CITY OF BRYAN
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# ACTION FORM
## BRYAN CITY COUNCIL

**Meeting Date** (?) 12/15/2015

**Subject Matter*** (?) First Reading of the Animal Seizure and Impoundment Ordinance
This must match rolling agenda entry

**Department of Origin*** ANIMAL SERVICES

**Submitted By*** E. Zaragoza

**Type of Meeting*** ○ BCD ○ Special ◉ Regular

**Classification*** ○ Public Hearing ○ Consent ◉ Statutory ○ Regular

**Ordinance*** ○ None ◉ First Read ○ Second Read ○ First & Only Read

**Strategic Initiative*** ☑ Public Safety ☑ Service ☐ Economic Development ☐ Infrastructure ☐ Quality of Life

**Agenda Item Description*** Consider approving a proposed ordinance change to Chapter 10 - "Animals" to establish standards for Seizures and Impoundment of Animals.

**Summary Statement*** A proposed ordinance change (workshop presentation) was brought to the November 10 City Council Workshop, by staff, to include standards for seizures and impoundment of animals within the City of Bryan. (The November 10 workshop presentation is attached.) Prior to presenting the proposed ordinance change to the City Council, a special meeting was held on November 5 with the Animal Center Advisory Committee (ACAC), which unanimously recommended the draft ordinance to the City Council for approval.

Below is a summary/outline of the standards for seizures and impoundment of animals:

Definitions:
• Animal control authority - shall mean the person or persons designated by the city manager or applicable state law to enforce this chapter, including a duly licensed peace officer.

• Impound - shall mean the act of placing an animal in the City's animal control facility.

• Seize - shall mean the act of taking physical possession of an animal.

Ordinance Changes:
• Sec. 10-2. - Enforcement.
(a) It shall be the duty of the animal control authority to carry out all applicable provisions of this chapter and to seize and impound all animals found to be in violation of this chapter.

(c) It shall be unlawful for persons to interfere with, hinder or molest any agent of the animal control authority in the performance of any duty as herein provided. It shall also be unlawful for any person to remove an animal from or inflict damage upon a humane live trap set by the animal control authority.

• Sec. 10-3. – Seizure and Impoundment.
(a) The animal control authority shall have the power to seize an animal with a warrant or court order if he or she has probable cause to believe one of the following conditions exist.
(1) The animal is found at large and/or has been abandoned.
(2) The animal is exhibiting symptoms of rabies, has been exposed to a rabid animal, or has bitten or scratched a human being.
(3) The animal meets the definition of a dangerous animal as defined in this chapter.
(4) The animal is being treated cruelly in violation of this chapter or state law.
(5) The animal control authority is authorized to seize the animal based on, or pursuant to, other state law.

(b) The animal control authority shall have the power to seize an animal without a warrant or court order if he or she has probable cause to believe one of the conditions listed in (a)(1)-(5) exist and under the following conditions:
(1) On public property, in all cases;
(2) On private property if
(i) The consent of the resident or property owner is obtained; or
(ii) The animal control authority reasonably believes there is imminent danger of serious bodily injury or death to the public, other animals, or the animal in question and there is insufficient time to obtain a warrant.
(3) Upon the request of a peace officer if the owner of the animal is not available and there is no one eighteen (18) years of age or older to accept responsibility for the animal.

(c) The animal control authority is authorized to use necessary force to make lawful seizures of animals pursuant to this chapter.

(d) Any animal that has been seized pursuant to section (a)(2) must be impounded and quarantined, and disposition of the animal shall only be permitted, as required by Chapter 826 of the Texas Health and Safety Code and Title 25 of the Texas Administrative Code Chapter 169, Subchapter A, as may be amended.

(e) For any animal seized pursuant to section (a)(4), the animal shall be impounded and a hearing shall be scheduled in the City of Bryan municipal court within ten (10) days of the seizure (or warrant authorizing same), and disposition of the animal shall be determined in accordance with Chapter 821 of the Texas Health and Safety Code, as may be amended. (d) This section shall not apply to community cats.

• Sec. 10-21. At large- Animals generally.
(a) It shall be unlawful for an animal to be at large within the city. When an animal is found at large and its ownership is verified by the animal control authority, the authority may exercise the option of serving the owner with a citation, returning the animal to the owner without impounding it, and/or impounding the animal. Impounded animals not claimed by the owner within three full days during which the shelter is open to the public shall become the property of the animal shelter. Wild animals (which are not protected by federal law) and which are seized by the animal control authority shall become the property of the animal shelter upon impoundment. The animal shelter shall be entitled to dispose of such animals by adoption, foster, rescue, humane euthanasia, or any other manner allowed by law.

• Sec. 10-54. Impoundment.
(a) Notification of owner; unclaimed animals. Any dog or cat found at large, excluding community cats, may be impounded by the animal control authority in an animal shelter. Community cats may be impounded if they are causing a nuisance as defined in Section 10-53(c), or are sick, injured, or on property without the owner's consent. Immediately upon impounding a dog or cat, excluding community cats, the animal control authority shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of three full days in which the shelter is open to the public shall become the property of the animal shelter. Community cats impounded on a nuisance complaint may be relocated to another community cat colony by a community cat caregiver, or humanely euthanized after a minimum hold period of three full days during which the shelter is open to the public. Community cats may be held longer, as space is available in the shelter. Community cats that bite or scratch a person shall undergo rabies observation or testing and shall be euthanized in accordance with law. Community cats impounded for biting or scratching a person may not be released to a community cat caregiver, returned to their original location or relocated to another community cat colony.

(c) Citation of owner. When a dog or cat is found at large and its ownership is verified by the animal control authority, the authority may exercise the option of serving the owner with a citation, returning the animal without impounding it, and/or impounding the animal. The city shall establish a prima facie case by proving the ownership of the animal and that it was at large.

• Sec. 10-92. – Dangerous animal impoundment.
Any animal that the animal control authority has probable cause to believe is a dangerous animal, which has been lawfully seized by the animal control authority, may be impounded until disposition of such animal is determined by a court. When an animal is found to be in violation of this article, such

such animal is determined by a court. When an animal is found to be in violation of this article, such animal need not be impounded if no human injury has occurred but the animal control authority may issue a complaint and summons to the owner to appear in municipal court to answer the charges of violation of this article, or inform the owner in writing that the animal is a dangerous animal.

Approving this ordinance change will allow Animal Control Officers the necessary tools to intervene when there are obvious signs of neglect and mistreatment of animals regardless if time is available to obtain a warrant or not. Although before executing a warrantless seizure, conditions will have to exhibit exigent circumstances and may be evaluated by a certified Animal Cruelty Investigator. Any animal that is seized will be done by officers who are trained in animal husbandry and are certified Animal Control Officers. Having this ordinance in place may safeguard an animal's welfare, and an acting officer(s) as well. These ordinance changes are a positive step for the City of Bryan protecting its community animals by not tolerating the mistreatment, neglect, or abuse of animals.

**Staff Analysis & Recommendation***

The Animal Services Department recommends approval of Animal Ordinance to establish standards for Seizures and Impoundment of Animals.

Approving this ordinance change will allow Animal Control Officers the necessary tools to intervene when there are obvious signs of neglect and mistreatment of animals regardless if time is available to obtain a warrant or not. Although before executing a warrantless seizure, conditions will have to exhibit exigent circumstances and may be evaluated by a certified Animal Cruelty Investigator. Any animal that is seized will be done by officers who are trained in animal husbandry and are certified Animal Control Officers. Having this ordinance in place may safeguard an animal's welfare, and an acting officer(s) as well. These ordinance changes are a positive step for the City of Bryan protecting its community animals by not tolerating the mistreatment, neglect, or abuse of animals.

**Options***

(In Suggested Order of Staff Preference)
1. Approve the proposed changes
2. Approve the proposed changes with modifications, which may require consideration at a future City Council meeting
3. Do not approve the proposed changes

**Funding Source***

Staff does not anticipate additional operating cost.

**Attachments**

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| Animal Seizure and Impoundment_Ordinance.docx | 24.21KB |
| Animal Seizure and Impoundment_Attachment.pdf | 898.65KB |

Please detail attachments and note attachments available for viewing in City Secretary's Office:
1. Proposed Ordinance
2. November 10, 2015 City Council Workshop Presentation (proposed ordinance changes are highlighted)

**Dept. Head Signature**

Hugh R. Walker

**Deputy City Manager Signature**

Hugh R. Walker

**City Manager Signature**

**City Attorney Signature**

Janis K. Hampton