

On August 6th City Council approved an ordinance that would make it illegal to use a bull hook to train and control an elephant or to brandish, exhibit and display a bull hook in the presence of an elephant. This will take effect October 1, 2016.

During the course of that August 6 council meeting various council members and the mayor expressed the need to *additionally*:

- Consider an ordinance that protected all animals and not just elephants
- Review the state code regarding animal cruelty to see if it provides adequate coverage to animals
- Review any existing city animal related ordinances before considering additional ordinances

We reviewed the entire transcript from that city council meeting

- “Mayor Adler: For me, what I'm going to do is I'm going to support the amendment to strike this language [specific language about implements] from this ordinance in part because I don't want these kinds of things to be limited just to elephants. And I -- if this does not pass and get included in this, I will refer to the committee the request that we take a look at enacting a city cruelty to animal ordinance generally so that we can more broadly protect the animals in our city. In part because, again, from a procedural standpoint, I'm uncomfortable with us making policy decisions like this from the dais. I think we should take advantage of the committee system that we have to be able to further those things.”

The Chair of the Animal Advisory Commission put a work group together comprised of an Animal Protection Officer, the State Director for the Humane Society of the United States, Animal Advisory Commissioner Jonathan Hogue and Commission Chair Lundstedt. I met with them at their initial meeting.

After reviewing local and state code, the work group brought a recommendation to staff and the Animal Advisory Council in October of 2015.

It was concluded that animals have adequate protection from general cruelty under state code and a city ordinance that addresses proper care of an animal. What is missing is the protection of all animals from instruments of pain that may have been used in their training and control before coming to Austin and while in Austin.

The work group removed language from the original elephant ordinance that they considered redundant and unnecessary when addressing all animals. The original as proposed read as follows;

(C) A circus may not train or control an elephant by:

- (1) depriving the elephant of food, water, or rest;
- (2) electricity;

- (3) punishing the elephant in a way that results in damage, scarring, or breaking the skin;
- (4) inserting an instrument into an elephant's bodily orifice; or
- (5) the use or display of a baseball bat, axe handle, pitchfork, or similar tool.

The Bull Hook ordinance as passed by Council on August 6 reads;

- (A) person may not use a bull hook to train or control an elephant.
- (B) A person may not brandish, exhibit, or display a bull hook in the presence of an elephant.

The language for the proposed ordinance 3-2-8 Training and Control of Animal is:

- (A) A person may not train or control an animal by the use of a baseball bat, axe handle, pitchfork, bull hook or device of similar design for similar purpose.

3-2-8 does not apply to animals defined as livestock in 3-1-1.
Ordinance takes effect on October 1, 2016

Key language is: "device of similar design for similar purpose." This covers what was intended originally and covers all animals. It closes any loop hole that would allow someone to control an animal with an implement originally used to beat and frighten the animal.

Austin Police Department Animal Cruelty Unit has reviewed and is supportive.

- **§ 3-2-7 - TREATMENT OF ELEPHANTS.**

(A)

A person may not use a bull hook to train or control an elephant.

(B)

A person may not brandish, exhibit, or display a bull hook in the presence of an elephant.

[Source: Ord. No. 20150806-051, Pt. 2, 10-1-16.](#)

Note— Ordinance No. 20150806-051 takes effect on October 1, 2016.

State Cruelty Code:

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b) (2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

Added by Acts 2007, 80th Leg., R.S., Ch. 886 (H.B. [2328](#)), Sec. 2, eff. September 1, 2007.

COA Code

- **§ 3-2-6 - SAFETY OF ANIMALS IN MOTOR VEHICLES AND ENCLOSED SPACES.**

(A)

A person may not transport an animal in a motor vehicle on a public roadway unless:

(1)

the animal is safely enclosed within the vehicle; or

(2)

if the animal is transported in an unenclosed vehicle, including a convertible, pick-up truck, flatbed truck, or motorcycle, the animal shall be confined in a secure and appropriately sized vented container or confined in a manner that prevents the animal from falling or jumping from the vehicle or otherwise being injured.

(B)

A person may not keep an animal in a motor vehicle or other enclosed space in which the animal's health or life is endangered by high temperature, low temperature, or inadequate ventilation.

(1)

A peace officer or animal control officer may, after attempting to locate the animal's owner, remove the animal from a vehicle or enclosed space using any reasonable means, including breaking a window or lock. If professional services are required to remove the animal, the owner is responsible for the cost.

(2)

A peace officer or animal control officer who removes an animal from a vehicle or enclosed space in accordance with this subsection is not liable for any resulting property damage.

Source: Ord. 20061005-007.

- **§ 3-2-5 - PROPER CARE OF ANIMALS.**

(A)

An animal's owner shall keep the animal in a clean, sanitary, and healthy condition.

(B)

An animal's owner or handler shall provide for the animal:

(1)

regular and adequate amounts of nutritious food that is appropriate for the species and that maintains the animal in good health;

(2)

a constant and adequate supply of clean, fresh, potable water that keeps the animal hydrated for environmental conditions; and

(3)

care and medical treatment for injuries, parasites, and diseases that is sufficient to maintain the animal in good health and minimize suffering.

(C)

An animal's owner shall provide the animal with shelter that:

(1)

is large enough for the animal to enter, stand, turn around, and lie down in a natural manner;

- (2) keeps the animal dry;
 - (3) provides the animal with natural or artificial shade from direct sunlight;
 - (4) protects the animal from excessive heat and cold and other adverse weather conditions; and
 - (5) is adequately ventilated.
- (D) An animal's owner may not confine the animal to the extent that it is forced to stand, sit, or lie in its own excrement.
- (E) An animal's owner shall regularly maintain the animal and its shelter to prevent odor or a health or sanitation problem.
- (F) An animal's owner shall provide the animal with exercise space that is large enough to prevent injury and keep the animal in good condition.
- (G) It is an affirmative defense to prosecution under this section that the animal's treatment was as directed by a licensed veterinarian.

Source: Ord. 20061005-007.