaser means a person who purchases an animal from a pet store operator without the intent to resell the animal.

Quarantine means to take into custody, place in confinement, and isolate from human beings and other animals for the purpose of monitoring and preventing the spread of rabies. The quarantine period for a dog, cat, or domestic ferret for rabies observation is ten days or 240 hours from the date and time of the bite, scratch or other exposure, or as recommended by the regional veterinarian from the Texas Department of State Health Services.

Rabies means an acute viral disease of persons and animals affecting the central nervous system, usually transmitted by an animal bite or saliva.

Rabies control authority means the animal services manager or other designee of the public health administrator.

Rabies vaccination means a protective inoculation given under the direction of a licensed veterinarian with a rabies vaccine recognized and approved by the U.S. Department of Agriculture, Bureau of Animal Industry, given in an amount sufficient to provide immunity and satisfies the requirement of state law.

Registered microchip means one that is registered with a company, organization or non-profit group that maintains microchip registration information, which includes current identifying and contact information for the animal's owner.

Restraint means to control an animal by physical means (chain, rope, tether, leash, cable, fence, pen) sufficient for that animal so that it remains on the premises of the owner or, when off the owner's premises, by means of a cage, or leash or rope under the direct control of a person of sufficient strength to control the animal. Physical confinement does not include confinement by a radio fence.

Riding school or stable means any place or facility used for the business of hiring out, boarding or giving instructions for riding upon any horse, pony, mule or donkey.

Seller (of animals) shall mean a person that transfers ownership of animals, in exchange for money, services, or goods. For the purposes of a seller's permit, seller shall not include an operator, manager, or employee of a business entity that sells animals commercially, except for a person that is selling animals out of said his or her primary residence.

Service animal means a dog that is specifically and individually trained to do work or perform tasks for a person with a disability.

Small animal facility means any place or facility used for the business of breeding or raising rats, mice, hamsters, rabbits, minks, guinea pigs or other similar small animals for profit.

Sterilized (spayed/neutered) means an animal rendered incapable of reproduction by means approved by the American Veterinary Medical Association.

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

Tether means to chain, tie, fasten or otherwise secure an animal to a fixed point so that it can move 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 services to identify the current ownership of an animal.

Trap, neuter and return (TNR) program means a nonlethal, humane alternative to deal with stray cats which are captured, spayed/neutered and returned to their location in order to encourage the stabilization of the free-roaming cat population in the city.

Un-owned or homeless animal means an animal for which an owner does not exist or has not been identified.

Unrestrained means an animal not restrained by leash or lead, physical restraint, or by a substantial fence or pen.

Vaccination means the inoculation of an animal with a rabies vaccine that is licensed by the United States Department of Agriculture for use in that species and which is administered according to the label's directions by a veterinarian for the purpose of immunizing the animal against rabies.

Veterinarian means a veterinarian licensed to practice in the State of Texas.

Veterinary hospital means any facility operated by a licensed veterinarian for surgery, diagnosis and treatment of animal injuries and illnesses.

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

Wildlife educational center means an organization that has met all of the state and federal requirements to possess wildlife for educational purposes.

Zoo or Zoological park means any facility, other than a pet shop, kennel, or wildlife education center, displaying or exhibiting one or more species of non-domesticated animals, and operated by a person, partnership, corporation or governmental entity.

(Ord. No. 2008-62, § 2, 12-16-08; Ord. No. 2009-19, § 2, 3-31-09; Ord. No. 2021-39, § 2, 6-1-21)

Sec. 6.002. Fees—Exemptions.

- (a) All fees, including permits, required under this chapter will be set by the city council. A schedule of fees is kept on file for public inspection in the office of the city clerk and the animal control office.
- (b) Prosecution or payment of fines under this chapter shall in no way interfere with the animal shelter's collection of fees from the person prosecuted or fined.
- (c) Exemption from fees may be issued for the following:
 - (1) Police or other law enforcement department dogs;
 - (2) Service animals trained to do work or perform tasks for a person with a disability.
- (d) Eligibility for fee exemptions does not relieve the owner of any responsibility under other sections of this chapter.
- (e) The director of the department overseeing animal services may authorize the animal services manager to waive or reduce fees as deemed appropriate by the director for the purposes of reducing animal intake, reducing length of stay, promoting public health, and for supporting responsible pet ownership.

(Ord. No. 2008-62, § 2, 12-16-08)

Sec. 6.003. Office of animal services manager—Duties and enforcement.

- (a) The director of the department overseeing animal services will select an animal services manager. The animal services manager will select the animal services staff members including animal control officers.
- (b) The animal services manager shall act as the local rabies control authority for the purpose of enforcing animal health and control laws in the State of Texas.
- (c) It shall be the duty of the animal services manager and designees to:
 - (1) Administer and enforce all state and federal laws pertaining to animals which authorize the local rabies control authority or animal control officers to enforce the same;
 - (2) Administer and enforce the animal ordinances of the city;
 - (3) Supervise the animal services operations of the city; and,
 - (4) Aid the state health department in the enforcement of area quarantines.
- (d) The animal services manager, a licensed peace officer, or any animal control officer of the city shall have the authority to issue citations for any violation of this chapter and any other power or duty stated within the terms of this chapter. If the person being cited is not present, the animal control officer may send the citation to the alleged offender by registered or certified mail, return receipt requested, by depositing the same in the U.S. mail, postage prepaid.
- (e) It shall be unlawful for any person to knowingly prevent, interfere with, or obstruct the animal services manager or an animal control officer in the performance of their duties. It shall be unlawful for any person to fail to comply with any lawful order of the local rabies control authority officer or any animal control officer of the city.
- (f) The local rabies control authority, any animal control officer, or any peace officer is authorized to, including but not limited to:
 - (1) Humanely euthanize an animal which poses an imminent danger to a person or property or when a real or apparent immediate necessity exists for the destruction of the animal;
 - (2) Impound an animal which is diseased or endangers the health of a person or another animal;
 - (3) Impound any animal found to be running at large within the city, with the exception of cats who are not ill, injured, or part of an enforcement case;
 - (4) Humanely euthanize an impounded animal if the animal is suffering from injury, disease, or illness;
 - (5) Humanely euthanize any animal suspected of having rabies, or which animal manifests a disposition to bite, when such animal(s) is found at large after having made a reasonable, but unsuccessful effort to capture the animal;
 - (6) Humanely euthanize any impounded dangerous animal immediately upon impoundment, unless there is reason to believe that it has an owner;
 - (7) Humanely euthanize any wild animal immediately upon impoundment, so long as such act does not violate state or federal laws;
 - (8) Humanely euthanize any nursing baby animal impounded without the mother and no qualified foster volunteers are available, or where the mother cannot or refuses to provide nutritious milk, to prevent further suffering;

-
- (9) Humanely euthanize an animal when an owner no longer wishes responsibility for an animal or believes the animal to be in an ill or injured condition upon the owner signing a waiver, supplied by the animal shelter, allowing the animal to be immediately euthanized if appropriate;
 - (10) Humanely euthanize an animal if it is determined, after the applicable stray hold period, that it cannot be safely rehabilitated and placed back in the community.
- (g) In any complaint, action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter; and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the owner or defendant as an affirmative defense.
 - (h) The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled to under the authority of federal, state, or local law.
 - (i) No person shall interfere in any manner or give false information to the local rabies control authority, local health director, the animal control officers, and other authorized employees of the city in the performance of their duties.
- (Ord. No. 2008-62, § 2, 12-18-08)

Sec. 6.004. Use of poisons.

No person shall use or otherwise cause to expose any poisonous substance, whether mixed with food or not, so that the substance is liable to be eaten by any animal. This prohibition does not apply on a person's own property to legally available rat poison mixed only with vegetable substances.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.005. Duty of person striking animal.

Any person who, as the operator of a motor vehicle, strikes any animal on a public roadway shall, as soon as practicable report the occurrence to animal services or the police department.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.006. Relation to land development code.

The keeping of any animal in accordance with this chapter shall not be construed to authorize the keeping of the animal in violation of any zoning rules or restrictions set forth in the city's land development code.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.007. Bird sanctuary.

- (a) It is unlawful for a person to intentionally trap, hunt, or shoot any wild bird or fowl, or to intentionally destroy the eggs or nests of any wild bird or fowl in the city.
- (b) It is an exception to the application of this section that the destruction of eggs or a nest occurs as an unintended consequence of an otherwise lawful activity, such as the trimming or clearing of trees or shrubbery.

-
- (c) It is an exception to the application of this section that the wild birds or fowl in question are destroyed after they have congregated in such numbers at a location that they are determined, by the city health department, to constitute a nuisance or public health threat.
 - (d) Employees of the city, peace officers, park rangers, emergency personnel and state personnel are exempt from this section to the extent that it conflicts with their official duties.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.008. Inducement.

- (a) It shall be a violation of this chapter for any person to give away any live animal as a prize or as an inducement to enter any contest, game, raffle, or other competition or an inducement to enter a place of business or to offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (b) This section shall not be interpreted to restrict any animal from being offered for sale at auction, provided that such sale does not otherwise violate any other section of this chapter.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.009. Inhumane treatment of animals.

- (a) An animal control officer, or a licensed peace officer shall utilize the authority granted by federal, state and local laws to lawfully seize and impound any animal if the investigating; animal control officer or police officer has reason to believe that an animal has been, or is being cruelly treated, pending a hearing before any justice of the peace or any municipal court judge on the issues of cruelty and disposition of the animal. Seizure of the subject animal prior to receiving a warrant is hereby authorized if a delay in seizure might endanger the life or wellbeing of the animal, or if it would unreasonably prolong the suffering of the animal needing immediate attention.
- (b) Animals shall be cared for, treated, maintained, and transported in a humane manner and not in violation of any provision of law, including federal, state, and local laws, ordinances, and administrative rules.
- (c) In addition, a person commits an offense if with reckless intent:
 - (1) A person, other than a licensed veterinarian, docks an animal's tail or removes dew claws of a puppy over five days of age, or crops an animal's ears of any age;
 - (2) A person physically removes from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, or rabbit less than six weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
 - (3) A person dyes or colors chicks, ducks or rabbits;
 - (4) A person sells, gives away, delivers, trades or barter chickens, ducks, or rabbits within two weeks prior to Christmas or Easter;
 - (5) A person abandons or dumps any animal, or leaves an animal in a dwelling that has had no running water or electricity for a period of 24 hours or more;
 - (6) A person overdrives, overloads, drives when overloaded or overworks any animal;
 - (7) A person tortures, cruelly beats, mutilates, clubs, shoots or attempts to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means needlessly kills or injures any animal, wild or owned, within the city limits;

Created: 2022-03-03 11:27:11 [EST]

(Supp. No. 34, Update 4)

-
- (8) A person forces, allows, or permits any animal to remain in its own filth;
 - (9) A person keeps, shelters or harbors any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life threatening illness, or injury, or any other communicable illness transmissible to animal or human without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
 - (10) A person causes an animal to fight another animal or person;
 - (11) A person fails to provide, at all times, their animal with adequate food and potable water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;
 - (12) A person raises or kills a doe or cat for the skin or fur;
 - (13) A person mutilates any animal, whether such animal is dead or alive (medical or veterinary medical research, medical or veterinary medical necropsy, and biology class use of animals shall not be considered mutilation);
 - (14) A person attaches a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
 - (15) A person engages or allows another to engage in any sexual act with an animal;
 - (16) A person allows a stray animal to remain on their property without notifying the city animal services facility of such act within 24 hours;
 - (17) A person who owns or is in control of an animal permits such animal to be at large within the City of San Marcos;
 - (18) A person breeds or causes to be bred. any animal within the public view;
 - (19) A person creates, maintains, permits or causes a public nuisance, as defined in this chapter;
 - (20) A person owns, keeps, harbors, or possesses horses, cattle, or other livestock in any manner that is a violation of this chapter;
 - (21) A person fails to publish the person's animal dealer or animal establishment permit number in any advertisement offering an animal for sale.
- (d) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this chapter.
- (e) This section shall not be interpreted to restrict rodeos, 4H Clubs, or FFA Club activities and operations.
- (Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 2, 3-31-09)

Sec. 6.010. Leaving animal unattended in vehicle.

A person having charge or custody of an animal shall not place or confine such animal or allow such animal to be placed or confined in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death of the animal. Animal control officers, or any licensed peace officer, finding an animal being held in violation of this provision may cite the owner for violating this chapter, obtain a search warrant, pursuant to state or federal law, or use reasonable force to remove an animal from a vehicle whenever it appears the animal's

health or safety is, or soon will be, endangered and said neglected or endangered animal shall be impounded and held pending a hearing. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by a city animal control officer or peace officer.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.011. Tethering dogs and other animals.

It shall be unlawful for any person to tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the animal control officer. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to the following:

- (1) To tether any animal in such a manner as to permit the animal access upon any public right-of-way;
- (2) To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food or water or otherwise create an unsafe or unhealthy situation;
- (3) To tether any animal in such as manner as to permit the animal to leave the owner's property;
- (4) To tether any animal in an area that is not properly fenced so as to prevent any person or child from entering; the area occupied by said animal;
- (5) To tether any animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
- (6) To tether any animal with a tether that is shorter than the greater of ten feet or five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail;
- (7) To tether any animal with a tether that is not equipped with swivel ends;
- (8) To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving part of its owner's property;
- (9) To fail to remove waste from the tethered area on a daily basis;
- (10) To tether any animal without using a properly fitted collar or harness;
- (11) To use choke-type collars to tether any animal;
- (12) To use a tether that weighs more than one-fifth of the animal's body weight; or
- (13) To allow an animal to remain tethered during a severe weather event. A severe weather event includes conditions in which: (a) the actual or effective outdoor temperature is below 32 degrees Fahrenheit; (b) a heat advisory has been issued by local or state authority or jurisdiction; or (c) a hurricane, tropical storm or tornado warning has been issued for the jurisdiction by the National Weather Service.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.012. Abatement and imminent threat; right of entry; search warrants.

- (a) Animal control officers or other law enforcement officers shall have the power to impound animals which create an animal nuisance per se for the purpose of abating a nuisance and in cases where animal control officers have reason to believe an animal has been or is being cruelly treated, has rabies or exhibits other violations of law as follows:

-
- (1) On public property, in all cases;
 - (2) On private property, if:
 - a. The consent of the resident or property owner is obtained;
 - b. The officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded: or
 - c. Authorized by appropriate courts of law.
 - (3) The officer has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.
- (b) Any animal observed by an animal control officer or peace officer to be in immediate danger, in the officer's opinion, may be removed from such situation by the quickest and most reasonable means available. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the animal control officer or peace officer.
- (c) The health director, animal services manager, or assigned designee, may order the abatement of the conditions which are not in accordance with this chapter, other applicable state or federal regulations or laws, or which otherwise constitute a nuisance. Failure to comply with the written notice constitutes grounds for the city to obtain any relief available by law, including, but not limited to relief by injunction. Additionally, failure to comply with the written notice may subject the violator to administrative proceedings and criminal charges.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.013. Defecation by dogs on public and private property.

- (a) An owner, harborer, or other person in possession of a dog commits an offense if he knowingly permits, or by insufficient control allows, the dog to defecate in the city on private or public property and fails to remove and dispose of any excreta the dog deposits.
- (b) An owner, harborer, or other person in possession of a dog commits an offense if he:
 - (1) Knowingly permits the dog to enter or be present on private property located in a public place; and
 - (2) Fails to have in his possession materials or implements that, either alone or in combination with each other, can be used to immediately and in a sanitary and lawful manner both remove and dispose of any excreta the dog may deposit on the property.
- (c) It is an affirmative defense to prosecution under subsection (a) or (b) that:
 - (1) The property was owned, leased, or controlled by the owner, harborer, or person in possession of the dog at the time it defecated;
 - (2) The dog was specifically and individually trained to do work or perform tasks for a person with a disability and was in possession of that disabled person at the time it defecated or was otherwise present on the property;
 - (3) The owner of the property or person in control of the property had given prior consent for the dog to defecate on the property; or
 - (4) The dog is a police canine being used in official law enforcement activities.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.014. Unabated nuisances.

- (a) A "continuing public nuisance" is defined as a public nuisance that, after notice as described in subsection (c) to the owner of an animal(s) or person in control of an animal(s), continues unabated as determined by the animal services manager.
- (b) The animal services manager, or designee, may determine that a public nuisance exists through an investigation of any reported or perceived public nuisance, and may interview witnesses or conduct such hearings as determined necessary, formally or informally. The determination shall be made based on the necessity to preserve the public health, safety and welfare of the community.
- (c) Upon such determination, the animal services manager, or designee, shall notify the animal owner or the person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to appeal. The notice shall set forth the noncompliance and order the owner to abate the public nuisance described in such notice within seven days. Notice of a public nuisance shall include, but not be limited to, written notice of the existence of a public nuisance delivered by personal service, certified mail, return receipt requested, or left at the entrance to the premises where the animal(s) is harbored. A notice that is mailed is deemed received five days after it is placed in a mail receptacle of the United States Postal Service.
- (d) If such owner fails or refuses to comply with the demand for compliance in the notice within seven days of such notice or publication the animal services manager, or designee, may order the abatement of the public nuisance by one of the following means:
 - (1) Impoundment of the animal(s) that is the source of the continuing public nuisance and the adoption of the animal(s) as provided in this chapter, except that the owner, his agents or representatives, or family members may not adopt the animal(s) adjudged a continuing public nuisance;
 - (2) Impoundment and humane destruction of the animal(s) that is the source of the continuing public nuisance: or
 - (3) Exclusion from the city limits of San Marcos an animal(s) determined to be a continuing public nuisance.
- (e) An owner or person in control of the animal(s), not later than seven days after the date such person is notified that an animal is a continuing public nuisance, may appeal the determination of the animal services manager to the San Marcos Municipal Court of Record. Upon receiving an appeal, the municipal court shall hold a hearing. Based upon the record evidence of such hearing, the court shall make a final finding.
- (f) The owner or person in control of the animal(s) determined to be a continuing public nuisance shall remove such animal(s) from the city within 48 hours of an unsuccessful appeal. The failure to remove such animal(s) shall be an offense and each day thereafter that such person fails to remove such animal(s) shall constitute a separate offense. If the owner or person in control of such animal(s) fails to remove such animal(s) as provided for by the order of the animal services manager or the court, such animal(s) may be impounded and put up for adoption in accordance with subsection (d) of this section or humanely destroyed.
- (g) The owner or person in control of such animal(s) must report the disposition and exact address or relocation of such animal(s) to the animal services manager in writing within ten days after the expiration date for removal of such animal(s) from the city. Failure to report the disposition and address of such animal is an offense, and each day thereafter that such information is not provided shall constitute a separate offense.
- (h) The animal services manager, or a designee, shall be authorized, after due process, to obtain a search and seizure warrant for the purposes of enforcing this section.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.015. Filing of false claims or reports.

- (a) A person commits an offense if he knowingly initiates, communicates, or circulates a claim of ownership for an animal with an animal control officer that he knows is false or baseless.
- (b) A person commits an offense if he knowingly initiates, communicates, or circulates a report of a violation of city ordinance or state or federal law to an animal control officer he knows is false or baseless.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.016. Number of animals at residences; multi-pet permit.

- (a) Except as provided by this section, no residence within the city shall harbor more than four adult dogs, and no more than seven total animals (the number of total animals does not include fish or birds other than fowl). A residence within the city shall harbor no more than one litter of puppies or one litter of kittens.
- (b) Any person desiring to keep more than four adult dogs, seven animals, or more than one litter of puppies or kittens at premises occupied by them shall apply for a multi-pet permit. The applicant shall pay an application fee at the time of filing.
- (c) The animal services manager is authorized to issue such a permit under the following conditions:
 - (1) No inspection required: If an applicant provides the animal services manager with information concerning the maximum number of animals to be kept at any one time at such premises and record search indicates that no enforcement action for any violation of chapter 6 of the Code of Ordinances has been necessary during the preceding 24 months, a permit may be issued by mail without prior inspection.
 - (2) Inspection required: If an applicant provides the animal services manager with information concerning the maximum number of animals to be kept at any one time at such premises and a record search indicates that enforcement action for violations of chapter 6 of the Code of Ordinances has been necessary within the preceding 24 months, a permit may be issued after an inspection of the premises to determine compliance with the animal services regulations. A permit shall not be issued if it is found that the animals cannot be maintained without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.
- (d) Such permit may be revoked by the animal services manager for cause, including but not limited to, violations of the provisions of chapter 6 of the Code of Ordinances or the inability of the permit holder to keep the animals without creating noise or odor nuisances, otherwise being detrimental to the public health, safety and welfare, or in a healthy or sanitary environment.
- (e) All multi-pet permits issued under this section shall be valid indefinitely, unless the animal services manager revokes the permit. When issued, the permit shall remain the sole property of the city and shall be valid only as to the applicant and location for which it was originally issued. The permit may not be sold or transferred, voluntarily or involuntarily, to any other person or entity.
- (f) Any person either denied a multi-pet permit, or who has had their permit revoked, may file an appeal with the municipal court of record. Such appeal must be made in writing within ten days of receiving written notice from the animal services manager of the permit denial or revocation. If no appeal is requested within the ten-day period, the denial or revocation of the permit becomes final. Upon receiving an appeal, the municipal court of record shall hold a hearing at a time and place of their designation. Based upon the recorded evidence of such hearing, the municipal court of record shall make a final finding.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.017. Community cat management.

- (a) Community cat caregivers assume responsibility for the following minimum requirements:
- (1) Daily feeding maintained throughout the year;
 - (2) Any cats and kittens eight weeks of age or older will be sterilized, eartipped, and vaccinated;
 - (3) Every attempt will be made to remove kittens from the colony before eight weeks of age for domestication and placement;
 - (4) Sick or injured cats will be removed from the colony for immediate veterinary care or humane euthanasia;
 - (5) Location of a community cat colony requires the approval of the property owner;
 - (6) Cats must be fed in containers and the containers removed after one hour so as not to attract wildlife or create litter.
- (b) The animal services manager, or designee, is authorized to issue citations, revoke cat colony permissions, or obtain a search and seizure warrant if there is probable cause to believe any requirements of this section are violated.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.018. Donations fund established.

The city shall create a special revenue fund, labeled "donations fund", for animal services purposes to account for the collection and spending of donations to the city for animal issues. This fund will provide an accurate accounting of the sources and uses of these monies to demonstrate, to the donor that the funds are used for their intended purposes. Expenditures of these monies will require city council approval through the normal budgeting process.

(Ord. No. 2008-62, § 3, 12-18-08)

Secs. 6.019—6.029. Reserved.

ARTICLE 2. IMPOUNDMENT

Sec. 6.030. Impoundment and redemption.

- (a) *Impoundment:*
- (1) It is the duty of an animal control officer to capture and impound such animals as are running at large or which are required to be impounded pursuant to other laws or ordinances or to protect public health or safety. Any officer or citizen of the city is authorized to take up and deliver in a humane manner to the animal services facility any animal that may be found running at large in the city, with the exception of visually healthy cats which pose no apparent danger to public health or safety.
 - (2) The animal control officer shall impound and quarantine all dogs, cats and other animals exposed to, suspected to be exposed to, or infected with rabies, whether the dog, cat or other animal to be impounded is at large, on a leash, or confined to its owner's premises or whether it is currently vaccinated. Any animal which a licensed veterinarian suspects of having rabies shall be humanely

euthanized. Any animal exposed to a rabid animal shall be humanely euthanized or quarantined at the owner's expense for a period mandated by the Texas Department of State Health Services Zoonosis Control Division, not less than ten days from the date of last known exposure.

- (3) The animal control officer shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, is missing, or has died, and there is no person present, 18 years of age or older, who will assume the legal responsibility of providing food, water and shelter for such animal.

(b) *Identification of impounded animals.*

- (1) The city enforcement agent, or his deputies, upon receiving an animal for impoundment, shall make a complete registry, including the species, breed, color and sex of such animal, whether it has traceable identification, and the time and place of taking custody. All animals impounded shall be scanned with a microchip reader. If an animal has traceable identification, all known information shall be entered, including the name and address of the veterinary clinic, year, the number of the registration tag, and any other pertinent information.
- (2) If, identification tag or microchip, the owner of an impounded animal can be identified, the city animal control officer or staff member shall, as soon as possible, notify the owner by telephone, electronic message, or mail; however, it is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim a lost pet.

(c) *Retention of impounded animals.*

- (1) Impounded animals (except cats) three months of age or older with no means of traceable identification shall be kept for not less than three days that the shelter is open for reclaim, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by this chapter. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim a lost pet. The exception for cats is that they must be kept for not less than five days.
- (2) Impounded animals three months of age or older with any type of traceable identification shall be kept for not less than five days that the shelter is open for reclaim, or not less than three days from the time confirmed contact is made with the owner informing them their animal is impounded at the shelter, whichever is the shorter time period, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by this chapter. If an animal has a tag that does not list the owner's phone number or address, and the person or business that is in possession of the owner's contact information will not release it to the animal control officer, then for the purposes of this section it shall be the responsibility of that person or business to notify the owner of the animal being impounded, and the animal shall be held for three days after the animal control officer contacts the person or business in possession of the owner's contact information. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
- (3) An animal impounded at the request of a peace officer as required by this chapter shall be kept for not less than five business days unless earlier reclaimed by the owner, or someone authorized by the owner, under acceptable conditions, or earlier euthanized as allowed by the chapter. It is the responsibility of the owner, or person authorized, to visit the shelter before the expiration of the designated holding period to reclaim impounded pets.
- (4) The following animals are not subject to a stray hold period, become the property of the city immediately upon impoundment, and may be dispositioned according to Section 6.031:
 - a. Animals less than three (3) months of age with or without traceable identification

-
- b. Animals voluntarily surrendered by their owner to the shelter or an animal control officer.
- (5) Transfer of ownership to the city occurs immediately upon completion of any required hold period, and the animal becomes the property of the city.
- (d) *Redemption or reclaim of impounded animals.*
- (1) Any owner of an animal that has been impounded under this chapter must reclaim the animal by personally visiting the animal services facility where it is impounded. Facility staff shall return the animal if the owner can provide sufficient proof of being the animal's owner and if such release will not impair the safety of the public or the animal. The owner of the animal must pay any and all fees assessed in accordance with the city's fee schedule, and must agree to abide by all of the requirements of this chapter. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim a lost pet.
- (2) Any person whose pet has been impounded for abuse or neglect or has been impounded more than two times for running at large will be required to attend the animal service's responsible owner program, if available, before the animal is returned. Completion of the responsible owner program may be used as a requirement to have a citation for violation of this chapter dismissed by deferred adjudication.
- (3) If an animal that requires a permit is impounded by an animal control officer for violating this chapter and the owner cannot prove that he is in possession of all required permit(s) , the owner must meet all requirements of the required permit(s) and must purchase said permit(s) before the animal may be released from the animal services facility.
- (4) If an animal that requires a rabies vaccination is impounded by the animal control officer for violating this chapter and the owner cannot prove that the animal has a current rabies vaccination, a citation for failing to vaccinate will be issued. A person commits an offense if he or she does not provide proof of their animal obtaining a current rabies vaccination and shall be cited again for violation of this chapter. Each subsequent day that passes after the five-day period shall be considered a separate offense. For the purposes of this section, a rabies tag alone is not sufficient proof of an animal's current rabies vaccination.
- (5) If an animal is impounded by an animal control officer for violating this chapter and the animal does not already have a registered microchip implanted, then the city will implant and register a microchip, and add it to the owner's fees, before releasing the animal from the animal services facility. The identification number provided by the microchip, shall be maintained on file at the animal services center or with a nationally recognized registry, for future identification purposes.
- (6) If an animal is impounded for running at large, for a third time, and the animal has not already been sterilized, , the owner must complete and sign a sterilization agreement to have the animal sterilized within 30 days as a further requirement for return. A person who signs a sterilization agreement commits an offense if he or she fails to have the animal sterilized on or before the date required in the agreement.
- a. The owner of an animal required by subsection (a) to be sterilized shall submit verification documentation to animal services within 10 days following the animal's sterilization procedure.
- b. If an owner no longer has the animal on the date required in the sterilization agreement, the owner must provide a written statement or documentation that the animal was lost, stolen, transferred to a new owner, or died.
- (7) An owner whose animal is impounded for violating this chapter shall remain liable for all fees whether the owner reclaims the animal or surrenders the animal to the shelter.

(8) A person who has been notified that their animal is impounded at the shelter commits an offense if he or she fails to either reclaim their animal or surrender their animal to the city within 5 business days of said notification.

(9) There is no fee or fine for reclaiming or returning community cats.

(Ord. No. 2008-62, § 4, 12-18-08; Ord. No. 2010-10, § 1, 3-2-10)

Sec. 6.031. Disposition of animals.

(a) If an animal is not owner reclaimed, the animal services manager may dispose of impounded animals after the expiration of any required impoundment period by any of the following methods:

(1) Adoption:

a. The animal service manager, or designee, shall be authorized to place for adoption dogs, cats, or other domestic pets impounded by the city under the following conditions:

(i) The animal services manager, or designee, shall determine whether an animal is healthy enough for adoption and if its health and age are adequate for vaccination. However, such decision shall not constitute a warranty of the health or age of the animal and the City of San Marcos makes no guarantees or warranties for adopted animals.

(ii) There will be an adoption fee for all dogs and cats at an amount set by the San Marcos City Council. The fee will include the cost of veterinary exam, sterilization, rabies vaccination, blood test if applicable, and implantation of a microchip.

(iii) All animals adopted from the animal services facility shall be implanted with a microchip, vaccinated against rabies, and sterilized before ownership of the animal is transferred to the adopter. If, in the opinion of a licensed veterinarian, there is a legitimate health risk justifying the delay of this surgery, the adoption will not be finalized and the transfer of ownership to the new owner will not occur until the animal is sterilized.

(2) Transfer to rescue organization: The animal services manager may offer the animal to an approved animal welfare organization for which there is a signed transfer agreement on file with the city animal services facility; any agreement and transfer must require the rescue organization to ensure the animal is sterilized and microchipped prior to placing it into an adoptive home;

(3) Foster: The animal services manager may temporarily place the animal in a foster home that has a signed foster agreement on file with the city animal services facility;

(4) Euthanasia: An animal control officer or other authorized staff member may humanely euthanize the animal by methods approved by the American Veterinary Medical Association or the Texas Department of State Health Services.

(b) The choice of which of these options to use shall be made at the sole discretion of the animal services manager unless otherwise mandated by a court order.

(c) Any impounded animal which appears to be suffering from serious injury or disease and which is in meat pain and suffering and probably will not recover or which appears to have an infectious disease which is a danger to humans or to other animals in the opinion of the animal services manager or which, due to its extremely violent nature, poses a substantial risk of bodily harm to the safety of animal services staff, may be humanely euthanized at any time during its holding period by the animal control officer or other authorized staff. In the event such an animal has any type of traceable identification, the animal control officer or staff shall attempt to notify the owner by telephone before taking action.

-
- (d) It shall be an affirmative defense to prosecution of the owner if he or she can show that, at the time of its impoundment, the animal that was at large due to a major natural disaster, fire, criminal or negligent acts of a third party who was not residing at the animal owner's residence.

In such event, the owner shall only be subject only to the provisions of this chapter that require a current rabies vaccination and city registration. An owner's claim of a fire or the criminal or negligent acts of a third party must be proven in one or more of the following manners:

- (1) A certified copy of a city police or fire report verifying the incident: or
 - (2) The affidavit of city police or fire personnel with direct knowledge of the incident.
- (e) It shall be unlawful for a person to fail or refuse to deliver an unregistered or unvaccinated animal to a city enforcement agent or police officer upon demand for impounding.

(Ord. No. 2008-62, § 3, 12-18-08)

Secs. 6.032—6.039. Reserved.

ARTICLE 3. RABIES AND ZONOSIS CONTROL AND CITY REGISTRATION

Sec. 6.041. State regulations adopted.

The City of San Marcos hereby adopts by reference the Texas State Rabies Control Act, as amended, and the standards established by the appropriate state agency or rule-making board as minimum standards for rabies control and quarantine provisions within the City of San Marcos. In addition thereto, all of the rabies control provisions of this chapter, which are adopted pursuant to the Texas Health and Safety Code, shall have application in the City of San Marcos. At the time of the writing of this ordinance revision in 2022, Texas law requires that dogs and cats be vaccinated against rabies by 4 months of age. For an animal to be considered currently vaccinated against rabies in rabies exposure situations, at least 30 days must have elapsed since the initial vaccination and the time elapsed since the most recent vaccination must not have exceeded the recommended interval for booster vaccination as established by the manufacturer (typically one year).

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.042. Report of bite cases.

- (a) It shall be the duty of every physician or other practitioner to report to the animal services department the names and addresses of persons treated for bites inflicted by a mammal, together with such other information as will be helpful in rabies control.
- (b) It shall be the duty of every person owning or having custody of a mammal, which has bitten a human being, to report the same to the animal services department.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.043. Quarantine.

- (a) A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing, an animal that is suspected of being involved in a bite. A person may be issued a citation for non-compliance

or violating this provision. The animal services manager shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are violated.

- (b) Should a potential outbreak of rabies within the city be suspected and the danger to the public safety from rabid animals be reasonably imminent, the health director is hereby authorized to issue a quarantine proclamation, ordering persons owning, keeping, or harboring dogs, cats or other mammals to muzzle the same or confine them for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation by local newspapers, persons owning or harboring such animals shall confine them to premises unless they are effectively muzzled and under the control of an adult person by leash, cord, chain, or rope. Animals found at large in violation of this subsection may be destroyed by an officer of the city if such officer is unable with reasonable effort to apprehend such animals for impoundment.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.045. Confidentiality of certain information in animal records.

The city shall comply with all state laws regarding the confidentiality of information in the animal records.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.046. Vaccination clinics (rabies and other).

The animal services manager may sponsor vaccination clinics in response to, and mitigation of, an identified outbreak or some other public health threat.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.047. Veterinarians required to report.

It shall be the duty of every licensed veterinarian to report to the animal services department their diagnosis of any animal observed as a rabies suspect. Any licensed veterinarian who diagnoses, examines, or treats any animal diagnosed to have, or suspected to have, anthrax, avian influenza, brucellosis, campylobacteriosis, Escherichia coli O1 57:H7, hantavirus, leptospirosis, Lyme Disease, monkeypox, plaque, Q-fever, rabies, Rocky Mountain Spotted Fever, Salmonellosis, Tularemia, West Nile or any other zoonotic encephalitis, or other unusual zoonotic diseases transmissible to humans, shall immediately report their findings to the City of San Marcos's animal services manager.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.048. Animal assistance program.

- (a) The department shall establish and use an animal assistance program to establish and implement an animal population control program pursuant to this statute. The purpose of this program shall be to reduce the population of unwanted and stray dogs and cats by encouraging the owners of dogs and cats to have them sterilized, thereby reducing, potential threats to public health and safety.
- (b) If sufficient budgeted funds exist or are so allocated, any resident of the City of San Marcos, who owns a dog or cat and who is eligible to receive any type of financial assistance from the government due to the owner's lack of income may participate.

-
- (c) The animal services manager, with permission from the public health director, may allow members of the general public to participate in this program for limited times or for special promotions. The program's first priority shall always be to assist low-income pet owners.
 - (d) It shall be a violation of this chapter for any person to knowingly falsify proof of eligibility for, or participate in any program under this chapter, or to furnish any licensed veterinarian with inaccurate information concerning the ownership of an animal submitted for a sterilization procedure, or to furnish an animal control officer with false information concerning an animal sterilization fee schedule or an animal sterilization certificate submitted pursuant to this section, or to otherwise violate any provision of this section.
 - (e) The animal services manager, with the approval of the public health director, shall adopt rules relative to the format and content of all forms required under this chapter, proof of eligibility, administration of the program, and any other matter necessary for the administration of this program.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.049. Veterinarian participation.

- (a) Any veterinarian licensed in this state may participate in the animal assistance program or any other programs established under this chapter or by animal services. Only chemical or surgical procedures approved by the American Veterinary Medical Association may be employed for sterilization.
- (b) Veterinarians who choose to participate in any program shall sterilize, provide an anti-rabies vaccination, and microchip each animal. The city shall reimburse participating veterinarians, to the extent funds are available, for each rabies vaccination and animal sterilization procedure performed and will waive the fee for the microchip registration. To receive this reimbursement, the veterinarian shall submit an animal sterilization certificate which shall be signed by the veterinarian and the owner of the animal and any other documentation deemed necessary by the animal services manager in accordance with this chapter.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.050. Dog and cat microchipping required.

- (a) All residents of the city shall have their dog(s) and cat(s), four months of age and older, implanted with a microchip that is registered with the owner's current information.
- (b) All residents of the city with newly acquired dog(s) and cat(s) shall ensure they are implanted with a microchip within 30 days of ownership, and registered with the owner's current information
- (c) New residents of the city shall ensure their dog(s) and cat(s) are implanted with a microchip within 30 days of moving to the city and registered with the owner's current information.
- (d) The animal services manager is authorized to exempt an animal's owner from the requirements of subsection (a) if the animal is determined to be medically unsuitable for microchipping by a licensed veterinarian, in writing, provided that:
 - (1) The animal determined to be medically unsuitable for microchipping shall be permanently marked with an identifying tattoo by a licensed veterinarian;
 - (2) Proof of medical unsuitability for microchipping along with the identifying tattoo number and owner's or keeper's name, address and telephone number is provided to animal services within 30 days of tattooing;
 - (3) If there is a change in contact information, the owner or keeper of a tattooed animal shall update the contact information with animal services within 30 days;

Created: 2022-03-03 11:27:11 [EST]

(Supp. No. 34, Update 4)

-
- (e) It is a defense to prosecution under this section that:
 - (1) At the time of the offense the dog or cat was being fostered by the resident, and has a microchip that is registered to the organization responsible for the animal;
 - (2) The dog or cat owner is a nonresident of this city and is keeping the animal in the city for fewer than 30 days;
 - (3) The dog or cat owner has been a resident of this city for fewer than 30 days; or
 - (4) The dog or cat had been abandoned or lost and the temporary custodian has had the animal for fewer than 30 days.
 - (f) Nothing in this section shall be construed as permitting microchipped dogs to run at large.

Secs. 6.051—6.059. Reserved.

ARTICLE 4. ANIMAL ESTABLISHMENTS

Sec. 6.060. Standards for animal establishments.

All animal establishments within the city shall be constructed and operate in conformance to the General Design Standards, Specifications, and Operating Procedures for Animal Establishments promulgated by the City of San Marcos Department of Environmental Health, which rules are adopted hereby and made a part of this chapter by reference. A copy of such rules shall be placed on file with the city secretary and a copy shall be maintained by the city health department, which copies shall be made available for inspection by members of the public during the normal business hours of the offices in which they are maintained. In the event of a conflict between such rules and an ordinance of the City of San Marcos or state law then the ordinance or state law shall prevail over the rules.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.061. Animal exhibitions.

- (a) All animal exhibitions, except those held at the county exhibition facilities, shall, in addition to other requirements of this chapter, comply with the minimum standards of this chapter. All of the exhibition facilities shall be subject to inspection by the animal service manager, or his designee, upon his request during reasonable hours. Exhibitions held at the county exhibition facilities shall, at a minimum, abide by all existing county rules and regulations. All animal control officers shall have the authority to enforce all applicable rules and regulations as such apply to the county exhibition facilities.
- (b) The presenter of an animal exhibition must contact San Marcos Animal Services at least seven days before the performance or display and provide dates, times, and exact location of each performance or display.
- (c) It shall be a violation for any person who owns, manages, or represents an animal exhibition that requires a permit or registration to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter. All animal exhibitions must be compliance with all applicable state and federal regulations.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.062. Wildlife educational centers.

- (a) All wildlife educational centers, as defined herein, shall be exempt from city regulations so long as they comply with minimum federal and state regulations.
- (b) It shall be a violation for any wildlife educational center to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with the provisions of this chapter.
- (c) Failure to meet these standards or violating this chapter in any other way shall be grounds for the issuance of a citation subjecting the owner to penalties provided in this chapter.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.063. Animal establishments and animal dealers.

- (a) All animal establishments and animal dealers, as defined herein, shall, in addition to the other requirements of this chapter, comply with the minimum standards of this section. Persons wishing to operate an animal establishment or to become an animal dealer within the City of San Marcos must apply in writing to the animal services manager who will issue a permit if all of the state and federal requirements are met.
- (b) It shall be a violation for any business or person to sell, offer for sale, give away, offer to give away, or otherwise transfer ownership of any animal without first obtaining an animal establishment or animal dealer permit, unless such activity is authorized by some other section of this chapter.
- (c) It shall be a violation for any animal establishment or animal dealer to refuse, upon request by the animal services manager, or his designee, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection during the establishment's regular business hours or at any other reasonable hour for the purpose of ascertaining compliance with the provisions of this chapter.
- (d) Failure to meet these standards, or violating this chapter in any other way, shall be grounds for the issuance of a citation subjecting the owner to penalties provided in this chapter, or revocation of the owner's animal establishment or animal dealer permit at the animal services manager's discretion.
- (e) All advertisements for the sale of animals shall include publication of the animal establishment's or animal dealer's permit number.
- (f) All animal dealers who are breeding an animal for the sale or trade of offspring shall have the breeding female(s) certified as healthy by a licensed veterinarian prior to the sale of any of that animal's offspring.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.064. Private animal sales.

It shall be a violation for any person to offer, sell, trade, barter, lease, rent, give away, or display any live animal, on any roadside, public right-of-way, commercial parking lot, or any flea market. This provision does not prohibit the sale or purchase of animals from a person's private residence.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 1, 3-31-09; Ord. No. 2010-10, § 1, 3-2-10)

Sec. 6.065. Pet shop / pet store requirements.

- (a) No person shall operate a pet shop within the city without first obtaining a license from the department;
- (b) It shall be unlawful for a pet shop owner, operator, manager, or employee to sell, trade, transfer, barter, give away, maintain, or act as a dealer or agent between a buyer and seller of any prohibited animal as defined by this chapter;
- (c) A pet shop shall not sell, lease, offer for sale, trade, give away or otherwise transfer a cat or dog, unless the cat or dog was obtained from a city or county animal shelter, an animal control agency, or an animal welfare organization licensed by the department;
- (d) All pet shops and stores selling animals shall:
 - (1) House only compatible animals in the same enclosure;
 - (2) Observe each animal at regular intervals, at least three times per day for dogs and cats, and at least once per day for all other animals, in order to recognize and evaluate general symptoms of sickness, injury, or abnormal behavior;
 - (3) Take reasonable measures to house intact mammals that have reached sexual maturity in a manner to prevent unplanned reproduction;
 - (4) Have a documented program of routine care, preventative care, emergency care, disease control and prevention and veterinary treatment and euthanasia, as outlined in subsection vii., that is established and maintained by the pet store and approved by a licensed veterinarian, to ensure adherence to the program with respect to each animal. For pet stores offering for sale dogs or cats, this program also shall include a documented onsite visit to the pet store premises by a licensed veterinarian at least once per week. For all other pet stores, this program also shall include a documented onsite visit to the pet store premises by a licensed veterinarian at least once per year;
 - (5) Maintaining and abiding by written animal husbandry procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventative care, emergency care, veterinary treatment, euthanasia, and disaster planning, evacuation, and recovery that is applicable to the location of the pet store. These procedures shall be reviewed with employees who provide animal care and shall be present, in writing, either electronically or physically, in the store and made available to all store employees;
 - (6) Not displaying for sale, offering for sale or selling any dog or cat unless the dog or cat is at least eight (8) weeks of age and has been weaned;
 - (7) Have an emergency evacuation plan and enact it in the event of a natural disaster, or other similar occurrence, the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the animal is reasonably available;
 - (8) Provide appropriate medical services, care, and housing according to individual species' needs;
 - (9) Keep sick, diseased, and injured animals isolated and ensuring that each diseased, ill or injured animal is evaluated and treated without delay. If necessary for the humane care and treatment of the animal, the animal shall be provided with veterinary treatment without delay;
 - (10) Provide each animal sufficient space to stand, stretch, and turn without touching any of the four (4) sides or top of their primary enclosure. Group housing of compatible animals is allowed if the space prevents crowding and allows for easy removal of animal waste, and the unhampered movement and comfort of each animal. Take cats and dogs out of their primary enclosures at least twice during each twenty-four-hour period for exercise unless the primary enclosure is of sufficient size to conduct an exercise regimen needed by the animal for good health;

-
- (11) Maintain clean animal enclosures and remove debris and fecal matter at least once every twenty-four (24) hours. Sanitizing of cat and dog enclosures shall be done once every day by washing the surfaces with water and either soap or detergent, or by the use of a pressure water system or steam cleaner all of which shall be followed by the application of a safe and effective disinfectant. The exercise and run areas having pea gravel or other non-permanent surface materials shall be thoroughly cleaned at least every twenty-four (24) hours and more frequently if necessary by removal of soiled materials and application of suitable disinfectants followed by the replacement of clean surface materials when necessary;
 - (12) Check and treat all animals for internal and external parasites, unless documentation is provided indicating the animal has had a veterinary exam within the past thirty (30) days and is free of internal and external parasites;
 - (13) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to the department) against common disease in accordance with standard veterinary practices; in the case of dogs, against canine distemper, adeno-virus para influenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleukopenia;
 - (14) Ensure that all cats and dogs that are being offered for sale, trade or other compensation or for free giveaway are:
 - a. Sterilized by a licensed veterinarian; and
 - b. Implanted with a registered microchip.
 - (15) Post on the enclosure for each cat or dog offered for sale the name, address, and contact information from which the dog or cat was obtained in 20 point type; and
 - (16) Isolating and not offering for sale those animals that have or are suspected of having a contagious condition. The pet store shall have one or more quarantine areas of adequate size to accommodate animals that have or are suspected of having a contagious condition. This subsection shall not apply to those animals that are effectively isolated by their primary enclosure, including, but not limited to, fish, provided that a sign is posted on the enclosure that indicates that these animals are not for sale, or otherwise marked in a manner to prevent their sale to customers during their treatment for the contagious condition. A pet shop is prohibited from bringing in new animals during a time of disease or illness outbreak.
- (e) The pet shop permit holder shall furnish a purchaser a written statement at the time of sale which shall include:
- (1) Date of sale;
 - (2) Name, address and telephone number of purchaser and permit holder;
 - (3) Permit number of permit holder;
 - (4) Breed, description, approximate age and sex of cat, dog, or other animal sold (small mammals, parrot-type birds, and fish not included);
 - (5) Medication and vaccination history, including dates administered;
 - (6) Internal parasite medication(s) and date(s) administered;
 - (7) A guarantee of good health for a period of not less than two (2) weeks with recommendation to have the animal examined by a licensed veterinarian. The permit holder shall retain a copy of the written statement for twelve (12) months from date of sale. All purchasers of cats, dogs, and ferrets shall also be furnished with information as to the requirements of ownership of these animals within the city including requirements for rabies vaccination, litter permits, and microchipping; and

-
- (8) In the case of the sale of a cat or dog: the name, address, and contact information of entity from which the pet shop obtained the cat or dog.
- (f) Each pet store operator shall comply with the following recordkeeping and disclosure requirements:
- (1) Maintaining records sufficient to document the origin of each dog, cat, rabbit or ferret the pet store sells or provides space for, including any individual or organization from whom the pet store obtained each animal, for at least one (1) year after the disposition of the animal. Additionally, the pet store operator shall post, in a conspicuous location on the cage or enclosure of each dog, cat, rabbit or ferret, a sign listing the name of the public animal services agency or shelter, private shelter, nonprofit organization, person or other entity from which each animal was obtained in 20 point type;
 - (2) Maintaining written records sufficient to document the health and disposition of each dog, cat, rabbit or ferret for a period of not less than two (2) years after the animal is sold. These records shall be available to animal services and other law enforcement officers, prospective purchasers of a specific dog, cat, rabbit or ferret, or the purchaser of a dog, cat, rabbit or ferret for inspection during normal business hours;
 - (3) Maintaining records sufficient to document the manner of transportation of each dog, cat, rabbit or ferret transferred to the pet store, including the aggregate time the animal spent in transit, for at least one (1) year after the disposition of the animal. These records shall be available to animal services and other law enforcement officers, prospective purchasers of a specific dog, cat, rabbit or ferret, or the purchaser of a dog, cat, rabbit or ferret for inspection during normal business hours; and
 - (4) Providing to each prospective purchaser of a specific animal or purchaser of an animal a copy of the veterinary medical records of the animal.
- (g) Each pet store operator shall comply with the following veterinary and consumer protection requirements:
- (1) Ensuring that records of all veterinary visits to the pet store and orders for veterinary treatment are documented in writing. Veterinary treatment records shall be kept for each animal or group of animals that receives medications or immunizations while in the care of the pet store. These records shall include summaries of direction received orally from veterinarians, and shall include all of the following:
 - a. Identification of the animal or group of animals receiving medical treatment;
 - b. Name of the medication or immunization used;
 - c. Amount of medication used;
 - d. Time and date on which the medication or immunization was administered; and
 - e. Identity of veterinarian providing such direction.Records required by this subsection shall be made available during business hours to each purchaser of a dog, cat, rabbit or ferret at the time of sale.
 - (2) Providing to each prospective purchaser of a specific animal upon request and to each purchaser of an animal at the time of sale information concerning the store's animal return policy, which shall be made available to customers either through in-store signs or written handouts. The return policy shall include the circumstances, if any, under which the pet store will provide follow-up veterinary care for the animal in the event of illness. Each pet store operator shall maintain records sufficient to identify each dog, cat, rabbit or ferret returned to and accepted by the pet store after the pet store sold each such animal to a purchaser. Records required by this subsection shall be made available upon request to animal services and other law enforcement officers.
 - (3) Providing to purchasers of dogs, cats, rabbits or ferrets all of the following information at the time of sale on a form and/or in format prescribed by the city:
 - a. Any spay or neuter procedures performed on the animal.

b. Any vaccinations, medical treatment and veterinary treatment administered to the animal during its stay in the pet store.

c. Any identification device on or in the animal.

(4) With respect to cats, all of the following information:

a. The source of the cat. If the person from whom the cat was obtained is permitted by the department, the person's or organizations name, address and permit number(s). All unredacted violations of any federal, state, or local animal welfare law the person, organization, dealer, or transporter received in the previous two years on federal, state, or local inspection reports, if known;

b. The date of the cat's birth, unless unknown because of the source of the cat, and the date the pet store received the cat;

c. The breed, sex, color and identifying marks at the time of sale, if any. If the cat is from an animal welfare organization source, the individual identifying tag, tattoo or collar number for that animal, if available. If the breed is unknown or mixed, the record shall so indicate;

d. A record of the immunizations and worming treatments administered, if any, to the cat as of the time of sale, including the dates of administration and the type of vaccine or worming treatment; and

e. A record of any known disease or sickness that the cat is afflicted with at the time of sale. In addition, this information shall also be orally disclosed to the purchaser.

(5) With respect to dogs, all of the following information:

a. The source of the dog. If the person from whom the dog was obtained is permitted by the department, the person's or organizations name, address and permit number(s). All unredacted violations of any federal, state or local animal welfare law the person, organization, dealer or transporter received in the previous two years on federal, state or local inspection reports, if known.

b. The date of the dog's birth, and the date the pet store received the dog. If the dog is not advertised or sold as purebred, registered or registerable, the date of birth may be approximated if not known by the seller.

c. The breed, sex, color and identifying marks at the time of sale, if any. If the dog is from an animal welfare organization source, the individual identifying tag, tattoo or collar number for that animal, if available. If the breed is unknown or mixed, the record shall so indicate.

d. If the dog is advertised or being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known, and all other information required to register the dog.

e. A record of the immunizations and worming treatments administered, if any, to the dog as of the time of sale, including the dates of administration and the type of vaccine or worming treatment.

f. A record of any veterinarian treatment or medication received by the dog while in the possession of the pet store and either of the following:

g. A statement, signed by an authorized agent of the pet store operator at the time of sale, disclosing that:

i) The dog has no known disease or illness; and

ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

h. A record of any known disease, illness and any congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog

in the future, along with a statement signed and dated by a veterinarian that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian, and the pet store shall not sell a dog for which such statement is required unless the statement is valid as of the time of sale. For the purposes of this section, "nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would interfere with the dog's ability to walk, run, jump, or otherwise function in a normal manner. For the purposes of this section, "clinically ill" means an illness that is apparent to a veterinarian based on observation, examination or testing of the dog, or upon a review of the medical records relating to the dog. For purposes of this section, a disease, illness or congenital or hereditary condition that adversely affects the health of a dog at the time of sale or is likely to adversely affect the health of the dog in the future shall be one that is apparent at the time of sale or that should have been known by the pet store operator from the history of veterinary treatment disclosed pursuant to this section.

- (6) A disclosure made pursuant to subsection (h) shall be signed by both an authorized agent of the pet store operator certifying the accuracy of the statement, and the purchaser of the dog, acknowledging receipt of the statement.
- (7) Maintaining records for identification purposes of the person from whom dogs, cats, rabbits or ferrets in the pet store were acquired, including that person's name, address, and telephone number and the date the animal was acquired.
- (8) Conspicuously posting, within close proximity to the cages of dogs, cats, rabbits or ferrets offered for sale, a notice containing the following language in 48-point type: "Information on the source of dogs, cats, rabbits or ferrets, and veterinary treatments received by these animals is available for review. Pet store operators must provide purchasers with information about the animal on a form prescribed by the City of San Marcos."
- (9) Unless otherwise required, all records required by this section (e) shall be maintained by the pet store on the pet store premises for two (2) years from the date of disposition of the animal, and shall be made available immediately upon request to animal services or other law enforcement officers.

(h) Euthanasia.

- (1) If there is a determination that an animal may need to be euthanized, ensuring that the euthanasia and other veterinary treatment is provided without delay.
- (2) Notwithstanding subsection 1., a rodent or rabbit intended as food for another animal may be euthanized by a pet store operator or an employee of a pet store only if the animal is euthanized by a method that is performed in a humane manner, appropriate for the species, authorized by state law, and in compliance with the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia, published by the AVMA.
- (3) The euthanasia performed on a rodent or rabbit intended as food for another animal pursuant to subsection 2. may be performed by a pet store operator or an employee of a pet store only if a state-licensed veterinarian has certified, in writing, that the pet store operator or employee is properly trained and proficient in performing the method of euthanasia on that particular species. The certification shall be valid for a period of not more than three (3) years, and may be recertified for additional periods of three (3) years. Each certification of a pet store operator or employee shall be

retained by the pet store for three (3) years. The certification shall be made available, upon request, to animal services and other law enforcement officers.

- (4) It is the responsibility of the pet store operator to ensure that euthanasia is performed in compliance with this section.
 - (5) All euthanasias shall be done out of sight of any public.
- (i) Microchip implants.
- (1) Except as provided in subsection (2), a pet store shall not sell or transfer a dog or cat to a new owner unless the dog or cat has a microchip implant containing current information on the new owner purchasing or receiving the dog or cat.
 - (2) Notwithstanding subsection (1), this section does not require a dog or cat to be microchipped if a licensed veterinarian certifies in writing that the dog or cat is medically unfit for the microchip implanting procedure because the dog or cat has a physical condition that would be substantially aggravated by the procedure. The dog or cat's age shall not per se constitute medical unfitness.
- (j) Domestic-born animals. A pet store shall not offer to sell or transfer or sell or transfer an animal that was born outside of the territorial limits of the United States of America.
- (k) Inspections. Animal services shall inspect each pet store offering dogs or cats for sale at least once per calendar quarter and all other pet stores at least once per year, except that animal services shall inspect any pet store more frequently if deemed necessary by animal services.
- (l) Enforcement.
- (1) A person, who is a pet store operator, employee, or representative, commits an offense if he/she transfers ownership or offers to transfer ownership of any animal without first obtaining or maintaining a pet store permit. Each animal sold or offered for sale in violation of this subsection shall constitute a separate violation.

It is an affirmative defense to prosecution under subsection (1) if the transfer of ownership or offer to transfer ownership of the animal was a private owned animal sale.
 - (2) A person, who is a pet store operator, employee, or representative, commits an offense if he/she holds a permit issued under this subsection (e) and refuses access, upon request of animal services or other law enforcement officer, to any portion of the premises that house or are used to service the animals, equipment, and any required registrations, veterinary records, feeding logs, permits or other records required under this subsection (e) or other law during regular business hours or otherwise interferes with animal services or other law enforcement officer in the performance of their duties.
 - (3) A person, who is a pet store operator, employee, or representative, commits an offense if he/she holds a permit issued under this subsection (e) and fails to meet the requirements set forth in this subsection (e) or chapter
 - (4) A person, who is a pet store operator, employee, or representative, commits an offense if he/she holds a permit issued under this subsection and fails to meet the requirements set forth in this subsection or chapter 6. Each separate violation shall constitute a separate offense. Each animal sold or offered for sale in violation of subsection or chapter 6 shall constitute a separate violation.
 - (5) The city may recover a civil penalty of not more than \$1,000.00 per day for each violation of any provision of this subsection if the city proves that:
 - a. The person was actually notified of the provisions of this subsection: and
 - b. After the person received notice of the provisions of this subsection, the person committed acts in violation of the provisions of this subsection or failed to take action necessary for compliance with the provisions of this subsection.

-
- (6) Nothing in this subsection shall prevent a pet store from offering for adoption (but not sale) dogs, cats, rabbits or ferrets owned by a government operated animal shelter or an animal welfare organization and collecting an adoption fee. The adoption fee must only be collected by the government operated animal shelter or animal welfare organization.
- (m) Suspension, revocation, and appeal.
- (1) Suspension of permit. The supervisor of animal services is entitled to, without warning, notice or hearing, suspend a permit required by this subsection if the operation of a pet store constitutes an imminent hazard to public or animal health, safety or welfare and/or for interference with animal services or other law enforcement officers in the performance of their duties. Suspension is effective upon service of notice. A pet store inspection report may serve as notice. Animal services shall post and maintain at the entrance of the pet store notice of the conditions therein, including the care and provision of animals while the suspension or revocation process is ongoing. Animal services may also require the pet store operator to post and maintain at the entrance of the pet store notice that the pet store is prohibited from selling or offering to sell animals, but may still sell supplies if applicable. Whenever a permit is suspended, the holder of the permit or the pet store operator shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for an appeal hearing will be provided if a written request for a hearing is filed with animal services by the holder of the permit within ten (10) days from the date the notice is received. If a written request for an appeal hearing is filed within the required time period, animal services shall hold a hearing on the appeal and either affirm or rescind the suspension within ten (10) days of the notice of appeal being received. At least two (2) days before the appeal hearing occurs, animal services shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. If animal services affirms the suspension, the suspension shall be a final suspension. If no written request for an appeal hearing is filed within ten (10) days, the suspension is sustained until compliance with this subsection is met. It is the responsibility of the permit holder to request a reinspection once full compliance with this subsection (e) has been met. A reinspection must be performed by animal services to ensure compliance prior to ending the suspension. Additional reinspections may be required if compliance is not met. The request for each reinspection must be made to animal services and a reinspection fee shall be paid before each inspection is performed. Animal services may end the suspension at any time if the reasons for suspension no longer exist and all fees have been paid.
- (2) Revocation of permit. The supervisor of animal services is entitled to, after providing an opportunity for an appeal hearing, revoke a permit required by this subsection for serious or repeated violations of any of the requirements of this subsection, for violations of other applicable law affecting public or animal health, safety or welfare and/or for interference with animal services or other law enforcement officers in the performance of their duties. Prior to revocation, animal services shall notify the holder of the permit or the pet store operator, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) business days following service of such notice unless a written request for an appeal hearing is filed with animal services by the holder of the permit within such ten (10) business day period referred to in the notice. If a written request for an appeal hearing is filed within the required time period,
- (i) the pet store is prohibited from selling or offering to sell animals; and
 - (ii) the revocation shall not take effect unless and until animal services determines to do so in its ruling at the conclusion of the appeal hearing; and
 - (iii) animal services shall hold a hearing on the appeal and either enact or reject the revocation. At least two (2) business days before the appeal hearing occurs, animal services shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. If no request for an appeal hearing is filed

within the ten (10) business day period referred to in the notice, the revocation of the permit becomes final.

- (3) Appeals. All appeals from final suspension or revocation of a permit required by this subsection shall be made in writing to the city manager or his designee. The appeal shall be filed in writing within ten (10) business days of the occurrence of the final suspension or revocation. At least three (3) business days before the appeal hearing occurs, the city shall provide the permit holder with notice of the time and place of the hearing. The permit holder shall be permitted to attend and be heard at the hearing. The city manager or designee shall hear and rule on the appeal within thirty (30) business days after notice of the appeal. The city manager or designee shall have the power to reverse a decision of animal services where he finds that the basis for such final suspension or revocation was not meritorious and that such a reversal will not adversely affect the public or animal health, safety or welfare. All decisions of the city manager or designee shall be subject to review by the city council at its option at one of its regularly scheduled meetings. The decision of the city manager or his designee will be final unless reversed by the city council. The city council's failure to take action on any such appeal shall constitute approval of the decision by the city manager or his designee.
- (4) Administrative process. A notice required by this subsection is properly served when it is delivered to the holder of the permit or the pet store operator via hand-delivery, or when it is sent by registered or certified mail, return receipt requested, or when it is sent via Federal Express or any courier service that provides a return receipt showing the date of actual delivery to the last known address of the holder of the permit. The hearings provided for in this subsection shall be conducted by the applicable regulatory authority at a time and place designated by it. The applicable regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the applicable regulatory authority.
- (5) An animal control officer, or a licensed peace officer shall utilize the authority granted in Section 6.009, inhumane treatment of animals, to lawfully seize and impound any animal which the officer believes has been or is being cruelly treated. Otherwise, animals may remain on site at the pet store until such time as a final determination has been made regarding the pet store's permit.
- (6) A pet store that does not have a license, or whose licenses has expired, been suspended, or revoked, is prohibited from selling or offering to sell animals, but may still sell supplies if applicable.

Secs. 6.066—6.069. Reserved.

ARTICLE 5. OTHER ANIMALS

Sec. 6.070. Complaint about a dangerous animal.

- (a) Upon receipt of a written complaint by any person, animal control officer, or other law enforcement officer charging that a particular animal is a dangerous animal, the public health director or his designee shall initiate proceedings with the municipal court of record to conduct a hearing to determine whether such animal is dangerous; unless the matter is resolved by agreement of all parties prior to such hearing. Such written complaints shall contain at least the following information:
 - (1) Name, address and telephone number of complainants and witnesses;
 - (2) A brief description of the incident or incidents which cause the complainant to believe such animal is a dangerous animal, including date, time and location;

-
- (3) A description of the animal and the name, address and telephone number of the owner of the animal, if known; and
 - (4) Any other facts that the complainant believes to be important.
- (b) A hearing to determine if an animal is a dangerous animal shall be conducted within 15 days after receipt of the complaint, impoundment, or seizure of the animal, whichever occurs later, unless continued for good cause. Any animal awaiting such hearing which was impounded for being at large, was at-large when the incident that causes the dangerous animal complaint to be filed occurred, or which has bitten or scratched any other person or animal, shall be boarded at the owner's expense at the animal services facility or any other state approved quarantine facility pending the outcome of the hearing and determination of whether such animal is a dangerous animal.
 - (c) If the animal is quarantined at a facility other than the animal services facility, the facility shall be found to be in violation of this chapter if the animal is released to any person, lost, stolen, or otherwise not able to be accounted for unless the quarantine facility first obtains written permission from the animal services manager to release the animal.
 - (d) Notice of hearing shall be provided by the public health director or his designee to the owner of the animal or by the clerk of the municipal court, by certified mail, return receipt requested, and to the complainant by regular mail. At a hearing all parties shall be given opportunity to present evidence on the issue of whether the animal is dangerous.
 - (e) Upon conclusion of a hearing to determine if an animal is a dangerous animal, if the court finds that the animal is not dangerous it shall be promptly returned to its owner's custody after all impound and board fees have been paid. If the court finds that the animal is a dangerous animal the court shall order that the owner comply with one or more of the following requirements:
 - (1) Removal of the dangerous animal from within the city limits. In which case, the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the animal services manager prior to the animal being released from the animal services facility; or
 - (2) Humane euthanasia of the dangerous animal; or
 - (3) Registration and compliance with all of the following requirements, at the owner's expense, before the animal is released from the animal services facility or other state approved quarantine facility.
 - i. Obtaining liability insurance coverage or showing financial responsibility in an amount of at least \$250,000.00 to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person or for damages to any person's property resulting from the keeping of such dangerous animal. A certificate of insurance or other evidence of meeting the above requirements shall be filed with the animal services director;
 - ii. Registering with the City of San Marcos by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the animal; the location where the animal is to be kept if it is not at the address of the owner; and two color photographs that clearly identify the dangerous animal;
 - iii. Having the animal sterilized;
 - iv. Constructing a cage, pen or enclosure for the dangerous animal that has secure sides; a secure top attached to the sides; and a secure bottom which is either attached to the sides or else the sides of the structure must be embedded in the ground no less than two feet. The pen or enclosure must be completely encircled by a fence constructed in such a manner as to prevent a person or child from being able to reach the animal's pen or enclosure;

-
- v. Not allowing the animal to go outside of its cage, pen or enclosure unless the animal is under physical restraint. No person shall permit a dangerous animal to be kept outside of its cage, pen or enclosure on a chain, rope or other type of leash unless a person is in physical control of the chain, rope or leash and the person is of competent strength to control the animal at all times. Dangerous animals shall not be tethered or otherwise leashed to inanimate objects, such as trees, posts, buildings, etc. All dangerous animals outside their cage, pen or enclosure must be securely fitted with a muzzle that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent the animal from biting other animals or human beings;
 - vi. Posting signs giving notice of a dangerous animal in the area or on the premises in which such animal is confined. Such signs shall be conspicuously posted at both the front and rear property entrances and shall bear letters not less than two inches high, stating

"DANGEROUS ANIMAL, ON PREMISES."

Such signs shall also display a symbol that is understandable by small children, that warns of the presence of a dangerous animal;
 - vii. Providing the animal with a fluorescent yellow collar visible at 50 feet in normal daylight and attaching a fluorescent orange tag provided by the animal services division to the collar that is worn at all times so that the animal can be easily identified.
 - viii. Implanting a microchip into the animal and registering it for life with the city's animal services division and a recognized national registry; and
 - ix. Paying the appropriate dangerous animal permit fee annually.
- (f) Any animal that is deemed a dangerous animal that was not previously impounded or otherwise in the possession of the animal services facility or any other state approved quarantine facility, shall immediately be impounded and boarded at the owner's expense until such time as the owner complies with all of the required conditions as set forth by the court's ruling. The animal shall be held at the owner's expense pending the outcome of any appeal. It shall be a violation of this section for the owner to refuse to turn the animal over as required and for the purposes of enforcement; each day for each animal in question shall be considered a separate offense.
 - (g) The owner shall have 15 days from the declaration of the animal as dangerous to comply with all of the required conditions as set forth by this chapter. If the owner fails to meet all of the requirements, the animal may be humanely euthanized on the 16th day by an animal control officer or a licensed veterinarian.
 - (h) In the event that a registered dangerous animal escapes its cage, pen or enclosure or attacks a human being or another animal, the owner of the dangerous animal shall immediately notify the animal services division. For the purposes of this chapter, immediately shall mean within 30 minutes of the owner becoming aware of the escape or attacks.
 - (i) In the event that a registered dangerous animal dies, the owner must present the body of the animal to the city enforcement agent or a licensed veterinarian for verification by microchip identification before disposal of its body.
 - (j) Prior to transferring ownership in any way or moving a registered dangerous animal, either inside or outside the city limits, the owner must obtain, in writing, permission from the animal services manager to transfer ownership or move the animal. If ownership of the animal is being transferred, the new owner will be required to comply with all provisions of this chapter before the animal can be moved from the previous owner's custody. If the animal is being moved from the city limits, the owner must provide, in writing, to the animal services manager, the destination address of where the animal is to be moved to and proof that the owner has alerted the agency responsible for animal services in that area.

-
- (k) In the event that any owner of an animal declared to be dangerous violates any part of the court's order, the animal may be immediately seized and impounded by an animal control officer. In addition, the animal shall be seized immediately if the animal bites, injures, or attacks a human being or another animal. Any animal already declared to be dangerous which is impounded due to any violation of this chapter or seized for causing injury to a human being or another animal shall immediately become the property of the City of San Marcos and shall not continue to be a registered dangerous animal.
 - (l) If the dangerous animal makes an unprovoked attack on a person or another animal outside the animal's enclosure and causes bodily injury to the person or other animal, the owner of the dangerous animal will be charged with a misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a felony.
 - (m) If an owner of a dangerous animal is found guilty of an offense under this section, the public health director or his designee may order the dangerous animal be humanely euthanized by an animal control officer or a licensed veterinarian.
 - (n) No animal shall be declared a dangerous animal if the threat, injury or damage caused by the animal was the result of a willful trespass upon another's property, or the person injured was tormenting, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of injury.
 - (o) Orders of the municipal court pertaining to dangerous animals may be appealed to the Hays County Court by filing a written notice of appeal within ten days with the municipal court clerk, and by following all of the procedures set forth in chapter 55 of the San Marcos Code of Ordinances. During the pendency of such appeal, the order of the public health director shall be suspended, and the animal shall remain impounded at the owner's expense at the animal services facility or other state approved quarantine facility for observation. If a proper appeal is not filed and perfected the municipal court's order shall be a final order.
 - (p) It shall be a violation for any owner of a permitted dangerous animal to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.
 - (q) The owner of an animal that has been determined to be dangerous by another jurisdiction is prohibited from bringing such animal into the city limits.
 - (r) The animal services manager shall be authorized to obtain a search and seizure warrant if there is reason to believe any requirements of this section are being violated.

(Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.071. Keeping of dangerous wild animals.

- (a) It shall be unlawful to keep any wild animal within the city limits of San Marcos, with the following exceptions:
 - (1) If a person and his or her facility housing such dangerous wild animal(s) has complied with all applicable federal, state and local laws and regulations, including, but not limited to, the acquisition and retention of all applicable permits, prior to final adoption of this chapter, said person may retain dangerous wild animals(s) in the above described facility in compliance with all federal, state and local laws, including, but not limited to Chapter 822 of the Texas Health and Safety Code, as amended;
 - (2) A governmental agency or entity acting in an official capacity;
 - (3) A government-operated zoological park;
 - (4) A permitted wildlife educational center, animal exhibitions with valid state or federal permits; or

-
- (5) A holder of an animal dealer or animal establishment with a wild animal permit. The possessor of any dangerous wild animal shall have all applicable state and federal permits to possess the species in question.
 - (b) Animal establishments or animal dealers who hold a dangerous wild animals permit shall make written application to the animal services manager to permanently keep each dangerous wild animal in their possession. The application must include the species and location of the animal, at least two pictures that clearly identify the animal, and proof that the establishment, center, or person is in possession of the necessary state and federal permit(s) to possess such species.
- (Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.072. Sale of wild animals.

- (a) It shall be a violation for any person to sell, offer to sell, give away, offer to give away, or otherwise transfer or attempt to transfer ownership of a dangerous wild animal, unless specifically allowed by some other provision of this chapter. Any person who finds a dangerous wild animal that is at large must immediately notify an animal control officer. This section shall not be interpreted to restrict a person from giving ill, injured, or orphaned wildlife to a state or federally licensed wildlife rehabilitator or to a permitted wildlife educational center.
 - (b) For the purposes of this chapter, the animal services manager shall make the determination of whether any animal in question is a pet animal, a wild animal, or a dangerous wild animal. In addition, for the purposes of this chapter, immediately shall mean within 30 minutes of the person finding that a wild animal or dangerous wild animal is at large.
- (Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.073. Bee-keeping.

- (a) It shall be unlawful for any person to keep or allow bees, their hives, or any abandoned hives within the city limits, except honey bees may be kept if all of the following conditions are met:
 - (1) All hives shall be located a minimum of 30 feet from any property line and enclosed in a fenced area;
 - (2) There shall be no more than four hives per city lot;
 - (3) There is an adequate source of water within 20 feet of all hives;
 - (4) The owner notifies the animal services director, in writing, of the location and number of hives in his possession.
 - (b) It shall be a violation for any person who owns, harbors, or possesses bees to refuse, upon request by the animal services manager, or his designee, to make his/her bees, premises, facilities, equipment and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.
- (Ord. No. 2008-62, § 3, 12-18-08)

Sec. 6.074. Keeping of other animals; nuisance conditions.

- (a) No person shall engage in keeping livestock within the corporate limits of the city, except in conformance with and only to the extent so permitted by the zoning ordinances of the city; and unless:

-
- (1) The pens, stalls, or other facilities for keeping the livestock or fowl, excepting hens, other than fenced open pastures that are at least one acre, are located so that the livestock or fowl cannot come within 100 feet of any existing dwelling or business building owned, used, or maintained by any person other than the keeper;
 - (2) No more than eight hens may be kept within residential areas of the city so long as any cage or coop is located at least 30 feet from neighboring residences. All hens must be contained within the owner's yard. This exception does not apply to roosters;
 - (3) The pens, stalls, or other facilities for keeping the livestock or fowl, other than fenced open pastures that are at least one acre, are located so that the livestock or fowl cannot come within 500 feet of any existing food service establishment or food processing establishment, regardless of ownership or occupancy of the establishment;
 - (4) The fenced open pasture, which is at least one acre, has a means of preventing the livestock or fowl from coming within 25 feet of any property line that abuts an existing residence;
 - (5) A student residing in a residence within the City of San Marcos is enrolled in bona fide program, such as 4H or FFA may keep a single livestock animal, during one school year, as part of a bona fide project related to their enrolment in the program.
- (b) The keeping or causing to be kept any livestock, chickens, geese, ducks, guineas, pigeons, rabbits or my other such animals in those areas appropriately permitted by the zoning ordinances of the city in pens or enclosed areas in such a manner as to become offensive to other persons living nearby is hereby declared to be a nuisance.
 - (c) It shall be unlawful for any person to park or leave standing any truck, trailer, or other vehicle that has been used for the hauling of livestock, animals or fowl in the city limits when notified by an animal control officer that such vehicle is creating a nuisance due to odors, gases or fumes. Upon such notification, the owner, operator, driver or other person responsible for such vehicle shall move such vehicle to a location outside of the city limits.
 - (d) All manure and other excrement shall be disposed of in such a manner as to prevent it from becoming offensive to other persons living nearby. It shall be unlawful for any person to transport slop, garbage or other refuse over any alley, street or highway within the corporate limits of the city for the purpose of feeding hogs or swine within the city.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 1, 3-31-09)

Sec. 6.075. Keeping of hogs or swine.

- (a) It shall be unlawful for any person to keep any live hog within the city limits for a longer period than 24 hours. This does not apply to miniature swine.
- (b) Subsection (a) of this section does not apply to animal shelters, veterinary establishments, government agencies, exhibitions at the county facilities, or commercial animal establishments located on property zoned for those purposes. Such establishments, however, must meet sanitation requirements and keep all animals securely caged or penned.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 3, 3-31-09)

Sec. 6.076. Estray.

It shall be unlawful for any person, firm, or corporation to allow an estray(s) to be unattended upon any public street, alley, thoroughfare or upon the property of another in the corporate city limits of San Marcos. The person, firm, or corporation having ownership or light to immediate control of such estray(s) shall have the burden to keep such estray(s) off the public streets, alleys, and thoroughfares or the property of another in the city.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 3, 3-31-09)

Sec. 6.077. Placement and baiting of animal traps.

- (a) At shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any trap designed for trapping animals in any highway, street, alley or other public place within the corporate limits of the city unless specific permission by animal services has been granted. However, nothing in this chapter shall prohibit a city enforcement agent from placing such traps on public or private property as may be necessary to capture animals running at large.
- (b) It shall be unlawful for any person to remove, alter, damage or otherwise tamper with a trap or equipment belonging to, or set out by animal services.
- (c) Residents of San Marcos wishing to trap unwanted animals on personal private property may do so with the use of humane cage traps. Traps may be obtained from animal services. Any trapping program must have prior written approval of the land manager or owner and notification of activities to the animal services manager, or his designee.
- (d) Any traps mentioned in this article found upon public property are hereby declared to be abandoned traps and any city enforcement officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the applicable provisions of this Code.
- (e) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any steel jawed trap (commonly known as a "bear trap," "wolf trap," "leg hold trap," or "coyote trap") within the corporate limits of the city.
- (f) No person shall place any substance or article that has in any manner been treated with any poisonous substance in any place accessible to human being, birds, dogs, cats, or other animals with the intent to kill or harm animals. This shall include anti-freeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold poisons when applied in accordance with the manufacturer's directions for such use in that person's residence, accessory structure, or commercial establishment, provided that such use does not violate any other section of this chapter, or any other applicable federal or state law.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 3, 3-31-09)

Sec. 6.078. Display of commercial permits required.

- (a) All commercial establishments, as defined in this chapter, shall at all times prominently display, in a public area, a copy of their current permit(s).
- (b) It shall be a violation for any person who owns, harbors, or possesses an animal that requires a permit, or for any holder of a special use permit, to refuse, upon request by the department, to make his/her animal(s), premises, facilities, equipment, and any necessary registration(s) or permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this chapter.

(Ord. No. 2008-62, § 3, 12-18-08; Ord. No. 2009-19, § 3, 3-31-09)

Sec. 6.079. Keeping of miniature goats.

- (a) The keeping of miniature goats on a premise zoned as conventional residential district in the development code is allowed with the following requirements:
 - (1) Male miniature goats shall be neutered.
 - (2) No more than, and no less than, two miniature goats shall be kept on the premises, except that offspring may be kept onsite for up to 12 weeks from birth.
- (b) Miniature goats shall be housed in a shed designed to be:
 - (1) Predator proof;
 - (2) Thoroughly ventilated;
 - (3) At least three sides and with a roof;
 - (4) Easily accessed and cleaned;
 - (5) Watertight and draft free; and
 - (6) A minimum of ten square feet of interior space.
- (c) Direct access from the shed to an outdoor enclosure shall be provided with the outdoor enclosure designed to be:
 - (1) Secured with a minimum five-foot tall fence;
 - (2) A minimum area of 400 square feet;
 - (3) Secured from the outside in a manner that prevents the miniature goats from escaping;
 - (4) Fenced so that spacing prevents the goat from sticking its head through the fence;
 - (5) Free of objects that would enable the goats to climb out of the enclosure;
 - (6) Easily accessed and cleaned; and
 - (7) Located no less than 20 feet from an adjacent residence or business structure, excluding the residence of the owner.
- (d) Goat's milk, goat's cheese, and other goat-related food products shall be for personal consumption only; sale of such products is prohibited.
- (e) Slaughtering, processing, and composting of miniature goats within Conventional Residential Districts is prohibited and, otherwise, is subject to other applicable provisions of this chapter or the San Marcos City Code.
- (f) It shall be a violation for any person who owns, harbors, or possesses miniature goats to refuse, upon request by the animal services manager, or his designee, to make his/her goats, premises or facilities available for inspection for the purpose of ascertaining compliance with the provisions of this section.

(Ord. No. 2021-39 , § 3, 6-1-21)