

Animal Law in Texas

**TEXAS CITY ATTORNEY'S
ASSOCIATION SUMMER
CONFERENCE**

BASTROP - 2018

Animal Law in Texas



Bianca Bentzin

Chief Prosecutor

City of Austin

Leela Fireside

**Assistant City
Attorney**

City of Austin

Jonathan Koury

**Assistant City
Attorney**

City of Bryan

Presentation Outline

- I. Ordinance drafting – best practices**
- II. Prosecution and litigation – tips and tricks**
- III. Legislative and case law update – recent changes**

Animals in the News

Dogs and Geese

Bastrop Traps Feral Chickens

Tigers in Texas

Feral Hogs in the U.S. – Half of them are in Texas

Fake Service Animals?

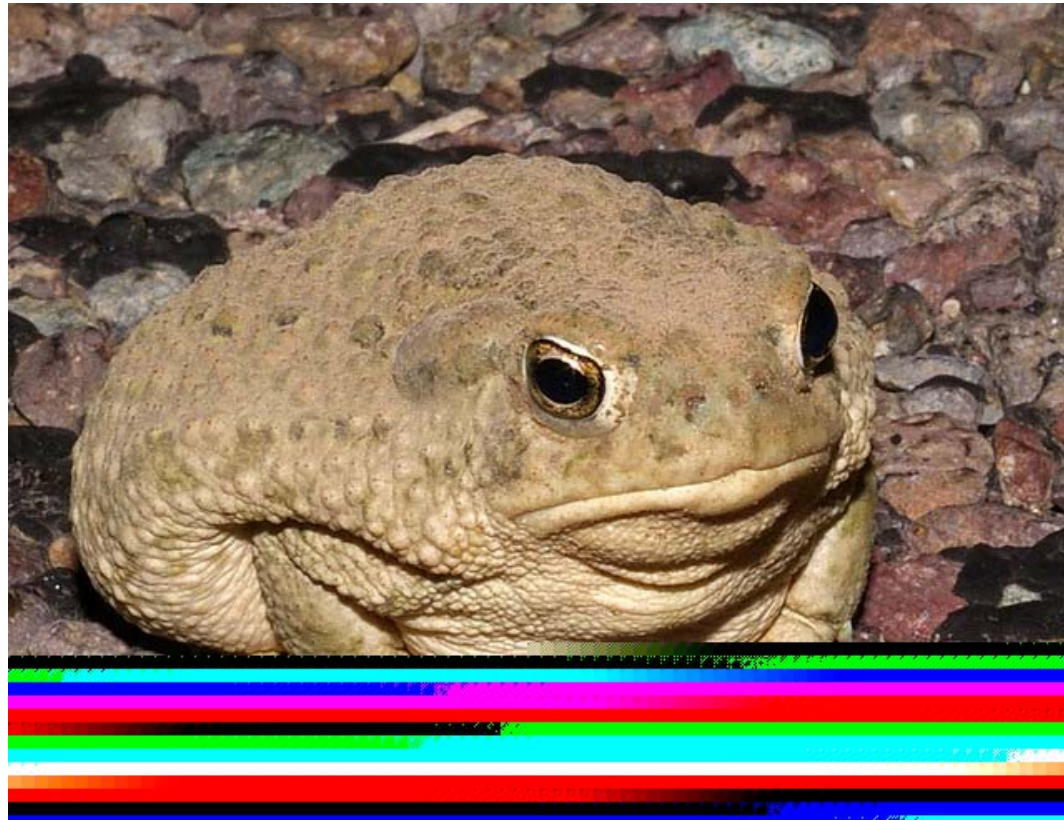
Ordinance Drafting

BEST PRACTICES

STATE SYMBOLS

What is the official Texas State Amphibian?

Answer: Texas Toad



Code Drafting Principles

City Code Provision is a Law

Are there existing laws on the topic?

What exactly is your client wanting to do with the law?

Code Drafting Principles

What exactly does your client want to make people do or stop doing?

Write the code with law enforcement/inspector in mind

Include findings necessary for potential court challenges

Drafting Tips

Definitions

Write in Active Voice

Try not to “shall” the City

Drafting Tips

Creating an offense? Use affirmative defenses, not exceptions

Consider the prosecutor's complaint drafting needs

New law/program? Consider a public education period

STATE QUIZ

What is the official Texas State Crustacean?

Answer: Texas Gulf Shrimp



Prosecution and Litigation

TIPS AND TRICKS

RELEVANT ORDINANCES

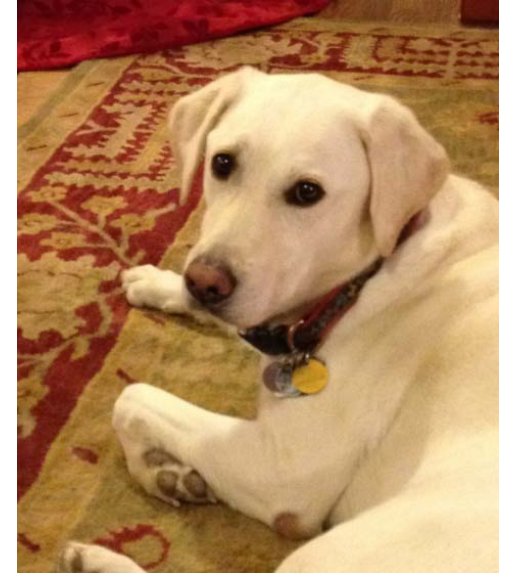
Title 3 (Animal Regulation)

Chapter 13-1 (Aviation Services)

Chapter 13-2 (Ground Transportation Services)

Title 10 (Public Health Services and Sanitation)

Chapter 25 (Zoning)



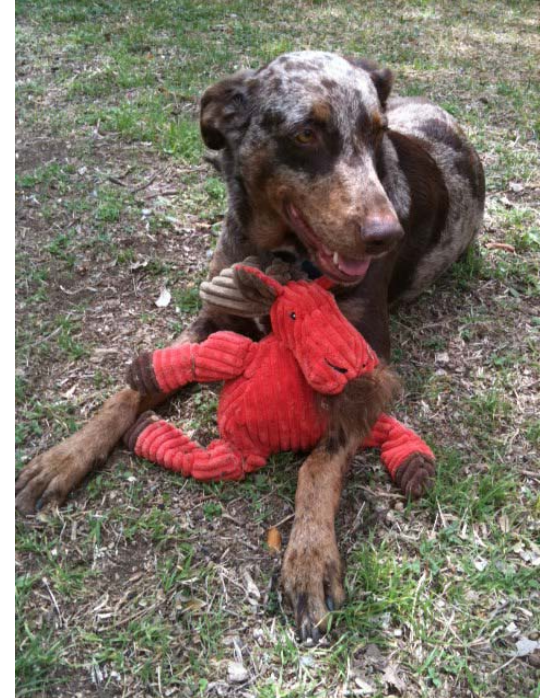
DOGS IN PARKS AND RESTAURANTS

Dogs in Parks:

- 3-4-4: Off-Leash Areas
- 3-4-6: Defecation
- 10-53(a): Off leash for cats and dogs prohibited

Dogs in Restaurants:

- 10-3-124: Outdoor Seating Areas
- Human Resources Code 121.002 and 121.002: Guide Dogs



STATE QUIZ

What is the official Texas State Bird?

Answer: Mockingbird



SELLING/RAFFLING ANIMALS



Selling Animals:

- 3-2-3: Commerce in Live Animals

Raffling Animals:

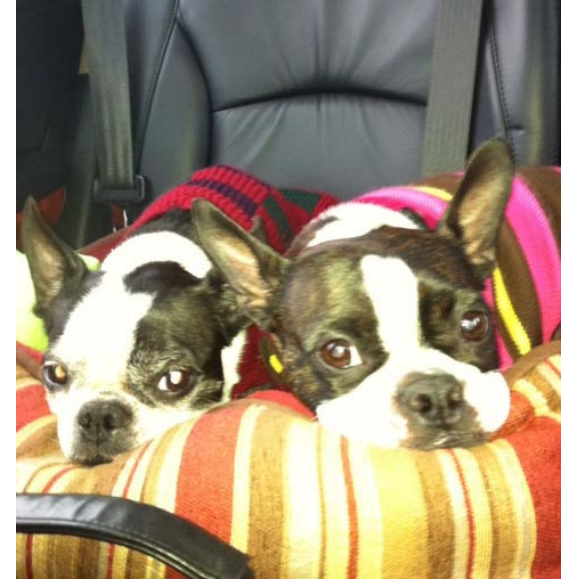
- 3-2-3: Definition of off-site retail sale

PETTING ZOO AND CIRCUS

Petting Zoos

Circus:

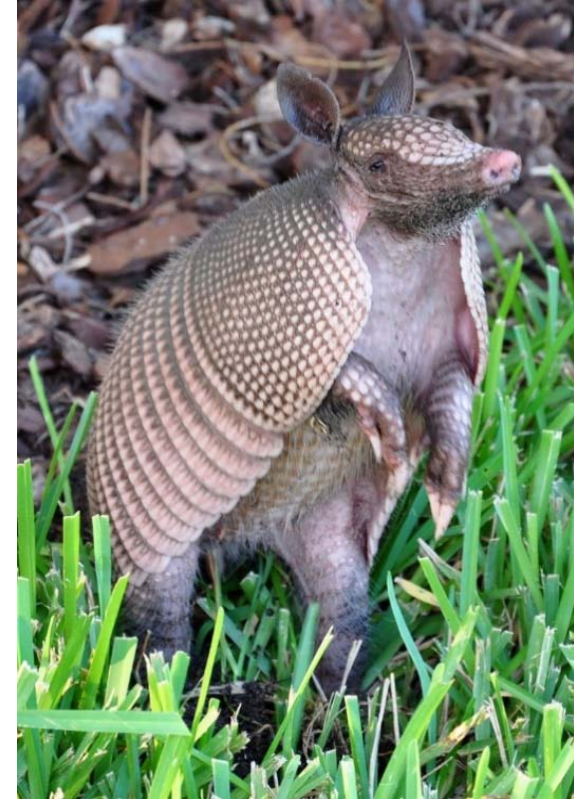
- Occupations Code 2152: Inspect for humane conditions
- 3-5-6: Possession of Dangerous Animals



STATE QUIZ

What is the official Texas State Small Mammal?

Answer: Nine Banded Armadillo



ANIMAL CRUELTY/CHAINED DOGS/ CAGED ANIMALS

Animal Cruelty:

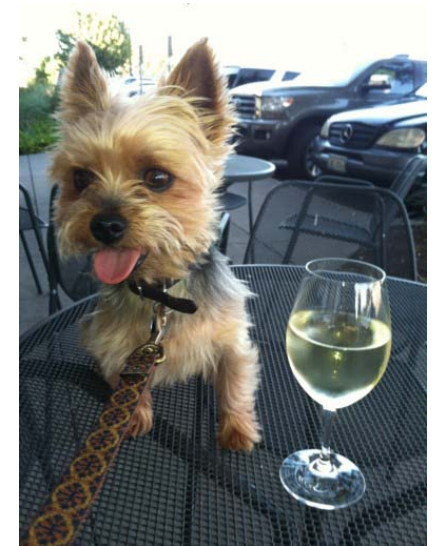
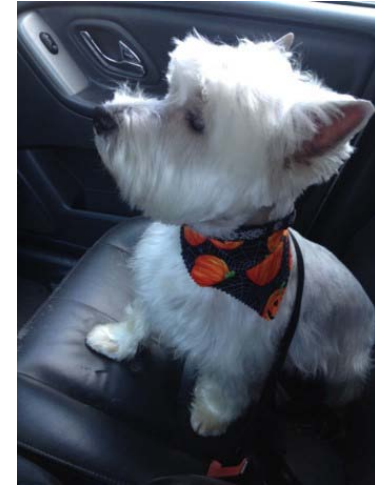
- 3-2-5: “Animal Bill of Rights”
- 3-2-6: Animals in Cars
- 3-4-2: Dogs on Chains
- 3-2-6: Dogs in Back of Trucks
- 10-57: Care
- 10-24: Animals Left in Vehicles



LOUD ANIMALS

Barking Dogs:

- 3-2-2: Long, continued noise
- 10-14: Barking or Howling animals



WILD ANIMALS

Wild Animals:

- 3-2-61: Killing Birds
- 3-2-1: Animals at Large
- Texas Health and Safety Code: Definition of Dangerous Animals
- 3-5: Prohibits Wild Animals in the City
- 10-21: At-Large—Animals Generally
- 10-16: Hogs and Pigs Prohibited
- 10-18: Harboring Wild Animals



STATE QUIZ

What is the official Texas State Flying Mammal?

Answer: Mexican Free-Tailed Bat



STATE SYMBOLS

What is the official Texas State Reptile?

Answer: Texas Horned Lizard



LIVESTOCK

Enclosure:

- 3-2-14: 100 feet from adjoining property
- 10-19: Livestock Enclosures

Grazing:

- 3-2-41: No staking livestock



FERAL HOGS

Feral Hogs:

- Resolution 20121213-003:
Killing on city-owned preserve lands
- 102-22: Disposal and Collection of
Dead Animals



ANIMALS AT THE AIRPORT

No Dogs at the Airport EXCEPT:

- 13-1-33: law enforcement K9;
guide dogs; dogs in
transport



STATE QUIZ

What is the official Texas State Insect?

Answer: Monarch Butterfly



STATE QUIZ

What is the official Texas State Horse?

Answer: American Quarter Horse



BEES

Bees:

- 3-6-2: No Threatening Colonies
- 3-6-5: Aggressive Colonies
- 3-6-6: Colony Density



URBAN FARMS

Chickens:

- 3-2-16: Coops
- 3-2-25: At Large
- 3-2-61: Killing
- 10-20 – proximity of poultry enclosures to dwellings



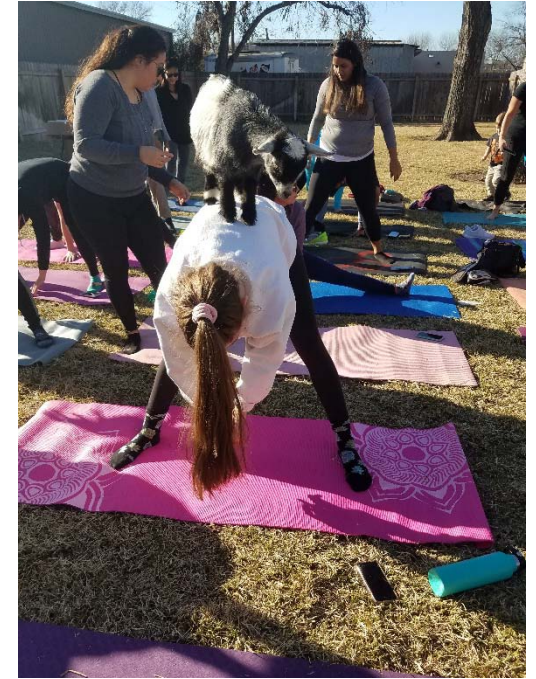
URBAN FARMS

Goats:

- *See enclosure laws*

Hogs, Pigs, or Swine:

- 3-2-42: No more than 2



STATE QUIZ

What is the official Texas State Pollinator?

Answer: Western Honey Bee



FEEDING/SHOOTING DEER

Feeding:

- 10-8-3 and 10-8-6: Don't do it

Shooting

- 3-2-4: Don't do it



LAND USE DEFINITIONS APPLICABLE TO ANIMALS

Examples:

- 25-2-4(15): Carriage Stable
- 25-2-4(39): Kennels
- 25-2-4(52): Pet Services
- 25-2-4(68): Stable
- 25-2-4(15): Veterinary Services



LAND USE DEFINITIONS APPLICABLE TO ANIMALS

Examples:

- 25-2-5: Stockyards
- 25-2-6: Camp
- 25-2-7: Animal Production
- 25-2-7: Urban Farm

WORKERS RIGHTS FOR HORSES

- 13-2-276: Horse-drawn Carriage Service
- 126-19—21: Horse-Drawn Carriages



DANGEROUS DOGS

Health and Safety Code – Sec. 822.002:

- Death or Serious Bodily Injury
- Hearing Requirements

Austin

- 3-2-32: Release or Destruction of Animals Causing Injury

Bryan

- Article III: Dangerous Animals

change.org



Petitioning City of Austin Municipal Court

Save Neville the Dog!



APA Outreach
United States

43,161
Supporters

Austin Pets Alive! promotes the safety of humans and of our animals.

OPEN RECORDS

Texas Government Code Chapter 552:

- **Animal Shelters**
- **Animal Adoption Records**
- **Animal Cruelty Reports**

Legislative and Case Law Update

RECENT CHANGES IN THE LAW

STATE QUIZ

What is the official Texas State Large Mammal?

Answer: Longhorn



Recent Changes in the Law

Dangerous Dogs –

- Tex. H&S § 822.0424 – appeal to county court
- But see dog that causes death or serious bodily injury

◦ Cruelty –

- SB 1232 2017 Leg. – if convicted of new Penal Code section for “Bestiality” all animals may be seized
- *Chase v. State*, 448 S.W.3d 6 affirmative defense

STATE QUIZ

What is the official Texas State Fish?

Answer: Guadalupe Bass



Woo hoo, I'm official!

Recent Changes in the Law

Ownership –

- *Lira v. Greater Houston German Shepherd Dog Rescue* 488 S.W.3d 300
- Post *Strickland* –
 - *Strickland v. Medlen*, we love dogs soooooo much but they are just property
 - *Laird v. Benton*, 2017 LEXIS 2026 – veterinary bills as measure of damages

Recent Changes in the Law

Euthanasia –

- TAC 169.87
- H&S 826.042

◦ Service Animals –

- Airline changes