

ORDINANCE NO. 3815

AN ORDINANCE AMENDING THE BROKEN ARROW CODE OF ORDINANCES CHAPTER 5, ANIMALS, ARTICLE I IN GENERAL, SECTION 5-1 DEFINITIONS; SPECIFICALLY CLARIFYING THE DEFINITION OF ADEQUATE SHELTER AND NUISANCE ANIMAL; SECTION 5-6, DELETING THE DOG/CAT LICENSE FEE, REGISTRATION AND TAG GENERALLY; SECTION 5-10 STAKING, CONFINING OR PASTURING OR TETHERING AN ANIMAL, MAKING IT UNLAWFUL TO KEEP ANIMAL ON TETHER WITH CERTAIN RECOGNIZED EXCEPTIONS; SECTION 5-14.1 MANAGEMENT OF DOGS, CATS, OR FERRETS THAT BITE A PERSON, SPECIFICALLY MAKING IT UNLAWFUL TO REFUSE TO CONFINE A DOG, CAT OR FERRET THAT HAS BITTEN A PERSON OR OTHER ANIMAL; SECTION 5-17, CRUELTY TO ANIMALS GENERALLY, ADDING ADDITIONAL BEHAVIOR THAT CONSTITUTES AN ANIMAL CRUELTY OFFENSE, INCLUDING INTENTIONAL HARASSMENT, OVERWORKING OF AN ANIMAL AND ALLOWING ANY ANIMAL TO BE PROVIDED TO ANOTHER PERSON AS A PROMOTIONAL ITEM; SECTION 5-37 REDEMPTION OF IMPOUNDED ANIMAL, REMOVING REQUIREMENT TO PROVIDE A DOG/CAT LICENSE TO REDEEM AN IMPOUNDED ANIMAL; SECTION 5-38, DESTRUCTION OR SALE OF IMPOUNDED ANIMALS; ALLOWING FOR ADOPTION OF UNCLAIMED ANIMALS AFTER THREE DAYS; STERILIZATION OF ADOPTED DOG OR CAT, ADDING ADDITIONAL FACTORS THE CITY MAY IN REFUSING ADOPTION OF IMPOUNDED ANIMALS, INCLUDING WHEN THE APPLICANT HAS A RECORD OF CRUELTY TO ANIMALS, IS UNDER EIGHTEEN; HAS COMMITTED ACTS OF HARASSMENT TO ANIMALS; OWNS OTHER ANIMALS IN VIOLATION OF CHAPTER 5; REFUSES TO COMPLY WITH ADOPTION REQUIREMENTS; HAS RELEASED TWO OR MORE ANIMALS TO THE BROKEN ARROW ANIMAL SHELTER IN THE LAST TWELVE MONTHS; LACKS ADEQUATE HOUSING FOR THE ADOPTED ANIMAL; HAS A CONVICTION IN MUNICIPAL COURT FOR VIOLATION OF CHAPTER 5; SECTION 5-40 SALE OF ANIMAL, MAKING IT UNLAWFUL TO OFFER OR ACCEPT ANY ANIMAL FOR SALE ON ANY PROPERTY NOT OWNED OR RENTED BY THE SELLER OR BUYER WITH CERTAIN EXCEPTIONS; REPEALING ALL ORDINANCES TO THE CONTRARY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION 1. That Chapter 5, Animals, Article I in General , is hereby amended to read as follows:

Sec. 5-1. Definitions.

The following words and phrases, when used in this chapter, shall have the meanings prescribed in this section, except in those cases where the context clearly indicates a different meaning:

Adequate Shelter means a structure which ensures the animal will be dry and protected from the elements. The shelter must have three (3) fully-enclosed sides, a waterproof roof, solid floor, and adequate bedding material. The shelter must have an entrance large enough to allow the animal to enter and exit while protecting the animal from wind and rain. The shelter must be of a

size that will retain the animal's body heat yet large enough to allow the animal to stand and turn comfortably. The enclosure must be structurally sound and in good repair.

Animal means any horse, mule, donkey, pony, cow, sheep, goat, hog, pig, dog, cat, rabbit, chicken, goose, duck, turkey, or other animal or fowl. *At heel* means within a radius of ten feet of the owner and obedient to the owner's commands.

At large means that an animal is:

- (1) Off the premises of its owner while not securely and physically restrained by means of a chain, harness, leash, rope or other device required to restrain such animal.
- (2) On the premises of the owner, but not confined or at heel.

Nuisance animal means any animal which:

- (1) Damages the property of anyone other than its owner;
- (2) Habitually prowls around, on, or over any premises not the property of its owner to the frequent annoyance of the occupant of those premises;
- (3) Scatters garbage or other waste;
- (4) Chases any domestic animals;
- (5) Habitually or repeatedly chases, snaps at, or barks at pedestrians, joggers, bicycles, or vehicles;
- (6) Through the creation of offensive odor, lack of sanitation or the creation of excessive and repeated noise, becomes a significant disturbance to the peace and welfare of the inhabitants of the community; or,
- (7) Disturbs the rights of, threatens the safety of, or injures a member of the general public.

Owner means any person:

- (1) Possessing legal title to any animal, or
- (2) Possessing no legal title, who keeps or harbors the animal for more than ten days.

Dangerous animal means any animal that:

- (1) Has bitten, attempted to bite, or attacked any person without provocation; or
- (2) Is disposed to attack persons or other animals it may meet.
- (3) Provided that the definition shall not include dogs owned by any unit of government, which are trained and used as a part of a law enforcement team, based on any conduct associated with their training, practice, or law enforcement activities.

Sec. 5-1.1. Reserved.

Sec. 5-2. Powers and duties of the police department.

- (a) The police department shall be responsible for the enforcement of all ordinance provisions relating to animals. The officers or other designated department employees are authorized to

pick up animals in violation of the provisions of this chapter, impound them in the shelter, and/or cite the owners.

- (b) The police chief or a designated representative shall impound all animals lawfully brought to the shelter and shall provide suitable and necessary sustenance for them, treating them in a humane manner.
- (c) The police chief or a designated representative shall release no impounded animal to its owner until all impoundment fees, room and board charges are paid in full.

Sec. 5-3. Keeping of swine prohibited; exceptions.

No swine shall be kept within the city except:

- (1) Temporarily in a stockyard awaiting transportation; or
- (2) Except on an unplatted agriculturally-zoned tract which is fully conforming with all requirements for agricultural zoning; or
- (3) As a part of the normal business operation of a licensed veterinarian or an animal hospital.

Provided that this section shall not prevent the keeping of miniature pigs in conformity with section 5-4 of this Code.

Sec. 5-4. Keeping of miniature pigs as pets.

- (a) *Miniature pig* is hereby defined as a pig which, at maturity, is less than 22 inches high at the shoulder, less than 32 inches long, weighing less than 125 pounds, and which is registered with the North American Pot-Bellied Pig Association.
- (b) A miniature pig may be kept as normal merchandise in commercially-zoned property, or may be kept as a household pet in single-family residential or duplex property under the following conditions:
 - (1) Each such miniature pig shall be a pet which is kept for personal enjoyment, and not raised for human consumption.
 - (2) There shall not be more than two miniature pigs in excess of six months of age at each residence.
 - (3) The miniature pigs must be kept by their owners in a manner which does not violate other ordinances of the city nor create a nuisance to the neighborhood.
 - (4) Miniature pigs must be kept confined within the building in which they are housed or within any associated fenced yards, or held by a harness and leash under the control of the owner or the owner's representative.

Sec. 5-5. Rabies vaccination of dogs and cats.

- (a) It shall be unlawful and a class C offense for any person to keep, harbor or maintain any dog or cat over six months old within the city limits without having that animal vaccinated annually against rabies. Provided that, the owner of a dog or cat may have the dog or cat vaccinated against rabies by a veterinarian on a tri-annual basis, so long as the veterinarian

certifies that the vaccination was performed with a three-year vaccine and that the owner maintains the vaccination in a current status.

Secs. 5-6, 5-7, 5-8. Reserved.

Sec. 5-9. Permitting animals to run or be at large.

- (a) It shall be unlawful and a class C offense for any owner to fail to prevent any animal owned, harbored or kept by him from being at large within the city.
- (b) It shall be unlawful and a class C offense for any owner with an animal at heel to fail to prevent that animal from becoming at large.
- (c) It shall be unlawful and a class C offense for any person to abandon or desert any domestic animal or to permit any such animal to become a stray.
- (d) It shall be unlawful and a class C offense for any person to open any enclosure in which an animal is confined so as to turn such animal at large, or in any other manner to release such animal to roam at large.
- (e) It shall be unlawful and a class B offense for any person to fail or refuse the request of a police department representative to honor a warrant from the court to deliver any animal which:
 - (1) Has been declared a nuisance by a court of competent jurisdiction, or by the city council pursuant to normal processes; or
 - (2) Is suspected of having or being exposed to rabies; or
 - (3) Is a dangerous animal.

Sec. 5-10. Staking, confining, pasturing or tethering an animal.

- (a) It shall be unlawful and a class B offense for any person to stake, confine or pasture any animal on any public school ground or other public property, or on any railroad right-of-way or any property without the consent of the person owning or controlling such property.
- (b) It shall be unlawful and a class C offense for any person to stake or confine an animal in the front yard of any platted lot, unless said animal is confined by a fence of sufficient height and strength as to prevent the animal's escape. This subsection expressly shall not prohibit the pasturing of herbivorous livestock on agriculturally zoned property, or on unplatted and undeveloped property, regardless of zoning
 - (1) If the owner of the property has given consent, and
 - (2) If confined by a fence typically used for livestock.
- (c) It shall be unlawful for the owner of any dog to keep or maintain the animal on a tie-out, tether, picket, or similar device consisting of a rope, cable, or other type of tether for any duration unless supervised by its owner or other adult responsible for the animal at the time. Exemptions may be given, so long as the animal has access to water, shelter, and is not subject to entanglement that could cause the animal any injury or clear discomfort.

Sec. 5-11. Restriction on location of stables, kennels, coops, etc.

- (a) It shall be unlawful and a class B offense for any person to maintain any stable, dog kennel, chicken coop, dovecote, rabbit warren, yard or other establishment wherein animals are kept closer than 40 feet from any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept.
- (b) No person shall keep, harbor or possess five or more domestic animals on their property. Property zoned agricultural (A-1) is excepted from this subsection. Property which is unplatted and zoned residential is exempted from the section only as to agricultural uses not intended for commercial purposes (pecuniary gain); and this exemption shall not apply to any form of hog or pig farming. The term "domestic animal" as used in this section does not include goats, cows, horses, sheep, or other similar farm animals including miniature versions of any of these farm animals.
- (c) It shall be unlawful and a class B offense for any person to harbor, keep or possess domestic honeybees unless the bees are located as follows:
 - (1) No person shall keep or maintain more than one bee hive per 2,500 square feet of lot area. "Hive" shall mean an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.
 - (2) No person shall locate colonies of bees closer than 20 feet from any property line; and
 - (3) In each instance in which any hive is situated 20 feet from a public or private property line of the tract upon which the hive is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the apiary.
 - (4) Each beekeeper shall locate all hives to ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.
 - (5) Regardless of tract size, where property is zoned agricultural and all hives are situated at least 200 feet in any direction from all property lines of the tract on which the hive is situated, there shall be no limit to the number of hives.
- (d) Hobbyist exemption permit.
 - (1) *[Maintenance of a register of qualified hobbyist exemption permit holders.]* The city shall maintain a register of qualified hobbyist exemption permit holders. Application shall be submitted in writing to the city and the city manager or his designee will notify the applicant of the acceptance or denial. If the exemption permit is denied, the applicant shall be notified of the reason for the denial. A fee of as set forth in the

Manual of Fees adopted by the Broken Arrow City Council will be charged for the initial and subsequent renewal of permits. A holder of a hobbyist exemption permit will be permitted to own and keep, at a single-family dwelling, a total of 20 dogs and cats that would otherwise constitute an offense under subsection 5-11(b) of this chapter, provided, however, that a permit holder other than an owner of hunting dogs shall not allow outside the residence at any one time more than the number of cats and dogs permitted by subsection 5-11(b); provided, however, that an individual who is operating an animal rescue facility must comply with the licensing and vaccination requirements as to those dogs and cats owned by the rescuer on a permanent basis and as to all animals kept on a less than permanent basis within 60 days of possession. Any activity involving the fighting or comparable physical contact between animals or any activity otherwise illegal or dangerous to animals shall not be considered an organized sport or hobby for purposes of this section.

- (2) *Permit qualification.* Any individual or organization not a commercial breeder, that:
- a. Is actively involved in any nationally recognized, organized animal sport or hobby for a period of at least one year prior to making application for a hobbyist exemption; or
 - b. Participates in field trials, owns nationally recognized breeds used specifically as hunting dogs, participates in hunting activities, and has held and continues to hold a current, valid State of Oklahoma hunting license for a period of at least one year prior to making application for a hobbyist exemption; or
 - c. Qualifies as a rescuer according to the provisions of this chapter; and
 - d. Has not been convicted in the past ten years of any offense related to: illegal commercial breeding, broker, dog fighting, a nuisance offense under this chapter, a cruelty offense under this chapter, a neglect offense under this chapter, a violation of the Oklahoma Wildlife Conservation Code or regulations, or two or more violations of this chapter shall qualify for a hobbyist exemption permit.
- (3) *Application documents.* An applicant for a hobbyist exemption permit shall submit to the city one of the following:
- a. Certificates of completion of at least two training classes, dated within the 12 months immediately preceding the date of application; or
 - b. A show catalog including the applicant's name as an exhibitor, and not less than two superintendents' confirmation receipts, dated within the 12 months immediately preceding the date of application; or
 - c. A certificate of title(s) from a national registry for a dog or cat owned by the applicant; or
 - d. For a rescuer organization, proof that the organization is a nonprofit animal welfare organization incorporated as such in Oklahoma. The organization shall submit a list of individual households that are authorized to serve as rescuers under the organization's permit; or
 - e. For an owner of hunting dogs, proof that the owner holds or is exempt from holding a current and valid State of Oklahoma hunting license.

- (4) *Renewal.* A permit holder must reapply for the exemption permit every year. To make application, the permit holder must furnish to the city one or more of the items listed in subsection 5-11(d)(3) that are dated within the previous year.
- (5) *Records.* If applicable, the permit holder shall keep accurate records in accordance with the requirements of his associated national registry on each dog or cat owned, and on each dog or cat where ownership has been transferred. These records shall be open to the registry with which the hobbyist is affiliated.
- (6) *Requirements of a rescuer.* A rescuer may harbor dogs and cats in accordance with this section; provided, however, that such cats and dogs are harbored for no longer than 90 days each while the rescuer attempts to locate the animal's home or a new home. If a rescuer must harbor an animal for longer than 90 days due to its medical condition, the rescuer shall so notify the director of finance.
- (7) *Revocation.* A permit holder shall have his hobbyist exemption permit or the right to serve as a rescuer under an organization's permit revoked if he has been convicted of an offense of: Illegal commercial breeding; brokering dog fighting; a nuisance under this chapter; cruelty under this chapter; negligence under this chapter; violation of the Oklahoma Wildlife Conservation Code or regulations; or two or more violations of this chapter prohibiting at-large.
- (8) *Inspections.*
 - a. An animal control officer will conduct an inspection of the housing facilities utilized by adoption or rescue organizations prior to approval for rescue status with the Broken Arrow Animal Shelter. The animal control officer will primarily determine the number of animals being kept at the facility, the overall physical condition of the animals housed there, and the cleanliness of the facility. Animal control officers further have the authority to conduct random inspections of the animal housing facilities for the purpose of verifying compliance with City of Broken Arrow ordinances.
 - b. If an adoption or rescue organization is found to be outside the parameters of the ordinances, the inspecting officer will have the authority to remove animals from the facility or give the organization 72 hours to remedy the violation. Intermediate care and housing during the 72 hours may be provided by a veterinarian or at the Broken Arrow Animal Shelter all at the organization's expense. If the adoption or rescue organization comes into compliance within seven calendar days and all charges for animal care are paid in full, the animals shall be returned to the organization. If the adoption or rescue organization does not remedy the situation within seven calendar days, the city prosecutor may petition the municipal judge for a decision as to whether the animals shall be released back to the adoption or rescue organization. Those persons or organizations who plead guilty or are found guilty of a violation of this section shall be prohibited from applying for a hobbyist permit for a period of five years.

Sec. 5-12. General maintenance requirements for places where animals are kept.

Every stable, structure, pen, coop or other place wherein an animal is kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of rodents and vermin and free from objectionable odors. Violation of this section shall be a class B offense.

Sec. 5-13. Construction and maintenance requirements for stables or buildings used for keeping livestock or animals raised for fur-bearing purposes.

- (a) Every stable or building wherein any horse, mule, donkey, pony, cow, goat, sheep or animal raised for fur-bearing purposes is kept within the city shall be constructed of such material and in such manner that it can be kept clean and sanitary at all times.
- (b) Every stable or building referred to in subsection (a), if located within 200 feet of any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept, shall be provided with a watertight and flytight receptacle for manure, of such size as to hold all accumulations of manure. Such receptacle shall be emptied sufficiently often and in such manner as to prevent it from being or becoming a nuisance, and shall be kept covered at all times except when open during the deposit or removal of manure or refuse. No manure shall be allowed to accumulate on such premises except in such receptacle.

Sec. 5-14. Disposition of manure.

Manure shall be hauled outside the city in a manner which does not jeopardize the public health, or shall be spread evenly upon the ground and turned under at once or as soon as the weather permits.

Sec. 5-14.1. Management of dogs, cats, or ferrets that bite a person.

- (a) Any person or entity owning, harboring, or keeping a dog, cat or ferret which has bitten any person, shall upon receipt of written notice by the local animal control authority or police department designee, place such animal in quarantine under the supervision of a licensed veterinarian for a period of ten days from the date the person was bitten. The impoundment and observation of the dog, cat, or ferret shall be conducted at the veterinarian's facility, or a recognized animal control facility. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten-day observation period prior to discharge from the veterinarian's supervision.
- (b) It shall be unlawful to refuse to confine a dog, cat, or ferret that has bitten a person or other animal. Each day that a violation or failure to comply exists shall constitute a separate offense.
- (c) Exceptions to this section include the following circumstances:
 - (1) Dogs, cats or ferrets involved in a first party ownership may be allowed to be placed in a home quarantine for a ten-day period immediately following the bite.

- (2) Dogs, cats and ferrets that are proven to be vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a ten-day period from the bite. A certification of animal health obtained after examination by a licensed veterinarian at the end of ten days may be required by the police department.
- (3) Animals in service to the blind or hearing-impaired, search and rescue dogs, or animals used by police for law enforcement duties shall be exempt from the quarantine when a bite exposure occurs and proper record of immunization against rabies is presented. A certification of animal health obtained after examination by a licensed veterinarian at the end of ten days may be required by the police department.
- (4) Stray or unwanted dogs, cats or ferrets that have bitten any person may either be: (a) quarantined for ten days at a veterinary facility or a recognized animal control facility; upon successful completion of the ten-day period, a stray animal may be placed for adoption at the discretion of the police department; or (b) immediately euthanized and the brain tissue submitted to the state department of health laboratory for rabies testing.
- (5) In rare instances, other good and valid health reasons of the owner or animal may be considered for justification to home quarantine (e.g., a bitch with a litter of very young puppies, an animal with a contagious disease, etc.). Approval for home quarantine will be determined by the police chief or designee.

Sec. 5-15. Right to kill dog in defense of self or another.

Any person may kill a dog in self-defense or in defense of another when the dog, without undue provocation, bites him or the other or attacks or attempts to bite or attack him or the other in such manner that an ordinarily prudent person would be led to believe that the person toward whom the efforts of the dog are directed is about to be bitten or otherwise physically harmed.

Sec. 5-16. Right to kill rabid dog.

Any person may kill a dog the appearance or conduct of which is such as would cause an ordinarily prudent person to believe the dog to be afflicted with rabies.

Sec. 5-17. Cruelty to animals generally.

- (a) All animals kept within the city limits shall be housed, watered, fed, and protected from the weather in such a manner as not to endanger any animal's life or well-being.
- (b) It shall be unlawful and a class A offense for any person to willfully or maliciously:
 - (1) Torture, cruelly beat, injure, maim, mutilate or unjustly destroy or kill any animal belonging to himself or another; or
 - (2) Deprive any animal in subjugation or captivity of food generally accepted as being nutritious, potable drinking water, or adequate shelter; or
 - (3) Unjustly administer any poison or noxious drug or substance to any animal, or knowingly expose poisons so the same may be taken by such animal; or
 - (4) Instigate or encourage a fight between animals; or

- (5) Intentionally torment, harass, throw objects at, or physically confront any animal, whether confined or unconfined, in a manner to cause unjustified agitation or injury to the animal; or
- (6) Cause an animal to be overloaded or forced to work in a manner unsuitable to its species, breed, condition, or health so as to cause injury to the animal.
- (c) No animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to dangerous temperature or lack of food or water.
- (d) No person shall intentionally, knowingly or recklessly fail to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.
- (e) No person shall participate in, assist with, sell transport, or otherwise allow any animal to be provided to another person as a promotional item, prize to be given away at any event, festival carnival, or parade.
- (f) Any violation of this section shall be a class A offense.
- (g) Any animal control officer finding an animal maltreated or abused shall remove the animal or give the owner or person causing maltreatment 72 hours to remedy the violation. If, in the opinion of the animal control officer, the life or welfare of the animal is in immediate danger, he may take charge of the animal and place the animal in the care of a veterinarian at the owner's expense or place such animal in the Broken Arrow Animal Shelter. The animal shall be maintained there until such time as the problem can be rectified and all fines, court costs and charges for animal care are paid in full. The decision as to whether the animal shall be released back to the person causing maltreatment shall be made by the presiding municipal judge.

Sec. 5-18. Bringing dog to assembly of over one thousand people.

It shall be unlawful and a class C offense for any person to bring a dog to an assembly of over 1,000 people, such as Rooster Days, whether or not such animal is at large or under control; provided this shall not apply to police dogs used in law enforcement, or as an aide to a person with a hearing or slight disability.

Sec. 5-19. Reserved.

Sec. 5-20. Confinement of dangerous animals.

- (a) It shall be unlawful and a class A offense for any owner to fail to prevent any fierce, dangerous or vicious animal owned, harbored or kept by him from being at large within the city.
- (b) It shall be unlawful and a class A offense for any owner to fail to prevent any fierce, dangerous or vicious animal owned, harbored or kept by him from biting or injuring any persons or persons animal.

- (c) It shall be unlawful and a class A offense for any person to take such fierce, dangerous or vicious dog off the premises unless the dog is securely muzzled and controlled by a substantial chain or leash and under the restraint of a responsible person over 16 years of age. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal.
- (d) Any owner of a dangerous animal shall confine it in a proper enclosure and post on the premises a clearly visible warning sign that there is a dangerous animal on the property. Further, the owner of a dangerous animal must maintain a policy of liability insurance, such as homeowner's insurance or surety bond, in the amount of not less than \$50,000.00 for personal injuries inflicted by the animal. Violation of this subsection shall be a class A offense.
- (e) This section shall not apply to trained dogs actually used by law enforcement officers in the performance of their duties.
- (f) Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

Sec. 5-21. Venomous reptiles, wild or exotic animals prohibited; exceptions.

- (a) It shall be unlawful for any person, firm or corporation to keep, maintain, possess or have under their control within the city any venomous reptile or any other wild or exotic animal.
- (b) A wild or exotic animal shall be defined as one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or significant destruction of property. Such animals are further defined as being those mammals or those nonvenomous reptiles which are known at law as "ferae naturae." Wild or exotic animals specifically do not include animals of a species customarily used in Oklahoma as ordinary household pets, animals of a species customarily used in Oklahoma as domestic farm animals, fish confined in an aquarium, birds, nor insects.
- (c) The provisions of this section shall not apply to the following:
 - (1) Lawfully operated and located pet shops, federally approved and lawfully operated zoos, traveling temporary circuses, and veterinarians harboring such animals for purposes of providing professional medical treatment. Provided that, all animals kept pursuant to this subsection shall be confined in quarters so constructed and maintained as to prevent escape.
 - (2) Wild or exotic animals granted an exotic animal permit on an annual basis by the city council pursuant to the favorable recommendation of the exotic animal review committee to be appointed by the council and comprised of the animal control supervisor, a ranking member of the police department and five individuals with expertise in the field of wild and exotic animals. Provided that, at least ten days prior to the meeting where the council will consider issuance of an exotic animal permit,

written notice shall be mailed to all property owners located within a 300-foot radius of the applicant's residence or business advising them of consideration of the permit.

- (d) Prior to issuance of an exotic animal permit, the owner of the wild or exotic animal shall complete an application on a form approved by the city manager and in addition provide the following:
- (1) Verification of a policy of liability insurance in an amount of not less than \$50,000.00 for personal injuries inflicted by the animal.
 - (2) Certification by an animal control officer that the animal is confined in a proper enclosure. A proper enclosure shall mean fully enclosed quarters adequate to prevent escape or burrowing, and constructed in such a manner so that the physical safety or property of any person lawfully entering the premises shall not be endangered. Further, all enclosures shall meet the regulations promulgated by the Oklahoma Wildlife Commission and the United States Department of Agriculture.
 - (3) Certification by a qualified veterinarian that the wild or exotic animal is being kept in conditions which are adequate to specific biological requirements necessary for the animal's health and well being, and in a habitat which is not cruel or abusive to the animal.
 - (4) Certification by a qualified veterinarian that the animal is not a risk to the public or persons to be in close contact with the animal.
 - (5) Certification by a qualified veterinarian that the animal is current on all required vaccinations and shots and that the animal does not currently have or will not have the propensity to contract any diseases or illness that could contaminate other animals or humans.
 - (6) Verification of compliance with all federal and state requirements, including, but not limited to, a valid USDA license if the animal is removed from the premises for any reason other than for obtaining veterinary care.
 - (7) Verification that the owner has not plead nolo contendere (no contest) or been found to have violated any federal, state or local laws or regulations pertaining to the transportation, neglect or welfare of animals.
 - (8) Presentation of a certified radius report from an abstract company or title company identifying all property owners within a 300-foot radius of the applicant's residence or business.
 - (9) Payment of an annual fee in an amount as set forth in the Manual of Fees as adopted by the Broken Arrow City Council.
 - (10) Verification of compliance with all other requirements set forth by the exotic animal review committee.
- (e) Unless otherwise provided by the requirements of the exotic animal permit, all wild or exotic animals shall be prohibited from presence on any public street, sidewalk or other public property or public way, except in a fully enclosed cage or adequate structural restraint. The use of a leash, with or without a muzzle, shall not be considered an adequate restraint.

- (f) Any person, firm or corporation having the care or custody of any such animal in violation of this section shall be guilty of a class A offense. A separate and distinct offense shall be deemed committed on each day during which a violation occurs or continues. Further, any violation of the terms of the permit shall result in revocation of the permit at the discretion of the animal control supervisor with a right of appeal to the city council as well as the removal of the animal.
- (g) The provisions of this section are severable, and if any paragraph or part should be found to be invalid, such invalidity shall not affect the remaining provisions, which shall continue in full force and effect.

Sec. 5-22. Keeping of animals other than dogs and cats.

- (a) It shall be unlawful and a class B offense for any person to allow or permit any poultry, including but not limited to, chickens, roosters, turkeys, pigeons, ducks or geese within 150 feet of any grocery store, supermarket, food service establishment, or school except in a duly established agricultural district. Racing pigeon lofts kept in good condition and registered with the American Racing Pigeon Union are excepted from this section. It is also unlawful to maintain roosters within 150 feet of any dwelling or house trailer.
- (b) It shall be unlawful and a class B offense for any person to keep, maintain, or permit any cow, goat, sheep, or horse, including miniature or dwarf varieties, upon any parcel of land unless the land is zoned agricultural. Persons exempted from this provision are those residing in single-family residential areas with parcels having a minimum of one acre of grazing land. However, there must be at least one acre per animal maintained in those single-family residential areas.

Sec. 5-23. Reserved.

Secs. 5-24—5-30. Reserved.

SECTION 2. That Chapter 5, Animals, Article II Impoundment, is hereby amended to read as follows:

Sec. 5-31. Establishment and supervision of pound.

A city pound is hereby established under the jurisdiction of the police department. It shall be under the immediate control of the animal control officer or of such other person as may be officially designated.

Sec. 5-32. Interfering with pound or impounding officer.

It shall be unlawful and a class B offense for any person to break open or attempt to break open, the pound or any animal control vehicle, or take or let out any animal therefrom, or take or attempt to take from any officer or employee of the city any animal taken into custody as provided by this article.

Sec. 5-33. Duty and authority to impound; killing of animals that are nuisances or uncontrollable in lieu of impoundment.

- (a) It shall be unlawful and a class B offense for any person to own, keep or harbor any animal that is a nuisance.
- (b) If an animal is found by the municipal court judge, upon notice and hearing, to be uncontrollable by its owner to the extent that such animal poses a threat to the health, safety and welfare of the public, then such animal shall be ordered removed from the city limits or destroyed, at the owner's option within ten days of the order. Such a finding by the municipal court judge may be based upon, but not limited to, evidence of three convictions, pleas of guilty or nolo contendere to violations of subsection 5-33(a) or section 5-9 of this chapter against or by the current owners within a 12-month period concerning the same animal, or two convictions, pleas of guilty or nolo contendere to violations of section 5-20 of this chapter against or by the current owners within a 12-month time period concerning the same animal.
- (c) Noncompliance with an order entered pursuant to subsection (b) of this section shall be a violation punishable upon conviction as a class A offense, for each day upon which a violation continues.

Secs. 5-34, 5-35. Reserved.

Sec. 5-36. Fees prescribed.

- (a) An impoundment service fee of \$20.00 shall be charged for each animal lawfully impounded by the animal control officer. Provided that any resident of Broken Arrow may bring an animal owned by them to the shelter without charge.
- (b) A special handling fee equal to incurred expenses shall also be charged per each animal which necessitates special equipment or services.
- (c) A room and board charge shall also be made at the following rates:
 - (1) Fifteen dollars per day for any horse, mule, donkey, pony, cow or similar large animal.
 - (2) Ten dollars per day for any dog, hog, sheep, goat, cat, or other similar small animal.
 - (3) Three dollars per day for any fowl or reptile.

Sec. 5-37. Redemption of impounded animal.

- (a) The owner of an impounded animal or the owner's agent may redeem the animal prior to its sale or destruction under section 5-38, by paying the fees prescribed by section 5-36 against the animal and meeting any other requirements which may be prescribed by this chapter. The fee shall be paid to the finance department and the receipt therefore shall be presented to the person in charge of the pound before the animal is released.
- (b) Any person redeeming a dog shall provide the finance department evidence that the dog received a current rabies shot

Sec. 5-38. Destruction or sale of impounded animals; sterilization of adopted dog or cat.

- (a) Except as hereinafter provided, any animal which is impounded by the city pursuant to the provisions of this chapter, if after three days, remains unclaimed, it will become the property of the City of Broken Arrow. At that time the animal will be made available for adoption or rescue. Unless an emergency is deemed to exist requiring the destruction or other disposition, no such destruction or other disposition shall be before five days after the time of impoundment. Any days that the shelter is closed to the public shall not be counted in the three-day or five-day period.
- (b) Any animal that is impounded by the city pursuant to the provisions of this chapter will not be disposed of through adoption if such animal is vicious, fierce or dangerous. Such animals are to be destroyed after three days from the time of its impoundment at the shelter.
- (c) An animal's impoundment period will be increased by 48 hours should that impounded animal display a tag, microchip, or markings indicating that:
 - (1) The owner of such animal is a city resident; or
 - (2) Such animal is properly vaccinated within 12 months immediately preceding its impoundment.
- (e) Adoption or sale may be refused to anyone the police chief or a designated representative determines meets one or more of the following:
 - (1) Has a record of cruelty to animals;
 - (2) Is under eighteen (18) years of age;
 - (3) Has committed acts of harassment to animals;
 - (4) Owns other animals which are in violation of any requirement of this Chapter;
 - (5) Refuses to comply with adoption requirements;
 - (6) Has released two (2) or more animals to the Broken Arrow Animal Shelter in the preceding twelve (12) months;
 - (7) Lacks adequate housing to keep the animal(s) from being at large in the community;
 - (8) Has a conviction in Municipal Court for any violation of this Chapter.
- (f) Under authority of the Dog and Cat Sterilization Act of Oklahoma, any dog or cat having no known owner may be released for adoption:
 - (1) If the animal is licensed; and
 - (2) If the said animal has been sterilized or an agreement to have the animal sterilized has been executed.

An adoption fee as set forth in the Manual of Fees will be charged for all animals. This fee shall include the cost of surgically spaying and neutering all dogs and cats onsite or off-site. If the city is unable to retain the services of a veterinarian to perform such services at a reasonable cost then the adoptee can provide proof of sterilization, signed by a licensed veterinarian, to the city and the adoption fee will be refunded. If an animal is already sterilized before it comes to the shelter, the adoption fee will be fully retained by the city. If a licensed veterinarian determines that an

animal cannot be sterilized at the time of adoption, the adopting party shall sign an agreement to have the animal sterilized within six months. When the animal reaches the age of six months, the animal shall be released to the veterinarian identified by the adopting party. In addition, the adoption of an animal under an agreement to have the animal sterilized under the terms of this article, and the failure to comply with the sterilization agreement may be prosecuted as a misrepresentation to a city official under Broken Arrow Code section 16-42 or future amendments thereto.

- (g) While there are various fees collectable by the city under the provisions of this Code, it is the expressed intention of the council to only recover those fees. Under no circumstances shall the City of Broken Arrow become involved in the sale of impound animals. Any employee found to be involved in the commercial sale of animals from the shelter shall be subject to discipline, up to and including termination. Provided that if the City of Broken Arrow comes into possession of domestic livestock, such as cattle, horses, swine, sheep, goats and domestic fowl of the type commonly raised for commercial sale and not as domestic house pets, such animals may be sold through normal commercial channels.

2260, § 1, 2-7-2000; Ord. No. 2298, § 1, 8-7-2000; Ord. No. 2299, § II, 8-7-2000; Ord. No. 2846, § I, 2-19-2007; Ord. No. 3165, § I, 6-20-2011; Ord. No. 3285, § V, 8-5-2014)

Sec. 5-39. Animal excrement.

Any person having custody or control of any animal shall remove the animal's excrement, immediately upon its deposit, from any public or private place within the city, other than the property owned or occupied by the person owning or having control of the animal. This section shall not apply to utility or assistance animals or to animals used by police officers for law enforcement or tracking purposes. Violation of this section is unlawful and declared a class C offense.

Sec. 5-40. Sale of animals.

It shall be unlawful for any person to offer or accept any animal for sale on any property not owned or rented by the seller or buyer, or on any public curbside, roadside, alleyway, street, park, or parking lot unless specifically permitted by the City. Animal Welfare Groups registered with and approved by the city are exempt from the provisions of this Section when conducting adoption events on property not owned by the group with authorization from the property owner.

Secs. 7-233—7-235. - Reserved.

SECTION III. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION IV. An emergency exists for the preservation of the public health, peace, and safety and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED and the emergency clause ruled upon separately this 6th day of February 2024.

ATTEST:

/s/ Debra Wimpee
MAYOR

/s/ Curtis Green
(Seal) CITY CLERK

APPROVED:

/s/ Trevor Dennis
CITY ATTORNEY