

ORDINANCE

AN ORDINANCE OF THE CITY OF BURLESON, TEXAS, AMENDING SECTIONS 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, AND ADVERSE WEATHER CONDITIONS AND AMENDING THE DEFINITIONS FOR CRUELLY TREATED 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.

WHEREAS, the City of Burleson, Texas (“City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has previously adopted ordinances relative to the care and humane treatment of animals, which are codified in Chapter 6 of the Code of Ordinances of the City of Burleson, Texas; and

WHEREAS, the Texas state legislature recently passed Senate Bill 5 relating to unlawful restraint of a dog which, among other things, requires dog owners provide adequate shelter for dogs and bans the use of chains as a restraint; and

WHEREAS, the City Council now desires to amend its ordinances regarding the unlawful restraint of a dog to ensure compliance with the state law requirements; and

WHEREAS, the City Council hereby finds and determines that the regulations and amendments set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

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

Section 1

Section 6-1 “Definitions,” of Chapter 6 “Animal Care and Control,” of the Burleson Code of Ordinances is hereby amended to include the following without repealing or replacing any language in the Section:

“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.

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

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

Section 2.

The definition of “Cruel treatment” in Section 6-1 “Definitions,” of Chapter 6 “Animal Care and Control,” of the Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 6-1. Definitions.

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, as amended.”

Section 3.

The definition of “Properly fitted” in Section 6-1 “Definitions,” of Chapter 6 “Animal Care and Control,” of the Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 6-1. Definitions.

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.”

Section 4.

Section 6-9 “Care and Humane Treatment of Animals,” of Chapter 6 “Animal Care and Control,” of the Burleson Code of Ordinances is hereby amended to read as follows:

“Sec. 6-9. Care and humane treatment of animals.

* * *

- (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 tether shall attach the tether to a properly fitted collar, not wrap a 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) A restrained animal must have access to potable water and adequate shelter from the elements, have a restraint that does not become entangled, and stay within the owner's property.
- (3) *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) *Hand-held leashes.* This section does not prohibit a person from walking an animal with a hand-held leash.”

Section 5.

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

Section 6.

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 7.

This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson's various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 8.

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

Section 9.

An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for that purpose.

Section 10.

Any person, firm, association of persons, company, corporation, or their agents, its servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Texas Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

Section 11.

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED:

First Reading: the _____ day of _____, 20_____.

Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

