

CITY OF LAS CRUCES

MUNICIPAL CODE

CHAPTER 7: ANIMALS*

***Cross references**—Unlawful noise by animals, § 19-127; horseback riding in parks, 20-34; keeping of animals, § 38-2106 et seq.

ARTICLE 1: IN GENERAL

SEC. 7-1. DEFINITIONS.

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

Amphibian means any organism belonging to the vertebrate class Amphibia (frogs, toads, salamanders and caecilians).

Animal means any live, vertebrate creature, domestic or wild, excluding man.

Animal control/ codes officer means any person designated by the city manager as an animal control officer. The officer's duties are defined in the job description for such position, which is on file with the city personnel director.

Animal shelter means any premises designated by the city for the purpose of impounding and caring for animals coming into the city's custody.

Animal shelter director means the person or agency-designated director of the animal shelter who will keep accurate and detailed records of all vaccinations, registrations, permits, impoundments of animals and will be responsible for health, cleanliness, proper management and operation of the animal shelter.

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

Aviary means any totally fence-enclosed outdoor pen, for the purpose of housing birds, that is structurally sound and sufficiently designed to repel cats, rats, squirrels, or any other animal from entering the structure.

Bite means any abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by an animal's mouth.

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

Collar means a band, chain, harness or other suitable device worn around the neck of an animal to which current rabies vaccination and registration tags can be affixed.

Emergency measures means any action taken by animal control or its designated agents to preserve the health and life of an animal, including but not limited to entering vehicles or upon premises, with probable cause, and impounding the animal to prevent present or imminent

suffering.

Enclosure; enclosed fence means any animal pen, a fenced or walled yard.

Escape-proof enclosure means any enclosure that, by the nature of the design and material used, precludes the escape of the occupants. For venomous animals this definition includes the incorporation of a lock into the design of the enclosure.

Exotic means any animal that is foreign to this region, not native; strange or different in a way that is striking or fascinating, strangely beautiful, enticing, etc.

Falconer means any person who keeps any bird of prey.

FFA (Future Farmers of America) program means the specific national youth organization that promotes the development of agricultural leadership, vocational agriculture, cooperation, and citizenship under the auspices of the U.S. Department of Education.

Fowl means any bird.

4-H program means the specific youth organization conducted by the New Mexico State University Cooperative Extension Service, United States Department of Agriculture.

Health officer or authority means the district health officer of district V of the state and the authority vested in this office.

Inspection means a visual check by the codes enforcement department of any premises to ensure that no health, safety, or nuisance violations are detectable. Such inspections may be made at any time deemed necessary by the codes enforcement department.

Kennel, commercial means any premises on which eight or more dogs or eight or more cats or eight or more rabbits, four months of age or older, are kept; or where the business of buying, selling, breeding, training or boarding of dogs or cats or rabbits is conducted, but does not include veterinary hospitals, Humane Societies, animal shelters or pounds approved by a governmental agency.

Kennel, private residential means any premises on which more than two dogs or two cats or two rabbits, or any combination thereof in excess of two, but not more than seven in number, four months of age or older, are kept and on which premises the business of buying, selling, breeding, training, or boarding of dogs, cats or rabbits is not carried on, with the exception that the sale of not more than two litters per year shall be permitted.

Nuisance. See Public nuisance.

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

Performing animal exhibition means any spectacle, display, act, or event, other than a circus, in which performing animals are used.

Pet means any dog, cat, rabbit, amphibian, reptile, caged bird, aquarium fish, caged rodent or caged ferret.

Pet shop or dealer means every person, including wholesalers and retailers, engaged in the business of selling or holding pet animals for sale.

Poisonous means any animal or fish that produces a toxin that may be introduced into the human body through voluntary actions on the part of the victim, such as ingestion of the animal.

Premises means any place where animals are kept or sheltered, including the land, but not including any dwelling occupied by human beings.

Professional biologist means any person with an advanced degree, or studying toward an advanced degree, in the biological sciences.

Public nuisance means any animal that:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds, public or private property;
- (4) Is running at large;
- (5) Damages private or public property; or
- (6) Barks, whines, or howls in an excessive or continuous fashion which disturbs the repose of others.

Rehabilitator means an individual who is licensed by the federal government, the state department of game and fish and the city codes enforcement department to keep injured fowl in an outdoor aviary until such birds are able to be released to the wild or are euthanized.

Reptile means any organism belonging to the vertebrate class Reptilia (turtles, lizards, snakes, crocodilians and amphisbaenids).

Responsible person for the animal means the owner of an animal, or an adult person placed in charge of the animal in the absence or incapacitation of the owner.

Restraint means any animal secured by a leash or lead no more than eight feet in length, which animal is under the immediate control of a responsible person or in an enclosed area in which an animal may be tethered, by a tether not less than 12 feet or of a length sufficient to confine the animal within the boundaries of the real property limits of the owner or responsible person.

Stray or estray means any licensed or unlicensed animal running at large unattended, and not under restraint, within the city limits on any public street, alley or private property of another private citizen.

Vaccination means the inoculation of an animal with a vaccine administered by a veterinarian for the purpose of immunizing the animal against rabies as required by state law.

Venomous animal means any animal with the capability of causing harm by the introduction of a toxic substance into the body of another animal or human being.

Veterinarian means a doctor of veterinary medicine licensed by the New Mexico Board of Veterinary Medicine to practice veterinary medicine.

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

Vicious animal means any animal that demonstrates a physical threat to human beings or to other animals.

Wild means any animal living or growing in its original, natural state and not normally domesticated.

Zoning administrator means any person designated by the city manager to enforce or implement the zoning ordinances.

Zoological park means any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of non-domesticated animals operated by a person or government agency.

(Code 1988, § 7-1) Cross reference-Definitions generally, § 1-2.

SEC. 7-2. ENFORCEMENT.

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by the city manager and city council.
- (b) It shall be a violation of this chapter for any person to interfere, hinder or molest any animal control or codes officer in the performance of the officer's duties.
- (c) A person in violation of this chapter will be issued a written summons to appear in municipal court within three working days of the violation.
- (d) Refusal to sign the summons to appear in municipal court shall require the officer to file a criminal complaint before the municipal court, which may result in an arrest warrant being issued for the person refusing to sign the summons.

(Code 1988, § 7-2)

SEC. 7-3. NONPERMITTED AND PERMITTED ANIMALS AND FOWL.

- (a) It shall be unlawful for any person to keep for any duration whatsoever within the city limits any live cattle, horse, donkey, mule, sheep, goat, swine, chicken, duck, goose, turkey, pigeon, dove, peacock, other like fowl, exotic or wild animals, except that licensed rehabilitators may maintain injured birds for rehabilitation purposes or as otherwise provided for under the special permits in article III of this chapter. Certain animals may be kept in certain zoning districts permitting the keeping of such animals. These districts are designated in the zoning code in chapter 38. Housekeeping requirements, as provided in this chapter, must be maintained, and animals are declared to be nuisances by the accumulation of flies or obnoxious odors.
- (b) It shall be unlawful for any person to keep for any duration whatsoever within the city limits any lizards belonging to the family Helodermatidae (gila monsters, Heloderma suspectum, and beaded lizards, Heloderma horridum) unless the appropriate federal, state and city permits for the possession of venomous animals are acquired prior to acquisition of the animals.
- (c) It shall be unlawful for any person to keep for any duration whatsoever within the city limits any snakes belonging to the families Elapidae, Viperidae, and within the Colubridae family (the twig snake,

Thelotornis kirtlandii; boomslang, Dispholidus typus; and keelbacks, Rhabdophis) unless the appropriate federal, state and city permits for the possession of venomous animals are acquired prior to acquisition of the snakes.

- (d) The noncommercial raising of poultry, rabbits, cattle, horses, donkeys, mules, goats, or sheep in connection with the residential use of a lot is permitted in the designated zoning districts within the zoning code in Chapter 38.
- (e) Pets and other animals or fowl that are permitted are as follows:
 - (1) Two dogs or two cats or two rabbits, or any combination thereof not exceeding two pets per dwelling unit; however, there are no number restrictions on litters up to the age of four months.
 - (2) Animals and fowl kept in a zoo or similar place of exhibition under the supervision of a public agency.
 - (3) Animals or fowl kept in approved laboratories or schools for experimental or educational purposes.
 - (4) Animal shelters operated by a governmental approved agency.
 - (5) Any amphibians, reptiles, caged birds, aquarium fish, caged rodents or caged ferrets, maintained within the confines of a dwelling unit, except as prohibited/ restricted by federal or state law regarding those species listed as threatened or endangered or as prohibited/restricted by the city codes enforcement department.
 - (6) Any birds held by rehabilitators for the purpose of rehabilitation until such birds are able to be released or are euthanized. Rehabilitators must be licensed by the federal government, state department of game and fish and the city codes enforcement department.

(Code 1988, § 7-3)

SEC. 7-4. RESTRAINT.

- (a) All animals shall be kept under restraint. While restrained on the premises of its owner or responsible person, no tether less than 12 feet in length shall be used, unless such length of tether will permit the animal to scale a confining fence or leave the confines of the property boundary. While restrained off the premises under the immediate control of the owner or responsible person, no lead greater than eight feet in length shall be used.
- (b) No owner or responsible person shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.
- (c) Every female animal in heat shall be confined in a building or secure enclosure in such manner that such female animal cannot come into contact with another animal, except for planned breeding.
- (d) Every vicious animal, as determined by the animal control officer, shall be confined by the owner in a building or secured enclosure. Confinement shall be in such a manner that the animal cannot come into contact

with any person or other animal. Further, a notice will be prominently posted with the words “beware of dog or cat” or “vicious dog or cat.”

- (e) Every owner of a dog or cat should be aware that animal defecation is prohibited on the property other than that of the owner. Owners of animals are responsible for immediately cleaning up after their animals.
- (f) Any animal trespassing upon private or public premises shall be deemed prima facie not to be under the immediate control of the owner or a responsible person, and the animal control officer may issue a citation to the owner or responsible person or impound the animal, or both.
- (g) All captive amphibians and reptiles will be kept in escape-proof enclosures. Transportation of amphibians and reptiles will be done in a closed container that will not expose people unexpectedly to the animal. Display of amphibians and reptiles will be done with full regard for the sensitivities of that segment of the public that may feel threatened or uncomfortable in the presence of amphibians and reptiles. Transportation of venomous animals will be done in the following manner. The animal will be tied in a secure bag that will be placed inside a secure locked box clearly marked “venomous animals.”
- (h) Venomous reptiles will be kept in secure, locked cages with labeling that clearly defines the identity of the occupant as follows: common name, scientific name, venomous nature.

(Code 1988, § 7-4)

SEC. 7-5. CARE AND MAINTENANCE.

- (a) All animals must be treated, captured, caged or otherwise dealt with in a humane manner. It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody, as owner or otherwise, with shade, care or shelter, clean/fresh food and drink in a spill-proof receptacle of appropriate size. A shelter shall be shaded during hot weather months. Any animal habitually kept outside shall be provided with a structurally sound enclosure, consisting of a minimum of a three-sided enclosure, with a waterproof roof, large enough or appropriate for the species maintained. No owner or responsible person shall fail to provide his animal with veterinary or humane care and treatment when needed to prevent suffering.
- (b) All captive amphibians and reptiles will be contained in escape-proof enclosures, which will allow the animal to have adequate lighting, thermal conditions and shelter. Clean, fresh water will be available as required by the species in question. The enclosures should be large enough to allow normal behaviors to occur.
- (c) Any officer finding an animal kept, carried, or left in violation of this section is authorized to take emergency measures at the expense of the animal owner to remove or prevent further cruelty or suffering to the animal.

(Code 1988, § 7-5) **State law reference**—Cruelty to animals,



NMSA 1978, § 30-18-1.

SEC. 7-6. CRUELTY.

- (a) No person shall beat, shoot, wound, capture, snare or entrap, needlessly kill, overload, overwork, cruelly torture, molest or otherwise abuse any animal or injure in any other manner, or carry or transport in any vehicle or other conveyance in a cruel and inhumane manner any animal or to cause any of these acts to be done.
- (b) No person shall instigate or permit any cockfight, bullfight, dogfight, or other combat between animals or between animals and humans.
- (c) This section shall not preclude the animal control officer from using the tranquilizer gun, snares or traps to humanely trap such animals as may prove to be necessary for the control of animals within the city limits.
- (d) Any officer finding an animal in violation of this section is authorized to take emergency measures at the expense of the animal owner to remove or prevent further cruelty or suffering, to the animal.

(Code 1988, § 7-6) **State law references**—Cruelty to animals, NMSA 1978, § 30-18-1; dogfights, NMSA 1978, § 30-18-9.

SEC. 7-7. ABANDONMENT.

It shall be unlawful for any person to abandon any animal or cause such abandonment. (Code 1988, § 7-7)

SEC. 7-8. DISEASED ANIMALS OR BIRDS.

It shall be unlawful for any person to knowingly keep any animal infected with any disease, which is dangerous or communicable to other animals, birds or to humans, unless that animal is under a veterinarian's treatment or is in the care of a licensed rehabilitator. (Code 1988, § 7-8)

Cross reference—Health and human services, ch. 12.

SEC. 7-9. EXPOSURE TO POISONOUS SUBSTANCES. No person shall expose any known poisonous substance, whether mixed with food or not, so that the substance shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to use commercially available poisonous substances in the recommended manner on his property. (Code 1988, § 7-9)

SEC. 7-10. PROHIBITED SALES, GIFTS; USE OF ANIMALS AS PRIZES, INDUCEMENTS.

- (a) It shall be unlawful to sell, offer for sale, barter or give away any animal as a toy, premium or novelty.
- (b) It shall be unlawful for anyone to give away dogs, cats, rabbits or fowl of any age on public property.
- (c) It shall be unlawful to color, stain, dye or otherwise change the natural color of any animal or to possess for the purpose of sale any animal which has been so colored.
- (d) No person shall give away any live animal as a prize for or as an inducement to enter any contest, game, or other competition or as an inducement to enter a place of amusement, and no person shall offer such animal as

an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

- (e) No licensed commercial pet shop or dealer may offer for sale any venomous animals, other than tropical fish contained in labeled aquaria. (Code 1988, § 7-10)

SEC. 7-11. STRIKING BY VEHICLE, REMOVAL OF RABID AND DEAD ANIMALS.

- (a) Any person who, as the operator of a motor vehicle, strikes any warm-blooded animal or fowl shall immediately report such injury or death to the animal control officer.
- (b) The animal control officer will turn over any collars, tags or other identification to the local animal shelter, which will ascertain the ownership or identification of the animal and -make every reasonable attempt to notify the owner immediately.
- (c) The owner or holder of any dead animal or carcass shall be responsible for its removal within 24 hours if the animal is not to be used for human consumption. The dead animal or carcass shall be disposed of at the landfill or other designated point provided by the city. The owner or holder of any sick or injured animal shall be responsible to provide transportation to an animal hospital or veterinarian for treatment. The animal control officer will provide removal and transportation of any rabid animal or of any animal suspected of being rabid, on private or public property within the city limits.
- (d) The owner or holder of any dead animal or carcass may request that a codes enforcement officer remove such animal or carcass from private property, subject to the property owner being assessed a fee for such service as established by the city council. The fee may be waived by the city manager when necessary in the interest of public safety.

(Code 1988, § 7-11) **Cross reference**—Traffic, ch. 27.

SEC. 7-12. PROTECTED BIRDS.

It shall be unlawful for any person, except for the animal control officer or a licensed veterinarian in the performance of his duties, to kill, shoot at, wound, take, capture, ensnare, trap or in any other manner molest or injure any insectivorous, song or other protected birds, with the exception of persons holding a valid license from the federal government, the state department of game and fish and the city codes enforcement department. (Code 1988, § 7-12)

SEC. 7-13. KEEPING WILD OR EXOTIC ANIMALS.

- (a) No person shall keep or permit to be kept on I his premises any exotic or wild mammal as a pet , for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.
- (b) No person or commercial -establishment shall keep or offer for sale any wild animal as a pet.
- (c) Professional biologists are permitted to keep animals

for professional or educational purposes.

- (d) No person or commercial establishment shall keep for any decoration a live wild or exotic animal on a premises, except in zoning districts designated for such use by the city zoning code in chapter 38.
 - (e) Any birds will be permitted for the purpose of rehabilitation by a rehabilitator that is licensed by the federal government, the state department of game and fish, and the city codes enforcement department.
- (Code 1988, § 7-13)

SEC. 7-14. PERFORMING ANIMAL EXHIBITIONS.

- (a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner that will cause or is likely to cause physical injury or suffering.
 - (b) All equipment used on a performing animal shall fit properly and shall be in good working condition.
- (Code 1988, § 7-14) **Cross reference**—Amusements and entertainments, ch.6.

SEC. 7-15. NUISANCE.

- (a) It shall be unlawful for any owner of any animal, either willfully or neglectfully, to fail to exercise due care or control that permits such animal to cause damage or be a nuisance to the person or property of another. Any animal may be impounded by the animal control officer when the animal contravenes any section of this Code.
 - (b) It shall be termed a nuisance to keep an animal that causes frequent or long-continued noise which disturbs the comfort and repose of any person of ordinary sensibilities in the vicinity.
 - (c) Complaints may be filed in municipal court by any citizen affected by any incident classified as a nuisance.
- (Code 1988, § 7-15)

SEC. 7-16. ANIMAL WASTE.

The owner or keeper of domestic animals, such as dogs, cats or any small household animal, permitted within the city limits or any licensed rehabilitator shall maintain a water-tight and fly-tight receptacle for manure from such animals which shall be emptied frequently and in such a manner so as to prevent a nuisance or health hazard. Such receptacles shall be securely covered at all times except when opened to deposit manure. No manure will be allowed to accumulate except in such receptacles. (Code 1988, § 7-16) **Cross reference**—Solid waste, ch. 25.

SEC. 7-17. ANIMALS ASSISTING THE DISABLED.

Any animal trained to assist any disabled individual shall be permitted in any public building or public conveyance in the city when accompanied by a disabled individual.

(Code 1988, § 7-17)

SEC. 7-18. BEES.

Beekeeping shall not be allowed within the city limits,

except in specific zones designated in the city zoning code in chapter 38. All beekeepers shall be licensed in accordance with state law. (Code 1988, § 7-18)

SEC. 7-19. RABIES CONTROL.

- (a) Rabies control shall be classified and under the control of the district health office.
 - (b) No person shall fail or refuse to surrender any animal for quarantine or destruction as required by the animal control officer or district health officer.
 - (c) It shall be the duty of every person to report to the health officer any animal suspected of being rabid.
 - (d) Every animal bite shall be reported to the district health office within 24 hours of occurrence.
 - (e) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from this section except where expressly stated.
- (Code 1988, § 7-19) **Cross reference**—Health and human services, ch. 12.

SEC. 7-20. ABUSE OR INTERFERENCE WITH POLICE DEPARTMENT ANIMALS.

- (a) *Definition.* As used in this section, the term “abuse or interference with police department animals” consists of either:
 - (1) Willfully or maliciously torturing, tormenting, beating, kicking, striking, mutilating, injuring, disabling or killing any animal used by any peace officer in the performance of his duties or of the functions or duties of the police department; knowingly interfering with or meddling with any such animal, or the equipment used on or by such animal; or knowingly engage in conduct designed to agitate or distract any such animal.
 - (b) *Violations.* Any person whom violates this section is guilty of a petty misdemeanor and shall be punished by a fine not exceeding that authorized by state law.
- (Code 1988, § 7-20) **Cross reference**—Police, ch. 23.

SECS. 7-21-7-50. RESERVED.

ARTICLE II: DOGS AND CATS

DIVISION 1. GENERALLY

SECS. 7-51-7-80. RESERVED.

DIVISION 2. RABIES LICENSES*

*Cross reference—Health and human services, ch. 12. (Code 1988, § 7-23)

SEC. 7-81. REQUIRED.

Any person owning, keeping, harboring or having custody of any dog or cat three months of age or over within this city must obtain a rabies license as required in this division.

(Code 1988, § 7-21)

SEC. 7-82. VACCINATION.

- (a) *Issuance of license upon vaccination.* A rabies license shall be deemed issued when the animal has been properly vaccinated against rabies by a licensed veterinarian and the owner or responsible person has paid the vaccination fee and received a vaccination tag and certificate. The veterinarian shall provide a copy of the rabies vaccination record to the animal shelter.
- (b) *Vaccination required.* No person shall own, keep, harbor or offer for sale within the city any dog or cat three months of age or older unless such dog or cat has a current rabies vaccination. A dog or cat will have a current rabies vaccination for the remainder of the month during which it was vaccinated and for the following 12 calendar months. The dog or cat must be re-vaccinated before the expiration of the first and each subsequent rabies vaccination period.

(Code 1988, § 7-22) **State law reference**—Vaccinations required, NMSA 1978, 77-1-3.

SEC. 7-83. APPLICATION.

Application for a rabies license required by this division must be made within 30 days after obtaining a dog or cat over the age of three months, except that this will not apply to a nonresident keeping a dog or cat within the city for no longer than 60 days, provided that the animal has been properly vaccinated against rabies as set forth in this division.

SEC. 7-84. TAG.

Every dog and cat must wear its rabies license at all times. (Code 1988, § 7-24)

SEC. 7-85. DENIAL.

If the applicant for a rabies license required by this division has withheld or falsified any information on the application, a rabies license shall be refused. (Code 1988, § 7-25)

SEC. 7-86. DURATION; RENEWAL.

The rabies licensing period shall be for the period of one year commencing on the date of vaccination of the animal. (Code 1988, § 7-26)

SEC. 7-87. DUPLICATES.

A duplicate rabies license and vaccination certificate may be obtained from the issuing veterinarian upon payment of a replacement fee. (Code 1988, § 7-27)

SEC. 7-88. USE FOR OTHER ANIMAL.

No person may use any rabies license issued under this division for any animal other than the animal for which it was issued. (Code 1988, § 7-28)

SEC. 7-89. CHANGE OF OWNERSHIP.

Upon the change of ownership of any dog or cat, the new owner shall have the current rabies license transferred to his name. (Code 1988, § 7-29)

SEC. 7-90. RIGHT OF INSPECTION.

- (a) The health officer or authority shall be permitted, subject to this section, to inspect all animals and the premises where animals are kept. The animal control officer is authorized to enter upon private property to affix any summons, notice, or official document upon the door of any residence occupied by an animal owner or responsible party.
- (b) Any animal control officer is authorized to enter upon any premises without a complaint if the officer personally views any violation proscribed by this chapter. No animal control officer shall enter a dwelling without the permission of the owner or occupant thereof or without a warrant obtained from a court of competent jurisdiction. If, however, the owner of the premises objects in person, a warrant shall be obtained from the municipal court or a court of competent jurisdiction prior to such entry.
- (c) For the purpose of discharging the duties imposed by this chapter, the animal control officers are authorized to go upon unenclosed lots or land for the purpose of taking out and into the officer's custody any animals running at large, staked, herded or grazing therein contrary to this chapter.
- (d) This section shall not be construed to limit the authority of animal control to enforce this chapter as to unlicensed animals. (Code 1988, § 7-30)

SEC. 7-91. RECORDS.

The animal shelter shall maintain a record of the identifying numbers of rabies licenses issued and shall make this record available to the public. (Code 1988, § 7-31)

SEC. 7-92. REVOCATION.

- (a) The zoning administrator or codes enforcement officer or animal control officer may file a complaint to revoke any license issued under this division if the person holding the license refuses or fails to comply with this chapter or any law governing the protection and keeping of animals. The complaint for revocation will be referred to municipal court for hearing and disposition by the municipal court judge.
- (b) Any person whose permit or license is revoked by the municipal court will within 15 days remove all animals owned, kept or harbored by such person to a kennel or animal control shelter or else remove them from the city limits, all at the expense of the owner, and no part of the permit or license fee shall be refunded. (Code 1988, § 7-32)

SECS. 7-93-7-120. RESERVED.**DIVISION 3. KENNEL LICENSE***

*Cross reference—Business licenses, § 16-96 et seq.

SEC. 7-121. REQUIRED.

No person shall keep or operate a private or commercial kennel without a kennel license issued by the city.



(Code 1988, § 7-33)

SEC. 7-122. APPLICATION GENERALLY.

Any person who operates or proposes to operate a private or commercial kennel shall file an application for a license with the chief codes officer describing the location of the kennel and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from individual dog registrations required by division 2 of this article if the kennel dogs are kept in confinement on the premises. It shall be a condition of the issuance of any kennel license that the licensee consents to inspection of the premises by the city codes department at any time between the hours of 6:00 a.m. and 10:00 p.m. (Code 1988, § 7-34)

SEC. 7-123. APPLICATION CONDITIONS.

All applications for kennel licenses must meet the following conditions:

- (1) An initial nonrefundable fee, established by the city council by resolution, for commercial kennels and private kennels must accompany any application to defray the cost of processing the request.
- (2) Commercial kennels must also comply with the city occupation license and tax provisions in chapter 16:
 - a. The annual license fee shall be established by the city council by resolution.
 - b. Approval is required by the city zoning administrator and codes enforcement officer.
 - c. All boarded animals three months of age or over must meet the licensing requirements of this article.
- (3) All private kennel licenses must be renewed annually at a fee established by the city council by resolution.
- (4) Any application may be denied if the owner or responsible person shows a history of noncompliance with city ordinances concerning animal control as evidenced by two or more convictions of violations of such ordinances during the past year.

(Code 1988, § 7-35)

SEC. 7-124. REVOCATION.

A kennel or special license may be revoked when, in the opinion of the zoning administrator or codes enforcement officer, it is maintained that any one or more of the following conditions exist:

- (1) The property and pens are not maintained in a clean and sanitary condition so as to constitute a health hazard or produce noxious odors.
- (2) Structures are considered to be unsafe.
- (3) Maintaining animals unlicensed, as required by this article.
- (4) Any violation of section 7-15 or 7-16.
- (5) The keeping of animals in excess of that number allowed under the existing kennel license.

(Code 1988, § 7-36)

SECS. 7-125–7-150. RESERVED.

ARTICLE III: SPECIAL PERMITS

SEC. 7-151. REQUIRED.

- (a) A special permit is required by any person to keep or maintain an outdoor rehabilitation aviary. The city codes enforcement department will not issue this special permit without proof of a license issued by the federal government and the state department of game and fish.
- (b) A special permit is required by any person to keep or maintain a bird of prey. The city codes enforcement department will not issue this special permit without proof of a license issued by the federal government and the state department of game and fish.
- (c) Federal and state permits are required for any person to keep or maintain any species of amphibian, snake or reptile that is listed as threatened or endangered by the federal government or the state.
- (d) A special permit is required for any person to keep or maintain any snakes of the families Elapidae and Viperidae, or the three genera within the family Colubridae (*Thelotornis kirtlandii*, the twig snake; *Dispholidus typus*, boomslang; and *Rhabdophis*, keelbacks). The city codes enforcement department will not issue this special permit until the appropriate federal, state and city permits are acquired.
- (e) An active member in good standing of a locally recognized FFA or 4-H program may keep up to two chickens to meet program requirements, provided that the individual is currently participating in a program utilizing these animals (not to exceed two chickens per household), and has received a city permit for such activity. Each permit shall be individually reviewed by the city codes enforcement department as to program participation and permitted animals to obtain the goals of the FFA or 4-H program. All animals kept subject to this provision may be relocated outside of the city limits by the codes enforcement department upon receipt of a nuisance complaint against the person charged with a violation of this section. (Code 1988, § 7-37)

SEC. 7-152. APPLICATION GENERALLY.

Any person who operates or proposes to operate an aviary for the purpose of bird rehabilitation, to maintain any venomous species of snake or lizard, to maintain any pigeon loft, to keep any bird of prey, or to participate in a locally recognized FFA or 4-H program shall file an application for a special permit with the chief codes officer describing the location of the site and the purpose for which it is to be maintained. Veterinary hospitals or clinics shall be exempt from this requirement. It shall be a condition of the issuance of any special permit that the permittee consents to inspection of the premises by the city codes department at any time between the hours of 6:00 a.m. and 10:00 p.m. (Code 1988, § 7-38)

SEC. 7-153. APPLICATION CONDITIONS.

All applications for special permits required under this arti-

cle must meet the following conditions:

- (1) An initial nonrefundable fee must accompany any application to defray the cost of processing the request.
- (2) Any application may be denied if the owner or responsible person shows a history of noncompliance with city ordinances concerning animal control, as evidenced by two or more convictions of violations of such ordinances during the past year.

(Code 1988, § 7-39)

SEC. 7-154. REVOCATION.

A special permit may be revoked when, in the opinion of the zoning administrator or codes enforcement officer, it is maintained that any one or more of the following conditions exist:

- (1) Property, pens or animal enclosures are not maintained in a clean and sanitary condition so as to constitute a health hazard or produce noxious odors.
- (2) Structures are considered to be unsafe.
- (3) Containers for venomous snakes or lizards are not clearly labeled and locked.
- (4) Any violation of section 7-15 or 7-16.
- (5) The keeping of any permit-required species not allowed under the provisions of the existing special permit. (Code 1988, § 7-40)

SEC. 7-155. CONDITIONS FOR KEEPING PIGEONS.

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

Fancy pigeon means a pigeon which, through past breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club, or the Rare Breeds Pigeon Club. Examples include fantails, pouters, trumpeters.

Loft means the structure for the keeping or housing of pigeons permitted by this section.

Pigeon means a member of the family Columbidae, and permitted species shall be restricted to racing pigeons and sporting pigeons, as defined in this subsection. The maintaining of undomesticated common variety pigeons is prohibited within the city limits.

Racing pigeon means a pigeon which, through selective past breeding, has developed the distinctive physical and mental characteristics as to enable it to return to its home after being released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Examples include the racing homer, homing pigeon, or carrier pigeon.

Sporting pigeon means a pigeon which, through selective past breeding, has developed the ability to fly

in a distinctive manner, such as aerial acrobatics or endurance flying. Examples include rollers, tipplers.

- (b) *Maintenance, care and confinement.*

- (1) The loft shall be of sufficient size and design and constructed of such material that it can be maintained in a clean and sanitary condition.
- (2) There shall be at least 1 1/2 square feet of floor space in any loft for each mature pigeon kept therein.
- (3) The construction and location of the loft shall not conflict with all the requirements of any building code of the city.
- (4) All feed for pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
- (5) The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the city.
- (6) All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition, and at no time shall pigeons be allowed to perch or linger on the buildings or property of others, thus creating a nuisance.
- (7) All pigeons shall be fed within the confines of the loft.
- (8) Pigeons will not be released from the loft unless they have not been fed within the previous four hours.
- (9) Before issuance of a special permit for the keeping of pigeons, the owner must demonstrate that he is a member in good standing of one of the following: The American Racing Pigeon Union, Inc.; the International Federation of Racing Pigeon Fanciers; the National Pigeon Association; the American Tippler Society; the International Roller Association; or the Rare Breeds Club, as such clubs have rules that help preserve the peace and tranquility of the neighborhood. Membership must be renewed on an annual, or as required, basis in order to maintain the special permit. (Code 1988, § 7-41)

SECS. 7-156-7-185. RESERVED.

ARTICLE IV: IMPOUNDMENT

SEC. 7-186. AUTHORITY.

The animal control officer may seize and impound, subject to this article, any animal, whether domesticated or undomesticated, found in violation of this chapter within the city, whether such animal shall be in the immediate presence of its owner or responsible party or otherwise. All animal control officers shall have the authority to pursue animals beyond the city limits and may impound any animal and issue summons to any person in violation of this chapter or in response to a complaint. In lieu of impoundment, a citation may be issued to the owner. Such citation shall carry the

same fine schedule as impoundment. (Code 1988, § 7-42)

SEC. 7-187. RIGHT OF ENTRY.

Subject to constitutional limitations, the animal control officers, in performance of their duties, are authorized to enter upon private property, but not into the residence, for the purpose of apprehending loose or stray animals they are pursuing. (Code 1988, § 7-43)

SEC. 7-188. REGISTRY.

The animal control officer, upon impounding or receiving any animal under this article, shall make a complete registry of such animal, entering the breed, color, and sex of the animal; whether the animal has been vaccinated against rabies; and the time and place of taking such animal into custody. (Code 1988, § 7-44)

SEC. 7-189. NOTICE TO OWNER.

If by rabies license, tag, or other means the owner of an impounded animal can be identified, the animal shelter personnel shall immediately upon impoundment notify the owner by telephone or mail. (Code 1988, § 7-45)

SEC. 7-190. RIGHT TO REDEEM.

The owner of any animal which has been impounded under this article shall have the right to redeem the animal upon the payment of any and all fees which may be due and payable for the impoundment of such animal, provided that the payment of such impoundment fees shall not bar the imposition of any fine that may be imposed for the violation of this chapter. (Code 1988, § 7-46)

SEC. 7-191. TIME FOR REDEMPTION.

All impounded animals shall be redeemed within 72 hours after impoundment. Any such animal not redeemed within the period set forth will become the property of the animal shelter. (Code 1988, § 7-47)

SEC. 7-192. FINES AND FEES.

- (a) Fines shall be imposed for the impoundment or citation of any animal under this article, with fees established by the lessee of the city/ county Humane Society facility.
- (b) Whenever any animal is impounded, an additional fee as determined by the animal shelter and an administrative fee shall be charged for each day or fraction thereof of impoundment for feeding and caring for such animal, and the fees will be paid to the animal shelter.

(Code 1988, § 7-48)

SEC. 7-193. REDEMPTION OF UNVACCINATED ANIMAL.

The owner of any impounded dog or cat that has not been licensed as required by this chapter may redeem the animal by paying for the rabies vaccination plus impoundment charges at the animal shelter. The owner will be allowed 96 hours to get such animal vaccinated. If such owner fails to procure a vaccination certificate within such 96 hours, the paid vaccination fee shall be forfeited and the

animal shall be impounded again. (Code 1988, § 7-49)

SEC. 7-194. UNLAWFULLY REMOVING ANIMALS FROM SHELTER.

It shall be unlawful for any person to break open the animal shelter or any place where animals are impounded under this article or to remove or in any manner assist in the removal of any animal from such pound, without first having paid the cost as provided in this article, or to hinder, delay, obstruct or interfere with any officer performing the officer's duty under this article. (Code 1988, § 7)