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## City Council Regular Meeting

**DEPARTMENT:** Neighborhood Services

**FROM:** Lisa Duello, Neighborhood Services Director

**MEETING:** July 18, 2022

**SUBJECT:**

Consider approval of an ordinance amending Section 6-1 (Definitions) and 6-9 (Care and Humane Treatment of Animals) of Chapter 6, (Animal Care and Control) of the Burleson Code of Ordinances by adding definitions for Adequate shelter, Harness, Cruelly treated, Adverse weather conditions, and Properly fitted, and by modifying the manner and location a dog or other animal may be tied or tethered; making this ordinance cumulative of prior ordinances; providing a severability clause; providing for the violation of this ordinance; providing a penalty clause; and providing for an effective date. (First Reading) (*Staff Contact: Lisa Duello, Neighborhood Services Director*)

**SUMMARY:**

Texas legislature recently passed Senate Bill 5 (attached) unattended Dogs res in the 87<sup>th</sup> legislative session, third special session – the Safe Outdoor Dogs Act to protect unattended dogs restrained outdoors, effective January 18, 2022.

How Senate Bill 5 protects dogs and improves public safety:

- Defines adequate shelter to protect dogs from exposure to extreme temperature, standing water and ensures the dog can stand, turn around and lie down.
- Requires access to drinkable water
- Prohibits the use of chain restraints which cause pain and injuries.
- Strikes the 24- hour waiting period so animal services and law enforcement can take immediate action for dogs in distress.

Staff is proposing to update the City of Burleson Code of Ordinance, Chapter 6, Animal Care and Control, Section 6-9 -Care and Humane Treatment of Animals, to be concurrent with state Law. Staff is proposing the following changes outlined by ~~strike through~~ and new in **green**:

**Sec. 6-1. - Definitions.**

Adequate Shelter shall mean a sturdy structure that (i) provides the dog protection from inclement weather and with dimensions, (ii) allows the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position, (iii) allows the dog to avoid standing water, and (iv) allows the dog to avoid exposure to excessive waste, feces, or excrement, and (v) provides shade from direct sunlight.

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

~~Cruel treatment shall mean any treatment to any animal in violation of the Texas Penal Code.~~

Cruelly treated includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by Texas Penal Code, Section 21.09

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

~~Properly fitted shall mean, with respect to a collar, a collar that measures the circumference of the animal's neck plus at least one inch~~

Properly fitted means, with respect to a collar or harness, a collar or harness that is appropriately sized for the dog or cat based the measurements and body weight of the dog or cat and does not choke the dog or cat or impede the dog's or cat's normal breathing or swallowing and does not cause pain or injury to an animal.

#### **Sec. 6-9. Care and humane treatment of animals**

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(f) *Tying dogs and other animals.* A person commits an offense if the person ties or tethers a dog or other animal in an unenclosed front or back yard, or by a fixed point, chain, or tether so as to create, as determined by the animal control authority, an unhealthy situation for the animal or a potentially dangerous situation for a person or another animal. A person restraining a dog with a ~~chain or~~ tether shall attach the ~~chain or~~ tether to a properly fitted collar, not wrap a ~~chain or~~ tether directly around the animal's neck.

(1) An owner may not leave an animal outside and unattended by use of a restraint that unreasonably limits the animal's movement:

- a. Between the hours of 10:00 p.m. and 6:00 a.m.;
- b. Within 500 feet of the premises of a school; or
- c. In the case of extreme weather conditions, including conditions in which:
  1. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
  2. A heat advisory has been issued by a local or state authority or jurisdiction; or
  3. A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

~~(2) An Owner may not restrain a dog outside and unattended by use of a restraint that:~~

- ~~a. Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the animal;~~

- ~~b. Is a length shorter than the greater of:
 
  - ~~1. Five times the length of the animal, as measured from tip of the animal's nose to the base of its tail; or~~
  - ~~2. Ten feet.~~~~
- ~~c. Is in an unsafe condition; or~~
- ~~d. Causes injury to the animal~~

~~(3) Exceptions. Subsections (2)b.1. and (2)b.2. above do not apply to:~~

- ~~a. An animal restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch type, prong type, choke type, or improperly fitted collar;~~
- ~~b. An animal restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;~~
- ~~c. An animal restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the animal to be restrained;~~
- ~~d. An animal restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by the state if the activity for which the license is issued is associated with the use or presence of the animal;~~
- ~~e. An animal restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or~~
- ~~f. An animal restrained while the owner is engaged in conduct directly relating to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the animal.~~

~~(2) (4)~~ A restrained animal must have access to water and shelter from the elements, have a restraint that does not become entangled, and stay within the owner's property.

~~(3) (5)~~ Penalty.

- a. A peace officer or animal control officer who has probable cause to believe that an owner is violating this section shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.
- b. A person commits an offense if the person is provided a statement as described in subsection and fails to comply with this section within 24 hours of the time the owner is provided the statement. An offense under this section is a class C misdemeanor.
- c. A person commits an offense if the person violates this section and has previously been convicted of an offense under this section. An offense under this subsection is a class B misdemeanor as provided in V.T.C.A., Health and Safety Code § 821.079.

- d. If a person fails to comply with this subsection with respect to more than one animal, the person's conduct with respect to each animal constitutes a separate offense.
- e. If conduct constituting an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(4) (6) *Hand-held leashes.* This section does not prohibit a person from walking an animal with a hand-held leash.

**PRIOR ACTION/INPUT (Council, Boards, Citizens):**

Animal Shelter Advisory Committee met on March 1, 2022 and support the proposed changes.

**OPTIONS:**

- 1) Approve ordinance as presented
- 2) Approve the ordinance with modifications; or
- 3) Deny the ordinance.

**RECOMMENDATION:**

Approve the ordinance as presented.

**Fiscal IMPACT:**

N/A

**STAFF CONTACT:**

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