

ORDINANCE NO. 2019-25

AN ORDINANCE OF THE CITY OF BUDA, TEXAS, AMENDING CHAPTER 4 OF THE BUDA CODE OF ORDINANCES; PROVIDING RULES AND REGULATIONS RELATED TO ANIMALS IN THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 51.001 of the Texas Local Government Code, the City Council of the City of Buda may adopt or amend ordinances for the good government, peace, or order of the City or for the trade and commerce of the City and which are necessary or proper for carrying out a power granted by law to the City or to an office or department of the City; and

WHEREAS, the City Council finds it is necessary to make certain amendments to the existing city ordinances regulating animals to better and more efficiently regulate animals within the city limits and to provide for the safety and protection of both the citizens and animals of the City of Buda.

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

Section 1: The facts and recitations set forth in the preamble of this ordinance are hereby found to be true and correct.

Section 2: The rules, regulations, terms, conditions, provisions and requirements of this ordinance are hereby found to be reasonably necessary to protect the public health, safety, and quality of life in the City of Buda.

Section 3: Section 4.01.001 of the City of Buda Code of Ordinances is hereby amended by revising terms and definitions of "animal at-large", "animal control officer", "cat", "currently vaccinated", "dangerous dog", "dangerous wild animal", "dog", "domestic animal", "estrays", "exotic animal", "guard or attack dog", "licensed veterinarian", "livestock", "observation period", "proper enclosure", "public nuisance animal", "serious bodily injury", "service dog" and "vicious animal" to provide as follows:

"CHAPTER 4 - ANIMALS

ARTICLE 4.01 GENERAL PROVISIONS

Sec. 4.01.001 Definitions

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Animal at-large. A cat or dog:

(a) on the premises of the owner and not (1) held by a person, (2) on a secured leash or physical restraint or (3) within an enclosure or fence of sufficient height and condition to restrain such animal; or

(b) off the premises of the owner, and not on a leash or physical restraint under the immediate control of a person physically capable of restraining the animal.

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Animal control officer. A person designated by the city to perform duties under and enforce the laws under this chapter.

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Cat. Cat as defined in V.T.C.A., Health and Safety Code, section 826.002(3), as amended.

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Currently vaccinated. Vaccinated in a manner that satisfies the requirements of state law.

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Dangerous dog. Dangerous dog as defined in V.T.C.A., Health and Safety Code, section 822.041(2), as amended.

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Dangerous wild animal. Dangerous wild animal as defined in V.T.C.A., Health and Safety Code, section 822.101(4), as amended.

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Dog. Dog as defined in V.T.C.A., Health and Safety Code, section 826.002(6), as amended.

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Domestic animal. Any animal which is not prohibited, and commonly kept as a pet at the owner's residence; includes livestock, caged or penned fowl, pigeons, normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits.

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Estray. Estray as defined in V.T.C.A., Agriculture Code, section 142.001(1), as amended.

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Exotic animal. Exotic livestock as defined in V.T.C.A., Agriculture Code, section 142.001(4), as amended, or exotic fowl as defined in V.T.C.A., Agriculture Code, section 142.001(5).

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Guard dog. Any dog professionally trained for the purpose of protecting persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

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Licensed veterinarian. A licensed veterinarian as defined in V.T.C.A., Health and Safety Code, section 826.002(8), as amended.

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Livestock. Livestock as defined in V.T.C.A., Penal Code, section 42.09(b)(5), as amended.

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Observation period. A period of time in compliance with 25 TAC section 169.27, as amended.

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Proper enclosure. A house or a building, or in the case of a fence or structure/pen must be suitable to prevent entry of person and must be locked and secured such that an animal cannot climb, dig, jump or otherwise escape of its own volition.

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Public nuisance animal. Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of persons, other than its owner(s), to enjoyment of life or property.

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Serious bodily injury. Serious bodily injury as defined in V.T.C.A., Health and Safety Code, section 822.001(2), as amended.

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Service dog. Service animal as defined in V.T.C.A., Health Resources Code, section 121.002(1) as amended.

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Vicious animal. An animal, other than a dog, that makes an unprovoked attack upon a person or other animal resulting in serious bodily injury to such person or animal.

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Section 4: Section 4.01.001 of the City of Buda Code of Ordinances is hereby amended by deleting terms and definitions for “city mayor”, “commerce”, “intact”, “severe injury” and “vicious dog”.

Section 5: Section 4.01.001 of the City of Buda Code of Ordinances is hereby amended by adding terms and definitions for “mayor”, “nonprofit association”, and “police service animal” to provide as follows:

“CHAPTER 4 - ANIMALS

ARTICLE 4.01 GENERAL PROVISIONS

Sec. 4.01.001 Definitions

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Mayor. The city mayor or his/her designee.

. . . .

Nonprofit association. Nonprofit association as defined in V.T.C.A., Business Organization Code, section 252.001 as amended.

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Police service animal. Police service animal as defined in V.T.C.A., Health Resources Code, section 121.002(1) as amended.”

Section 6: The City of Buda Code of Ordinances is hereby amended by deleting Section 4.01.002 of Chapter 4 thereof and substituting therefor a new Section 4.01.002 to provide as follows:

“CHAPTER 4 - ANIMALS

ARTICLE 4.01 GENERAL PROVISIONS

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Sec. 4.01.002 Violation and Penalty

(a) Unless otherwise specifically provided in this chapter, the following persons shall be deemed guilty of a misdemeanor:

- (1) Any person who shall violate any of the provisions of this chapter or who shall fail to comply with any of the provisions of this chapter;
- (2) The owner, keeper or person in possession of an animal associated with a violation of this chapter;

- (3) Any employee or agent employed or engaged by the owner, keeper or person in possession of an animal associated with a violation of this chapter and who caused or assisted in the commission of such violation; and
- (4) The owner, lessee, tenant or person in charge of the premises or part thereof where a violation of this chapter shall occur and who caused or assisted in the commission of such violation.

(b) Except as provided in subsection 4.01.002(d), violations of this chapter do not require, as an element of the offense, proof of a culpable mental state.

(c) Unless otherwise specifically provided in this chapter, any person convicted of a violation of this chapter shall be punished by a fine of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00).

(d) Any particular violation of this chapter punishable by a fine in excess of \$500.00 requires, as an element of the offense, proof that the person who committed the violation acted with criminal negligence. Proof of a higher degree of culpability than criminal negligence constitutes proof of criminal negligence.

(e) Each day that a violation occurs is a separate offense.”

Section 7: The City of Buda Code of Ordinances is hereby amended by deleting Section 4.02.005 of Chapter 4 thereof and substituting therefor a new Section 4.02.005 to provide as follows:

“CHAPTER 4 - ANIMALS

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ARTICLE 4.02 ADMINISTRATION AND ENFORCEMENT

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Sec. 4.02.005 Enforcement generally; interference with enforcement

- (a) The civil and criminal provisions of this chapter shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation to interfere with an animal control officer in the performance of such animal control officer’s duties.
- (b) A person commits an offense if the person gives a false or fictitious name, address, or other information to an animal control officer at the time the animal control officer issues the person an animal control citation.
- (c) A person commits an offense if the person has been issued an animal control citation and the person fails to enter a plea to a charge specified on the animal control citation on or before the appearance date indicated on the animal control citation.”

Section 8: The City of Buda Code of Ordinances is hereby amended by deleting Section 4.02.006 of Chapter 4 thereof.

Section 9: The City of Buda Code of Ordinances is hereby amended by deleting Article 4.03 of Chapter 4 thereof and substituting therefor a new Article 4.03 of Chapter 4 to provide as follows:

“CHAPTER 4 - ANIMALS

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ARTICLE 4.03 LICENSES, PERMITS AND MICROCHIPPING

Sec. 4.03.001 Dog and cat licenses

(a) License required. No person shall own or harbor within the city any cat or dog over four (4) months of age unless such cat or dog is licensed in accordance with this section. Proof of license is required by tag or microchip. A license is valid for the life of the cat or dog, unless revoked in accordance with subsection 4.03.001(f) of this code.

(b) Application. Complete application for a license requires, for each cat or dog, payment of the applicable licensing fee and submission of a current vaccination certificate for such cat or dog and a completed and signed application form which shall include the name, address and phone number of the applicant, and a description of the cat or dog.

(c) License fee. All licensing fees for microchip registration are suspended through September 30, 2020. On and after October 1, 2020, if the cat or dog to be licensed is microchipped, the applicant shall pay the one-time standard licensing fee for registration (if microchipped), as set forth in appendix A of this code. On or after October 1, 2020, if the cat or dog to be licensed is not microchipped but will be microchipped by the city, the applicant shall pay the one-time standard licensing fee for registration (plus city microchip), as set forth in appendix A of this code. If the cat or dog to be licensed is exempt from the microchip requirement as set forth in subsection 4.03.033(a), the applicant shall pay the one-time standard licensing fee for tag registration (no microchip), as set forth in appendix A of this code.

(d) License issuance. Upon submission of a complete application as set forth in subsection 4.03.001(b) of this Code, the applicant shall be issued a microchip or tag license, as applicable.

(e) Prior tag license. Any annual license for a cat or dog tag licensed issued on or before the effective date of this ordinance will be valid until the expiration of such annual license. Upon such expiration, the cat or dog must be licensed in accordance with subsection 4.03.001(a) of this code.

(f) Resubmission of proof of vaccination; revocation of license. A license holder shall have an ongoing obligation to ensure the proof of rabies vaccination on file with animal control is

current. A license holder is required to submit proof of current rabies vaccination within two (2) weeks of expiration of any proof of vaccination on file with animal control. Failure to do so will result in revocation of the applicable license.

(g) Timing of application. Application for a license must be made within thirty days after obtaining a cat or dog over four (4) months of age. A municipal court judge having jurisdiction over a charge of a violation set forth in subsection 4.03.001(a) of this code, shall dismiss such charge for a person who secures a cat or dog license within such thirty- day period.

(h) Exemption from license fees. Payment of license fees shall not be required for service dogs.

(i) Exception. This article shall not apply to any cat or dog meeting the definition of a police service animal.

(j) License specific to cat or dog. No person may use a license for any animal other than the cat or dog for which such license was issued.

Sec. 4.03.002 Commercial animal establishment permits

(a) Required; conditions.

(1) No person, partnership, or corporation shall operate a commercial animal establishment, kennel or cattery unless the establishment is located in an area zoned for such use and unless a permit has first been obtained in compliance with this section.

(2) The city shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this chapter and other applicable laws. The city may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of animals.

(3) When a permit applicant has documented ability to comply with the regulations promulgated by the city, the applicable commercial animal establishment permit shall be issued upon payment of the applicable fee as provided in appendix A to this code.

(4) The permit period shall begin when permitted and run through December 31 of the calendar year in which the permit was granted. All subsequent permit periods shall begin on January 1 of the following year and run through December 31 of the same year. Renewal applications for permits may be made thirty days prior to, and are due at, the start of each subsequent calendar year. Application for a permit to establish a new commercial animal establishment under the provisions of this chapter may be made at any time. The fees for a new establishment shall be prorated.

(5) Permits are not transferable. If there is a change in ownership of a commercial animal establishment, the new owner must apply for a new permit.

(6) No person shall train any dog to be used as a guard dog without possessing a valid

state license in addition to the city permit. This subsection shall not apply to any federal, state or local governmental entity. The application for a guard dog training permit shall state the name, address and phone number of the owner and trainer, the location of the facility and the maximum number of dogs to be trained at the training facility at any given time.

(7) Every facility regulated by this chapter shall be considered a separate enterprise requiring an individual permit.

(8) Persons operating kennels for the breeding of dogs or cats must license such animals over four (4) months of age individually in accordance with article 4.03.

(9) Payment of fees shall not be required of any veterinary hospital, animal shelter, government-operated zoological park, school district, or civic or charitable organization, but all other applicable regulations shall apply.

(10) A violation of this section is punishable by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00).

(11) Any person who has a change in the category under which a permit was issued shall make an application for the reclassification of the permit.

(b) Issuance; revocation.

(1) After an application for a commercial animal establishment is filed, the city shall inspect the facility prior to issuing the permit. The city may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the city or any law governing the protection and keeping of animals.

(2) Any person whose commercial animal establishment permit or license is revoked shall, within ten days thereafter, humanely dispose of all animals owned, kept or harbored without causing injury to said animals. No part of the permit or license fee shall be refunded.

(3) It shall be a condition of the issuance of any commercial animal establishment permit or license that the city shall be permitted to inspect all animals and the premises where animals are kept at any time in accordance with law and shall, if permission for such lawful inspection is refused, revoke the permit or license of the refusing owner.

(4) If the applicant has withheld or falsified any information on the application, the city shall refuse to issue the permit or license.

(5) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.

(6) Any person having been denied a commercial animal establishment license or permit may not reapply for a period of thirty (30) days. Each reapplication shall be accompanied by a fee equal to fifty percent (50%) of the applicable permit fee.

(7) Any permit that is issued based upon an application that is subsequently found to be incomplete or false in any manner is void.

Sec. 4.03.003 Microchipping and monitoring required

(a) The owner or keeper of any cat or dog shall have such animal implanted with a registered microchip before the animal attains four (4) months of age. An owner or keeper of a cat or dog is exempt from this requirement if the cat or dog is determined to be medically unsuitable for microchipping by a licensed veterinarian. Proof of such determination must be in writing by a licensed veterinarian and submitted to animal control. If there is a change in contact information, the owner or keeper of the animal shall update contact information with animal control within thirty (30) days of such change. If there is a change in ownership of an animal, the owner or keeper shall be responsible for notifying animal control of the change within thirty (30) days of such change. The new owner or keeper shall be responsible for providing animal control with the new owner's or keeper's name, address and telephone number within thirty (30) days after the change in ownership.

- (b) It is an affirmative defense to prosecution under this section that:
- (1) the cat or dog owner is a nonresident of this city and is keeping the subject animal in the city for fewer than sixty (60) days;
 - (2) The animal owner has been a resident of this city fewer than (30) days; or
 - (3) The animal had been abandoned or lost and the temporary owner has had the cat or dog for fewer than thirty (30) days."

Section 10: The City of Buda Code of Ordinances is hereby amended by deleting Section 4.04.001 of Chapter 4 thereof and substituting therefor a new Section 4.04.001 of Chapter 4 to provide as follows:

"CHAPTER 4 - ANIMALS

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ARTICLE 4.04 ANIMAL CARE AND CONTROL

Sec. 4.04.001 Animal at-large and public nuisance animals

- (a) It shall be unlawful to own or harbor an animal at-large.
- (b) It shall be unlawful to own or harbor an unsterilized animal at-large. A violation of this subsection shall be punishable by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00).
- (c) It shall be unlawful to own or harbor a public nuisance animal."

Section 11: The City of Buda Code of Ordinances is hereby amended by deleting Subsections 4.04.002(b) 4.04.002(c) of Chapter 4 thereof and substituting therefor new Subsections 4.04.002(b) and 4.04.002(c) of Chapter 4 to provide as follows:

"CHAPTER 4 - ANIMALS

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ARTICLE 4.04 ANIMAL CARE AND CONTROL

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Sec. 4.04.002 Tethering

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(b) It shall be unlawful for any person to tether, chain or fasten an unattended animal to a doghouse, tree, stake, pole, fence, wall or any other stationary object whether outdoors or indoors. It is an affirmative defense to prosecution under this subsection if the person accused of unlawful tethering presents credible evidence that the tethering lasted for only a brief period no longer than fifteen (15) minutes.

(c) The person who tethers, chains or fastens the animal shall be responsible for the offense under this article."

Section 12: The City of Buda Code of Ordinances is hereby amended by deleting Subsection 4.04.007(b) of Chapter 4 thereof and renumbering therefor Subsections 4.04.007(c) as 4.04.007(b) of Chapter 4 to provide as follows:

"CHAPTER 4 - ANIMALS

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ARTICLE 4.04 ANIMAL CARE AND CONTROL

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Sec. 4.04.007 Keeping dogs, cats or other domestic animals

(a) Maximum number of dogs and cats. It shall be unlawful for any person to own, keep, or harbor more than five (5) dogs or (5) cats over three (3) months of age, or any combination of five dogs and cats at any one address or location within the city limits.

(b) Exceptions. Subsection (a) and keeping of hogs, swine, potbellied or miniature pigs 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.

Section 13: The City of Buda Code of Ordinances is hereby amended by deleting Section 4.06.003 of Chapter 4 thereof and substituting therefor a new Section 4.06.003 to provide as follows:

"CHAPTER 4 - ANIMALS

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ARTICLE 4.06 RABIES CONTROL

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Sec. 4.06.003 Quarantine procedures

(a) Every animal that has rabies or symptoms thereof, or every animal that a person could reasonably suspect as having rabies, or that bites, scratches, or otherwise attacks another animal or any person within the city, shall be impounded at once and held for observation and quarantined at the approved quarantine facility. The facility must meet the minimum state quarantine facility standards and will be subject to inspection by the department of state health services.

(b) The owner of any cat or dog that is reported to have rabies or symptoms thereof, or to have been exposed to rabies, or to have bitten, scratched, or otherwise attacked any person or other animal within the city, or that the owner knows or suspects to be rabid or to have attacked an individual, shall submit such animal to the animal control officer for a quarantine period of ten (10) days at the owner's expense. The ten-day observation period shall begin on the day of the bite incident. Any such animal must be immediately surrendered to the animal control officer and taken by him/her to an approved quarantine facility. The owner may choose to have the animal quarantined for the ten-day period at an approved animal shelter of his choice.

(c) The failure by the owner of any cat or dog described in subsection (a) or (b) to surrender the animal to the approved quarantine facility shall be just cause for the seizure and confinement of the animal at the approved quarantine facility.

(d) In the event the owner of such animal described in subsection (a) or (b) refuses to surrender such animal on demand, such violation shall be punishable by a fine of not less than two hundred dollars (\$200.00) nor more than two thousand dollars (\$2,000.00).

(e) The owner of an animal quarantined under this section shall pay to the quarantine facility the reasonable costs of the quarantine and disposition of the animal, including the charges for preparation and shipment of the animal's head or brain, if required, to the nearest department of state health services certified laboratory for rabies testing. If the owner chooses not to pay for quarantine, the animal shall be humanely killed and the brain submitted to a department of state health services certified laboratory for rabies diagnosis, at the owner's expense. All quarantine-related payment arrangements shall be at the discretion of the individual quarantine facility, and the facility shall be responsible for the collection of monies owed.

(f) The following quarantining procedures shall be observed:

(1) Biting animals and animals suspected of rabies that are placed in confinement for observation must be separated from all other animals in such a manner that there is no possibility of physical contact between animals.

- (2) The quarantined animal must be observed at least daily by a person responsible for notifying the city if clinical signs of rabies are noted.
- (3) At the discretion of the city or its designee, the unowned animal may be humanely killed for rabies diagnosis prior to the end of the quarantine period.
- (4) The city may require a written agreement by the owner or the custodian at the time of quarantine and the animal may be disposed of according to terms of this agreement.
- (5) If the biting animal cannot be maintained in secure quarantine or if the owner chooses not to pay for quarantine, the animal shall be humanely killed and the brain submitted to a department of state health services certified laboratory for rabies diagnosis, at the owner's expense."

Section 14: The City of Buda Code of Ordinances is hereby amended by adding new Articles 4.08 and 4.09 to Chapter 4 to provide as follows:

"CHAPTER 4 - ANIMALS

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ARTICLE 4.08 SELLING OF ANIMALS

Sec. 4.08.001 Dyed animals

It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal of any kind that has been dyed or otherwise colored artificially.

ARTICLE 4.09 GIVING OF ANIMALS

Sec. 4.09.001 Animals as prizes or inducements

- (a) No person shall give away any live animal as the following:
 - (1) A prize for or an inducement to enter any contest, game or other competition;
 - (2) An inducement to enter a place of amusement; or
 - (3) An incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade.
- (b) The prohibition contained in this article shall not apply to a nonprofit association."

Section 15: *Severability.* If any clause or provision of this ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the ordinance, which shall continue to have full force and effect.

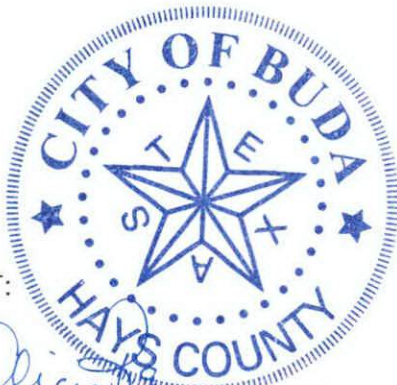
Section 16: Repeal. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

Section 17: Penalty. Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not of not less than one dollar (\$1.00) nor more than five hundred dollars (\$500.00), except that a conviction for a violation of Subsection 4.03.002(a)(10) shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00); a conviction for a violation of Subsection 4.04.001(b) shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) and conviction for a violation of Subsection 4.06.003(d) shall be punishable by a fine of not less than two hundred dollars (\$200.00) nor more than two thousand dollars (\$2,000.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.


Section 18: Passage. Pursuant to Section 3.12 of the City Charter, if the Council determines that the first reading of this ordinance is sufficient for adequate consideration by an affirmative vote of five or more members of the City Council during the first reading and the ordinance is passed by the affirmative vote of four or more members of the City Council, this ordinance is adopted and enacted without further readings. In the event a second reading is necessary, this ordinance is adopted and enacted upon the affirmative vote of four or more members of the City Council upon second reading.

Section 19: Effective Date. The effective date of this Ordinance shall be December 1, 2019.

PASSED, APPROVED AND ADOPTED on first and final reading by an affirmative vote of the City Council of the City of Buda, this 3rd day of December, 2019.



ATTEST:


Alicia Ramirez, City Clerk

CITY OF BUDA, TEXAS


George Haehn, Mayor

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