

ORDINANCE NO. 2019-15

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," SECTIONS 2.01.001 TITLED "DEFINITIONS" AMENDING THE DEFINITIONS OF VARIOUS TERMS; AMENDING 2.01.004 TITLED "RESTRICTIONS ON KEEPING LIVESTOCK AND FOWL" TO EXTEND APPLICATION TO FOWL BEING "MAINTAINED" IN VIOLATION OF THIS SECTION; ARTICLE 2.04 TITLED "IMPOUNDMENT," DIVISION 2 TITLED "LIVESTOCK" BY REQUIRING ANIMAL CONTROL TO REFER ANY IMPOUNDED LIVESTOCK TO THE COUNTY SHERIFF AND REPEALING SPECIFIC PROCEDURES FOR IMPOUNDING LIVESTOCK; AND AMENDING ARTICLE 2.07 TITLED "NUISANCES" SECTION 2.07.001 TITLED "CREATING HEALTH HAZARD" TO EXTEND APPLICABILITY TO ANIMALS "MAINTAINED" IN VIOLATION OF THIS SECTION AND REPEALING 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, the Bastrop City Council ("Council") has received information from the Community and the Police Department about the presence of free-ranging/feral chickens that are a nuisance to private property; and

WHEREAS, on November 29, 2017, Council conducted a Public Hearing to address the public's concerns pertaining to the free ranging/feral chickens that resided outside of the "Chicken Sanctuary;" and

WHEREAS, on March 27, 2018, after receiving an update, the Council unanimously opined that the removal of the "Chicken Sanctuary" would be in the City's best interest; and

WHEREAS, on May 22, 2018, and the Council repealed the Ordinance that established the "Chicken Sanctuary;" and

WHEREAS, on March 26, 2019, Council had a discussion and determined obtaining help from the property owners who are impacted by the free-ranging/feral chickens would be a positive step in eradicating these broods from the City; 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, et. Seq. of the Code of Ordinances to the City of Bastrop, which is entitled "GENERAL PROVISIONS" is amended to read as described and attached hereto as *Exhibit "A."* City staff is directed to act in accordance with the Council's amendment to *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.

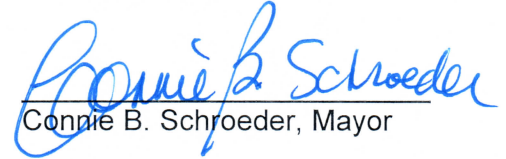
SECTION 5. SEVERABILITY Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid 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 23rd day of April 2019.

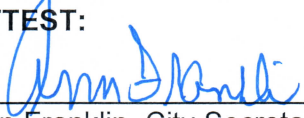
READ & APPROVED on the Second Reading on this, the 14th day of May 2019.

APPROVED:



Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

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:

...

Harboring. The act of keeping and caring for an animal or of providing premises to which the animal returns for food, shelter or care. Refusal to allow animal control to impound an at large, stray or feral animal constitutes harboring said animal.

Keep. To retain on the premises by any means; to harbor, control, own or have custody or possession of an animal.

...

Protected animals. Birds that are harbored in any city park or park area.

Sec. 2.01.004 - Restrictions on keeping or maintaining livestock and fowl.

(a) *Keeping hogs prohibited; exceptions.*

- (1) It is unlawful and constitutes a violation of this chapter for a person to keep or maintain any hog in any house, shed, pen, lot, pasture or other enclosure in the corporate limits of the city.
- (2) This subsection does not apply to hogs kept temporarily (i.e., for a period not to exceed forty-eight (48) consecutive hours) in shipping pens, when such holding pens are utilized for the purposes of shipment, nor does this subsection apply to hogs kept temporarily (i.e., for a period not to exceed seventy (70) consecutive hours) at auction or sales pens or barns for the purpose of a hog or livestock sale or show held within the city, if in compliance with all other applicable ordinances.

- (3) The keeping of hogs by persons involved in recognized educational agricultural programs, such as FFA and 4-H, is exempt from the blanket prohibition noted in subsection (1) above, but such activities must comply with other applicable provisions in this chapter, for example those related to noises, odors and adequate housing for such animals.
- (b) *Keeping or Maintaining animals near water supply wells.* It is unlawful and constitutes a violation of this chapter for a person, whether for himself or as the agent, representative or servant of other(s), to participate in keeping or maintaining any animal (other than pet animals) in any pen, pasture, lot, shelter, or enclosure which is located within fifty (50) feet of any water supply wells, or a water supply source from which the city or any citizen of the city obtains its water supply, as per V.T.C.A. Administrative Code, title 30, Natural Resources and Conservation, § 290.41(c)(1)(C), (D), (F), or in violation of any other applicable state or federal law related to drinking water supplies.
- (c) *Keeping or Maintaining livestock and fowl generally.* It is unlawful and constitutes a violation of this chapter to keep or maintain any horse(s), cattle, sheep, goat, rabbit or other livestock, including poultry/fowl, at any place in the city if:
- (1) Within fifty (50) feet of any private residence or dwelling place of a person other than the owners of the animals or fowl;
 - (2) Within one hundred (100) feet of any building or structure that is open to the public, with the exception of open park land; or
 - (3) The animals or poultry/fowl in question are being kept or maintained in any manner or location that results in noises, odors, pests, or other conditions associated with the animals or poultry/fowl that would annoy, offend or disturb the reasonable sensibilities of residents or person(s) occupying or visiting the private residences and dwelling places, or the buildings and structures which are open to the public.

While the distance provisions do not apply to open park land, the other requirements of this section relating to the manner in which animals are kept (i.e., provisions prohibiting annoyances and offensive conditions created by animals therein), shall apply.

ARTICLE 2.04 – IMPOUNDMENT

DIVISION 2. - LIVESTOCK

Sec. 2.04.031 - Running at large.

It is unlawful for any owner or person in control of any horse, mule, donkey, jack, jenny, cattle, hog, goat or sheep (stray) to permit any such animal to run at large on land that is not owned or otherwise controlled by the owner or harbinger (e.g., via a lease or permit), or on any street, alley or other public property or place within the city's corporate limits.

Sec. 2.04.032 - Impoundment.

It shall be the duty of the animal control department to contact the sheriff or the sheriff's designee to take up (impound) any and all strays that may be found running at large upon any street or alley or upon any unenclosed lot in the city, or otherwise found running at large, and to confine such strays and other livestock for safekeeping until possession is taken by the sheriff or his designee.

ARTICLE 2.07 - NUISANCES

Sec. 2.07.001 - Creating health hazard.

(a) *Generally.* It shall be unlawful for any person to keep or maintain any animal, other than a protected animal, on any property located within the corporate limits of the city when the keeping of such animal constitutes a public nuisance or menace to public health or safety. Any person who harbors or keeps on his/her premises, or in or about premises under his/her control, an animal, other than a protected animal, and who allows his/her premises to become a hazard to the general health and welfare of the community, or who shall allow his/her premises to give off obnoxious or offensive odors and/or noises due to the activity or presence of such animals, other than the presences of a protected animal, shall be guilty of a class C misdemeanor.