

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES, CHAPTER 6 ANIMALS RELATED TO TETHERING, RABBITS AND GENERAL CARE AND TREATMENT OF PETS, INCREASING ONE MINIMUM FINE TO \$100, AND INCREASING THE MAXIMUM FINE TO \$2000; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; CONTAINING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels has the authority pursuant to statutory provisions of the Texas Health and Safety Code Chapter 821 to adopt and employ regulatory ordinances for the control of domestic animals, and

WHEREAS, the City Council of the City of New Braunfels, Texas, is concerned about the keeping of rabbits, and the proper care and treatment of pets in New Braunfels; and

WHEREAS, the City Council of the City of New Braunfels, Texas deems it necessary to amend its ordinances to achieve desired outcomes of pet ownership; and

WHEREAS, the Comprehensive Plan, Envision New Braunfels, has multiple action items supporting these amendments, including Action 3.6: Pro-actively provide a regulatory environment that remains business and resident friendly; and Action 3.35: Support local non-profits whose mission includes Envision New Braunfels goals; and

WHEREAS, the City Council has directed that ordinances dealing with the care of pets be reviewed by the Animal Services Advisory Board to make recommendations concerning improving those regulations; and

WHEREAS, the Animal Services Advisory Board held separate public hearings on these amendments on May 14, 2019, July 23, 2019, and January 27, 2021 and recommended approval of the proposed amendments; and

WHEREAS, the City Council heard a briefing on these amendments at their regular meeting on February 22, 2021; and

WHEREAS, the City Council held a public hearing and first reading on said amendments at their regular meeting on March 8, 2021; and

WHEREAS, the City Council hereby finds and determines that these amendments

are in the best interest of the citizens of New Braunfels, Texas.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

SECTION 1

THAT the findings and recitations set out in the preamble to this Ordinance are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes.

SECTION 2

THAT Chapter 6, Animals, Section 6-1 Definitions, is hereby amended with additions as underlined and deletions as stricken:

ARTICLE I. – IN GENERAL

Sec. 6-1. – Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means left without the needed protection, care, or support by the owner, a person, partnership, or corporation.

Altered or sterilized means the surgical removal of the reproductive organs of a dog or cat or the use of nonsurgical methods and technologies approved by the United States Food and Drug Administration or the United States Department of Agriculture to permanently render the animal unable to reproduce.

Animal means every nonhuman species of animal, both domestic and wild.

Animal at large means any animal not under the restraint (as defined in this section) of a person capable of controlling the animal on or off the premises of the owner.

Animal Care means the responsible practice of good handling, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the age, species, condition, size and type of the animal and the provision of veterinary care when deemed necessary by an Animal Control Officer to prevent suffering or impairment of health.

Animal control officer or humane officer means any person designated by the city as a law enforcement officer who is qualified to perform such duties as required by this chapter and/or state law.

Animal shelter means any facility operated by a humane society, or municipal agency or its authorized agents, for the purpose of impounding animals under the

authority of this chapter or state law for care, confinement, return to owner, adoption or euthanasia.

Animal welfare group means any not-for-profit group with 501(c)(3) status whose primary mission includes animal welfare.

Auction means any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this chapter. This definition does not apply to individual sales of animals by owners.

Bite means puncturing or tearing of the skin by an animal's teeth.

Bullhook means a tool or device, also known as an elephant goad or an ankus, used in handling and training elephants, consisting of a spike, hook or combination thereof, attached to a shaft or handle.

Cat means any live or dead felis catus.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop, guard dog or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

Cruel manner includes a manner that causes or permits intentional pain or suffering.

Currently vaccinated means vaccinated and satisfying the following criteria:

- (1) The animal must have been at least three months of age at the time of vaccination;
- (2) At least 30 days have elapsed since the initial vaccination;
- (3) Not more than 12 months have elapsed since the most recent vaccination.

Designated Custodian means a person who has possession or control or responsibility of an animal in their direct supervision and is performing veterinary treatment, grooming, training, law enforcement activity, or any other animal related service where the owner and the custodian have agreed to the animal related service or activity.

Dog means any live or dead canis familiaris.

Domestic animal means tame, domesticated, of or pertaining to the family or household.

Ear tipping means the painless removing of the tip of the left ear of a cat while the cat is anesthetized by a licensed veterinarian.

Feral cat means any unowned, homeless, wild, or untamed cat which is too poorly socialized to be handled (and therefore must be trapped and sedated for examination) and which cannot be placed into a typical home as a domestic pet.

Feral cat colony means a group of cats that congregate together, more or less as a unit, who are fed and cared for by a feral cat colony caregiver.

Feral cat colony caregiver means a person who is approved by a sponsor who feeds feral cats, performs trap-neuter-return, and provides long-term care and monitoring for adult feral cats.

Food means access to food that is of sufficient quantity and nutritive value to maintain each animal in good health; is accessible to each animal; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a clean and sanitary manner; is placed so as to minimize contamination by excrement and pests; and is provided at suitable intervals for the species, age, and condition of the animal, except as prescribed by a veterinarian.

Fowl means a bird of any kind; domestic cock or hen (gallus gallus).

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guard dog means any professionally trained dog that will detect and warn its handler that an intruder is present in or near an area that is being secured.

Identification means any acceptable method such as micro-chipping, registration tag, or tattoo readily traceable to the current owner.

Kennel or *cattery* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats; and/or a facility for keeping more than four animals of the same species.

Licensed veterinarian means a veterinarian licensed to practice veterinary medicine in one or more of the 50 states.

Livestock means domestic animals used or raised on a farm, especially those kept for a profit; specifically, horses, ponies, mules, donkeys, cattle, goats, ~~rabbits~~, sheep and swine, regardless of age, sex or breed.

Local health authority or *rabies control officer*. The city sanitarian shall be designated as the rabies control officer and shall handle all duties required under the Rabies Control Act of 1981 (V.T.C.A., Health and Safety Code § 826.001 et seq.).

Microchip implant means a passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for the purposes of animal identification and recovery by the animal's owners.

Observation period means the ten days following a bite incident during which the biting animal's health status must be monitored. The ten-day observation period will begin on the day of the bite incident (day one).

Owner means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more, or if it returns to a residence or business on three separate days.

Performing animal exhibition means any spectacle, display, act, or event, in which performing animals are used. This shall include animal amusement vendors such as, but not limited to, pony-go-round rides, commercial horseback pictures, etc.

Pet or companion animal means any animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Pet shop means any person, partnership, or corporation, whether operated separately or in connection with another business enterprise (except for a licensed kennel), that buys, sells, or boards any species of animal.

Possible exposure to rabies means the receipt of a bite or scratch from any warm-blooded animal, animal to human or animal to animal, is reason to suspect exposure to rabies.

Properly fitting means, with respect to a collar or harness used for a dog, a collar or harness that: does not impede the dog's normal breathing or swallowing; and is attached to the dog in a manner that does not allow for escape and does not cause injury to the dog.

Provocation means any purposeful act that causes an animal to bite, scratch, or attack in protection of self, owner, or owner's premises. Entrance, in any manner, into an area where an animal is properly under restraint in compliance with city ordinances would be considered provocation, irrespective of the reason for such entrance.

Public nuisance means any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" means and includes, but is not limited to, any animal that:

- (1) Is repeatedly at large or stray;
- (2) Damages the property of anyone other than its owner;
- (3) Molests or intimidates pedestrians or passersby;
- (4) Trespasses on school grounds;
- (5) Chases vehicles;
- (6) Excessively makes disturbing noises, including but not limited to continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (7) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (8) Causes insanitary conditions in enclosures or surroundings where the animal is kept or harbored;
- (9) Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained; or
- (10) Attacks other domestic animals.

Quarantine means strict confinement, for the purpose of preventing the spread of disease, under restraint by closed cage, isolation, kennel, rabies chamber, paddock, or

in any other manner approved by the local health authority on the private premises of the owner or at a facility approved by the state department of health.

Quarantine period means that portion of the observation period during which a biting animal is physically confined for observation as provided for under section 6-109.

Rabies means an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Registered feral cat colony means a managed feral cat colony registered with a sponsor and meeting all requirements of this chapter.

Releasing agency means a public or private animal pound, shelter, or humane organization. The term does not include an individual who occasionally renders humane assistance or shelter in the individual's home to a dog or cat.

Restraint means that an animal is secured by a leash or lead and under the control of a responsible person and obedient to that person's commands. At all other times, a dog or other such animal shall be confined to the realty or premises of the owner of such dog or other animal by a substantial fence of sufficient strength and height to prevent such dog or other animal from escaping therefrom; or inside a house on such premises; or secured on such premises by a leash consisting of a material of sufficient strength to prevent such dog or other animal from escaping from such premises. It shall be unlawful for the leash to be arranged in a manner that allows the dog or other animal to get on or across or within eight feet of any street, park, or other public land or within eight feet of any sidewalk, public way, place or building when such leash is stretched to its full length. Any animal so arranged shall be considered dangerous to the public in general and declared a nuisance and shall be impounded. Although cats shall be exempt from the leash requirement while on the premises of the owner, any cat straying on the property of anyone except its owner shall be deemed a public nuisance animal and will be subject to impoundment.

Riding school or stable means any place that has available for hire, boarding, and/or riding instruction, any horse, pony, donkey, mule, or burro; or any place that regularly buys, sells, or trains the above animals, including a racetrack, trotting track, or rodeo.

School zone means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

Scratch means a scrape left by the claws or nails of an animal and of sufficient severity to break the skin and draw blood.

Shelter means provision of and access to housing that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry; during hot weather, is properly shaded and does not readily conduct heat; during cold weather, has a windbreak at its entrance and provides a quantity of bedding material consisting of hay, cedar shavings, or the equivalent that

is sufficient to protect the animal from cold and promote the retention of body heat; and, provides a solid surface, resting platform, pad, floormat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

Sick animal means any animal that appears to be suffering from an infectious, contagious, or communicable disease; or that is showing evidence of a physical injury, physical disorder, or traumatic injury; or that has an elevated temperature.

Sponsor is any animal welfare group partnered with and approved by the city that agrees to comply with the requirements of the ordinance from which this definition derives for sponsors and provides written notice to the city that it will serve as a sponsor.

Stray means animal running free or at large, with no physical or verbal restraint.

Tether means any leash, chain, cord, rope, or other means of restraining an animal or the act of chaining, tying, fastening or otherwise securing an animal to a fixed point so that it can move, lie down or range only within certain limits.

Traceable identification means a type of identification, such as a tag, microchip, or tattoo that can be readily used by an animal control officer or animal welfare personnel to identify the current ownership of an animal.

Trap, neuter and return (TNR) program shall mean a nonlethal, humane alternative to deal with the feral cats which are captured, vaccinated, altered and returned back to their location in order to encourage the stabilization of the free-roaming feral cat population in the city.

Unowned animal means any animal for which an owner has not been identified.

Vaccinated means properly injected with a rabies vaccine licensed for use in the subject species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Vicious animal means any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals; or an individual animal which the local health authority has reason to believe has a dangerous disposition, likely to be harmful to humans or other animals.

Water means provision of and access to clean, fresh, drinkable water that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian.

Wild animal means any animal except the common domestic species (including, but not limited to, dogs, cats, horses, cattle, swine, sheep, and goats), regardless of the state or duration of captivity.

Wild state means living in its original, natural condition; not domesticated.

Wildlife means any animal that occurs naturally in the wild state.

Zoological park means any facility operated by a person, partnership, corporation, or government agency, other than a pet shop or kennel, displaying or exhibiting one or more species of no domesticated animals.

(Code 1961, § 3-1; Ord. No. 2006-51, § I, 6-12-06; Ord. No. 2014-58, § 2, 8-11-14; Ord. No. 2019-54, § 2, 8-13-19)

Cross reference— Definitions generally, § 1-2.

State Law reference— Definitions pertaining to rabies, V.T.C.A., Health and Safety Code § 826.002.

SECTION 3

THAT Chapter 6, Animals, Section 6-2 Animal Control Officer is hereby amended with deletions as stricken:

Sec. 6-2. - Animal control officer.

An animal control officer(s) shall be appointed to enforce all provisions of this chapter, including gathering ~~up~~ and impounding or quarantining any livestock, fowl, cats, dogs, or other domestic and nondomestic animals found running at large (stray) within the city limits.

(Code 1961, § 3-2)

SECTION 4

THAT Chapter 6, Animals, Section 6-5 Penalty for Violation of Chapter; Schedule of Fines, is hereby amended with additions as underlined and deletions as stricken:

Sec. 6-5. - Penalty for violation of chapter; schedule of fines.

- (a) Any person who shall violate any of the provisions of this chapter, or fail to comply therewith or with any of the provisions thereof, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not less than \$25.00 and not more than \$2,000.00~~\$500.00~~, unless specifically listed on the minimum penalty schedule in subsection (b), and each and every day's violation shall constitute a separate and distinct offense. Subsequent convictions for any violation of this chapter within a 12-month period shall double the minimum applicable fine listed in subsection (b), up to and including the maximum allowed by law. If any person is found guilty of violating

section 6-76, pertaining to animal care, such person's permit to own, keep, harbor, or have custody of animals shall be deemed automatically revoked and no new permit may be issued.

(b) Upon conviction of the specific ordinance violation listed, the minimum fine imposed shall be as follows:

- (1) Animal abandonment\$ 100.00~~50.00~~
- (2) No rabies vaccination50.00
- (3) Not registered/licensed30.00
- (4) Failure to obtain permit before opening200.00
- (5) Failure to renew permit by due date30.00
- (6) Allowed to run at large, stray:
 - a. Unneutered dog or cat40.00
 - b. Neutered dog or cat25.00
 - c. Any other animal25.00
- (7) More than four dogs or cats, per animal30.00
- (8) Unconfined and/or non-muzzled vicious animal200.00
- (9) Unconfined female dog or cat in heat30.00
- (10) Failure to surrender animal for rabies observation200.00
- (11) ~~Reserved.~~ Failure to comply with section 6-76100.00
- (12) Failure to comply with section 6-79500.00

(Code 1961, § 3-29; Ord. No. 2019-54, § 2, 8-13-19)

SECTION 5

THAT Chapter 6, Animals, Section 6-76, Animal Care Generally, is hereby amended with additions as underlined and deletions as stricken:

ARTICLE IV. – Care and Keeping

Division 1. – Generally

Sec. 6-76. - Animal care ~~generally.~~

- (a) No owner shall fail to provide his~~their~~ animals with: ~~sufficient wholesome and nutritious food, water in sufficient quantities, adequate ventilation, shelter space and protection from the weather, veterinary care when needed to prevent suffering, and humane care and treatment.~~

(1) Food;

- a. Storage of feed: All feed provided for animals shall be stored and kept in a ratproof, fly tight building, box, container, or receptacle. Persons in charge of horse stables must carry out a continuous, active rat control program.

(2) water in sufficient quantities;

(3) adequate ventilation;

(4) shelter/protection from the weather:

- a. Minimum space requirements for both indoor and outdoor enclosures shall include the following.

- i. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal.
- ii. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement.
- iii. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns.
- iv. When sunlight is likely to cause heat exhaustion if an animal is outside, without sufficient shade by natural or artificial means, the owner must provide sufficient shade to protect the animal from direct sunlight.

- b. An owner may not leave an animal outside and unattended whether they are restrained or not if the following weather conditions have been issued for the jurisdiction by the National Weather Service:

- i. a winter weather advisory, or the actual or effective outdoor windchill is below 32 degrees Fahrenheit,
- ii. a heat advisory, or
- iii. a hurricane, tropical storm, flash flood or tornado warning.

- c. Exemptions

- i. If owner can provide shelter as indicated in section 6-76(a)(4)a., or as defined in definitions under shelter, no violation exists
- ii. this section shall only apply to domesticated companion pets (e.g. cats and dogs) and does not apply to Zoo's, Zoological parks, or livestock.

(5) veterinary care when needed to prevent suffering, and

(6) humane care and treatment.

- (b) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit any cockfight, bullfight, or other combat between animals or between animals and humans.

- (c) No owner of an animal shall abandon such animal. If an owned animal has been impounded by the animal control officer, no owner shall allow the animal to remain in the animal shelter beyond the 120-hour maximum for a licensed animal or the 72-hour maximum for an unlicensed animal, for the purpose of adopting the animal at a lower cost than the fine and fee(s).
- (d) Chickens, ducklings, or rabbits younger than eight weeks of age may not be sold in quantities of fewer than 25 to a single purchaser during traditional holiday times of the year.
- (e) No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game or other competition; as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (f) No person shall expose any known poisonous substance, whether mixed with food or not, so that the substance shall be liable to be eaten by any animal; provided, that it shall be lawful for a person to expose on his own property common rat poison mixed only with vegetable substance.
- (g) No person, except a person licensed by the state parks and wildlife department, shall place or set out steel jaw leg and/or neck traps with the intent of trapping any animal.
- (h) Any person who, as the operator of a motor vehicle, strikes a domestic or nondomestic animal shall as soon as practicable report such injury or death to the animal control officer or the humane society so that the animal may be picked up.
- (i) No person shall sell, trade, lease, rent, or give away any live animal on any roadside, public right-of-way, commercial or private parking lot, or on the premises of any licensed food service establishment located within the city limits.

(j) Tethering animals.

(1) A person commits an offense if they tether an animal to a stationary object for any length of time except, as allowed by this subsection.

(2) A "skyline" type aerial trolley consisting of a line that is strung between two (2) fixed points that are at least twenty (20) feet apart with a down line that is at least five (5) feet in length is allowed as long as the following are met.

- a. The skyline is attached to a properly fitting collar or harness. Choke or prong-type collars are prohibited; and
- b. The skyline does not allow the animal to move outside the person's property or come within eight (8) feet of public property if tethered outside a fenced area.
- c. The area must be free and clear of debris or obstructions within ten (10) feet of the restrained animal.
- d. The area must have adequate shade and shelter for the animal.
- e. The area must have adequate food and water for the animal

(3) An owner may not leave a dog outside and unattended by use of any restraint, tether or skyline/trolley system:

- a. between the hours of 10 p.m. and 6 a.m.;
- b. within 500 feet of the premises of a school;
- c. in the case of extreme weather conditions, including conditions in which:
 - i. the actual or effective (wind chill) outdoor temperature is below 32 degrees Fahrenheit,
 - ii. a heat advisory has been issued by a local or state authority or jurisdiction, or
 - iii. a hurricane, tropical storm, flash flood, or tornado warning has been issued for the jurisdiction by the National Weather Service.

(4) A defense to the prosecution is if an animal is being restrained by the designated custodian in the absence of the owner by use of a tether for veterinary treatment, grooming, training, law enforcement activity, or any other animal related service agreed upon with the owner.

(k) Removal of animal waste.

(1) The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property including the property of the owner.

(2) Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, and trash to minimize health hazards.

(Code 1961, § 3-10; Ord. No. 2006-51, § IV, 6-12-06)

State Law reference— Cruelty to animals, V.T.C.A., Penal Code § 42.09;
dogfighting, V.T.C.A., Penal Code § 42.10.

SECTION 6

THAT Chapter 6, Animals, Section 6-77, Keeping of Domestic Animals is hereby amended with additions as underlined and deletions as stricken:

Sec. 6-77. - Keeping of domestic animals.

(a) It shall be unlawful for any person to own, keep, or harbor more than four dogs, ~~or~~ cats, or rabbits over three months of age at any one address or location within the city limits. It shall be an affirmative defense to prosecution under subsection 6-77(a), that the cats are feral cats in a sponsor approved trap, neuter, and return feral cat colony program.

(b) All persons residing in the city who own one or more dogs must keep such dogs at

the residential premises permanently occupied and inhabited by the dog owners. It shall be unlawful for such dog owners to keep their dogs at any other location within the city limits.

- (c) It shall be unlawful for any person who is the owner of any hog, or any person who has any hog under his management or control, to keep such hog, or allow such hog to remain, in any pen or in any other place within the city limits.
- (d) Household pets which are normally and customarily kept as household pets (including pigeons, but excluding chickens, pheasants, cows, horses, sheep, goats, ~~rabbits~~, and other fowl and livestock) will be allowed in any zoning district. No person shall keep, harbor or maintain more than 75 pigeons on a single lot, parcel or tract of land. All pigeons so kept shall be confined at all times in a clean, sanitary cage or loft located at least 50 feet from any residence on adjacent property. Pigeons bearing a seamless leg band issued by a recognized association of pigeon fanciers may be released for exercise or performance, upon the condition that the owner or person having possession of such pigeons shall not permit them to alight on any structure or property of others. Livestock or other fowl may be kept in any zoning district on a tract of land containing a minimum of 40,000 square feet. Up to 50 fowl or one head of livestock may be kept for each 40,000 square feet of land on the tract. No fractional measurements of land will be allowed in computing such required land area, nor shall such fowl or livestock be allowed to roam, graze, or be housed within 100 feet of any residence on adjacent property or within 500 feet of any food service establishment or food processing establishment, regardless of ownership or occupancy of such establishments.

A person who wishes to keep or house chickens on his or her property, where that property encompasses an area of less than 40,000 square feet, shall register with the city's animal control services division and shall comply with all of the following requirements:

- (1) Keep no more than four chicken hens per lot.
- (2) The principal defined use of the person's property shall be single-family or two-family dwelling.
- (3) No person shall keep any rooster.
- (4) No person shall slaughter any hens on his or her property.
- (5) The chicken hens shall be provided with and housed inside of a covered structured enclosure at all times, which is located within the rear yard inside of a fenced perimeter enclosure. The rear perimeter fence shall be securely constructed so to keep the chicken hens separated from other animals.
- (6) A person shall not keep chicken hens in any location on the property other than in the rear yard. For purposes of this section, "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot lines.

- (7) No covered enclosure shall be located closer than ten feet to any property line of an adjacent property.
- (8) All enclosures for the keeping of chicken hens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. The covered enclosure shall not be located closer than 30 feet to any residential structure on an adjacent property. Additionally, where two primary residential structures are located on a single lot, a covered enclosure shall not be located closer than 30 feet to any residential structure on the same lot, or adjoining lots.
- (9) For purposes of this section, adjacent property means all parcels of property that the property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the property by a public or private street or waterway.
- (10) All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.
- (11) If the above requirements are not complied with, the city may revoke any registration granted under this section and/or initiate prosecution for a criminal infraction violation.

(e) Rabbits:

- (1) A person who wishes to keep or house rabbits on his or her property, where that property encompasses an area of less than 40,000 square feet, shall register with the city's animal control services division and shall comply with all of the following requirements.
- (2) A person commits an offense if they keep, harbor, or maintain on the premises of a single residence within the city more than four rabbits and one litter of rabbits at any one time. The total number of rabbits shall not exceed the total number of animals allowed within the city limits of four. It is an exception to prosecution that the owner of the rabbits and the subject premises meet the requirements below.
 - a. Rabbits shall be kept within the residence, pens, coops, dens or hutches which meet the requirements of this chapter. A fenced yard shall not qualify as a pen, coop or hutch for purposes of compliance with this subsection.
 - b. No person shall slaughter any rabbits on his or her property.
 - c. The rabbits shall be provided with and housed inside of a covered structured enclosure at all times, which is located within the rear yard inside of a fenced perimeter enclosure. The rear perimeter fence shall be securely constructed so to keep the rabbits separated from other animals.

- d. No covered enclosure shall be located closer than ten feet to any property line of an adjacent property.
- e. All enclosures for the keeping of rabbits shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure. The covered enclosure shall not be located closer than 30 feet to any residential structure on an adjacent property. Additionally, where two primary residential structures are located on a single lot, a covered enclosure shall not be located closer than 30 feet to any residential structure on the same lot, or adjoining lots.
- f. For purposes of this section, adjacent property means all parcels of property that the property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the property by a public or private street or waterway.
- g. All feed and other items associated with the keeping of rabbits that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.

(~~ef~~) Subsections (a), (b), (c), ~~and~~ (d), and (e) of this section shall not apply to animal shelters, veterinary establishments, animal hospitals operated by a licensed veterinarian, or commercial animal establishments located on property zoned for such purposes. Such establishments, however, must meet sanitation requirements and keep animals securely caged or penned. The provisions of such subsections shall not be construed to prohibit any person engaged in operating any abattoir, packinghouse or stockyard from keeping livestock for a reasonable length of time while awaiting their use in connection with the operation of such abattoir, packinghouse or stockyard which had been zoned for such use.

(~~f~~g) It is a defense to prosecution for violations of the distance and number requirements of this section, if the violating animals were kept at the violation location on the date said location was annexed by the city.

(Code 1961, § 3-11; Ord. No. 2006-51, § V, 6-12-06; Ord. No. 2013-6, § II, 1-28-13; Ord. No. 2014-58, § 8, 8-11-14)

SECTION 7

THAT Chapter 6, Animals, Section 6.80 Removal of Animal Waste and Section 6.81 Storage of Feed is hereby amended with deletions as stricken:

~~Sec. 6-80. Removal of animal waste.~~

~~The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property including the property of the owner.~~

~~(Code 1961, § 3-14)~~

~~Sec. 6-81. Storage of feed.~~

~~All feed provided for animals shall be stored and kept in a ratproof, fly tight building, box, container, or receptacle. Persons in charge of horse stables must carry out a continuous, active rat control program.~~

~~(Code 1961, § 3-15)~~

SECTION 8

THAT it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 9

THAT all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

SECTION 10

THAT all other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

SECTION 11

THAT in accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

SECTION 12

THAT this Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the

City of New Braunfels.

PASSED AND APPROVED: First reading this the 8th day of March, 2021.

PASSED AND APPROVED: Second reading this the 22nd day of March, 2021

CITY OF NEW BRAUNFELS

RUSTY BROCKMAN, Mayor

ATTEST:

CAITLIN KROBOT, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney