



ANIMAL ADVISORY COMMISSION RECOMMENDATION 20200113-4b

Date: February 6, 2020

Subject: Council's Recent Amendments to City Code Section 3-1-1

Motioned By: Ryan Clinton

Seconded By: Katie Jarl

Recommendation

The Animal Advisory Commission, per Animal Services Office (ASO) leadership request, recommends revised language to clarify the definition of "unprovoked biting," as noted in Ordinance No. 20191017-025, City Code Section 3-1-1 (Definitions), (20).

Description of Recommendation to Council

This recommendation clarifies the definition of "unprovoked biting."

Rationale:

ASO leadership staff requested this change due to an incident that occurred after Code Ordinance amendments passed by City Council October 17, 2019, as Ordinance No. 20191017-025, City Code Section 3-1-1 (Definitions), (20).

Vote: *At the Animal Advisory Commission's January 13, 2020, Regular Meeting, Commissioners voted 9 to 0 to approve ASO language for code revision. Commissioners Lundstedt, Jarl, Neuhaus, Nazor, Frenden, Schwartz, Norton, Nemer, and Clinton voted in favor. Commissioners Mitchell, Flores, and Dr. Brandes were absent. District 4 position is vacant.*

For: 9

Against: 0

Abstain: 0

Absent: 3

Vacant: 1

Attest:

A handwritten signature in cursive script, reading "David Lundstedt".

Animal Advisory Commission Chair

*Suggested Language from ASO
City Code Section 3-1-1 (20)*

UNPROVOKED BITING means biting that is not provoked. Biting is unprovoked if, among other things, it occurs during ordinary care, including feeding and placing a collar, leash, or harness on a dog, or from merely initiating interaction with a dog, or standing and facing the dog, walking towards a dog or its owner or addressing the dog's owner. Biting is provoked if, among other things, it occurs because the dog was being taunted, or the dog was acting in defense of self, a person, another animal, or property, or the dog was acting from maternal instinct, or the dog was reacting to hunger, pain, or fear, or the dog bites accidentally, as when playing. To be provoked a biting must occur contemporaneously with or immediately following the provocation.

ORDINANCE NO. 20191017-025

AN ORDINANCE AMENDING CITY CODE SECTION 2-1-102 RELATING TO THE ANIMAL ADVISORY COMMISSION; AND AMENDING CERTAIN SECTIONS OF CITY CODE CHAPTER 3-1 (*GENERAL PROVISIONS*): ADDING CONFORMING DEFINITIONS TO SECTION 3-1-1; AMENDING SECTION 3-1-21 TO MANDATE CORE IMMUNIZATIONS UPON INTAKE AT IMPOUND FACILITIES; AMENDING SECTION 3-1-23 RELATING TO FEE WAIVERS; MAKING CONFORMING CHANGES TO SECTION 3-1-25 RELATING TO DISPOSITION OF AN IMPOUNDED ANIMAL; ADDING SECTION 3-1-26 REQUIRING NOTICE TO RESCUE ORGANIZATIONS; AMENDING SECTION 3-1-27 REVISING ANIMAL SHELTER REPORT CONTENT; AND AMENDING 3-1-29 MANDATING ANIMAL STERILIZATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Subsection (E) of City Code Section 2-1-102 (*Animal Advisory Commission*) is amended to read:

- (E) The commission shall:
- (1) advise the city council and the Travis County Commissioners Court on compliance with Texas Health and Safety Code Chapter 823 (*Animal Shelters*), city code, and council objectives;
 - (2) advise the city council on animal welfare policies and on budget priorities identified by the commission and the community, except on issues related to the administration of the Animal Services Department;
 - (3) advise the Travis County Commissioners Court on animal welfare policies;
 - (4) promote collaboration between the City and private citizens, institutions, and agencies interested in or conducting activities relating to animal welfare in the city;
 - (5) identify proactive, creative approaches to engage and facilitate communication within the animal welfare community; and

- (6) foster and assist the development of animal welfare programs in the community.

PART 2. City Code Section 3-1-1 (*Definitions*) is amended to add new definitions of “irremediably suffering” “licensed veterinarian,” “rescue organization,” “severe injury” and “unprovoked biting” to read as follows, and to renumber the remaining definitions accordingly:

- (7) **IRREMEADIABLY SUFFERING** means an animal who has a poor or grave prognosis for being able to live without severe, unremitting physical pain even with comprehensive, prompt, and necessary veterinary care, as certified in writing by a licensed veterinarian.
- (8) **LICENSED VETERINARIAN** means a veterinarian licensed to practice veterinary medicine in the State of Texas.
- (14) **RESCUE ORGANIZATION** means an organization that is:
 - (a) described in section 501(c)(3) of the Internal Revenue Code and exempt from taxation under 501(a) of that Code; and that is also
 - (b) an animal rescue organization, animal adoption organization, or organization formed for the prevention of cruelty to animals that has entered or enters a rescue partner agreement with the City animal shelter and remains in compliance with the agreement; and
 - (c) that does not have an officer, board member, staff member or volunteer who has a case pending or has been convicted of a criminal offense having as its primary effect the prevention or punishment of animal neglect or animal cruelty or dog fighting with such disqualification as a rescue organization continuing until such time as that officer, board member, staff member or volunteer is no longer associated with the organization.
- (18) **SEVERE INJURY** means any physical injury from a dog bite that results in broken bones, permanently disfiguring lacerations requiring multiple sutures or cosmetic surgery, other surgery or nerve damage.

- (20) UNPROVOKED BITING means biting that is not provoked. Biting is provoked if, among other things, it occurs because the dog was being taunted, or the dog was acting in defense of self, a person, another animal, or property, or the dog was acting from maternal instinct, or the dog was reacting to hunger, pain, or fear, or the dog bites accidentally, as when playing.

PART 3. Subsection (C) of City Code Section 3-1-21 (*Impound Facilities*) is amended to read:

- (C) Immediately upon intake, as the designated caretaker, the city manager, through the ~~[animal control supervisor]~~ chief animal services officer, is authorized to and must provide each appropriate aged impounded animal with core immunizations as defined by the Association of Shelter Veterinarian guidelines, by a licensed veterinarian employed by the city or by a person under the veterinarian's supervision, who is familiar with the common infectious diseases affecting dogs and cats of Travis County, along with any other necessary treatment the veterinarian determines is appropriate for the animal.

PART 4. City Code Section 3-1-23 (*Fee Waivers*) is amended to read:

§ 3-1-23 - FEE WAIVERS.

- (A) The city manager or the manager of an animal shelter ~~[may]~~ must waive a fee assessed against an owner reclaiming an impounded animal if:
- (1) the animal shelter intends to destroy the animal;
 - (2) the owner presents a written statement of inability to pay; or
 - (3) the animal is sterile or the owner agrees to sterilize the animal.
- ~~[(B) The city manager may waive a fee assessed against a person adopting or rescuing an impounded animal if the animal is:~~
- ~~(1) unruly, infirm, or sick;~~
 - ~~(2) aged; or~~
 - ~~(3) eight weeks of age or younger; and~~

~~(4) — the animal is sterile or the person agrees to sterilize the animal.]~~

(B) The city manager must not assess a fee to a rescue organization for accepting the transfer of an impounded animal.

(C) The city manager may implement fee-waived adoption promotions.

PART 5. Subsection (B) of City Code Section 3-1-25 (*Disposition of Impounded Animals*) is amended to read:

(B) Except as provided in subsection (G), the animal shelter ~~[health authority shall]~~ must not euthanize an animal before the animal has been impounded for seven business days and the notice requirements of section 3-1-26 are either satisfied, or determined not to apply.

PART 6. Subsection (G) of City Code Section 3-1-25 (*Disposition of Impounded Animals*) is amended to read:

(G) Subsection (B[A]) does not apply to an animal that is irremediably suffering ~~[irremediably physically suffering, as determined and documented in writing by a veterinarian licensed to practice medicine. An animal is experiencing such suffering if it has a poor or grave prognosis for being able to live without severe, unremitting pain even with prompt, necessary, and comprehensive veterinary care].~~

PART 7. City Code Chapter 3-1 (*General Provisions*) of Title 3 (*Animal Regulation*) is amended to add a new Section 3-1-26 (*Notice to Rescue Organization*) to read:

§ 3-1-26 NOTICE TO RESCUE ORGANIZATION

(A) Not less than two business days before the euthanasia of any animal, the City animal shelter must:

(1) Notify or make a reasonable attempt to notify by verifiable, documented communication any rescue organization that has previously requested to be notified before animals are euthanized;

(2) Unless there is evidence of neglect or animal cruelty as certified in writing by a licensed veterinarian, notify or make a reasonable attempt to notify by verifiable, documented communication the owner who surrendered the animal and inform that person that the

animal is scheduled to be euthanized, unless the person requests not to be contacted;

- (3) Notify or make a reasonable attempt to notify by verifiable, documented communication the finder who surrendered the stray animal and inform that person that the animal is scheduled to be euthanized, unless the person requests not to be contacted;
 - (4) Give one of the rescue organizations or persons notified under subsections (1), (2) or (3) possession of the animal to avoid the animal's death if the rescue organization or person requests it.
- (B) The City animal shelter may not euthanize any animal without making the notification required by subsections (A)(1), (2) and (3).
- (C) This section does not apply to:
- (1) An animal who is irremediably suffering;
 - (2) A dog whose release to a rescue organization would violate a court order; or
 - (3) A dog with a documented history of unprovoked biting that has resulted in severe injury to a person.
- (D) This section also applies prior to the spay of an animal exhibiting visible signs of pregnancy, unless medically necessary.

PART 8. City Code Section 3-1-27 (*Reporting by Animal Shelter*) is amended to read:

§ 3-1-27 - REPORTING BY ANIMAL SHELTER.

The manager of [an] the animal shelter [~~shall file~~] must prepare and make public monthly and annual reports, allowing for permissible delay for some data from outside rescue organizations, [with the health authority] that include, for the categories of dogs, cats, other pets, and wildlife:

- (1) the [~~total~~] number of animals impounded;

(2) the [total] number of animals [destroyed] euthanized, and for each, a description of the animal, including age, species, and size, and the reason for euthanasia;

~~[(3) a description of each animal impounded or under care of the animal shelter and the date of its impoundment or acceptance;~~

~~(4) the date of sale or disposition of an animal;~~

~~(5) the purchase price received from the sale of an animal, and the name and address of the purchaser;~~

~~(6) the amount of fees and expenses incurred or assessed for impound and care of an animal; and~~

~~(7) the name of an animal's owner, if known.]~~

(3) the live-release rate, which must be calculated by dividing the number of animals released alive during the reporting period by the number of animals with final dispositions during the same period; animals released alive are impounded animals that were adopted, transferred to rescue organizations, reclaimed by owner, released, or stolen, and does not include animals in the shelter's foster system; animals with final dispositions are animals released alive and impounded animals that were euthanized, died in kennel or foster, missing, and does include animals euthanized by owner request or court order, but does not include animals in the shelter's foster system;

(4) the number of animals adopted;

(5) the number of animals returned to owner after impoundment, and the number of animals returned to owner before impoundment;

(6) the number of animals placed into the shelter's foster program during the period, and the number of animals within the shelter's foster program on the date of reporting;

- (7) the number of animals over four weeks of age that received vaccinations upon intake, and the number of animals over four weeks of age that did not receive vaccinations upon intake;
- (8) the amount of money paid to third-party providers of services to the City-operated animal shelter for emergency medical treatment, spaying or neutering, or post-adoption care;
- (9) the number of animals spayed or neutered at the shelter, and the number of animals spayed or neutered outside the shelter under a contract with the City of Austin;
- (10) the number of animals that died in the shelter or within the shelter's foster program, and the suspected cause of death for each;
- (11) the number of animals transferred to a rescue organization, and unless a rescue organization opts out of the disclosure in writing, the number of animals transferred to and identity of each rescue organization that accepted transferred animals during the period;
- (12) the number of spays performed on animals that are visibly pregnant;
- (13) the number of animals lost, stolen, or missing;
- (14) the City-operated animal shelter's live-release-rate goal;
- (15) the number of cats released under the animal shelter's shelter-neuter-return program, reported by age group: under three months, three to six months, and older than six months; and
- (16) the number of intact animals adopted or returned to owner, and an explanation for each.

PART 9. City Code Section 3-1-29 (*Sterilization*) is amended to read:

§ 3-1-29 - STERILIZATION.

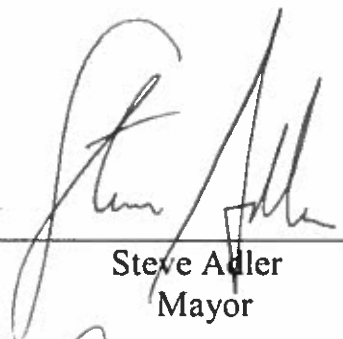
The city manager or the manager of an animal shelter [~~may~~] must sterilize an animal if it has been impounded two or more times if the animal is medically cleared for the sterilization.

PART 10. This ordinance except for amended City Code Subsection 3-1-27(3) in Part 8 takes effect on October 28, 2019. City Code Subsection 3-1-27(3) in Part 8 takes effect 180 days thereafter.


PASSED AND APPROVED

October 17, 2019

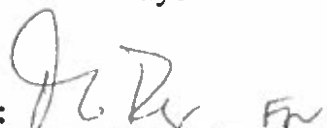
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Steve Adler
Mayor

APPROVED: 

Anne L. Morgan
City Attorney

ATTEST: 

Jannette S. Goodall
City Clerk