

**ORDINANCE NO. 2018-06**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS; AMENDING THE CODE OF ORDINANCES, CHAPTER 2 TITLED "ANIMAL CONTROL," ARTICLE 2.01 TITLED "GENERAL PROVISIONS," SECTION 2.01.001 TITLED "DEFINITIONS"; REPEALING THE PROVISION THAT ESTABLISHES A SANCTUARY FOR CHICKENS THAT ARE NOT OWNED AND LOCATED IN THE VICINITY OF FARM STREET AND ALL PRIOR ORDINANCES THAT ARE IN CONFLICT HERewith; AS ATTACHED IN EXHIBIT A; AND PROVIDING FOR FINDINGS OF FACT, ENACTMENT, EFFECTIVE DATE, REPEALER, SEVERABILITY, AND PROPER NOTICE AND MEETING.**

**WHEREAS,** the City of Bastrop ("City") has the responsibility to address any public health and safety problems; and

**WHEREAS,** on June 9, 2009, the City Council ("Council") received compelling input and comment from members of the Bastrop community, expressing concern about the protection of certain chickens that reside, at-large on property adjoining Farm Street between the railroad tracks and State Highway 95, reflecting the public's view that these at-large chickens generally enhance the quality of life in the City and reflecting the view that these chickens do not pose a health risk, are not a nuisance to humans, nor are they likely to propagate in excessive numbers; and

**WHEREAS,** on June 23, 2009, Council determined that it was necessary for the protection and enhancement of the general welfare of the citizens of Bastrop to amend the current City Code, related to Animal Control, by providing for an exception for certain Poultry and Fowl that reside, at-large, in certain areas of the City from certain nuisance and enforcement provisions of the code; and

**WHEREAS,** the adoption of Ordinance No. 2009-13 created what has become to be known as the "Chicken Sanctuary" by classifying all chickens that were not owned by an individual and that generally run at-large in the vicinity of Farm Street for a distance of approximately 1,500 feet, between Highway 95 to the railroad tracks near Fayette Street; and

**WHEREAS,** over the passage of time, some of these at-large chickens may have migrated out of the "Chicken Sanctuary" to other parts of the City; and

**WHEREAS,** the Bastrop City Council ("City Council") has been faced with the public health and safety problems of feral chickens (hens and roosters) in the City straying onto private property and causing property damage, threatening persons, and creating a public nuisance; and

**WHEREAS,** the presence of these at-large chickens throughout the City has caused concern among some of the members of the Bastrop community to the point that necessitated a public hearing being conducted on November 29<sup>th</sup>, 2017, when Council received input from the citizens regarding the number of at-large chickens within the city limits to include the "Chicken Sanctuary," and some of the input consisted of different strategies to resolve the at-large chicken problem; and

**WHEREAS,** the City found that the creation of a Sanctuary for hens and roosters has instead been detrimental to the process of protecting the health and personal and property rights of the City and its residents; and

**WHEREAS,** on March 27, 2018, Council received an update concerning the at-large chickens; and

**WHEREAS,** Council unanimously opined that the removal of the “Chicken Sanctuary” would be in the best interest of the City; and

**WHEREAS,** the City finds it is a violation to attempt to create a Sanctuary and will impose a fine of \$2,000 on any attempt to maintain loose or feral chickens (hens or roosters) in violation of this ordinance; and

**WHEREAS,** pursuant to Sec. 54.001(b)(1) of the Local Government Code, the City may impose a fine of up to \$2,000 for any violation of an ordinance that governs public health; and

**WHEREAS,** the City is authorized by Tex. Loc. Gov’t Code § 51.001 to adopt, appeal, or amend any ordinance that is for the good government, peace, or order of the municipality, and for the trade and commerce of the municipality, and is necessary or proper for carrying out a power granted by law to the municipality; and

**WHEREAS,** the City has the full power of local self-government as recognized by Tex. Loc. Gov’t Code § 51.072; and

**WHEREAS,** the City Council finds this Ordinance to be reasonable and prudent, and in the best interest of the health, safety, and sanitation of the city for its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS THAT:**

**SECTION 1. FINDINGS OF FACT**

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

**SECTION 2. ENACTMENT**

Chapter 2, Article 2.01.001, et. Seq. of the Code of Ordinances to the City of Bastrop, which is entitled “ANIMAL CONTROL” is amended to read as described and attached hereto as *Exhibit “A.”*

**SECTION 3. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon passage.

**SECTION 4. REPEALER**

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

**SECTION 5. SEVERABILITY**

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**SECTION 6. PROPER NOTICE & MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

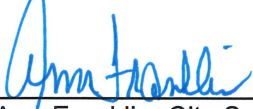
**READ & ACKNOWLEDGED** on First Reading on this, the 8<sup>th</sup> day of May 2018.

**READ & APPROVED** on the Second Reading on this, the 22<sup>nd</sup> day of May 2018.

**APPROVED:**

  
\_\_\_\_\_  
Connie B. Schroeder, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Ann Franklin, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Alan Bojorquez, City Attorney

**EXHIBIT "A"**

City of Bastrop Code of Ordinances

Chapter 2 – ANIMAL CONTROL

ARTICLE 2.01 – GENERAL PROVISIONS

Sec. 2.01.001 – Definitions.

When used in the City Code of Ordinances, the following words and terms, unless the context indicates a different meaning, or unless otherwise specifically defined for application to a portion of this chapter, shall be interpreted as follows:

*Protected animals.*

~~(1) Poultry, fowl and birds that are harbored in any city park or park area; and~~

~~(2) Chickens that are not owned by an individual and that generally run at large in the vicinity of Farm Street for a distance of approximately one thousand five hundred (1,500) feet, between Highway 95 to the railroad tracks near Fayette Street.~~