

**ORDINANCE NO. 20191112**

**CITY OF BURTON ANIMAL CONTROL ORDINANCE**

**AN ORDINANCE OF THE CITY OF BURTON, TEXAS, AMENDING ORDINANCES 99-03, 99-1, AND 41002, PERTAINING TO ANIMAL CONTROL WITHIN THE CITY OF BURTON; PENALTY FOR VIOLATION; FEES FOR IMPOUNDMENT AND ABATEMENT.**

WHEREAS, the City Council of the City of Burton, Texas, previously adopted Ordinances of the City of Burton, which established controls for animal control; and

WHEREAS, the City of Burton recognizes that previous animal control ordinances would benefit from clarification and modernization; and

WHEREAS, the City of Burton has investigated and determined that it is the best interest of the public to amend any other past ordinances or resolutions in conflict with this ordinance, and adopt an updated Animal Control Ordinance as set forth below; and

WHEREAS, the City Council of Burton has found that the following regulations will promote the health, safety, and welfare of the citizens and persons within the City; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURTON, TEXAS THAT THE FOLLOWING REGULATIONS ARE HEREBY ADOPTED, AND HEREINAFTER EFFECTIVE WITHIN THE CITY LIMITS OF THE CITY OF BURTON:**

**SECTION 1.0     SHORT TITLE**

This Ordinance may be cited as "Animal Control Ordinance."

**SECTION 2.0     PREVIOUS ORDINANCES AMENDED**

Ordinances No. 99-03, 99-2, 41002, and any other past ordinances or resolutions in conflict with this ordinance, are amended.

**SECTION 3.0     AMENDED ORDINANCE ADOPTED**

An amended Animal Control Ordinance is hereby adopted to read as follows:

**SECTION 4.0     DEFINITIONS**

- a) Abandonment: To desert or leave without care.
- b) Animal: Any living creature, except human, being classified as a member of the Kingdom Animalia and including, but not limited to, mammals, birds, reptiles, and fish.
- c) Animal Control Officer: Any individual employed with or appointed by the City for the purpose of enforcement of this ordinance.
- d) Animal shelter: An establishment operated by the City or County for the temporary confinement, safekeeping, and control of animals that come into custody of the City of Burton.
- e) Assistance Animal: Any animal trained to assist a handicapped person.
- f) At Large: Any animal that is out of a fence, off the premises, or not under immediate control by means of a cage, leash, rope or other means of immediate physical control or restraint of the person having charge, custody or control of the animal. The term shall not include any animal being trained or exhibited while under the immediate physical or vocal control of a person.
- g) Auction: Any place or facility where animals are regularly bought, sold or traded. This definition does not apply to individual sales of animals by private owners.
- h) Domestic animal: Any animal whose physiology has been determined or manipulated through selective breeding and which does not occur naturally in the wild and which may be vaccinated against rabies with an approved rabies vaccine and which has an established rabies quarantine observation period.
- i) Exotic animal: Shall mean the same as a wild animal.
- j) Fowl or Birds: All animals belonging to the class of Avies, including all game bird such as, but not limited to: doves, quails, ducks, geese, pigeons, cardinals, blue jays, sparrows, or crows.
- k) Horse: Any member of the family Equidae Domestica.
- l) Humane Manner: Care of an animal to include, but not to be limited to, the ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirement and feeding habit of the animal's size, species, and breed.
- m) Inhumane Treatment of Animals: Any treatment of any animal prohibited by the Texas Penal Code, the Texas Health and Safety Code, or by any other provision of law, including federal, state and local laws, ordinances or rules.
- n) Kennel: An establishment where a person, partnership, or corporation keeps dogs or cats for the purpose of breeding, buying, selling, trading, showing, training or boarding said animals for profit.
- o) Local Rabies Control Authority: The person designated by the Texas Department of Health as the official in charge of rabies control, investigations, and enforcement.
- p) Licensing Authority: The person designated by the City to manage requisite permits.

- q) **Livestock:** Domestic animals generally used or raised on a farm for profit or use, including, but not limited to cattle, bulls, sheep, goats, pigs, sows, horses, stallions, mares and jacks.
- r) **Multi-Animal Permit:** License required to house, own, harbor, control or have custody of five (5) dogs and /or cats over the age of four (4) months.
- s) **Pet Shop:** An establishment engaged in the business of buying or selling any retail domesticated animal for profit-making purposes.
- t) **Restraint:** To control an animal by physical means so that it remains on the premise of the owner, or, when off the owner's premises by means of a cage, leash, rope, or confinement.
- u) **Sterilized:** Animal is rendered incapable of reproduction.
- v) **Stray:** A domestic animal that is wandering at large or is lost.
- w) **Vaccination:** Inoculation of an animal with a rabies vaccine that is administered by a state-licensed veterinarian for the purpose of immunizing the animal against rabies.
- x) **Veterinary Hospital:** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases, and injuries in animals.
- y) **Wild Animals:** Any animal not normally considered domesticated which, because of its size, vicious nature or other natural characteristics would constitute a dangerous threat to human life, property or domestic animals including but not limited to:
  - 1. Reptiles venomous reptiles, crocodile or alligator;
  - 2. Birds, eagles, owl or any species illegal to own under federal or state law;
  - 3. Mammals including ocelots, lions, jaguars, leopards, cougars, wolves, dingoes, coyotes, jackals, weasels, martins, minks, badgers, raccoons, pandas, bears, kangaroos, opossums, sloth, anteaters, monkeys, chimpanzee, gorillas, orangutans, porcupines, antelope, deer, bison and camels.

## **SECTION 5.0                      BIRD SANCTUARY; MOLESTING BIRDS**

- a) There is hereby created and established a bird sanctuary within the territorial limits of the City of Burton.
- b) It shall be unlawful for any person to hunt, kill, trap, or molest any birds within the City except pursuant to a permit issued by Texas Parks and Wildlife, or any other State regulatory authority, specifically made valid for use in taking birds within city limits.
- c) All City-owned property shall be managed in such a manner as to promote both human enjoyment and the development of bird and wildlife habitat.

## **GENERAL PROVISIONS**

### **SECTION 6.0            HARBORING WILD ANIMALS**

It shall be unlawful to keep or harbor any wild animal within the City, except licensed commercial establishments dealing in the sale of these animals, and zoos that have proper facilities for restraint and care of these animals. The Animal Control Officer, or the person designated for animal control by the City, may set up conditions under which it would be permissible to keep or harbor wild animals in the City on a temporary basis.

### **SECTION 7.0            HOGS PROHIBITED**

It shall be unlawful for any person to have, keep, raise, breed, feed, or maintain upon any premise situated within the City, any hog, pig or swine of any kind, including pot-bellied pigs.

### **SECTION 8.0            KEEPING OF LIVESTOCK; NUMBER OF HEAD PER ACRE**

- a) It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any horses, mules, cows, cattle or other livestock of any kind except sheep and goats as provided herein upon any premise or property within the city limits of the City of Burton, Texas, unless such premise comprises an area of one (1) acre or more; however, the total or maximum number of horses, mules, cows, cattle, and other livestock except sheep or goats as provided herein kept upon any such premise inside the City shall not exceed one head or one animal per acre of land; provided further, that this section shall not apply to those areas or districts which may be designated as slaughter house districts.
- b) It shall be unlawful for any person, firm or corporation to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any sheep or goat upon any premise or property within the corporate limits of the City of Burton, Texas, unless such premise comprise an area of one-half (0.5) acre or more; however, the total or maximum number of sheep or goats kept upon any such premise inside the City shall not exceed two (2) sheep/goat per one-half (0.5) acre or five (5) sheep/goats per acre of land or portion thereof; provided further, that this section shall not apply to those areas or districts which may be designated as slaughter house districts.

## **SECTION 9.0                    PROXIMITY TO CHURCH, SCHOOL, OR PUBLIC PROPERTY**

It shall be unlawful for any person to own, have, keep, maintain, feed, house, stable or permit or cause to be owned, kept, maintained, fed, housed or stabled any horses, mules, cows, cattle, sheep, goats or other livestock upon any premises in the City, within a distance of two hundred (200) feet of any church, school, or public building except upon written consent of the owner of the affected public building. Written consent of the owner of the affected public building may be revoked with six (6) months' notice to the owner of the animal(s). Said consent may be revoked upon a hearing by the city health officer and sixty (60) days' notice to the property owner.

## **SECTION 10.0                  CLEANLINESS OF ENCLOSURES**

- a) It shall be unlawful for any person who may own or control any premises, lots, yards, stables, barn or pens where any livestock are kept, to maintain, keep or conduct such premises or cause or permit the same to be maintained or kept in such an unclean and unsanitary condition as to be a public nuisance.
- b) If upon inspection or examination any such premises are found to be in such an unclean and unsanitary condition as to be a public nuisance, the health officer or Animal Control Officer shall give notice in writing to an owner, lessee, agency, manager or other person in charge or control of such premises to cause such premise to be cleaned and placed in a sanitary condition and abate such nuisance within a reasonable time, as determined by the health officer or animal control officer. Failure to do so shall be unlawful and in violation of this section.

## **SECTION 11.0                IMPOUNDMENT OF LIVESTOCK AT LARGE**

It shall be the duty of the Animal Control Officer and/or the person designated by the City to cause any livestock or animals found at large to be taken up and impounded.

## **SECTION 12.0                LIVESTOCK AND ANIMALS AT LARGE PROHIBITED**

It shall be unlawful for any person to allow any livestock belonging to him or under his control to be running at large within the City. The City shall establish a prima facie case by proving the ownership of the animal and that the animal was running at large.

## **SECTION 13.0                TYING OR STAKING OF ANIMALS NEAR PUBLIC PROPERTY**

It shall be unlawful for any animal to be tied or staked upon any open or unfenced lot or lane within the City so that the animal so tied or staked could get on, across, or within twelve (12) feet of any street, park, public pathway, sidewalk, building or other land. Such an animal so tied or staked shall be considered dangerous to the public and declared a nuisance and shall be impounded as any other animal found running at large.

#### **SECTION 14.0           SLAUGHTERING ANIMALS**

It shall be unlawful to maintain any property for the purpose of slaughtering any animal except those establishments that have been duly licensed to slaughter animals under the law of the State of Texas and applicable City ordinances.

#### **SECTION 15.0           AT LARGE FOWL**

It shall be the duty of the person owning or having within his management or control any chickens, turkeys, geese, ducks, or other domestic fowl to keep enclosed upon his own premise in such manner that same cannot go upon the public streets, highways, alley, or parkway of the City or upon the private property of others.

#### **SECTION 16.0           RESTRICTIONS ON FOWL AND RABBIT NUMBERS**

Not more than twelve (12) chickens, three (3) turkeys, three (3) geese, five (5) ducks, or ten (10) rabbits. Any combination of said chickens, turkeys, geese, ducks or rabbits or other fowl shall be limited to a maximum total of fifteen (15) animals allowed to be kept upon any lot or enclosure. See Section 20.0 in regards to Youth Projects.

#### **SECTION 17.0           LOCAL RESTRICTION FOR FOWL ENCLOSURES**

It shall be unlawful for any person to keep, possess, or maintain in the City any fowl, or any pens, enclosures or other structure in which any such fowl are kept or possessed within twenty-five (25) feet of any church, school or hospital other than the residence of the keeper, possessor or owner of such fowl, The distance of twenty-five (25) feet is to be measured in a straight line from the nearest point of any pen, enclosure or structure in which fowl are kept to the nearest point of such actual residence or place of human habitation, church, school, or hospital.

#### **SECTION 18.0           MAINTENANCE OF PREMISES WHERE KEPT**

The owner or keeper of domesticated fowl and rabbits shall keep the enclosures for said animals in a sanitary condition and shall remove all excrement from said animals at least once each week.

#### **SECTION 19.0           LOCAL RESTRICTIONS FOR RABBITS**

It shall be unlawful for any person to keep, possess, or maintain in the City any rabbit or enclosures in which rabbits are kept, possessed, or maintained within twenty-five (25) feet of any actual residence or habitation or twenty-five (25) feet of any church, school or hospital other than the residence of the keeper, possessor, or owner of said rabbits; twenty-five (25) feet is to be measured in a straight line from two nearest points of any enclosure in which rabbits are kept to the nearest point of human habitation, church, school, or hospital.

## **SECTION 20.0            EXEMPTIONS FOR YOUTH PROJECTS**

Animals which are part of a youth project, such as FFA, 4-H or the Washington County Fair, may be considered an exception to the provisions listed in this article on the authority of the animal control supervisor. Cattle or horses are not included as an exemption. Other animals such as sheep, goats, rabbits, and fowl may be considered; however, certain requirements must be met, including premises inspection by the Animal Control Officer and adequate space for the housing and care of the animals.

### **DOGS AND CATS**

## **SECTION 21.0            CERTIFICATION OF RABIES VACCINATION**

All dogs and cats over the age of four (4) months must be vaccinated against rabies in accordance with state law. It shall be unlawful to own, possess, or have control over dogs or cats in violation of the aforementioned requirement.

## **SECTION 22.0            RABIES CONTROL**

The City hereby adopts by reference the Rabies Control Act contained in Texas Health and Safety Code and the standards established by the Texas Board of Health and minimum standards for rabies control and quarantine provisions. In the event said code is amended or replaced, the City adopts the most current rabies requirements set by the appropriate Texas regulatory agency.

## **SECTION 23.0            RABIES REPORTING**

The City may appoint a City employee as the Local Rabies Control Authority. It shall be the duty of every physician to report to the Local Rabies Control Authority, the name and address of any person treated for a bite or scratch inflicted by an animal as required by the Rabies Control Act and the law of the State of Texas.

## **SECTION 24.0            DOGS AND CATS AT LARGE**

- a) It shall be unlawful for any person to permit any dog possessed, kept or harbored by that person to be unrestricted by a leash, fence, pen or other enclosure, sufficient to prevent the dog from going onto City or other property. The person designated by the City as the Animal Control Officer is authorized to employ all humane means of capturing any dog or cat found to be at large, in violation of any ordinance of the City.
- b) Cats shall be permitted to run at large only if such cat is wearing identification.

## **SECTION 25.0          REQUEST FOR TRAPPING OF STRAY DOGS OR CATS**

Any person owning or in control of property may rent a humane live-catch trap to be placed on their property to assist in capturing dogs and cats trespassing thereon. An Equipment Rental Agreement must be submitted to City Hall for a twenty-five (\$25) dollar fee (\$5 is non-refundable).

## **SECTION 26.0          CAPTURE, IMPOUNDMENT, AND RECLAMATION OF CATS AND DOGS**

It is the property owner's responsibility to see that any dog or cat trapped shall be impounded, placed in an animal shelter, and/or confined in a humane manner. If the ownership of an at large animal is in question, the Property Owner shall contact the Animal Control Officer of the City of Burton. The officer may exercise the option of serving the owner with a citation in lieu of impounding the animal. It shall be unlawful for any person to interfere with an Animal Control Officer while apprehending any dog or cat in violation of any ordinance of this City.

## **SECTION 27.0          DISPOSITION OF IMPOUNDED CATS AND DOGS**

If the owner of a impounded dog or cat does not apply to the animal shelter to pay the required fee within three business days from the time the animal was confined within the animal shelter, the shelter is hereby authorized to place that animal into the adoption program or to humanely destroy that animal. If the animal is placed with the adoption program and is adopted, the proceeds from the adoption shall be deposited with the City.

## **SECTION 28.0          ANIMAL NUISANCES**

- a) A person who keeps or harbors any animal causing audible disturbances that disrupt the peace and quiet of the City or the occupant of adjacent premises may be found in violation of this chapter.
- b) All animals determined to be dangerous animals according to State Law shall be removed from the City.

## **SECTION 29.0          FEE SCHEDULE**

The City shall adopt fair fees, in accordance with State law, for the adoption, surrender, housing, transport, euthanasia, or disposition of any cats or dogs impounded by the Animal Control Officer.



## **IMPOUNDING OF LIVESTOCK**

### **SECTION 30.0      ANIMAL CONTROL OFFICER**

- a) The City may appoint Animal Control Officers whose duties shall include establishing and maintaining a suitable place for keeping livestock and other animals found within the City as well as catching and transporting any animals to the animal control facility.
- b) It shall be the duty of the Animal Control Officer to impound at large livestock.

### **SECTION 31.0      PRIVATE IMPOUNDMENT OF LIVESTOCK**

If any livestock are found upon private property, the lawful possessor of said property has the right to confine such livestock until animal control is notified and said livestock is impounded in a reasonable time.

### **SECTION 32.0      SALE OF IMPOUNDED LIVESTOCK**

It shall be the duty of the Animal Control Officer, upon impounding livestock, to immediately publish notice at three (3) public places in the City, one of which shall be at the City Hall door, describing said livestock and stating that if the impounded livestock is not claimed in seven (7) business days it will become the property of the City and will be sold according to the law.

### **SECTION 33.0      RECLAMATION OF IMPOUNDED LIVESTOCK**

Any owner of livestock impounded as herein provided may reclaim said livestock before the sale by paying the expenses of impounding and boarding said livestock, along with fees set by the City.

### **SECTION 34.0      REMOVING IMPOUNDED LIVESTOCK WITHOUT PERMISSION**

It shall be unlawful for a person to take any livestock that has been impounded by an Animal Control Officer within the city, out of the animal control facility without permission of the Animal Control Officer and without paying the charges due therein.

**SECTION 35.0                      DISPOSITION OF PROCEEDS**

The money received by animal control operations shall be placed in the City treasury. If the owner of the livestock shall make suitable and sufficient proof within five (5) days after the sale of such livestock that the animal(s) were his property, the City treasurer shall return said proceeds to the rightful owner minus any administrative expenses and fees involved with the impoundment and sale.

**SECTION 36.0                      PENALTY**

Any person or entity who violates this ordinance shall be fined in a sum not less than one dollar (\$1.00) and not more than five hundred dollars (\$500) plus costs. Each day a person or entity violates this ordinance shall constitute a separate offense.

**SECTION 37.0                      APPLICABILITY**

The repeal or amendment of any ordinance or part of an ordinance effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or affecting any right of the City under any section of provisions at the time of passage of this ordinance.

**SECTION 38.0                      SAVINGS CLAUSE**

If any portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other portion of this ordinance which shall remain in full force and effect.

**PASSED AND APPROVED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.  
TO TAKE EFFECT IMMEDIATELY.**

\_\_\_\_\_  
MAYOR, CITY OF BURTON, TEXAS

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CITY SECRETARY, BURTON, TEXAS