

ORDINANCE NO. 97-6

AMENDMENT TO SECTION 10, ORDINANCE NO. 88-3

AN ORDINANCE REGULATING THE KEEPING OF DOGS WITHIN THE LIMITS OF THE CITY OF CUMBY, PROVIDING FOR DEFINITION OF WORDS AND PHRASES. PROVIDING FOR DISPOSAL OF VICIOUS DOGS, PROVIDING FOR IMPOUNDMENT OF DOGS, PROVIDING FOR THE REDEMPTION OF DOGS AND THE DISPOSAL THEREOF IF NOT REDEEMED. PROVIDING FOR CONFINEMENT OF DOGS OR OTHER QUADRUPED ANIMALS UPON SUSPICION OF RABIES. PROVIDING A SAVINGS CLAUSE, PROVIDING A PENALTY, SPECIALLY REPEALING ALL OTHER ORDINANCES IN CONFLICT HERewith AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CUMBY, TEXAS:

SECTION 1:

DEFINITIONS - AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS RESPECTIVELY ASCRIBED TO THEM:

A. AT LARGE - SHALL BE INTENDED TO MEAN NOT TIED IN SUCH A WAY THAT THE ANIMAL CANNOT GET OFF THE PREMISES OF ITS OWNER, OR WITHIN A TOTALLY ENCLOSED FENCE CONSTRUCTED IN SUCH A WAY TO PREVENT THE ANIMAL FROM LEAVING OR GETTING OFF THE PREMISES OF ITS OWNER OR NOT ACCOMPANIED BY A RESPONSIBLE PERSON AND UNDER THAT PERSON'S COMPLETE CONTROL WITH THE USE OF A LEASH OR SIMILAR TYPE RESTRAINTMENT.

B. OWNER - SHALL BE INTENDED TO MEAN ANY PERSON OWNING, KEEPING, HARBORING, IN CHARGE OF OR IN CONTROL OF A DOG, CAT, OR OTHER QUADRUPED ANIMAL.

C. VACCINATION - SHALL BE AN INJECTION OF A TYPE OF VACCINE APPROVED BY THE STATE VETERINARIAN AND ADMINISTERED BY A VETERINARIAN LICENSED UNDER THE STATE LAW.

SECTION 2:

ENFORCEMENT OF ARTICLE PROVISIONS - THE CHIEF OF POLICE AND ANY POLICE OFFICER OF THE CITY SHALL HAVE THE RIGHT TO ENFORCE ANY OF THE PROVISIONS OF THIS ARTICLE, AND THE CHIEF OF POLICE IS HEREBY DELEGATED AUTHORITY TO APPOINT ANY PERSON OR PERSONS TO AID AND ASSIST HIM IN THE CARRYING OUT AND ENFORCEMENT OF THIS ARTICLE WHETHER HIRED OR OBTAINED BY THE CITY. RE: SULPHUR SPRINGS ANIMAL CONTROL, ETC.

SECTION 3:

DEFENSE TO PROSECUTION UNDER ARTICLE PROVISIONS - ANY OF THE EXEMPTIONS OR EXCEPTIONS SET OUT IN THIS ARTICLE MAY BE SHOWN AS A DEFENSE TO A PROSECUTION UNDER THE PROVISIONS OF THIS ARTICLE; AND IT SHALL NOT BE NECESSARY TO NEGATIVE IN ANY COMPLAINT OR INFORMATION ANY OF SUCH EXEMPTIONS OR EXCEPTIONS. WHEN THE DEFENDANT SHALL RELY UPON ANY SUCH EXEMPTION OR EXCEPTION AS A DEFENSE OR JUSTIFICATION, THE BURDEN OF PROVING THE EXEMPTION SHALL BE UPON HIM.

SECTION 4:

IMPOUNDMENT - ANY DOG, CAT OR OTHER QUADRUPED ANIMAL FOUND WITHIN THE CITY IN VIOLATION OF ANY OF THE PROVISIONS OF THIS ARTICLE SHALL IMMEDIATELY BE IMPOUNDED AND KEPT FOR A PERIOD OF SEVENTY TWO (72) HOURS AND THEN DISPOSED OF; PROVIDED, HOWEVER, THAT THE OWNER OF ANY ANIMAL IMPOUNDED UNDER THE TERMS OF THIS SECTION SHALL BE ALLOWED TO TAKE SUCH ANIMAL FROM THE PLACE WHERE IMPOUNDED UPON THE FOLLOWING CONDITIONS:

A. UPON THE PAYMENT OF A \$15.00 CAPTURE FEE AND AN IMPOUNDING FEE IN THE SUM OF \$5.00 FOR EACH DAY OR FRACTIONAL PART THEREOF WHICH SAID ANIMAL HAS BEEN IMPOUNDED.

B. IF SAID ANIMAL IS NOT WEARING A COLLAR WITH VALID RABIES VACCINE TAG ATTACHED, THEN THE OWNER THEREOF MUST PRESENT A CERTIFICATE SHOWING THAT SAID ANIMAL HAS BEEN VACCINATED WITHIN TWELVE (12) MONTHS FROM THAT DAY OR HAVE SAID ANIMAL VACCINATED PRIOR TO ITS RELEASE FROM IMPOUNDMENT.

C. PROVIDE THE ANIMAL WITH A COLLAR OR HARNESS TO WHICH THE LICENSE RABIES VACCINE TAG IS ATTACHED.

SECTION 5:

ANNUAL VACCINATION

A. REQUIRED - IT SHALL BE UNLAWFUL FOR THE OWNER OF ANY DOG, CAT, OR OTHER QUADRUPED ANIMAL TO KEEP SAID ANIMAL WITHIN THE CORPORATE LIMITS OF THE CITY WITHOUT FIRST HAVING SAID ANIMAL VACCINATED AGAINST RABIES ANNUALLY. UPON SUCH VACCINATION, THE OWNER SHALL BE ISSUED A CERTIFICATE AND A METAL VACCINE TAG BY THE VETERINARIAN SHOWING VACCINATION AND THE DATE THEREOF.

B. COLLAR AND TAG - THE OWNER OF A DOG, CAT, OR OTHER QUADRUPED ANIMAL SHALL PROVIDE AND PLACE ON SUCH ANIMAL A COLLAR OR HARNESS TO WHICH THE VACCINE TAG REQUIRED BY THIS SECTION SHALL BE AFFIXED AND SAID OWNER SHALL SEE THAT THE COLLAR AND TAGS ARE AT ALL TIMES WORN BY SAID ANIMAL.

SECTION 6:

CONFINEMENT UPON SUSPICION OF RABIES - WHEN PERSON BITTEN -  
IF ANY DOG, CAT OR OTHER QUADRUPED ANIMAL HAS BITTEN ANY PERSON, THE OWNER OF SAID ANIMAL SHALL IMMEDIATELY, AND IN ANY EVENT NOT LATER THAN TWENTY-FOUR (24) HOURS AFTER SUCH BITING, NOTIFY THE CHIEF OF POLICE AND THE CITY HEALTH OFFICER OF SUCH BITING AND HAVE SUCH DOG, CAT, OR OTHER QUADRUPED ANIMAL IMPOUNDED IN THE SULPHUR SPRINGS DOG POUND OR A VETERINARIAN HOSPITAL FOR A PERIOD OF TWO (2) WEEKS.

NO SUCH DOG, CAT, OR OTHER QUADRUPED ANIMAL SO HELD FOR OBSERVATION SHALL BE RELEASED FROM IMPOUNDMENT WITHOUT THE AUTHORIZATION OF THE CITY CHIEF OF POLICE.

SUCH IMPOUNDMENT SHALL BE AT THE EXPENSE OF THE OWNER OF SAID ANIMAL EXCEPT WHERE, AT THE TIME OF SAID BITING, THE SAID ANIMAL WAS WEARING A COLLAR OR HARNESS WITH VALID LICENSE AND RABIES TAGS ATTACHED THERETO AND IS LAWFULLY RESTRAINED ON THE OWNER'S PREMISES AS REQUIRED BY THIS ARTICLE, IN WHICH EVENT THE EXPENSE OF CONFINEMENT SHALL BE AGAINST PERSON SO BITTEN, UNLESS SUCH PERSON IS ON THE PREMISES WITH THE EXPRESS OR IMPLIED CONSENT OF THE OWNER, SUCH AS IN THE CASE OF DELIVERY MEN, GUESTS, POSTMEN, OR UTILITY METER READERS, ETC., IN WHICH EVENT THE COST OF CONFINEMENT SHALL BE AT THE ANIMAL OWNER'S EXPENSE.

SECTION 7:

SAME - WHEN BITTEN - THE OWNER OF ANY DOG, CAT, OR OTHER QUADRUPED ANIMAL SUFFERING A BITE FROM A RABID ANIMAL OR SUSPECTED OR BELIEVED TO HAVE BEEN BITTEN BY A RABID ANIMAL, SHALL, WITHIN TWENTY-FOUR (24) HOURS FROM THE TIME OF SUCH BITING, NOTIFY THE CHIEF OF POLICE AND HAVE THE DOG, CAT, OR OTHER QUADRUPED ANIMAL IMPOUNDED AND EITHER ADMINISTERED THE PASTEUR TREATMENT OR DESTROYED.

SECTION 8:

RUNNING AT LARGE PROHIBITED - NO OWNER OF ANY DOG SHALL PERMIT SUCH DOG TO RUN AT LARGE WITHIN THE CITY LIMITS.

SECTION 9:

DANGEROUS, VICIOUS, FIERCE, MISCHIEVOUS DOGS, BITCHES IN HEAT - NO DOG OF DANGEROUS, VICIOUS, FIERCE, OR MISCHIEVOUS PROPENSITIES OR TENDENCIES AND NO FEMALE DOG IN HEAT SHALL BE ALLOWED UPON ANY STREET, AVENUE, HIGHWAY, ALLEY, SIDEWALK, PARKWAY, PARK OR OTHER PUBLIC PLACE WITHIN THE CITY, WHETHER SUCH DOG IS UNDER THE CONTROL OF THE OWNER OR ANY OTHER PERSON, EITHER BY LEASH, CORD, CHAIN, OR OTHERWISE. ANY SUCH DOG SO FOUND UPON ANY OF THE PUBLIC PLACES SHALL BE TAKEN UP AND IMPOUNDED AND SHALL NOT BE

RELEASED EXCEPT UPON THE APPROVAL BY THE CHIEF OF POLICE; PROVIDED HOWEVER, THAT IF ANY DANGEROUS, VICIOUS, FIERCE, OR MISCHIEVOUS DOG SO FOUND CANNOT BE TAKEN UP AND IMPOUNDED WITH REASONABLE SAFETY FOR THE PERSON ATTEMPTING THE SAME, SUCH DOG MAY BE SLAIN BY ANY POLICEMAN.

IF ANY DOG BITES OR ATTEMPTS TO BITE ANY PERSON WHILE SUCH DOG IS AT LARGE, THEN SUCH DOG SHALL BE CONCLUSIVELY PRESUMED TO BE A DANGEROUS DOG AND A DOG OF DANGEROUS PROPENSITIES AND TENDENCIES.

IF ANY DOG ATTACKS OR ATTEMPTS TO ATTACK ANY OTHER DOG OR OTHER ANIMAL WHILE SUCH DOG IS AT LARGE, THEN SUCH DOG SHALL BE CONCLUSIVELY PRESUMED TO BE A VICIOUS DOG AND A DOG HAVING VICIOUS PROPENSITIES AND TENDENCIES.

IF ANY DOG AT LARGE CHASES OR OTHERWISE ATTEMPTS TO CATCH A PERSON, THEN SUCH DOG SHALL BE CONCLUSIVELY PRESUMED TO BE A FIERCE DOG AND TO HAVE FIERCE PROPENSITIES AND TENDENCIES.

IF ANY DOG AT LARGE OVERTURNS A SECURELY COVERED GARBAGE CONTAINER, THEN SUCH DOG SHALL BE CONCLUSIVELY PRESUMED TO BE A MISCHIEVOUS DOG AND A DOG OF MISCHIEVOUS PROPENSITIES AND TENDENCIES.

SECTION 10:

NUISANCE - IT SHALL BE UNLAWFUL FOR ANY OWNER TO FAIL TO EXERCISE PROPER CARE AND CONTROL OF HIS ANIMALS TO PREVENT THEM FROM BECOMING A PUBLIC NUISANCE. EXCESSIVE, CONTINUANCE OR UNTIMELY BARKING, MOLESTING PASSERSBY, CHASING VEHICLES, HABITUALLY ATTACKING OTHER DOMESTIC ANIMALS, TRESPASSING UPON SCHOOL GROUNDS OR TRESPASSING UPON PRIVATE AND PUBLIC PROPERTY IN SUCH MANNER AS TO DAMAGE PROPERTY SHALL BE DEEMED A NUISANCE.

SECTION 11:

SAVINGS CLAUSE - THAT IF ANY SECTION, PART OR PROVISION OF THIS ORDINANCE IS DECLARED UNCONSTITUTIONAL OR INVALID, THEN, IN THAT EVENT, IT IS EXPRESSLY PROVIDED, AND IT IS THE INTENTION OF THE CITY COMMISSION IN PASSING THIS ORDINANCE, THAT ALL OTHER PARTS OF THIS ORDINANCE SHALL NOT BE EFFECTED THEREBY AND SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 13:

PENALTY - THAT ANY PERSON WHO SHALL VIOLATE ANY OF THE PROVISIONS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF SHALL BE FINED NOT EXCEEDING \$200.00 AND EACH AND EVERY DAY OF SUCH VIOLATION SHALL BE DEEMED A SEPARATE AND COMPLETE OFFENSE.

SECTION 14:

REPEALING CLAUSE - ALL OTHER ORDINANCE AND PARTS OF ORDINANCES IN CONFLICT WITH THE TERMS OF THIS ORDINANCE ARE HEREBY EXPRESSLY REPEALED.

SECTION 15:

DECLARING AN EMERGENCY - WHEREAS, AN EMERGENCY IS APPARENT FOR THE IMMEDIATE PRESERVATION OF ORDER, HEALTH, SAFETY AND GENERAL WELFARE THEREFORE, IT SHALL BE EFFECTIVE FROM AND AFTER THE DATE OF ITS PASSAGE AND PUBLICATION AS MADE AND PROVIDED BY LAW.

PASSED AND APPROVED THIS THE

11th DAY OF November

1997.

*Gary Cline*  
MAKOR

COMMISSIONER GARY CLINE

*Carla Petty*  
COMMISSIONER CARLA PETTY

ATTEST:

*Mary Grace*