

CITY OF BALCH SPRINGS, TEXAS

ORDINANCE NO. 3245-22

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS AMENDING CHAPTER 10, ANIMALS, OF THE CITY OF BALCH SPRINGS CODE OF ORDINANCES; PROVIDING CLARIFYING LANGUAGE; AMENDING CAT LEASH LAWS; REMOVING THE DUTY TO REPORT STRAY OR FERAL ANIMALS; CLARIFYING THAT TRAP AND RELEASE OF FERAL ANIMALS FOR THE PURPOSE OF SPAYING OR NEUTERING THE ANIMAL IS PERMITTED; ALLOWING PETS TO BE MICROCHIPPED IN LIEU OF A CITY LICENSE; PROVIDING FOR REPEALER, SEVERABILITY, EFFECTIVE DATE, AND OPEN MEETING CLAUSES.

WHEREAS, the City of Balch Springs (the “City”) is a home-rule municipality with the power to “make and enforce all police, health, sanitary, and other regulations for the welfare of the public” pursuant to Section 2.01 of the City Charter, and, according to such authority, has adopted a comprehensive animal control ordinance codified in Chapter 10 of the City of Balch Springs Code of Ordinances (the “Code”); and

WHEREAS, the City Council of the City (the “City Council”) finds that the reduction of the feral cat population in the City is in the public interest and, to that end, wishes to clarify that the trapping and subsequent sterilization of cats is permitted, as a spay and neuter program would contribute to the reduction of the feral cat population of the City; and

WHEREAS, Sec. 10.143 of the Code currently mandates a duty to report stray or feral animals and the City Council feels that this imposes an undue burden upon both the citizens and City, but that injured animals should be reported to the City; and

WHEREAS, Sec. 10.146 of the Code currently requires that cats be restrained by leashes and the City Council feels that exceptions should be permitted under certain conditions; and

WHEREAS, the City Council feels that microchipping can provide a cost effective alternative to current registration requirements for pets; and

WHEREAS, Division 2 of Chapter 10 of the Code requires dogs and cats to be vaccinated against rabies at three (3) months, but this is inconsistent with Rule 169.29 of Title 25 of the Texas Administrative Code, which requires vaccinations at four (4) months, and the City Council wishes to correct the inconsistency;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:

SECTION 1. FINDINGS OF FACT

The foregoing recitals are found to be true and accurate legislative findings and are incorporated herein for all purposes.

SECTION 2. DEFINITIONS

Section 10-2 of the City of Balch Springs Code of Ordinances, currently titled "Definitions" is amended to add the following definitions:

"Spay and Neuter Clinic" means an animal clinic staffed by a licensed veterinarian which provides as a service the reproductive sterilization of animals.

"Microchip" or "Microchip implant" means a passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners.

"Trap and Release" or "Trap, Neuter, and Return" or "TNR" means a program for humanely trapping feral animals, sterilizing the animal in a licensed Spay and Neuter Clinic, and releasing the animal at the place of capture.

"Ear Tipping" means straight-line cutting of the tip of the ear of a cat while the cat is anesthetized for the purpose of identifying cats in a colony.

"Feral Cat Colony" means a group of feral cats that congregate. Members of a feral cat colony can include cats that have strayed after living with human caretakers as well as their offspring, which have had little human contact or none at all.

SECTION 3. LICENSE/RABIES VACCINATION FOR CATS

Section 10.51 of DIVISION 2 of Chapter 10 of the City of Balch Springs Code of Ordinances, currently titled "Cats", is hereby amended and shall hereafter read as follows:

Sec. 10-51. - Cats.

(a) It shall be unlawful to own, harbor, keep, or maintain a cat over the age of four months in the city unless such cat is licensed and vaccinated for rabies. Cats must be vaccinated at or before the age of four months, re-vaccinated at twelve months, and periodically thereafter as required by the Texas Administrative Code. Cat licenses shall be issued by the city upon payment of current license/registration fee of each cat. Before such license will be issued, the owner of the animal must present a certificate from a duly licensed veterinarian showing the name and address of the owner, description of the cat, the date of vaccination, the number of the rabies vaccination tag, and a metal tag which the veterinarian shall have furnished to the owner of such animal, on one side of which are stamped the words "Rabies Vaccine Administered," or similar language, and the date of the vaccination. Such tag shall at all times be securely attached to a collar around the neck of the vaccinated animal. The owner of the animal shall state, at the time application is made for such license, upon forms furnished for such purposes, his name and address and the breed, color, and sex of the animal to be registered. Such license shall be valid for one calendar year.

(b) Upon the payment of the license fee, the city shall issue to the cat owner a license and metal tag for each cat so licensed. Every cat owner shall be required to provide each cat

with a collar on which the license tag shall be constantly worn. If a license tag is lost or destroyed, a duplicate will be issued by the city upon presentation of a receipt showing payment for the current calendar year and the payment of a fee as provided for in the fee schedule on file in the city secretary's office for each duplicate license tag. Tags shall be nontransferable, and a refund shall not be made for any license fee because of the death of the cat or if the owner leaves the city before the expiration of the license period.

(c) In lieu of the license required by this section, a cat owner may have the cat implanted with a Microchip, as long as the cat is vaccinated against rabies as required by this section.

SECTION 4. LICENSE/RABIES VACCINATION FOR DOGS

Section 10.52 of DIVISION 2 of Chapter 10 of the City of Balch Springs Code of Ordinances, currently titled "Dogs", is hereby amended and shall hereafter read as follows:

Sec. 10-52. - Dogs.

(a) It shall be unlawful to own, harbor, keep or maintain a dog over the age of four months in the city, unless such dog is licensed and vaccinated for rabies. Dogs must be vaccinated at or before the age of four months, re-vaccinated at twelve months, and periodically thereafter as required by the Texas Administrative Code. Dog licenses shall be issued by the city upon payment of the current license/registration fee per dog. Before a dog license will be issued, the owner of the dog must present a certificate for a legally licensed veterinarian showing the name and address of the owner, description of the dog, date of vaccination, the number of the rabies vaccination tag, and the veterinarian shall have furnished the owner of such animal a metal tag, on one side of which are to be stamped the words "Rabies Vaccine Administered," or similar phrase, and the date of the vaccination. Such tag, at all times, shall be securely attached to a collar around the neck of the vaccinated animal. The owner shall state, at the time application is made for such license and upon forms furnished for such purpose, his name and address, and the name, breed, color, and sex, of the dog. Such license shall be good for one calendar year from the date of the license issued by the city.

(b) Upon the payment of the license fee, the city shall issue to the dog owner a license and metal tag for each dog so licensed. The tag shall have stamped thereon the year for which it was issued. Every dog owner shall be required to provide each dog with a collar on which the license tag shall be constantly worn. If a dog's license tag is lost or destroyed, a duplicate will be issued by the city upon presentation of a receipt showing payment of the license fee for the current calendar year and the payment of a fee as provided for in the fee schedule on file in the city secretary's office for each duplicate license tag. Dog tags shall not be transferable from one dog to another, and a refund shall not be made for any license fee because of the death of the dog or if the owner leaves the city before the expiration of the license period.

(c) In lieu of the license required by this section, a dog owner may have the dog implanted with a Microchip, as long as the dog is vaccinated against rabies as required by this section.

SECTION 5. LICENSE FEE EXCEPTIONS

Section 10-54 of the City of Balch Springs Code of Ordinances, currently titled “License Fee Exceptions” is hereby amended and shall hereafter read as follows:

Sec. 10-54. - License fee exceptions.

The provisions of this division requiring the licensing of dogs and cats within the city shall not apply to the following:

(1) Dogs or cats brought into the city exclusively for the purpose of entering such animals in any show or exhibition and which are actually entered in, and kept at, such show or exhibition.

(2) Dogs duly and properly trained to aid or assist blind persons when such dogs are actually being used for such purpose.

(3) Dogs or cats kept in qualified institutions, approved by the director of animal control, for teaching or research purposes.

(4) Governmental police dogs.

(5) Dogs or cats which have been microchipped and are currently vaccinated against rabies in accordance with Texas Administrative code.

SECTION 6. FERAL CATS

DIVISION 2 of Chapter 10 of the City of Balch Springs Code of Ordinances is amended to add Section 10.59 to read as follows:

Sec. 10-59. - Feral Cats

Nothing in Chapter 10 of the City of Balch Springs Code of Ordinances shall be read as prohibiting the humane trapping of a feral cat, spay or neutering the animal in a licensed Spay and Neuter Clinic, then releasing the animal at the location where it was trapped; provided that

(a) the animal is vaccinated against rabies; and

(b) the animal has its ear tipped to provide ready identification of spayed or neutered status.

SECTION 7. FERAL CAT COLONIES

DIVISION 2 of Chapter 10 of the City of Balch Springs Code of Ordinances is amended to add Section 10.60 to read as follows:

Sec. 10-60. - Feral Cat Colonies

(1) Feral Cat Colonies shall be permitted, and a caregiver shall be entitled to maintain a Feral Cat Colony so long as it is in accordance with the terms and conditions of this section.

(2) The caregiver shall be required to:

(a) Submit the Feral Cat Colony for registration with the Balch Springs Animal Control Department and pay required registration fees as set in the City Fee Schedule;

(b) Take steps that are reasonably likely to result in the vaccination of the colony population for rabies and making reasonable efforts to update the vaccinations on cats that can be recaptured;

(c) Take steps that are reasonably likely to result in the spaying/neutering, by a licensed Spay and Neuter Clinic, of trappable members of the colony population. In facilitating the spaying/neutering of cats, caregivers shall be presumed to have acted in good faith in concluding that cats routinely congregating within the colony are feral;

(d) Take steps that shall result in ear tipping the ear of a colony cat that has been spayed or neutered and vaccinated;

(e) Obtain the written approval of the owner of any property to which the caregiver requires access to provide colony care.

(3) Regardless of registration status, nothing in this section shall interfere with the ability of the City of Balch Springs to seize or remove any animal that is creating a nuisance as defined in Chapter 10 of the City of Balch Springs Code of Ordinances.

SECTION 8. DUTY TO REPORT

Section 10-143 of the City of Balch Springs Code of Ordinances, currently titled “Duty to report lost, stolen or stray animals” is hereby amended to read as follows:

Sec. 10-143. - Duty to report injured animals

It shall be the duty of every person to report to the director of animal control the presence and description of any unattended injured animals.

SECTION 9. CAT LEASH LAW

Section 10-146 of the City of Balch Springs Code of Ordinances, currently titled “Cats Running at Large Prohibited” is hereby amended to read as follows:

Sec. 10-146. - Cats running at large prohibited.

It shall be unlawful for the owner of any cat to permit such animal to run at large within the city limits unless such animal has been spayed or neutered and either:

- (a) wearing a valid license and rabies tag; or
- (b) been implanted with a microchip and been vaccinated against rabies.

SECTION 10. REPEALER

All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 11. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 12. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

SECTION 13. OPEN MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 11th day of April, 2022.

APPROVED:

Carrie F. Gordon, PhD, Mayor

ATTEST:

Cindy Gross, City Secretary