

ARTICLE 2.100 DOGS AND CATS

Sec. 2.101 Definitions

The following words and phrases as used in this article shall have the meanings respectively ascribed to them by this section unless the context otherwise indicates:

At Large. Shall mean off the premises of the owner and not under the control of the owner or member of his immediate family either by leash, cord, chain or otherwise; and the wearing of a muzzle by a dog shall not be regarded as control under this definition.

Dog. Shall include both male and female.

Cat. Shall include both male and female.

Owner. Shall mean any person owning, keeping or harboring a dog or cat.

City. Shall mean the City of Abernathy, Texas.

Chief of Police. Shall mean the chief of police of the City of Abernathy.

(1974 Code, Chapter 2, Article 1, Section 2-1)

Sec. 2.102 Vaccination Against Rabies*

It shall be the duty of the owner or keeper of each and every dog and cat four (4) months of age or older, kept in the city to have such dog or cat vaccinated against rabies by a practicing veterinarian at least once each year; provided, however, that such dog or cat must have been vaccinated within one month of the date of the owner or keeper's application for the license required in this article, or within thirteen (13) months prior to the expiration date of the license applied for. (1974 Code, Chapter 2, Article 1, Section 2-2; Ordinance adopting Code)

Sec. 2.103 Licenses, Fees, Duration

There is hereby fixed and assessed as a policy regulation for the protection of the public health a license fee as provided for in the fee schedule found in the appendix of this code. The license shall run from April 1st of each year to April 1st of the succeeding year; and any part of such year shall be deemed and considered the entire year. (1974 Code, Chapter 2, Article 1, Section 2-3)

Sec. 2.104 License; Issuance and Use of Tags; Counterfeit Tags

It shall be the duty of the city secretary to provide suitable tags for dogs or cats, with numbers thereon beginning at one and running consecutively, which tags shall evidence the payment of the license fees and the registration of the dogs or cats. Each person owning or keeping a dog or cat within the limits of the city shall apply to the city secretary for a tag; and upon payment of the license fee required in this article, and presentation of a certificate by a practicing veterinarian showing that the dog or cat has within one month of the date of the application for license, or within thirteen months (13) months prior to the expiration date of the license applied for, been vaccinated against rabies, the city secretary shall supply to each applicant thereof a tag suitable to be placed upon a collar around the dog's or cat's neck, and shall, in a well-bound book kept for such purposes, register the number of the tag, name of the owner and his address, and a description of the dog or cat. No license shall be issued unless the application is accompanied by the certificate of vaccination. It shall be the duty of the owner of each dog or cat to apply to the city secretary for such license, pay the fee for same and obtain a tag therefor. The tag shall at all times during the year be securely fastened around the neck of the dog or cat, and the failure of the owner in this respect shall have the same effect as if no license fee had been paid upon the dog, or upon the cat. It shall be unlawful for any

person to use any counterfeit license tag upon a dog or cat except the tag adopted and issued by the city. (1974 Code, Chapter 2, Article 1, Section 2-4)

Sec. 2.105 License; Issuance of Duplicate Tags

It shall be the duty of the owner or keeper of any dog or cat to procure a duplicate tag from the city secretary in the event that the original tag is lost or destroyed, and the city secretary shall issue a duplicate tag upon application of any person who has complied with the provisions of this article and upon the payment of 50 cents for the cost of issuing the duplicate tag. (1974 Code, Chapter 2, Article 1, Section 2-5)

Sec. 2.106 Dog and Cat Pound: Establishment, Supervision

(a) The chief of police shall provide a suitable place for the impounding of all dogs and cats picked up under the provisions of this article, and such pound shall be under his control.

(b) He shall cause all dogs and cats so impounded to be properly fed and cared for while in the pound.

(1974 Code, Chapter 2, Article 1, Section 2-6)

Sec. 2.107 Impounding Fees

(a) The chief of police shall charge a fee as provided for in the fee schedule found in the appendix of this code. (Ordinance 252, adopted 4/14/80, Section 1; Ordinance adopting Code)

(b) The owner of any impounded dog or cat may redeem such dog or cat at any time prior to sale or destruction by paying the fees above provided for and by having on their person and producing a valid City of Abernathy dog or cat license receipt and a vaccination certificate showing the dog or cat to have been vaccinated within a twelve-month period. In the event the dog or cat is not properly licensed or vaccinated prior to redemption, the owner must license said animal and place on deposit with the chief of police an amount equal to the cost of the vaccination of said animal, this amount to be refunded upon receipt, presentation or certification that the animal has been vaccinated by a licensed veterinarian licensed to practice veterinary medicine in the State of Texas.

(c) The fees and charges above provided for shall be collected by the chief of police, and he shall keep a record showing by whom any amount was paid, the date it was paid, and such information, together with the amount collected by him, shall be by him delivered to the city secretary of the City of Abernathy. A receipt for the fees paid shall be furnished the person paying the fees and charges.

(1974 Code, Chapter 2, Article 1, Section 2-7)

Sec. 2.108 Disposition of Impounded Dogs or Cats, Generally

(a) Any dog or cat placed in the city pound in accordance with the provisions of this article shall be kept and so impounded for a period of seventy-two (72) hours. At the expiration of said seventy-two (72) hour period, the chief of police or any officer designated by him, shall sell such dog or cat at auction to the highest bidder for cash; provided, however, that the owner or keeper of the dog or cat may at any time before the sale of the dog or cat pay the fees provided for in Section 2.107 of this article and receive the dog or cat from the city pound. At the auction sale of all dogs or cats, in accordance with the provisions of this article, the chief of police, or any officer authorized by him shall bid in the name and for the city up to the amount of the tax and impounding fees due upon the dog or cat, unless some other person shall bid such amount or a greater amount therefor. Any person who shall bid the amount of the fees due for impounding and keeping any dog or cat shall have such dog or cat delivered to him at the city pound upon the payment to the chief of police of the amount bid, and the person shall be entitled to have the dog or cat registered in his name and receive a tag therefor by presenting to the city secretary a certificate from a practicing veterinarian stating that the dog or cat has been vaccinated against rabies and the payment of the license fee. If the chief of police shall be the only bidder at the sale of any dogs or cats hereinabove provided for,

the city shall become the owner of the dogs or cats and thereupon the chief of police shall kill or cause to be killed all such dogs or cats in the pound after the provisions of this article have been complied with. At any time within six months after any sale, the owner may apply to the chief of police, and upon satisfactory proof of ownership, he shall be entitled to receive the amount deposited on account of such sale after deducting all fees for impounding costs, and keeping such dog or cat and such costs as may be necessarily incurred to establish his rights thereto. Any dog or cat which appears to be suffering from rabies, affected with hydrophobia, mange or other infectious disease shall not be released, but shall be kept under observation for a minimum period of time or may be forthwith destroyed. However, any dog or cat suffering from rabies or suspected of having rabies or any dog or cat suspected of having bitten someone shall be kept under observation until such dog or cat has been inspected by a licensed veterinarian and such disease or condition diagnosed by such veterinarian.

(b) In lieu of killing dogs or cats as provided in this section, the chief of police may give any of said dogs or cats to any school, college, veterinary clinic, scientific laboratory or clinic or laboratory engaged in research, to be used for research and experimental purposes.

(1974 Code, Chapter 2, Article 1, Section 2-8)

Sec. 2.109 Disposition of Money Collected by the Chief of Police

It shall be the duty of the chief of police to pay all money collected by him under the terms of this article to the city secretary. (1974 Code, Chapter 2, Article 1, Section 2-9)

Sec. 2.110 Redemption by Owner From Sale of Impounded Dogs or Cats

At any time within sixty (60) days from the date of the sale, the owner of any dog or cat impounded and sold under the provisions of this article shall have the right to redeem the same by paying to the purchaser thereof double the amount paid by the purchaser for such dog or cat and his reasonable expenses incurred in keeping same. (1974 Code, Chapter 2, Article 1, Section 2-10)

Sec. 2.111 Appointment and Duties of Dog and Cat Catcher

The city council of the City of Abernathy shall appoint a dog and cat catcher and such other assistants as may be required. The dog and cat catcher and his assistants shall be under the supervision and control of the chief of police. It shall be the duty of the dog and cat catcher and his assistants to take up and impound all dogs or cats running at large and all dogs or cats that do not have fastened around their necks the required tags, to keep and properly care for all dogs and cats impounded, to kill all dogs and cats that have not been redeemed or sold, and to perform such other duties as may be directed by the chief of police under the terms of this article. He shall also serve as the rabies control authority for the purpose of enforcing rabies control regulations. The dog and cat catcher shall be under the supervision of the chief of police. (1974 Code, Chapter 2, Article 1, Section 2-11; Ordinance adopting Code)

Sec. 2.112 Monthly Report by Dog and Cat Catcher

It shall be the duty of the dog and cat catcher to report in writing to the chief of police once each month the total number of dogs and cats impounded, and the total number of dogs and cats redeemed or sold to private persons, and the total number of dogs and cats killed under the provisions of this article, which report shall be approved by the chief of police and filed for approval with the city council. (1974 Code, Chapter 2, Article 1, Section 2-12)

Sec. 2.113 Female Dogs or Cats in Heat to be Kept Under Control

It shall be unlawful for the owner or person in control of any unspayed female dog or cat, while such dog or cat is in heat, to allow the same to be upon, in or about any public house, public place, street or alley in the city. (1974 Code, Chapter 2, Article 1, Section 2-13)

Sec. 2.114 Vicious Dogs or Cats Prohibited in Public Places

It shall be unlawful for any person or owner in control of any vicious or dangerous dog or cat to keep or permit the same in or about any public house, public place, street or alley in the city. (1974 Code, Chapter 2, Article 1, Section 2-14)

Sec. 2.115 Procedure When a Person is Bitten by a Dog or Cat

(a) If any person shall report to the city manager of the city or to the chief of police, or to the judge of the municipal court, that any dog or cat has bitten any person within the limits of the city, it shall be the duty of the chief of police to impound the dog or cat in the city pound and to keep such dog or cat securely confined therein for a period of not less than fourteen days, and the dog or cat shall not be released except upon the written permission of the chief of police. As an alternative to impounding the dog or cat, the said dog or cat may be kept securely impounded and confined by a duly licensed veterinarian provided that the owner of the dog or cat makes a satisfactory agreement with the said veterinarian for the payment of all fees charged for keeping the dog or cat. In no event or instance shall the city be liable for such fees. After the expiration of not less than fourteen (14) days from the day the dog or cat has bitten such person, such dog or cat may be released, provided a duly licensed veterinarian certifies that the dog or cat does not have rabies nor any symptoms of rabies. The certificate of the veterinarian shall be furnished the chief of police, and the said dog or cat shall not be released from either the city pound nor by the veterinarian keeping such dog or cat, except upon the written permission and direction of the chief of police.

(b) If the owner of a dog or cat who has bitten a person should attempt to avoid compliance with this section, such a person shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished as provided in Section 2.125 of this article.

(1974 Code, Chapter 2, Article 1, Section 2-15)

Sec. 2.116 Procedure When Dog or Cat is Bitten by a Rabid Animal

Within seven days after acquiring knowledge that his dog or cat has been bitten by a rabid animal, it shall be the duty of the owner or keeper to cause such dog or cat to be given anti-rabies treatment, or to impound such dog or cat for a period of six months in a place approved by the chief of police, or to destroy such dog or cat. (1974 Code, Chapter 2, Article 1, Section 2-16)

Sec. 2.117 Unlawful to Keep Dog or Cat in City Without License

It shall be unlawful for any person to keep any dog or cat in the limits of the city for which the license required in this article has not been procured from the city secretary and which has not been vaccinated for rabies and upon which the tag required in this article is not at all times fastened about the neck of the dog or cat. (1974 Code, Chapter 2, Article 1, Section 2-17)

Sec. 2.118 Unlawful to Allow Dog or Cat to Run at Large*

(a) It shall be unlawful for the owner of any dog or cat to permit or allow such dog or cat to run or be at large upon any public street, highway, alley, court, square, park, sidewalk or other public ground or public property within the corporate limits of the City of Abernathy.

(b) It shall be unlawful for the owner of any dog or cat to permit or allow such dog or cat to run or be at large upon any unfenced lot, tract or parcel of land within the corporate limits of the City of Abernathy.

(c) The term "at large" as used in this article shall mean not under the control of the owner either by leash, chain, cord or other suitable material attached to a collar or harness, or not constrained securely within an enclosure or fence.

(d) It shall be the duty of the dog and cat catcher of the City of Abernathy, or such other person as may be designated by the city manager of the City of Abernathy to pick up and impound all dogs and cats running at large within the City of Abernathy, and it shall further be the duty of the dog and cat catcher of the City of Abernathy to pick up and impound all dogs or cats the owner of which have or are violating the terms and provisions of any section of this article.

(e) All dogs picked up and impounded in accordance with and under the terms and provisions of this article shall be dealt with and disposed of in accordance with the terms and provisions of the applicable sections of this article.

(1974 Code, Chapter 2, Article 1, Section 2-18)

Sec. 2.119 Public Nuisance, Acts Constituting*

(a) The following acts and conditions are hereby declared to be a public nuisance and are prohibited within the city limits of the City of Abernathy:

(1) The harboring or maintaining of more than three dogs over six (6) months of age in an enclosure unless the enclosure contains at least 2,500 square feet of space for each dog so enclosed.

(2) The harboring or maintaining of more than three cats over three months of age in an enclosure unless the enclosure contains at least 1,250 square feet of space for each cat so enclosed.

(3) The harboring or maintaining of any dog or cat, or dogs or cats, in any enclosure unless the said enclosure is kept clean and sanitary and free of offensive odors.

(4) The harboring or maintaining of any dog or cat, or dogs or cats, in any enclosure unless the excrement from said dog or cat is cleaned and disposed of or buried at least once every twenty-four (24) hours.

(1974 Code, Chapter 2, Article 1, Section 2-19)

(b) Exceptions to subsection (a) shall be made for legitimate animal breeders and groomers and for new litters of puppies or kittens for up to six (6) weeks. (Ordinance adopting Code)

Sec. 2.120 Abatement

(a) Duty to Abate Generally. Every person possessing any place in or on which there is a nuisance, as defined by Section 2.119, as soon as its presence comes to his knowledge, shall proceed at once to abate such nuisance.

(b) Duty of Police Officers and Employees of City. It shall be the duty of every police officer and every employee of the city to watch for any nuisance as defined by Section 2.119 and to report at once all facts to the chief of police.

(c) Notice and Order to Abate. Whenever any nuisance as defined in Section 2.119 shall exist, the chief of police shall notify, in writing, the owner or occupant of the premises where the nuisance exists and shall order the owner or occupant to abate and/or remove the nuisance described in such notice within such time which may be specified.

(d) Extension of Time. Within the period of time given in the order for abatement, the owner or occupant shall have the right to appear in the office of the chief of police to show cause why the order should not or cannot be complied with; and the chief of police may, at his discretion, give such extension of time for the abatement of the nuisance as may be necessary if there is no immediate danger to public health.

(e) Abatement by City. If the owner or occupant refuses to obey an order to abate as provided in the preceding subsections, or if the premises are unoccupied, or if the owner cannot be found, the chief of police shall cause the nuisance to be abated or removed and shall defray the costs thereof at the expense of city. All expenses so incurred shall be charged against the owner and shall constitute a lien on the premises where the nuisance existed.

(f) Making, Permitting Nuisance Constitutes Misdemeanor. Every nuisance defined in Section 2.119 is prohibited and forbidden and any person making, causing, permitting or maintaining any of such nuisances shall be guilty of a misdemeanor for each day the nuisance continues.

(g) Disposition of Animal. The chief of police shall have the power to cause the abatement by ordering the dogs or cats kept by the person maintaining the nuisance impounded in accordance with the terms and provisions of this article in regard to impounding dogs or cats.

(1974 Code, Chapter 2, Article 1, Section 2-20)

Sec. 2.121 Enforcement of This Article

(a) It shall be the duty of the chief of police to cause all dogs or cats running at large within the limits of the city, and to cause all dogs or cats not wearing the tag provided for in this article showing that the license fee on such dog or cat has been paid for the current year, to be picked up and impounded.

(b) It shall be the duty of the chief of police of the City of Abernathy to pick up and impound all dogs or cats, the owners of which have or are violating the terms and provisions of this article.

(1974 Code, Chapter 2, Article 1, Section 2-21)

Sec. 2.122 Owner Known; Citing to Appear in Court

When dogs or cats are found running at large in the City of Abernathy and their ownership is known to the agents or employees of the City of Abernathy, such dogs or cats need not be impounded, but the said agents or employees of the City of Abernathy may, in their discretion, cite the owner or owners of such dog, dogs, cat or cats to appear in municipal court to answer charges of a violation of this article. (1974 Code, Chapter 2, Article 1, Section 2-22)

Sec. 2.123 Barking Dogs and Crying Cats

The act of permitting a dog to bark or a cat to cry in such a manner as to disturb the inhabitants of the community is hereby declared to be a nuisance subject to abatement as provided in Section 2.120 of this article. (1974 Code, Chapter 2, Article 1, Section 2-23; Ordinance adopting Code)

Sec. 2.124 Killing of Rabid or Vicious Dogs or Cats

(a) The dog and cat catcher and police officers of the City of Abernathy shall have the right to shoot or kill any rabid or vicious dog or cat upon any public street, highway, alley, court, square, park, sidewalk or other public ground or public property within the corporate limits of the City of Abernathy.

(b) For the purposes of this article, a vicious dog or cat is hereby defined as:

(1) any dog or cat that shall bite, scratch or otherwise attack any person or other animal without provocation while the person so attacked was not trespassing on the property of the owner or person having custody or control of such dog or cat and was not engaged in an assault upon either the owner or person having custody or control of such dog or cat, or upon any member of the immediate family, or

(2) any dog or cat that has otherwise demonstrated fierce or dangerous propensities.

(1974 Code, Chapter 2, Article 1, Section 2-24)

Sec. 2.125 Penalty for Violation of this Article

Any person who violates or fails to comply with any provisions or provision of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code, and any person who shall aid, abet or assist in the violation of any provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code. (1974 Code, Chapter 2, Article 1, Section 2-25)