

ORDINANCE #220906-01

**ANIMAL CONTROL
AMENDMENT**

AN ORDINANCE OF THE CITY OF BIG LAKE, TEXAS, BY THE CITY COUNCIL TO AMEND THE ANIMAL CONTROL CODE, AS AMENDED; CITY OF BIG LAKE CODE OF ORDINANCES, CHAPTER 2 RELATING TO ANIMAL CONTROL RELATING TO ARTICLE 2.02 KEEPING DOGS OR CATS; RELATING TO ARTICLE 2.04 IMPOUNDMENT; ARTICLE 2.400 LIVESTOCK REGULATIONS; ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING COMPREHENSIVE REQUIREMENTS FOR THE KEEPING AND CARING OF DOGS, CATS, LIVESTOCK AND POULTRY; PROVIDING REGULATIONS AND REQUIREMENTS FOR THE KEEPING OF LIVESTOCK AND POULTRY; PROVIDING CERTAIN EXEMPTIONS; PROVIDING PROCEDURES FOR SURRENDER OF ANIMALS; PROVIDING FOR MANDATORY SPAY/NUETER OF DOGS FOLLOWING IMPOUNDMENT; PROVIDING FINES AND PENALTIES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPENING MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the proper care, regulation and control of animals, fowl and livestock in necessary for the health, safety and quality of life of the citizens of the City of Big Lake, Texas (herein the "City");

WHEREAS, the establishment of reasonable requirements for the care and control of animals, fowl and livestock in necessary to protect such animals and the general public;

WHEREAS, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law to unusual circumstances and conditions that arise from time to time with respect to the keeping, care and control of domestic, wild and exotic animals; and

WHEREAS, the rules, regulations and requirements established by ordinance may not be inconsistent with State law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BIG LAKE, TEXAS, THAT:

SECTION 1.0. Findings of Fact. All of the above premises are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

SECTION 2.0. Animal Control Regulations Adopted. The City Council hereby adopts the amendments in "Exhibit A" for the control and regulation of animals within the City of Big Lake to read as set forth in and attached hereto entitled "Exhibit A" attached to and incorporated in this ordinance as though fully transcribed herein for all purposes.

SECTION 3.0. Amendment of Ordinances. Big Lake Code of Ordinances, Chapter 2, Animal Control, is hereby amended to include the following additions and amendments as attached and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the City, the terms and provisions of this ordinance shall govern.

SECTION 4.0. Savings Clause. All rights and remedies of the City of Big Lake are expressly saved as to any and all violations of the provisions of any ordinances affecting livestock and poultry within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5.0. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.


SECTION 6.0. Severability. It 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, sentence, paragraph or section of the 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, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to the end the provisions of this Ordinance are declared to be severable.

SECTION 7.0. Opening Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place and purpose and said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 20th day of September, 2022

PASSED, APPROVED AND ADOPTED on this 27th day of September, 2022.

THE CITY OF BIG LAKE, TEXAS


Cindy O'Bryan
Mayor Pro-Tem

ATTEST:


Sheri Benson, City Administrator

EXHIBIT "A"
to "Ordinance No. 220906-01"

ARTICLE A3.00 ANIMAL CONTROL

Sec. A.3.008 Keeping Poultry

- (a) Permit Fee: \$10.00.
- (b) Annual Poultry Fee: \$50.00.

ARTICLE 2.02 KEEPING DOGS OR CATS

Sec. 2.02.007 Surrender of Animals

(a) Animal Services will only accept surrendered animals if there is sufficient space in the shelter at that specific time. There shall be a fee for surrender of animals by owner/harbinger to the Animal Control Center. Animal Services will only accept animals surrendered from residents of the City of Big Lake. A Fee of \$25.00 shall be charged per animal. In the event a litter (under 60 days of age) is surrendered the charge shall be the same as a single animal, with or without the mother.

(b) Any owner or harbinger who surrenders an animal will become ineligible to own and/or register a new animal within the city for a period of 1 year.

ARTICLE 2.04 IMPOUNDMENT

Sec. 2.04.008 Mandatory Spay/Neuter of dogs and cats following impoundment.

- (1) The owner of keeper shall keep the animal restrained at all times (except cats as described by Sec. 2.01.001) and ensure that the animal is not at large. Dogs and cats found to be at large shall be subject to mandatory sterilization at the owner's expense within thirty (30) days of notification of the violation.
- (2) Exemption made by the Animal Control Officer. The Animal Control Officer is authorized to exempt an owner from the requirements of this section if the owner proves to the satisfaction of the animal care services manager that the animal:
 - a. Was a member of a national breed club, local breed club, local all-breed club, sporting or hunting club, or was regularly shown during the six-month period immediately preceding impoundment;
 - b. Was at large due to a natural disaster;
 - c. Was at large due to the criminal or negligent acts of a third party.

ARTICLE 2.06 LIVESTOCK AND POULTRY; BEEKEEPING

Sec. 2.06.031 Required; application; fee

- (a) No person shall keep livestock within city limits, except those kept at the area commonly known as the Southside Arena, located at the 200 block of South Russek Street.
- (b) No person shall keep poultry within the city limits without first obtaining and thereafter keeping in force a permit allowing him to do so.
- (c) The procedure and requirements for granting and keeping in force approved permits shall be as follows, to wit:
 - (1) Any person desiring a permit to keep livestock or poultry within the city limits shall file an application with the city secretary for that purpose. Said application shall, among other things, call for the name and address of the applicant, estimate average number and types of livestock or poultry to be kept, description of the structures and facilities to be used for the enclosure of the livestock or poultry and for the disposal of manure and debris incident to their maintenance and care, and the distance to the adjacent residence from the outside boundaries of the structure or fence in which the livestock or poultry are to be enclosed.
 - (2) The application shall be accompanied by a nonrefundable fee in the amount as set forth in the fee schedule.
- (d) The application shall be approved or denied on the opinion of the city health officer and/or animal control officer.
- (e) Selling or displaying animals in certain places prohibited. It shall be unlawful for any person to sell, trade, barter, lease, rent, give away or display for any purpose any live animal on any roadside, public right-of-way, commercial parking lot or flea market.
- (f) Defenses. It is a defense to prosecution under this section that the person is:
 - (1) A veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the state to deal with animals, and has temporary ownership, custody and control of the animal in connection with that position.
 - (2) Keeping livestock or fowl on a tract of land owned by a public or private school containing a minimum of ten (10) acres, and the keeping of livestock or fowl is considered to be for education purposes.

(3) Livestock show barns, slaughter and packing establishments, where animals are kept or housed temporarily are exempted from the provisions of this article.

Sec. 2.06.034 Conditions; distance requirements

(a) Permits may be granted and allowed to remain in force only when the regulations as follows are observed:

(1) Livestock and/or poultry:

(i) shall be kept within structures or enclosures and not permitted to run at large;

(ii) poultry shall have wings clipped; and

(iii) Poultry shall be limited to the maximum of 25 hens and 1 rooster.

(2) To prevent the same from serving as breeding places for insects and from emitting noxious odors, manure or dung incident to the maintenance and care of the livestock or poultry shall be scraped from roosts and floors and raked from the structures or enclosures within 24 hours after being dropped or deposited by the livestock or poultry. The manure or dung so collected shall either be placed and kept in containers that are watertight and insect-proof until removed, and kept treated with chemicals that will effectively repel flies and other insects.

(3) The structure or enclosure within which any livestock or poultry are confined shall not be less than 200 feet from any residence and 300 feet from any hotel, restaurant, or other food establishment, hospital, or business establishment.

(4) Said livestock and/or poultry are not in violation of any deed restriction, subdivision restriction, or zoning ordinance.

(b) The City Council may provide exceptions and waive the distance requirements in subsection (3) above when the application for permit includes:

(i) Signed, notarized affidavits from each resident and the owner of each residence within 200 feet of the enclosure of said livestock or poultry stating that they do not object to said livestock or poultry being within those boundaries of their residence; and

(ii) Signed, notarized affidavits from the authorized agent of each hotel, restaurant, or other food establishment, hospital, or business establishment

within 300 feet of the enclosure of said livestock or poultry stating that they do not object to said livestock being within those boundaries of their hotel, restaurant, or other food establishment, hospital, or business establishment.

(iii) Any affiant wishing to revoke previously submitted affidavit as provided in (i) and (ii), must provide a new affidavit which contains (1) revocation of prior approval, and (2) reason(s) for said revocation. The revocation affidavit will then be presented to City Council for consideration of permit at the next regular meeting. The City Council may or may not revoke the permit based on the revocation affidavit.