

ORDINANCE NO. 2342

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 10, "ANIMALS," OF THE CODE OF ORDINANCES, CITY OF BRYAN, TEXAS, REVISING ARTICLES I (IN GENERAL), II (DOGS AND CATS), III (DANGEROUS ANIMALS), AND IV (KENNELS AND OTHER ESTABLISHMENTS); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bryan has a number of animal related ordinances that originated nearly 100 years ago and which are badly out of date; and

WHEREAS, the Texas legislature has made a number of changes to regulations relating to dangerous dogs and animal cruelty which has also served to make some of the City's ordinances out of date; and

WHEREAS, the City's animal control officers have provided input on obstacles to enforcement of regulations and control of animals and have requested some clarifications and modifications of ordinances to enable them to be more effective at serving the citizens and animals of Bryan; and

WHEREAS, as the cities of Bryan and College Station continue to grow, it is beneficial to all to have continuity of regulations when practical and prudent in order to make it easier for the citizens to comply with both cities' ordinances; and

WHEREAS, pursuant to the authority granted under Texas Health and Safety Code Section 822.0422, the City is formally adopting an ordinance in accordance with that law; and

WHEREAS, the City Council has determined that it is in the best interests of the citizens of Bryan to ensure effective and efficient enforcement of animal related regulations, and therefore Chapter 10, Animals, of the City's Code of Ordinances should be amended as set forth below; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, THAT:

1.

Chapter 10 "Animals" of the City of Bryan Code of Ordinances is amended as follows:

ARTICLE I. - IN GENERAL

Sec. 10-1. - 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:

Abandonment shall mean to desert or to leave without care, food, shelter, or a continuous source of clean water for a period of 24 hours or more.

Animal shall mean any member of the group of living beings belonging to the subphylum vertebrate, specifically excluding human beings. Animals shall include any and all types, both domesticated and wild, male and female, warm and cold blooded.

Animal control authority shall mean the person or persons designated by the City Manager or applicable State law to enforce this Chapter, including a duly licensed peace officer.

Animal center shall mean a facility designated or recognized by the City for the purpose of impounding and caring for animals.

At large shall mean to be free of physical restraint beyond the boundaries of the premises of the owner.

Cat shall mean any member of the family *Felis domestica*.

Community cat shall mean a feral cat that has been 1) ear-tipped and/or microchipped, 2) vaccinated, and 3) sterilized through trap-neuter-return.

Community cat caregiver shall mean a person who participates in trap-neuter-return and/or provides care, including, food, shelter, and/or medical care to community cats. A community cat caregiver shall not be considered the owner, caretaker, custodian, harborer, or keeper of a community cat.

Community cat colony shall mean a group of community cats that congregate, more or less, together as a unit and may share a common food source.

Coyote hybrid shall mean an animal that is the offspring created by the mating of a coyote with a noncoyote animal, or is shown to be a coyote hybrid by the testimony of a licensed veterinarian or animal control officer, or is represented to be a coyote hybrid by a person who owns or exercises control or custody of said animal.

Dangerous dog shall mean a dog that:

- (1) Makes an unprovoked attack that causes bodily injury to a person, and occurs in a place other than an enclosure in which the dog was being kept; such enclosure being reasonably secure so as to prevent the dog from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept; such enclosure being reasonably secure so as to prevent the dog from leaving the enclosure on its own; and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog shall mean any member of the family *Canis familiaris* excluding wolf hybrids which contain any percentage of wolf.

Domestic animal shall mean a tame, gentle animal (including *Felis domestica* and *Canis familiaris*), caged birds, amphibians, fish, reptiles other than poisonous, venomous, or otherwise dangerous reptiles; small caged rodents, and *P. furus* (the common ferret).

Enclosure shall mean

- (1) a structure with lockable windows and doors;
- (2) a tether, as defined by this Chapter and in compliance with this Chapter; or
- (3) a fenced area that is reasonably certain to prevent the animal in question from escaping.

Ear-tipping means the removal of the 3/8 inch tip of a cat's ear, performed while the cat is under anesthesia, to identify cat as being a community cat that has been sterilized and lawfully vaccinated for rabies.

Feral cat shall mean a free-roaming domestic cat which is not owned and is not socialized to people.

Fowl shall mean domesticated animals belonging to the class of Aves including poultry, game birds, pigeons, or similar whether kept for pleasure or for profit.

Impound shall mean the act of placing an animal in the City's animal control facility.

License shall mean a tag on collar and/or implanted microchip for identification renewed with licensing authority annually.

Licensing authority shall mean the agency or department designated by the City Manager and charged with registering animals with the City and issuing licenses upon confirmation of rabies vaccination.

Livestock shall mean domestic animals generally used or raised on a farm for profit, work, or pleasure, including, but not limited to, cattle, sheep, swine, horses, donkeys, mules, domesticated game animals, and llamas. Livestock shall not include mini-pigs.

Mini-pig shall mean a pot-belly pig, regardless of breed, that weighs less than 200 pounds.

Neutered shall mean rendered permanently incapable of reproduction. For the purposes of this Section, the term neuter shall be synonymous with spay, or sterilize.

Owner shall mean any person who has a right of property to an animal, keeps or harbors an animal, has an animal in their care, acts as custodian of an animal, or who permits an animal to remain on or about his or her premises.

Person shall mean any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the State, or any municipal corporation or political subdivision of the State.

Residential purposes shall mean any property utilized as multifamily, four-plex, triplex, duplex or single-family dwelling.

Restraint shall mean that an animal shall be considered under restraint if it is within a secured enclosure, secured by a leash or lead, or under the physical control of a responsible person.

Secure enclosure shall mean a structure that has working locks on doors and windows or a fenced area that meets the following criteria:

1. lockable or otherwise capable of preventing the entry of the general public, including but not limited to children;
2. capable of preventing the release or escape of the dog being secured;
3. clearly marked as containing a dangerous dog by signs at all entrances; and
4. of sufficient height and depth to prevent the dog from climbing out or digging under.

Seize shall mean the act of taking physical possession of an animal.

Serious bodily injury, means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Tether means a chain, rope, leash, cable, or other device that is attached to a stationary object or cable run as a means of restraining an animal.

Trap-neuter-return means a nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, ear-tipped and/or microchipped, and then returned to the location where they were originally trapped or to another community cat colony when authorized under Section 10-54.

Unprovoked attack or acts shall mean an attack or act by a dog which took place even though the person that was attacked did not unreasonably do anything to cause or encourage the attack or act.

Wild animals shall mean all undomesticated animals including, but not limited to, lions, tigers, bears, wolves, wolf hybrids, coyote, coyote hybrids, apes, monkeys, foxes, baboons, skunks, raccoons, squirrels, birds of prey, migratory birds, other nondomestic birds, and all forms of poisonous, venomous, or otherwise dangerous reptiles.

Wolf hybrid shall mean a canid that is the offspring created by the mating of a wolf with a nonwolf animal, or is shown to be a wolf hybrid by the testimony of a licensed veterinarian or an animal control officer, or is represented to be a wolf hybrid by a person who owns or exercises control or custody over said animal.

Sec. 10-2. - Enforcement.

(a) It shall be the duty of the animal control authority to carry out all applicable provisions of this Chapter and to seize and impound all animals when authorized or required by this Chapter.

(b) Any offense of this Chapter will be considered a nonculpable offense, unless the article or section specifically sets out the necessary culpability for the offense. The penalty for a violation of this Chapter shall be as set forth in Section 1-14 of this Code.

(c) It shall be unlawful for persons to interfere with, hinder or molest any agent of the animal control authority in the performance of any duty as herein provided. It shall also be unlawful for any person to remove an animal from or inflict damage upon a humane live trap set by the animal control authority.

(d) It shall be unlawful for an animal's owner or community cat caregiver, as defined by this Chapter, to intentionally or knowingly deceive or mislead the animal control authority, by statement, action, or omission, in order to avoid a penalty, charge, or other consequence under this Chapter.

(e) *Banishment.* In any case where one or more animals have been the cause of a substantial number of bona fide nuisance complaints under this Chapter from multiple sources, the animal control authority may petition the municipal court to order the removal of the animal(s) from the City limits. A substantial number of nuisance complaints means three or more complaints within the past 12 months. Multiple sources means that there are two or more reporting parties that do not reside at the same address. A complaint is bona fide if made in good faith and is not unfounded, as determined by the animal control authority. If the court orders the animal removed, it must be microchipped (dogs and cats only), registered with the animal control authority, and removed to a permanent location that is greater than 5,000 feet outside the City limits. If an animal that was ordered removed is found within the boundary of 5,000 feet outside the City limits, the City may obtain a seizure warrant from the municipal court, which warrant shall order the humane disposition of such animal in accordance with this Chapter.

Sec. 10-3. - Seizure and impoundment.

(a) The animal control authority shall have the power to seize an animal with a warrant or court order if he or she has probable cause to believe one of the following conditions exist.

- (1) The animal is found at large and/or has been abandoned.
- (2) The animal is exhibiting symptoms of rabies, has been exposed to a rabid animal, or has bitten or scratched a human being.
- (3) The animal is a dog that has caused the death or serious bodily injury of a person or otherwise meets the definition of a dangerous dog as defined in this Chapter.
- (4) The animal is being treated cruelly in violation of this Chapter or State law.
- (5) The animal control authority is authorized to seize the animal based on, or pursuant to, this Chapter or other State law.

(b) The animal control authority shall have the power to seize an animal without a warrant or court order if he or she has probable cause to believe one of the conditions listed in (a)(1)—(5) exist and under the following conditions:

- (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 animal control authority is in pursuit of an animal that is at large, or
 - c. The animal control authority reasonably believes there is imminent danger of serious bodily injury or death to the public, other animals, or the animal in question and there is insufficient time to obtain a warrant.
- (3) Upon the request of a peace officer if the owner of the animal is not available and there is no one 18 years of age or older to accept responsibility for the animal.

(c) The animal control authority is authorized to use necessary force to make lawful seizures of animals pursuant to this Chapter.

(d) Any animal that has been seized pursuant to section (a)(2) must be impounded and quarantined, and disposition of the animal shall only be permitted, as required by Chapter 826 of the Texas Health and Safety Code and Title 25 of the Texas Administrative Code Chapter 169, Subchapter A, as may be amended. The animal control authority shall notify the owner in writing when the animal may be released from quarantine and when the animal must be redeemed to avoid transfer of ownership to the City for adoption or other humane disposition.

(e) Seizure, impoundment, and disposition of an animal that is being treated cruelly shall be determined in accordance with Chapter 821 of the Texas Health and Safety Code, as may be amended.

(f) Seizure, impoundment, and disposition of a dog that has caused the death or serious bodily injury of a person, or that meets the definition of dangerous dog, shall be governed by Article III, Division 1 of this Chapter.

(g) Seizure, impoundment, and disposition of livestock that are considered a nuisance shall be governed by Article IV of this Chapter.

Sec. 10-4. - At large, generally.

(a) It shall be unlawful for an animal to be at large within the City. This does not apply to community cats.

(b) Livestock that are found at large are "estrays" and are governed by Texas Agriculture Code § 142.001 *et seq.*

(c) Animals other than livestock that are found at large may be seized in accordance with this Chapter and the animal control authority may exercise the option to serve the owner with a citation, return the animal to the owner, or impound the animal.

Sec. 10-5. - Redemption.

The owner of any impounded animal may reclaim same by signing any citations issued for alleged violations of this Chapter and paying all impoundment fees, fines and other accrued expenses. If an animal is not redeemed within three days that the animal center is open to the public, the animal control authority may put the animal up for adoption or arrange for other humane disposition. If an animal has been previously impounded, the impoundment fee may be raised.

Sec. 10-6. - Humane disposition of unredeemed, impounded animals.

(a) After the redemption period expires, the animal control authority shall have the authority to order the humane disposition of an animal, either by transfer of ownership or humane euthanasia, at his or her discretion and in accordance with State law.

(b) While an animal is in the possession of the animal control authority, under veterinary care ordered by the City, or in foster care, ownership of the animal will not have transferred. The animal's owner may redeem the animal by complying with the requirements of this Chapter, even if the redemption period has expired.

(c) After the redemption period has expired, the animal control authority may transfer ownership of the animal. When an animal is transferred to a new owner, the prior owner's rights to redeem the animal or otherwise claim ownership, are extinguished. Ownership is transferred when a person agrees to adopt an animal or when an organization, or someone acting on the organization's behalf, accepts custody of an animal.

Sec. 10-7. - Willfully causing animals to be impounded; release when owner not responsible.

Whenever the animal control authority shall become satisfied that any animal has been willfully released from any enclosure or property by any person other than the animal's owner with the intention of having the animal impounded to injure the owner thereof, the animal control authority shall have the discretion to order such animal so impounded released without cost.

Sec. 10-8. - Slaughtering animals.

It shall be unlawful for any person to maintain any property for the purpose of slaughtering any animal, except those establishments that have been duly licensed to slaughter animals under the laws of the State and applicable city ordinances.

Sec. 10-9. - Animals biting, scratching or attacking any person.

The owner of any animal that bites, scratches or attacks any person, when the person bitten was not trespassing upon the property of the owner of the animal, shall be guilty of violating this Code.

Sec. 10-10. - Animals creating a nuisance.

(a) It shall be unlawful for any animal's owner to allow the peace and quiet of the neighboring properties to be disturbed, by the animal's barking, howling, crowing, or other noise of any kind.

(b) It shall be unlawful for any animal's owner to allow the peaceable use and enjoyment of the neighboring properties to be disturbed by the smell of the animal, its food, its waste, or its enclosure.

Sec. 10-11. - Riding animal on sidewalks and streets prohibited.

It shall be unlawful for any person to ride a horse or mule or any other animal on a public sidewalk or within the public street right-of-way except on the paved shoulder or curb lane of the street right-of-way, unless a permit has been obtained from the City.

Sec. 10-12. - Harboring wild animals.

(a) It shall be unlawful for any person to keep or harbor any wild animal within the City, except commercial establishments dealing in the sale of these animals and zoos that have proper facilities for restraint and care of these animals.

(b) The animal control authority or the local health authority under the Texas Health and Safety Code may set up conditions under which it would be permissible to keep or harbor wild animals in the City on a temporary basis.

Secs. 10-13—10-51. - Reserved.

ARTICLE II. - DOGS AND CATS

Sec. 10-52. - Rabies vaccination and license.

(a) *Required; exception.* Except as otherwise provided, no person shall own, keep, or harbor any dog or cat over four months of age within the City limits unless such dog or cat is vaccinated and licensed. The provisions of this section do not apply to animals owned by a licensed research facility or government operated animal shelter.

(b) *Vaccination by licensed veterinarian.* All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with V.T.C.A., Health and Safety Code § 826.021.

(c) *Licensing authority to designate veterinarians to collect registration fee.* The licensing authority shall designate, when practicable, licensed veterinarians to collect the annual licensing registration fee. A licensed veterinarian who has been so designated shall, when practicable, register dogs and cats and collect the annual licensing registration fee under the following terms and conditions:

(1) *Issuance of license and tag; information to be sent to licensing authority.* If a licensed veterinarian vaccinates a dog or cat for rabies, he or she shall collect the annual licensing registration fee when practicable, issue a rabies vaccination tag and a license as appropriate, and send to the licensing authority a copy of a form which shall include the following information:

- a. Name and address of pet owner;
- b. Description of the pet;
- c. Date of vaccination;
- d. License number;
- e. Other appropriate information.

(2) *Licensing authority to provide forms, tags and collection procedure.* A licensed veterinarian who has been designated to collect the annual licensing registration fee shall have all necessary forms and tags for registration provided to him or her by the licensing authority. The licensing authority shall establish a collection procedure for the fees, a format for the tags and shall record all dogs and cats registered, the name of the owner and other appropriate information.

(d) *Time limit for license application; exception.* Application for a license must be made within 30 days after obtaining a dog or cat over four months of age. This requirement will not apply to a nonresident keeping a dog or cat within the City for no longer than 60 days. New residents must apply for a license within 30 days of establishing residency.

(e) *License period; license to be attached to collar; transferability; records.* Except as otherwise provided, the licensing period shall be for 1 year. Each applicant shall pay the appropriate fee annually and shall supply all information reasonably requested on forms supplied by the licensing authority. Licenses furnished by the licensing authority shall be of durable material. A license issued for a dog or cat must be attached to the collar of the animal and must be worn at all times. Licenses are not transferable. A record of all licenses issued shall be maintained by the licensing authority; and such records shall be available to the animal control authority. Records are to be kept for 5 years.

(f) *Failure to obtain license.* A license shall be issued after payment of the required fee, and a showing of proof of vaccination by a licensed veterinarian. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a delinquent fee.

(g) *Waiver of license fee.* License fees shall be waived for dogs serving the blind, deaf, or other persons with disabilities as defined by law, or government-owned dogs used for law enforcement. All other licensing provisions shall apply.

(h) *Vaccination by out of town veterinarian.* Upon receipt of the appropriate forms and payment of the scheduled fee, the licensing authority shall provide a license for dogs and cats vaccinated by out-of-town veterinarians.

(i) *Tag required.* It shall be unlawful for any person to have a dog or cat in their care, custody or control which does not have a current vaccination tag and a license on the dog or cat.

(j) This section does not apply to community cats.

Sec. 10-53. - Nuisances.

(a) All dogs and cats, excluding community cats, shall be kept under restraint.

(b) No dog or cat shall be allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this article.

(c) A dog or cat shall be considered a nuisance if it damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous or offensive conditions; causes a disturbance by excessive barking or other noisemaking; or chases vehicles, or molests, attacks or interferes with persons or other domestic animals on public property.

(d) It is unlawful for a person to feed feral cats, or to provide food for feral cats, unless the person is a community cat caregiver maintaining a community cat colony.

(e) If a community cat colony is the source for a substantial number of nuisance complaints from multiple sources, the community cat colony must be relocated, or the cats claimed by owners and rehomed. A substantial number of nuisance complaints means three or more complaints within the past 12 months. Multiple sources means that there are 2 or more reporting parties that do not reside at the same address.

Sec. 10-54. – Community Cats.

(a) Community cats impounded on a nuisance complaint shall be humanely euthanized after expiration of the redemption period unless a community cat caregiver claims the community cat and agrees to relocate the cat to another location. Community cats may be held longer, as space is available in the center. Community cats that bite or scratch a person shall undergo rabies observation or testing and shall be euthanized in accordance with law. Community cats impounded for biting or scratching a person may not be released to a community cat caregiver, returned to their original location or relocated to another community cat colony.

Sec. 10-55. - Redemption.

(a) Any community cat that is released to a community cat caregiver may be released without payment of an impoundment fee, unless the community cat was seized pursuant to a nuisance complaint.

(b) Any dog or cat confined for rabies quarantine, evidence or other purpose may be redeemed by the owner thereof upon payment of a fee. Disposal of a dog or cat by any method specified herein does not relieve the owner of liability for violations and accrued charges.

(c) No dog or cat required to be licensed or vaccinated under this article may be redeemed until arrangements for such licensing and vaccination have been made.

(d) The animal control authority may require a dog or cat, including community cats, to be microchipped and have the microchip registered such that the animal control authority is able to identify the owner or community cat caregiver, as applicable, as a condition for redemption.

Sec. 10-56. - Licensing fees.

Any and all licensing fees required by this Chapter shall be set by resolution of the City Council and are on file in the City Secretary office. The resolution shall also determine the conditions of payment and collection of the required fees.

Sec. 10-57. – Over 4 Permit.

(a) It is unlawful to harbor, keep, or maintain more than 4 dogs, cats, or a combination thereof on any premises utilized for residential purposes within 5,000 feet of the City limits.

(b) It is an affirmative defense to a violation of subsection (a) if the dogs or cats are 4 months of age or younger and are part of a litter that is in the process of being weaned.

(c) It is an affirmative defense to subsection (a) if the owner of the animals obtains an annual permit from the City. To be entitled to a permit, the owner must submit an application for the over 4 permit, pay the fee as set by City Council, and pass an inspection of the premises by the animal control authority.

(1) The inspection of the premises is to ensure compliance with this Chapter, including but not limited to requirements regarding the provision of food, care, and shelter and preventing nuisances.

(2) The inspection may be waived if, within the preceding 12 months, there have been no bona fide complaints regarding violations of this Chapter. A complaint is bona fide if made in good faith and is not unfounded, as determined by the animal control authority. This section does not obligate the animal control authority to waive the inspection if the City determines, in its reasonable discretion, that an inspection is warranted.

(3) The permit fee may be waived if the owner is fostering animals for the City, and is not otherwise in violation of this Chapter. The animal control authority may waive the permit fee as a part of promotion for adoption or to encourage compliance with this Chapter.

Secs. 10-58—10-87. - Reserved.

ARTICLE III. - DANGEROUS DOGS AND INHUMANE TREATMENT

Division 1. Dangerous Dogs.

Sec. 10-88. – Dog causing death or serious bodily injury.

(a) If the animal control authority has probable cause to believe that a dog has caused the death or serious bodily injury of a person, a sworn complaint shall be filed with the City of Bryan Municipal Court requesting that a seizure warrant be issued for the dog. Upon a showing of probable cause, the court shall issue the seizure warrant and schedule a hearing not more than 10 days from the date the warrant is issued.

(b) The animal control authority shall execute the seizure warrant and shall impound the dog and provide for its care until disposition is ordered by the court.

Sec. 10-89. – Hearing on dog causing death or serious bodily injury.

(a) Notice of the date, time, and place of the hearing shall be provided to the owner of the dog and the person from whom the dog was seized.

(b) The purpose of the hearing is to determine, by a preponderance of the evidence, if the dog caused the death or serious bodily injury of a person. Any interested party may present evidence at the hearing.

(c) If the dog caused the death of a person, the dog shall be ordered humanely euthanized as allowed by law.

(d) If the dog caused serious bodily injury to a person, the dog shall be ordered humanely euthanized as allowed by law, unless one of the following exceptions applies:

(1) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:

(A) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and

(B) the injured person was at least 8 years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(2) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least 8 years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(3) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;

(4) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or

(5) the injured person was younger than 8 years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than 8 years of age from entering.

(e) If the dog did not cause the death or serious bodily injury of a person, or if one of the above exceptions is applicable, the dog shall be released to the owner.

(f) If the dog is ordered humanely euthanized, the municipal court may also order that the owner of the dog pay the costs associated with impoundment and humane disposition of the dog.

(g) The owner of a dog that causes death or serious bodily injury may waive the hearing and release the dog to the animal control authority for humane euthanasia, and in such case, the City Manager, or his or her designee, may waive any fees that would otherwise be charged.

Sec. 10-90. – Dangerous dogs.

(a) If the animal control authority determines that a dog qualifies as a dangerous dog, as defined by this Chapter, they shall notify the owner of the dog in writing.

(b) Unless the dog has already been impounded, the owner of the dog shall deliver the dog to the animal control authority within 5 days to be impounded. The dog will remain impounded until disposition is ordered by a court. If the owner does not comply with this Section, the animal control authority is authorized to obtain a seizure warrant from the municipal court.

Sec. 10-91. – Dangerous dog hearing.

(a) The animal control authority shall file a complaint with the municipal court on, or near, the day the dog is impounded. The court will schedule a hearing to determine if the dog is dangerous and to order disposition not later than the 10th day after the dog is impounded.

(b) If the municipal court determines that the dog does not meet the definition of dangerous, the court shall order the dog released to the owner.

(c) If the municipal court determines the dog does meet the definition of dangerous, the court shall

- (i) uphold the determination of the animal control authority,
- (ii) determine the cost of impoundment up to the date of the hearing and through any potential appeal,
- (iii) set an appeal bond adequate to cover those costs, and
- (iv) order that the dog be released to the owner if and when the owner complies with the requirements of section 10-92 or order the dog to be humanely euthanized if the owner cannot or does not comply with those requirements.

(d) Per State law, as may be amended, in order to appeal the decision, the owner must file a notice of appeal and the appeal bond with the municipal court clerk within 10 days of the municipal court's decision.

Sec. 10-92. – Requirements for owner of dangerous dog.

(a) Within 30 days of the municipal court decision to declare a dog dangerous, or within 30 days of such decision being upheld on appeal, the owner of the dangerous dog must comply with the following requirements for the dog to be released from impoundment:

- (i) registration, specifically as a dangerous dog, with the animal control authority for the area in which the dog is kept, which registration must be updated within 14 days in the event of a change in address or ownership;

- (ii) restrain the dog at all times on a leash in the immediate control of a person or in a secure enclosure as defined by State law;
- (iii) obtain liability insurance policy with at least \$100,000 in coverage for damages resulting from an attack by the dog causing serious bodily injury or provide proof of financial responsibility substantially equal to that amount;
- (iv) the dog must be microchipped and the owner must update the microchip company with the current address of the owner;
- (v) the dog must be fitted with a bright orange collar visible from 50 feet away;
- (vi) the dog must be vaccinated for rabies and registered as required by this Chapter; and
- (vii) have the dog sterilized, if still intact.

(b) If the owner of the dangerous dog is unable to establish timely compliance with the above requirements, the dog shall be humanely euthanized.

(c) It is a violation of this Chapter for an owner of a dog previously declared dangerous to be out of compliance with these requirements, including a dog previously declared dangerous in another jurisdiction.

Sec. 10-93. - Subsequent violations.

(a) If the owner of a dog that has been previously declared dangerous is issued a citation for failure to comply with Section 10-92, the animal control authority may apply to municipal court for a seizure warrant. Upon a showing of probable cause that a violation of Section 10-92 has occurred, the court shall issue the warrant and order the dog to be humanely euthanized unless the owner can provide the animal control authority with proof of compliance.

(b) The owner of the dangerous dog has 10 days to establish compliance with section 10-92 or the dog shall be humanely euthanized.

(c) If a dog that has been previously declared to be dangerous makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the person, the person is guilty of a violation of this Chapter. Upon a showing of probable cause that the violation occurred, the court shall issue a seizure warrant and order the dog to be humanely euthanized.

Sec. 10-94. – Exceptions.

It is a defense to prosecution under this Division that a person is:

- (a) a veterinarian, employee of a veterinarian, dog trainer, peace officer, animal shelter employee, or employee of the State or a political subdivision of the State and the person has temporary ownership, custody, or control of the dog in connection with that position;
- (b) an owner or employee of a guard dog company, or a dog trainer, licensed under section 1702 of the Occupations Code; or
- (c) an employee of the institutional division of the Texas Department of Criminal Justice, or other law enforcement agency, and trains or uses dogs for law enforcement or corrections purposes.

Secs. 10-95—10-102. - Reserved.

Division 2. Inhumane Treatment of Animals.

Sec. 10-103. – Inhumane treatment, generally.

(a) It shall be unlawful for a person to treat an animal inhumanely. The penalty for a violation of this section shall be as set forth in Section 1-14 of the Code of Ordinances.

(b) For the purposes this Section inhumane treatment means:

- (1) to unnecessarily permit or cause pain or suffering;
- (2) to unnecessarily deprive the animal of food, veterinary care, or shelter; or
- (3) to confine in a manner that is injurious to the animal's health and/or well being.

Sec. 10-104. – Tethering.

(a) It is unlawful to restrain an animal by use of a tether, meaning a chain, rope, leash, cable or other device to a stationary object or a cable run. This does not apply to an animal on a leash held by a person.

(b) It is an affirmative defense to subsection (a) if the tether is attached to a properly fitted harness or collar on the animal, and

- (1) the tether is secured in such a manner that
 - (i) the animal has continuous access to food, water, and shelter;
 - (ii) the tether is at least 10 feet long or 5 times the length of the dog from nose to the base of the tail, whichever is longer;
 - (iii) the tether weighs less than 1/20th of the animal's weight;
 - (iv) the tether is attached in a manner that prevents choking, hanging, or other potential injury; and
 - (v) the tether is short enough that the animal is not able to cross the property line; or
- (2) the tether is temporarily used during veterinary treatment, grooming, training, or law enforcement activity; or
- (3) the tether is temporarily used to protect the safety or welfare of a person or the animal provided that the owner remains with the animal throughout the period of restraint.

(c) The affirmative defense under subsection (b) does not apply if:

- (1) the animal is in estrus (i.e. in heat);
- (2) the animal is secured by a pinch or prong type collar; or
- (3) the animal is injured by the tether.

Sec. 10-105. - Animal fights; fighting paraphernalia.

(a) It shall be unlawful for any person to keep, or use, or in any way be connected with, or interested in the management of any place used for the purpose of fighting animals. It shall be unlawful for any person to receive money for the admission of any person to any place kept or used for the purpose of fighting animals, or to permit or suffer any place belonging to or under his or her control to be so kept or used. It shall be unlawful for any person to aid, encourage, assist, or arrange for an animal fight, or to issue a challenge for the purpose of bringing about an animal fight.

(b) It shall be unlawful for any person to have on their person or property any paraphernalia used in

fighting, including but not limited to fighting rings, break sticks, fighting knives, or training facilities used to prepare animals for fighting.

(c) It shall be unlawful for any person to raise, breed, maintain, or harbor any animal which is used or intended to be used for fighting.

Sec. 10-106. - Abandonment of animals.

It shall be unlawful for any person to abandon an animal in the City. Abandoned animals shall be impounded. It is a defense to prosecution under this section that the person is a community cat caregiver and the animal is a community cat.

Sec. 10-107. - Traps.

No person shall set any form of trap which causes bodily harm by the nature of the trap, including leg hold traps, or body traps. Humane live cage traps are permissible.

Sec. 10-108. - Animals left in vehicles.

(a) It shall be unlawful to leave an animal in a parked or standing vehicle or enclosed trailer in such a way as to endanger the animal's health, safety, or welfare.

(b) It is presumed that an animal's health, safety, or welfare is endangered when the animal is confined for a period of 10 or more minutes at a time when the ambient outside air temperature is above 75 degrees or below 35 degrees Fahrenheit.

(c) The animal control authority, a peace officer, or a firefighter may take reasonable actions to remove an animal that was left in violation of Subsections (a) or (b), including use of force if necessary and/or if the animal is showing signs of distress. Any animal so removed shall be impounded as if at large.

Sec. 10-109. - Care.

(a) All animals must be provided with

(1) daily food and a clean source of water sufficient for the breed and size to maintain the animal at a good level of nutrition;

(2) a source of shelter from the elements appropriate for the breed, size, and needs of the animal;
and

(3) veterinary care reasonably necessary to prevent suffering.

(b) Failure by an owner of an animal to provide care as required by this section shall be a violation of this Code. This section does not apply to community cats.

Sec. 10-110. -Animals in trucks and trailers.

It shall be unlawful for a person to transport in an open bed pickup or an open flatbed truck or to tow in an open flatbed trailer on a public street or highway while a dog or other animal occupies the bed of the truck or trailer unless the animal is secured in a kennel or other secure vented enclosure, restrained by a harness manufactured for the purpose of restraining animals, or restrained using a chain, rope, or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling. If the ambient outside air temperature is above 85 degrees Fahrenheit, there must be some kind of flooring between the animal and the truck bed that will prevent injury by the hot surface of the bed.

Secs. 10-111 – 10-132. Reserved

ARTICLE IV. – LIVESTOCK, FOWL, AND OTHER AGRICULTURAL ANIMALS

Sec. 10-133. – Keeping of livestock.

(a) It is a violation to maintain livestock on properties other than those zoned for such use, except if the maintenance of livestock is a legal non-conforming use.

(b) The owner of livestock, or the owner of real property on which livestock is being kept, may not allow the livestock to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.

(c) Livestock may not be maintained on property belonging to another person without that person's permission.

(d) It is a violation to tether or stake out livestock. It is an affirmative defense to this section if the tether is otherwise in compliance with this Chapter, and if the animal has unrestricted access to at least 6,000 square feet of ground. Livestock may not be maintained on property with less than 6,000 square feet of ground per animal, excluding structures not used for housing or feeding the animal.

(e) The structure or enclosure in which livestock is kept, fed, or cared for may not be less than 100 feet from any structure used for human occupancy, except for structures belonging to the owner of the livestock.

(f) It shall be unlawful for any person to keep, harbor, or maintain swine within the City. It is an affirmative defense to this section that the swine are wild and not within the care, custody, or control of the owner. There is an exception for mini-pigs provided that the following requirements are met:

(1) No more than 2 mini-pigs may be kept on any one parcel of land.

(2) The property must be zoned AO or a residential district, as defined by the zoning ordinance.

(3) Mini-pigs may not be bred, and males must be neutered.

(4) Tusks must be removed, or trimmed so as to be blunted, and mini-pigs must be vaccinated against communicable diseases in accordance with general guidelines from the American Veterinary Medical Association.

(5) Mini-pigs must be licensed by the City, and shall display the license affixed to a collar or ear tag at all times, or in the alternative, the mini-pig may be microchipped if the microchip number is provided to the City with the application for license. The application for the license may require, at a minimum, proof of compliance with these provisions and contact information for the owner.

(g) Livestock are a nuisance and the animal control authority is authorized to seize and impound such livestock if (i) they are found in violation of Subsections (a), (c), or (f); or (ii) if the owner of such livestock is cited for a violation of Subsection (b) and the citation results in a conviction or deferred adjudication,

- (1) The animal control authority shall provide notice to the owner, if known, by personal delivery or certified mail return receipt requested. If the owner is unknown, notice shall be posted at the location the animal was seized.
- (2) The owner must redeem the animal by coming to collect it and pay the related citations and fees, within 10 business days during which the animal center is open to the public after the date the animal is seized.
- (3) The owner may appeal the seizure during the redemption period described above by submitting a written appeal to the City Manager's office. The City Manager, or his designee, may consider the appeal and uphold the decision or overturn the decision and order the animal released.
- (4) If the redemption period expires and no appeal is filed, or if an appeal is denied, the animal control authority may humanely dispose of the animal by euthanasia (if necessary to alleviate suffering), conveyance to a rescue organization, or public auction. If the animal control authority determines that a public auction would not be commercially reasonable, the animal may be conveyed to a rescue organization. If the animal is conveyed by public auction, post notice of a sale of livestock at the county courthouse, at the municipal office building, and to the owner (if known). The notice will include a full description of the impounded livestock and the date, time, and place of the public auction (which must be not less than 10 days from the date notice is posted). The sale will be to the highest bidder, for cash, and proceeds will be applied to defray the cost of the sale and impoundment of the animal. Any excess proceeds must be claimed within 15 days of the date of the sale or such proceeds shall be transferred to the City's general fund.

(h) This section is only applicable to livestock on properties located within City limits.

Sec. 10-134. – Fowl.

- (a) It shall be unlawful to keep fowl within the City limits in violation of this section.
- (b) Any enclosure that houses fowl must be at least 100 feet from any dwelling other than the dwelling occupied by the owner of the fowl, except in the case where there are less than 10 fowl in which case the distance is 50 feet.
- (c) It is unlawful to own, keep, harbor, or maintain a rooster within the City limits.
- (d) It is unlawful to own, keep, harbor, or maintain an ostrich, peafowl, or an emu within the City limits.
- (f) The owner of fowl, or the owner of real property on which fowl is being kept, may not allow the fowl to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.

Sec. 10-135. – Rabbits

- (a) A person may not keep, harbor, own, or maintain, within City limits, on residential property, as that term is defined by the zoning ordinance, more than 10 rabbits unless the person is lawfully involved in an Agricultural Youth Project under the supervision of a County Extension Agent or agriculture teacher employed by the independent school district.

(b) Any enclosure that houses rabbits within City limits must be at least 50 feet from any dwelling other than the dwelling occupied by the owner of the rabbits.

(c) The owner of rabbits, or the owner of real property on which rabbits are being kept, may not allow the rabbits to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.

Sec. 10-136. – Ferrets.

(a) It is unlawful to keep more than 2 ferrets over the age of 6 months in a dwelling unit within City limits.

(b) Ferrets must be currently vaccinated against rabies at all times.

(c) The owner of ferrets, or the owner of real property on which ferrets are being kept, may not allow the ferrets to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.

Sec. 10-137. – Beekeeping.

(a) It is unlawful to keep a hive within 50 feet of any structure used for human habitation, excluding the residence of the owner. If a hive is located within 25 feet of a property line, the owner must maintain a flyway barrier, such as a solid wall, fence, or dense vegetation, parallel to the property line, which must be at least 6 feet high and extend at least 10 feet beyond each end of the hive.

(b) A person shall provide a source of water on the same property within line of sight of a hive.

(c) *Control of aggressive hive.* A person shall immediately replace the queen in a hive that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. The hive shall be temporarily removed to a location outside the City limits which is at least 200 feet from any structure used for human habitation for a period of at least 45 days.

(d) If it is determined by the animal control authority that a person's bees are becoming a nuisance to other properties, the person may be required to reconfigure, relocate, or remove one or more hives. The person may appeal an order issued under this section by submitting a written request for an appeal to the City Manager's office within 10 business days of the order. The City Manager, or his or her designee, shall consider the appeal and either uphold, modify, or reverse the order. It is a violation of this section to fail to comply with an order issued under this section.

(e) Except for subsection (d), this section does not apply to wild bees.

Sec. 10-138. - When owner of premises may impound stock.

If any livestock are found upon the premises of anyone, the owner or occupant of the premises shall have the right to confine such animal until he or she can notify the animal control authority to come and impound such animal, provided the same is done in a reasonable time. When so notified, it shall be the duty of the officers to at once cause such animal to be impounded as herein provided.

That this ordinance shall be cumulative of all provisions of ordinances of the City of Bryan, except where the provisions of this ordinance are in direct conflict therewith, in which case the prior ordinance or parts thereof are hereby repealed to the extent of the conflict.

3.

That all rights or remedies of the City of Bryan, Texas are expressly saved as to any and all violations of the provisions of Chapter 10 of the City Code which have accrued at the time of the effective date of this ordinance; and, as to all such accrued violations, and all pending litigation, both civil or criminal, whether pending in court or not, under such chapter and/or other ordinances same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph or section.

5.

That it is the intention for the city council that this ordinance shall become a part of the Bryan City Code of Ordinances and it may be renumbered and codified therein accordingly.

6.

That it is hereby found and determined that the meeting at which this ordinance was passed was open to the public, as required by Chapter 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meeting was given.

7.

This ordinance shall go into effect immediately after approval and publication as required by law.

PASSED, ADOPTED, AND APPROVED on the 9th day of April 2019, at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of 7 yeases and 0 noes.

ATTEST:

CITY OF BRYAN, TEXAS:

Mary Lynne Stratta, City Secretary

Andrew Nelson, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney