

ORDINANCE NO. 15,578

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS, AMENDING CHAPTER 14 "ANIMALS," OF THE CODE OF ORDINANCES, CITY OF BAYTOWN, TEXAS, TO ADDRESS CURRENT OPERATIONAL NEEDS AND ESTABLISH A COMMUNITY CAT PROGRAM WITHIN THE CITY OF BAYTOWN AS FOLLOWS: AMENDING CHAPTER 14 "ANIMALS," ARTICLE I "IN GENERAL," SECTION 14-1 "DEFINITIONS" TO AMEND THE DEFINITIONS OF "ABANDONED ANIMAL" AND "OWNER;" TO ADD THE DEFINITIONS OF "AGGRESSIVE DOG," "ANIMAL NUISANCE," "COMMUNITY CAT," COMMUNITY CAT CAREGIVER," COMMUNITY CAT COLONY," "EAR-TIPPING," AND "TRAP-NEUTER-RETURN;" AND TO REPEAL THE DEFINITIONS OF "NUISANCE DOG" AND "PUBLIC NUISANCE;" AMENDING CHAPTER 14 "ANIMALS," ARTICLE I "IN GENERAL," SECTION 14-6 "PREVENTING CAPTURE," SUBSECTION (3); DELETING SECTION 14-7 "UNREASONABLE NOISE;" AMENDING SECTION 14-8 "CERTAIN ANIMALS RESTRICTED;" RENAMING SECTION 14-10 FROM "PUBLIC NUISANCES" TO "UNSANITARY CONDITIONS;" AMENDING SECTION 14-12 "UNLAWFUL RESTRAINT OF ANIMAL," AND RENAMING SAID SECTION TO "UNLAWFUL RESTRAINT OF DOG;" AMENDING CHAPTER 14 "ANIMALS," ARTICLE II "IMPOUNDMENT," SECTION 14-36 "IMPOUNDMENT OF ANIMALS;" DELETING SECTION 14-37 "IMPOUNDMENT OF ANIMALS BY INDIVIDUALS;" AMENDING SECTION 14-38 "REDEMPTION OR ADOPTION OF IMPOUNDED ANIMAL," SUBSECTIONS (A) AND (C)(2); AMENDING CHAPTER 14 "ANIMALS," ARTICLE III "RABIES CONTROL," SECTION 14-67 "QUARANTINE PROCEDURE" TO ADD SUBSECTION (G); AMENDING CHAPTER 14 "ANIMALS," ARTICLE V "DOGS," DIVISION 1 "DANGEROUS DOGS," SECTION 14-153 "HEARING," SUBSECTION (G)(1), AND SECTION 14-155 "ANNUAL REGISTRATION," SUBSECTION (A)(2); AMENDING CHAPTER 14, "ANIMALS," ARTICLE V "DOGS," DIVISION 2 "NUISANCE DOGS," RENAMING SAID DIVISION TO "AGGRESSIVE DOGS;" AMENDING SECTION 14-161 "COMPLAINTS;" AMENDING SECTION 14-162 "NUISANCE DOG INVESTIGATION" AND RENAMING SAID SECTION TO "AGGRESSIVE DOG INVESTIGATION;" AMENDING SECTION 14-163 "HEARING;" AMENDING SECTION 14-164 "REQUIREMENTS FOR OWNER OF A NUISANCE DOG" AND RENAMING SAID SECTION TO "REQUIREMENTS FOR OWNER OF AN AGGRESSIVE DOG;" AMENDING SECTION 14-165 "ANNUAL REGISTRATION" AND SECTION 14-166 "VIOLATIONS;" AMENDING CHAPTER 14 "ANIMALS," ARTICLE VI "FEES," SECTION 14-174 "KENNEL LICENSE FEES" AND ADDING SECTION 14-177 "QUARANTINE FEES;" AMENDING CHAPTER 14 "ANIMALS" BY ADDING ARTICLE VII "ANIMAL NUISANCES; IMPOUNDMENT;" AMENDING CHAPTER 14 "ANIMALS" BY ADDING ARTICLE VIII "COMMUNITY CAT PROGRAM;" PRESCRIBING A MAXIMUM PENALTY OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00); PROVIDING A REPEALING CLAUSE; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE PUBLICATION AND EFFECTIVE DATE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAYTOWN, TEXAS:

Section 1: That Chapter 14 "Animals," Article I "In General," Section 14-1 "Definitions" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-1. 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:

Abandoned animal shall mean the dumping, deserting or leaving of any animal while in the person's custody without making reasonable arrangements for assumption of custody by another person.

...

Aggressive Dog shall mean any dog that has:

- (1) Molested a passerby; or
- (2) Attacked and wounded, but does not kill or severely wound, another animal without provocation 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.

...

Animal nuisance shall mean a public nuisance created within the city, in violation of section 14-178 of this chapter.

...

Community cat shall mean any domestic cat, with no indication of ownership, that lives primarily outside and has an ear-tip.

Community cat caregiver shall mean a person who, in accordance with and pursuant to a policy of trap-neuter-return, provides care, including food, shelter or medical care, to a community cat, while not being considered the owner, harbinger, controller, or keeper of a community cat.

Community cat colony shall mean a group of free-roaming (homeless or stray) cats maintained by a community cat caregiver (who provides food, water and shelter) using trap-neuter-return methodology.

...

Ear-tipping shall mean under veterinarian services for the sterilization of a cat, the tip of the left ear is removed indicating the cat is a community cat and is sterilized and vaccinated.

...

Owner means any person owning, keeping, having custody or control of or harboring one or more animals, not including a community cat caregiver.

...

Trap-Neuter-Return shall mean the process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, and returning community cats to their original location.

Section 2: That Chapter 14 "Animals," Article I "In General," Section 14-1 "Definitions" of the Code of Ordinances, Baytown, Texas, is hereby amended to delete the definitions of "Nuisance Dog" and Public Nuisance."

Section 3: That Chapter 14 "Animals," Article I "In General," Section 14-6 "Preventing capture" Subsection (3) of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-6. Preventing capture.

Under this chapter it shall be unlawful for a person to intentionally or knowingly:

...

- (3) Refuse to deliver an animal subject to capture owned or possessed by him to a licensed veterinarian for observation or treatment upon demand of an animal control officer or police officer.

Section 4: That Chapter 14 "Animals," Article I "In General," Section 14-7 "Unreasonable Noise" of the Code of Ordinances, Baytown, Texas, is hereby deleted in its entirety.

Section 5: That Chapter 14 "Animals," Article I "In General," Section 14-8 "Certain Animals Restricted" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-8. Certain animals restricted.

- (a) *Prohibited.* It shall be unlawful for any person to intentionally or knowingly keep or maintain the following within the city limits:
 - (1) One or more hogs, swine or pigs;
 - (2) Livestock, rabbits or fowl within 200 feet of a private residence the person has no right to occupy;
 - (3) Livestock or fowl within 300 feet of a church, school, hospital or public place where food is sold or consumed;
 - (4) Any animal within a public place where food is sold or consumed, except (i) assistance dogs which are permitted in such places under state law or (ii) dogs in an outdoor dining area of a food service establishment if permitted pursuant to section V.T.C.A, Health and Safety Code § 437.025;
 - (5) Any wild animal; or
 - (6) Bees or beehives within 300 feet of a private residence the person has no right to occupy, a church, school, a day care, a nursing home, a hospital, a park or a public place.
- (b) *Defense.* It shall be an affirmative defense to prosecution under subsection (a)(1) of this section if such hog, swine or pig was possessed for the purpose of sale within 24 hours.
- (c) *Exceptions.* Subsection (a) shall not apply to:
 - (1) An animal or its habitat that is part of an exhibit or project, which is operated or conducted solely for educational purposes and maintained by a governmental entity;
 - (2) Zoological parks, performing animal exhibitions, or circuses;

- (3) An injured, infirmed, orphaned or abandoned dangerous wild animal while being rehabilitated, treated or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under V.T.C.A., Parks and Wildlife Code subch. C, ch. 43;
- (4) Fairgrounds consisting of 15 acres or more, owned by a non-profit corporation, and operated for educational events lasting no more than seven consecutive calendar days;
- (5) Family Boidae (boas and pythons) less than 36 inches long; or
- (6) The raising or keeping of six or fewer chickens, excluding roosters, maintained in any pen, shed, coop, enclosed structure, or fenced yard, which is:
 - a. Located at least 200 feet from a residential structure; and
 - b. Maintained in such a manner as to not give off odors offensive to persons of ordinary sensibilities residing in the area, or breed or attract flies, mosquitoes or other noxious insects or rodents, or in any manner to endanger the public health, safety or welfare.

Section 6: That Chapter 14 "Animals," Article I "In General," Section 14-10 "Public nuisances" of the Code of Ordinances, Baytown, Texas, is hereby renamed "Unsanitary conditions."

Section 7: That Chapter 14 "Animals," Article I "In General," Section 14-12 "Unlawful restraint of animal" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE I. IN GENERAL

Sec. 14-12. Unlawful restraint of dog.

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

Adequate shelter means a sturdy structure:

- (1) that provides the dog protection from inclement weather; and
- (2) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

Collar means a band of material specifically designed to be placed around the neck of a dog.

Harness means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

Inclement weather includes rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.

Owner means a person who owns or has custody or control of a dog.

Properly fitted means, with respect to a collar or harness, a collar or harness that:

- (1) is appropriately sized for the dog based on the dog's measurements and body weight;
- (2) does not choke the dog or impede the dog's normal breathing or swallowing; and

- (3) does not cause pain or injury to the dog.

Restraint means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

(b) *Unlawful restraint of dog; offense.*

- (1) An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
 - a. adequate shelter;
 - b. an area that allows the dog to avoid standing water and exposure to excessive animal waste;
 - c. shade from direct sunlight; and
 - d. potable water.
- (2) An owner may not restrain a dog outside and unattended by use of a restraint that:
 - a. is a chain;
 - b. has weights attached;
 - c. is shorter in length than the greater of:
 1. 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; or
 2. 10 feet; or
 - d. is attached to a collar or harness not properly fitted.
- (3) A person commits an offense if the person knowingly violates this section. The restraint of each dog that is in violation is a separate offense.

(c) *Exceptions.*

- (1) A person does not commit an offense:
 - a. in a public camping or recreational area, provided that the use of a restraint on the dog is otherwise in compliance with all federal, state, or local laws, ordinances, regulations, or rules, applicable to the public camping or recreational area;
 - b. if the use of a restraint on the dog is temporary, occurs while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by this state, and the dog is restrained not longer than the time reasonably necessary for the owner and dog to engage in the activity;
 - c. if the use of a restraint on the dog is temporary, directly relates to the business of shepherding or herding cattle or livestock, and the dog is restrained not longer than the time reasonably necessary for the owner and dog to engage in the activity;
 - d. if the use of a restraint on the dog is temporary, directly relates to the business of cultivating agricultural products, and the dog is restrained not longer than the time reasonably necessary for the owner and dog to engage in the activity;
 - e. if the dog is left unattended in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;

- f. if the dog is taken by the owner, or another person with the owner's permission, from the owner's residence or property and is restrained by the owner or the person not longer than the time necessary for the owner or person to engage in an activity that requires the dog to be temporarily restrained; or
 - g. if the use of the restraint is temporary, the owner and dog are engaged in, or actively training for, hunting or field trialing, and the dog is restrained not longer than the time reasonably necessary for the owner and dog to engage in the activity.
- (2) Section 14-12(b)(2)(c) does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subdivision.
 - (3) This subchapter does not prohibit a person from walking a dog with a handheld leash.

Section 8: That Chapter 14 "Animals," Article II "Impoundment," Section 14-36 "Impoundment of animals" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE II. IMPOUNDMENT

Sec. 14-36. Impoundment of animals.

- (a) The animal control officer may take up and impound any animal found at large in violation of this chapter. If the owner of such animal is known or can be readily ascertained, the animal control officer shall notify the owner by telephone, personal service, certified mail, email, or door tag not later than 48 hours following such impoundment or after obtaining owner information.
- (b) Under the provisions of this chapter, the animal control authority shall be the designated caretaker of every impounded animal immediately upon impoundment.
- (c) Impounded animals owned by persons that are incarcerated or otherwise detained by law enforcement must be reclaimed by the owner, or other representative so designated in writing by the owner, within thirty (30) business days following impoundment, not to include the date of impoundment. Animals not reclaimed within thirty (30) business days shall become the property of the City of Baytown animal services division.

Section 9: That Chapter 14 "Animals," Article II "Impoundment," Section 14-37 "Impoundment of animals" of the Code of Ordinances, Baytown, Texas, is hereby deleted in its entirety.

Section 10: That Chapter 14 "Animals," Article II "Impoundment," Section 14-38 "Redemption or adoption of impounded animal," Subsections (a) and (c)(2) of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE II. IMPOUNDMENT

Sec. 14-38. Redemption or adoption of impounded animal.

- (a) The owner, keeper, or harbinger of any animal impounded under this section may redeem the same within three operating days from the date of impoundment by the city's animal services division, by paying the applicable impoundment and boarding fees as established in section 14-173. *Operating days* shall mean each day that the animal services facility is open for business.

...

- (c) ...

- (2) The names, addresses, and signatures of an animal control officer and the new owner;

...

Section 11: That Chapter 14 "Animals," Article III "Rabies Control," Section 14-67 "Quarantine procedure," of the Code of Ordinances, Baytown, Texas, is hereby amended to add Subsection (g) as follows:

CHAPTER 14. ANIMALS

ARTICLE III. RABIES CONTROL

Sec. 14-67. Quarantine procedure.

...

- (g) Any animal quarantined at the city's animal services facility not reclaimed by its owner within twenty-four (24) hours of the expiration of the quarantine or observation period provided in this chapter, shall become the property of the city and may be offered for adoption or humanely euthanized at the discretion of the director.

Section 12: That Chapter 14 "Animals," Article V "Dogs," Division 1 "Dangerous Dogs," Section 14-153 "Hearing," Subsection (g)(1) of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION 1. DANGEROUS DOGS

Sec. 14-153. Hearing

...

- (g) If the court determines that a dog is a dangerous dog, the municipal court shall:
- (1) Order the owner:
 - a. To comply with section 14-154 within thirty (30) calendar days of the court's order; and
 - b. If the owner has failed to comply with section 14-154 within thirty (30) calendar days, to appear in municipal court at the date and time specified in the municipal court order for a hearing to show good cause as to why the owner failed to comply with section 14-154

within ten calendar days of the court's order and why the dog should not be surrendered for euthanasia to an animal control officer in accordance with subsection (g)(2) of this section; or

...

Section 13: That Chapter 14 "Animals," Article V "Dogs," Division 1 "Dangerous Dogs," Section 14-155 "Annual registration," Subsection (a)(2) of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION 1. DANGEROUS DOGS

Sec. 14-155. Annual registration.

- (a) The owner of a dangerous dog, after a determination by the municipal court under [section] 14-153, shall within ten calendar days of the court's dangerous dog order and each year on or before the anniversary date of such order:

...

- (2) Pay an annual registration fee of one hundred dollars (\$100.00).

Section 14: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Nuisance Dogs," of the Code of Ordinances, Baytown, Texas, is hereby amended to rename Division 2 "Aggressive Dogs."

Section 15: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-161 "Complaints," of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-161. Complaints.

- (a) Any person over the age of 18 years may file a complaint with the animal control authority alleging a dog is an aggressive dog as defined in section 14-1.
- (b) To be considered valid, a sworn, written complaint shall contain at least the following information:
- (1) Name, address and telephone number of complainant(s) and other witnesses;
 - (2) A description of the animal and the address where it resides, and, if known, the name and telephone number of the owner of the animal;
 - (3) A statement describing the facts upon which the complaint is based, including a description of the incident or incidents which cause the complainant to believe that the dog is an aggressive dog;
 - (4) Any other facts that the complainant believes to be important.

Section 16: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-162 "Nuisance dog investigation" of the Code of Ordinances, Baytown, Texas, is hereby renamed "Aggressive dog investigation," and is amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-162. Aggressive dog investigation.

- (a) The animal control authority shall conduct an investigation upon receipt of a complaint pursuant to section 14-161 or becoming aware of an incident which may render a dog an aggressive dog.
- (b) If, after an investigation, the animal control authority believes the dog is an aggressive dog, the animal control authority shall provide notice to the owner of that fact and report the incident to the municipal court.
- (c) In making a determination under subsection (b) of this section, the animal control authority shall find that a dog is not an aggressive dog if:
 - ...
 - (4) The dog attacked or killed was at the time teasing, tormenting, abusing or attacking the alleged aggressive dog;
 - ...

Section 17: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-163 "Hearing" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-163. Hearing.

- (a) The court, on receiving a report pursuant to section 14-162(b), the municipal court shall set a time for a hearing to determine whether the dog is an aggressive dog. The hearing must be held not later than the tenth day after the notice required in section 14-162(b) is received, whichever is later.
 - ...
- (d) The court shall determine, after notice and hearing as provided in this section, whether the dog is an aggressive dog.
- (e) If the court determines that a dog is an aggressive dog, the municipal court shall:
 - ...
 - (2) Order the owner to remove the dog from the city within 24 hours of the owner learning that the dog is an aggressive dog.
 - ...

- (h) An aggressive dog permanently surrendered to an animal control officer shall not be euthanized until at least ten calendar days have elapsed from the date of the municipal court's surrender order and throughout the pendency of any appeal.

...

Section 18: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-164 "Requirements for owner of a nuisance dog" of the Code of Ordinances, Baytown, Texas, is hereby renamed "Requirements for owner of an aggressive dog," and is amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-164. Requirements for owner of an aggressive dog.

The owner of the aggressive dog must:

- (1) Register the aggressive dog with the animal control authority in accordance with section 14-165;
- (2) Restrain the aggressive dog at all times on a leash in the immediate control of a person at least 18 years of age or in a secure enclosure;
- (3) Furnish proof of microchipping of the aggressive dog to the city at the animal shelter on a form furnished by the city, provide the alphanumeric combination code contained in the microchip to the animal control authority, and make available the dog at the animal shelter for scanning so the city can verify the code; and
- (4) Comply with all applicable regulations, requirements, or restrictions on aggressive dogs, including, but not limited to, any imposed by the municipal court or any other court of competent jurisdiction.

Section 19: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-165 "Annual registration" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-165. Annual registration.

- (a) The owner of an aggressive dog, after a determination by the municipal court under section 14-163, shall each year on or before the anniversary date of the municipal court aggressive dog order:
 - (1) Present proof of:
 - a. Current rabies vaccination of the aggressive dog; and
 - b. The secure enclosure in which the aggressive dog will be kept; and
 - (2) Pay an annual registration fee of \$ \$100.00.
- (b) The animal control authority shall provide to the owner registering an aggressive dog a registration tag. The owner must place the tag on the dog's collar, which collar must be worn by the aggressive dog at all times.

- (c) If an owner of a registered aggressive dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority. On presentation by the current owner of the aggressive dog's prior registration tag and payment of a fee of \$25.00, the animal control authority shall issue a new registration tag to be placed on the aggressive dog's collar.
- (d) An owner of a registered aggressive dog shall notify the animal control authority of any attacks the aggressive dog makes on a person or animal outside a secure enclosure within 24 hours of the incident and shall deliver the dog to the animal control authority for proceedings under division 1 of this article.
- (e) An owner of a registered aggressive dog shall notify the animal control authority when the aggressive dog dies.
- (f) If the animal control authority finds that the owner of an aggressive dog has failed to comply with this section, the animal control authority may, if appropriate, proceed to have the dog declared a dangerous dog pursuant to division 1 of this article.

Section 20: That Chapter 14 "Animals," Article V "Dogs," Division 2 "Aggressive Dogs," Section 14-166 "Violations" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE V. DOGS

DIVISION II. AGGRESSIVE DOGS

Sec. 14-166. Violations.

- (a) A person commits an offense if the owner's aggressive dog makes an unprovoked attack on a person or another animal outside the aggressive dog's enclosure and causes bodily injury to a person or another animal.
- (b) It shall be a violation of this division for any person to refuse or fail to surrender an aggressive dog subject to this division, or harbor, hide or secretly transport or secure the transport of a dog subject to this division for the purpose of preventing its impoundment.
- (c) It is a violation of this division if an owner or other person harbors, keeps, or maintains an aggressive dog in the city unless the owner complies with the requirements of this division.
- (d) An offense under this section is a Class C misdemeanor.

Section 21: That Chapter 14 "Animals," Article VI "Fees," Section 14-174 "Kennel license fees" of the Code of Ordinances, Baytown, Texas, is hereby amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE VI. FEES

Sec. 14-174. Kennel license fees.

The annual kennel license fee shall be submitted with the application. The annual kennel license fee shall be determined as follows:

- (1) Fewer than 11 dogs \$100.00
- (2) Eleven to 19 dogs \$150.00
- (3) Twenty or more dogs \$200.00

Section 22: That Chapter 14 "Animals," Article VI "Fees," of the Code of Ordinances, Baytown, Texas, is hereby amended to add a new section numbered and entitled Section 14-177 "Quarantine fees," and shall read as follows:

CHAPTER 14. ANIMALS

ARTICLE VI. FEES

Sec. 14-177. Quarantine fees

The following fees are established for animals quarantined at the city's animal control facility:

- (a) Quarantine fee \$50.00
- (b) Daily boarding, care, and feeding \$10.00 per day

Section 23: That Chapter 14 "Animals," of the Code of Ordinances, Baytown, Texas, is hereby amended to add a new article numbered and entitled Article VII "Animal Nuisances; Impoundment," and is amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE VII. ANIMAL NUISANCES; IMPOUNDMENT

Sec. 14-178. Animal nuisances.

The owner or keeper of any animal in the city is responsible for the behavior and conduct of that animal at all times, including the creation of a nuisance. Violations of the following acts or omissions are nuisances:

- (a) The owner shall keep the animal indoors, in a secure enclosure, or (except for cats) restrained at all times and ensure that the animal (except cats) does not roam or run unrestrained;
- (b) The owner shall not allow animals being held on their property to create a noise disturbance in such a manner, to annoy, distress or disturb any person within the vicinity of hearing thereof. For the purpose of this chapter, an animal noise nuisance shall be defined as a minimum of two (2) separate recorded noise events over a period of twenty-four (24) hours where the animal can be heard continuously for a ten (10) minute period, in a public place or in or near a private residence that the owner of said animal has no right to occupy;
- (c) The owner shall prevent his or her animal from biting or injuring, without provocation, any animal or person;
- (d) The owner shall prevent his or her animal from molesting any passerby;
- (e) The owner shall prevent his or her animal from damaging or destroying public property or property other than its owner's private property;
- (f) An owner creates an animal nuisance by the keeping, frequent feeding or harboring of any venomous or inherently dangerous or prohibited animal; or
- (g) The owner of an outdoor cat or community cat caregiver shall take all steps necessary to prevent a wildlife or pest feeding nuisance. The owner of an outdoor cat or caretaker of a cat colony shall be

responsible for the outdoor cat(s) under his or her care, possession, control or custody and ensure the following:

1. Feed species-specific food in a feeding dish that is non-disposable and facilitates the removal of uneaten food;
2. Do not provide food that is left outside in a "free feed" environment; or
3. Do not feed in excess.

Sec. 14-179. Misdemeanor violations by animal owners; presumptions.

- (a) An animal owner commits a misdemeanor offense if by act, omission or possession he creates an animal nuisance as described in Section 14-178 of this article.
- (b) The following presumptions are hereby declared applicable in the prosecution of an offense pursuant to subsection (a):
 1. The fact that an animal in question has bitten or injured another animal or human being during the previous eighteen (18) months shall give rise to the presumption that the animal in question bites or injures other animals without provocation;
 2. The fact that an animal in question has damaged or destroyed public or private property during the last twelve (12) months shall give rise to the presumption that the animal has a propensity to destroy property.

Sec. 14-180. Impounding animals creating animal nuisance.

Animal control officers shall have the power to impound animals which create an animal nuisance for the purpose of abating the nuisance 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.

Section 24: That Chapter 14 "Animals," of the Code of Ordinances, Baytown, Texas, is hereby amended to add a new article numbered and entitled Article VIII "Animal Community Cat Program," and is amended to read as follows:

CHAPTER 14. ANIMALS

ARTICLE VIII. COMMUNITY CAT PROGRAM

Sec. 14-181. Community cat program.

- (a) A community cat that has been impounded and that has already been ear-tipped shall be returned immediately to the location at which it was found, unless deemed a nuisance by the animal services division.

- (b) Community cats shall not be exempt from the provisions of statute or this ordinance applicable to the prohibition on cruelty to animals; provided, however, the return of a community cat to the location at which it was found or humanely trapped, subsequent to sterilization, vaccination and ear-tipping, shall not be considered abandonment under any statute or other provision of this ordinance.
- (c) Community cats, being unowned as defined herein, shall not be subject to provisions of this ordinance applicable to owned animals.
- (d) Community cats shall be eligible for return to the location at which they were found prior to any stray hold provision imposed by statute or other provision of this ordinance, so long as the community cat is sterilized, ear-tipped and vaccinated for rabies prior to return to that location, unless the cat has been deemed a nuisance by the animal services division.

Sec. 14-182. Animal nuisance; community cat.

Upon a finding by the animal services division that a community cat has become an animal nuisance, as described in section 14-178 of this chapter, the following shall apply:

- (a) First occurrence of behavior deemed a nuisance by the animal services division, the community cat will be microchipped and returned to the same community cat colony;
- (b) Second occurrence of behavior deemed a nuisance by the animal services division, the community cat will be relocated to a different community cat colony or location;
- (c) Third and subsequent occurrences of behavior deemed a nuisance by the animal services division, the animal services division may relocate the community cat to another cat colony or location or humanely euthanize the community cat at the discretion of the director.

Sec. 14-183. Sterilization of outdoor cats.

- (a) All outdoor cats within the city must be sterilized. An owner of an outdoor cat commits an offense if the cat is not spayed or neutered.
- (b) It is a defense to prosecution under subsection (1) that:
 - (1) the cat is under four (4) months of age;
 - (2) a licensed veterinarian annually certifies that the cat should not be spayed or neutered for health reasons or is permanently non-fertile;
 - (3) the cat is being held for adoption by animal services or an animal welfare organization;
 - (4) the cat is certified annually as a competition cat; or
 - (5) the person charged produces to the court proof of sterilization from a licensed veterinarian showing the cat was sterilized at the time the citation was issued or not later than twenty (20) days after the citation was issued.

Sec. 14-184. Feeding of animals prohibited.

- (a) It shall be unlawful for any person to feed, or place food of any kind with the intent to feed stray animals—including stray cats or community cats; notwithstanding item (c)(4) of this section.
- (b) It shall be unlawful for any person to leave, store or maintain food of any kind in a manner or area accessible to stray animals—including stray or community cats,
- (c) This section shall not apply to:

- (1) animal control officers or police officers during the course of their official duties;
- (2) approved zoological parks performing animal exhibitions or licensed circuses; primary and secondary schools, colleges and universities or zoological parks owned or operated by a governmental entity, provided that any such wildlife is kept in a secure manner and in accordance with all other city ordinances and state laws;
- (3) any person who is using food as an attractant to live trap a wild animal or a stray animal in a legally authorized and permitted manner;
- (4) an authorized community cat caregiver feeding community cats, or using food as an attractant to trap cats, as part of a trap-neuter-return program;

Section 25: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency. In all other respects, this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

Section 26: If any provision, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances shall for any reason be held unconstitutional, void, or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances; and to this end, all provisions of this ordinance are declared to be severable.

Section 27: Any person who fails to comply with any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

Section 28: This ordinance shall take effect immediately from and after ten (10) days from its passage by the City Council. The City Clerk is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Baytown at least twice within ten (10) days after passage of this ordinance.

INTRODUCED, READ and PASSED by the affirmative vote of the City Council of the City of Baytown this the 12th day of October, 2023.

BRANDON CAPETILLO, Mayor

ATTEST:

ANGELA JACKSON, City Clerk

APPROVED AS TO FORM:

SCOTT LEMOND, City Attorney