

**ORDINANCE NO. \_\_\_\_\_**

**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 PORTIONS OF ARTICLE I (GENERAL), ARTICLE II (DOGS AND CATS), ARTICLE III (DANGEROUS DOGS AND INHUMANE TREATMENT), AND ARTICLE IV (LIVESTOCK, FOWL, AND OTHER AGRICULTURAL ANIMALS) REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING; 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WHEREAS, the City of Bryan overhauled the animal ordinance in 2019 to address a number of concerns and replace outdated ordinances; and

WHEREAS, over the past two years the City’s animal control officers learned what has worked and what needs improvement and provided input sections in need of adjustment; 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 adopts the revisions set forth herein; and

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

1.

Chapter 10 “Animals” Article I “In General” Sec. 10-1 “Definitions” of the City of Bryan Code of Ordinances is amended to change the following definitions:

- Abandonment* shall mean to desert or to leave;
  - (1) in an enclosure on private property without care, food, shelter, or a continuous source of clean water for a period of 24 hours or more;
  - (2) on private property without the consent of the owner or person with legal right to control the property; or
  - (3) on public property without the express written permission of the animal control authority.

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

*Community cat caregiver* shall mean a person who participates in trap-neuter-return. A community cat caregiver shall not be considered the owner, caretaker, custodian, harbinger, or keeper of a community cat.

*Mini-pig* shall mean any of the domesticated forms of the species *suidae sus scrofa* (under 100 pounds) originating in Southeast Asia and having a straight tail, potbelly, swayback, and coat that is black, white, or both-

2.

Chapter 10 “Animals” Article I “In General” Sec. 10-4 – “At large, generally”, is amended to read as follows:

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

(a) It shall be unlawful for an animal to be at large within the City. It is an affirmative defense if the animal is a community cat.

(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.

3.

Chapter 10 “Animals” Article I “In General” Sec. 10-5 – “Redemption”, is amended to read as follows:

**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. A community cat caregiver may reclaim a community cat in the same manner as an owner. A community cat caregiver may only reclaim a feral cat if it is ear-tipped, microchipped, vaccinated, and sterilized before being reclaimed.

4.

Chapter 10 “Animals” Article I “In General” Sec. 10-10 – “Animals creating a nuisance”, is amended to read as follows:

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

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

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

5.

Chapter 10 “Animals” Article I “In General” Sec. 10-11 – “Riding animals on sidewalks and streets prohibited”, is amended to read as follows:

**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. It is an affirmative defense that the person has a horse drawn carriage permit or a special event permit issued by the City.

6.

Chapter 10 “Animals” Article I “In General” is amended to add a new Sec. 10-13 – “Sale of animals”, which reads as follows:

**Sec. 10-13. – Sale of animals.**

(a) A pet shop or store shall not sell, lease, offer for sale, trade, give away, or otherwise transfer a dog or cat, unless the animal was obtained from a city or county shelter or registered 501(c)(3) animal rescue organization. The name, address, telephone number, and email address of the shelter or rescue shall be conspicuously displayed on or near the animal's enclosure. The pet shop or store must retain a record of the sale of the dog or cat, including the amount paid and where the animal was obtained for at least 3 years following the sale.

(b) Outdoor sale of animals is prohibited. It is an affirmative defense to this section that the person is engaged in lawful agricultural uses on property zoned A-O.

7.

Chapter 10 "Animals" Article II "Dogs and Cats" Sec. 10-52 – "Rabies vaccination and license", subsection (j) is amended to read as follows:

(j) This section does not apply to community cats with up to date vaccinations.

**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. It is an affirmative defense if 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 affirmative defense under subsection (d) does not apply and the community cat colony must be relocated, or the cats claimed by owners and re-homed. 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.

8.

Chapter 10 "Animals" Article II "Dogs and Cats" Sec. 10-54 – "Community Cats", is amended to read as follows:

**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 and is able to relocate the cat to another location, in compliance with this ordinance. Community cats may be held longer, as space is available in the center.

(b) Community cats that bite or scratch a person shall undergo rabies observation or testing and shall be euthanized in accordance with law, and may not be released to a community cat caregiver.

Chapter 10 “Animals” Article II “Dogs and Cats” Sec. 10-57 – “Over 4 Permit”, is amended to read as follows:

**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 property within 5,000 feet of the City limits. This section does not apply to a property that is subject to inspection or regulation by a state or federal agency relating to health and safety of animals, including but not limited to properties operated by veterinarians or Texas A&M University.

(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 weened.

(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, comply with the applicable policy (if any) set by the animal control authority, 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, as set forth in the applicable policy (if any) applicable to the type of use (e.g. residential, commercial, etc.).

(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 or any applicable policy. The animal control authority may waive the permit fee as a part of promotion for adoption or to encourage compliance with this Chapter.

(d) An Over 4 permit can be suspended or revoked by the animal control authority if it is determined by the animal control authority there are violations of any applicable policy or this Chapter, unless an affirmative defense applies.

Chapter 10 “Animals” Article II “Dogs and Cats” is amended to add a new Sec. 10-58 – “Appeal”, which reads as follows:

**Sec. 10-58.- Appeal.**

In the event a permit under section 10-57 is suspended, revoked, or an application for same is denied, by the animal control authority, the affected person may appeal the decision by submitting such appeal to the animal control authority within ten (10) days of the decision being appealed. The appeal must be in writing, identify the decision being appealed, set forth the facts and circumstances, and make any arguments the owner wishes to raise. If timely and properly submitted, the appeal will be submitted by the animal control authority to the city manager or his or her designee for a decision, which decision shall be final.

**Secs. 10-59—10-87. - Reserved.**

11.

Chapter 10 “Animals” Article III “Dangerous Dogs and Inhumane Treatment”, Division 2 “Inhumane treatment”, Sec. 10-104 – “Tethering”, is amended to read as follows:

**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 is not a chain and weighs less than 1/20<sup>th</sup> 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.

12.

Chapter 10 “Animals” Article III “Dangerous Dogs and Inhumane Treatment”, Division 2 “Inhumane treatment”, Sec. 10-106 – “Abandonment of animals”, is amended to read as follows:

**Sec. 10-106. - Abandonment of animals.**

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

13.

Chapter 10 “Animals” Article IV “Livestock, fowl, and other agricultural animals”, Sec. 10-133 – “Keeping of Livestock”, subsection (a) is amended to read as follows:

**Sec. 10-133. – Keeping of livestock.**

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

14.

Chapter 10 “Animals” Article IV “Livestock, fowl, and other agricultural animals”, Sec. 10-134– “Fowl”, subsection (b) is amended to read as follows:

**Sec. 10-134. – Fowl.**

(b) Any enclosure that houses fowl must be at least 50 feet from any dwelling other than the dwelling occupied by the owner of the fowl, provided that there are fewer than 6 fowl on the property. 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, when there are 6 or more fowl on the property. A property in the city limits may not have more than 12 fowl unless it is zoned A-O. This section does not apply to exotic birds such as parakeets and parrots that are primarily kept indoors.

15.

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.

16.

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.

17.

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.

18.

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.

19.

That it is hereby found and determined that the meeting at which this Ordinance is passed is 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.

20.

This Ordinance shall go into effect immediately after approval.

**APPROVED AND ADOPTED AFTER THE FIRST AND ONLY** reading the \_\_\_ day of \_\_\_\_\_, 2022 by a vote of \_\_\_\_\_ yeses and \_\_\_\_\_ noes at a regular meeting of the City Council of Bryan, Texas.

ATTEST:

CITY OF BRYAN, TEXAS:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Andrew Nelson, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas A. Leeper, City Attorney