

ORDINANCE NO. 2020-O-4

AN ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF PALACIOS, TEXAS TO ADD VARIOUS DEFINITIONS; TO ADD ACTIVITIES INVOLVING ANIMALS THAT ARE A NUISANCE; ADD RESTRICTIONS ON FERAL CATS; TO ADD PROCEDURES FOR THE ADOPTION OF IMPOUNDED DOGS AND CATS; TO REGULATE THE KEEPING LARGE ANIMALS; TO REGULATE BEE KEEPING; CONTAINING A SAVINGS CLAUSE; REPEALING INCONSISTENT ORDINANCES; ESTABLISHING A PENALTY; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Palacios has determined that in order to protect and preserve public health and safety, the City's ordinances regulating animals should be revised to prohibit certain activities regarding animals that are a public nuisance, and to adopt regulations regarding feral cats, bees, and large animals; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALACIOS, TEXAS:

SECTION 1: That Chapter 2, Section 2.01.001, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by the adding of new definitions being the underlined provisions as follows:

Sec. 2.01.001 Definitions

Apiary (collection of bees). Is a place where six or more colonies of bees or nuclei (small mass of bees and combs of brood used in forming a new colony) of bees are kept.

Colony. The hive and its equipment and appurtenances including bees, comb, honey, and pollen and brood.

Feral cat. Is an un-owned domestic cat that lives outdoors and avoids human contact.

Feral cat colony management organization. Property owners, other persons caring for and managing feral cat colonies.

Micro-chip. A computer chip that is preprogrammed with a unique alphanumeric combination code which is inserted into the animal.

Owner. Any person, trust, partnership, corporation, or any other entity owning, keeping, or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

SECTION 2: That Chapter 2, Section 2.02.003, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.02.003 Limitation on Number

(1) No more than five (5) dogs and/or cats over the age of six (6) months shall be kept on their owner's premises within the city limits, nor shall any person keep, house, feed, breed, or maintain more than five (5) dogs or cats over the age of six (6) months at any time within the city.

(2) No more than six (6) chickens, and/or chicks, shall be kept on their owner's premises within the city limits, nor shall any person keep, house, feed, breed, or maintain more than six (6) chickens or chicks over the age of six (6) months at any time within the city. Not more than one rooster allowed on their owners' premises.

SECTION 3: That Chapter 2, Section 2.02.004, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.02.004 Nuisance

It shall be unlawful for any owner to harbor any dog, cat, or other pet animal which ~~by any long continued noise, cry or other activity shall disturb~~ the peace, comfort, sensibilities and/or property of the inhabitants of the neighborhood. ~~Such disturbance is hereby declared to be a public nuisance and a violation of this section.~~

(a) The keeping of any animal that physically molests passers-by or passing vehicles, attacks other animals, is not accompanied by a responsible person who maintains physical control over the animal by leash, cord, rope or other physical restraint device, trespasses on school grounds, and/or damages public or private property is prohibited.

(b) It shall be unlawful and constitute a public nuisance to keep any animal(s) that causes frequent, excessive or long continuous barking, whining, crying, meowing, howling, or other animal-related noise that interferes with public peace and comfort.

(c) It shall be unlawful and constitute a public nuisance for any person to maintain any animal in such a manner or allow any pen, enclosure, yard or similar place used for the keeping of animals to become unsanitary, offensive by reason of odor, offensive by lack of maintenance or create a visual nuisance, create any favorable condition for any zoonotic diseases or any other diseases, or create any condition that is a breeding place for fleas, ticks or other vectors.

(d) It shall be unlawful and constitute a public nuisance for the owner/custodian of any animal to allow excreta deposited by his/her animal to remain on public or private property. Any condition injurious to public health caused by the lack of or improper disposal of animal waste will be considered a violation of this section. Public property includes, but is not limited to, walks, sidewalks, alleys, parks, or recreation areas.

(e) It shall be unlawful for any owner, custodian or person to allow any animal to remain a public nuisance as defined in Chapter 8 Miscellaneous Nuisances.

SECTION 4: That Chapter 2, Section 2.02.006, of the Code of Ordinances of the City of Palacios, Texas is hereby added as a new section to read as follows:

Sec. 2.02.006 Feral Cats

It shall be unlawful for any person to intentionally cause, suffer or permit the maintenance of an attractive environment for the assembly of no more than five (5) unconfined and unvaccinated stray cats without being registered as provided by Section 5 of this Chapter.

SECTION 5: That Chapter 2, Section 2.02.007, of the Code of Ordinances of the City of Palacios, Texas is hereby added as a new section to read as follows:

Sec. 2.02.007 Management of feral cat colonies; trap-neuter-return (T-N-R) program requirements:

(a) The city encourages stabilization of the free-roaming cat population in the city by proper management of such population. Colony caretakers of managed colonies of free-roaming cats shall not be deemed to be owners of such cats. Proper management of a feral cat colony includes a T-N-R program (trap-neuter-return), and it shall be unlawful for any person, including a feral cat management organization, to regularly feed, water, and provide support to a feral cat colony without registration as required by this section.

(b) A feral cat management organization must have registration with city's animal control officer. Registration shall include name of organization, names of all persons involved in feeding, feeding schedules and locations of feeding areas along with written permission from property owner of feeding area. Organization must provide in writing a regular program of T-N-R in order to control colony population.

(c) Organization shall provide:

- (1) Nutritious and wholesome food, served to the animals in clean containers, to maintain the animals in good health.
- (2) Clean water, in a clean container and shall be available to animals at all times.
- (3) Maintained, clean areas, free of tall grass, debris and feces.
- (4) Veterinary care as needed to prevent diseases and suffering.

(d) A violation of this section of the Palacios Code of ordinances shall be punished by a fine as set forth in Chapter 1 Section 1.01.009 General penalty for violations of code; continuing violations.

SECTION 6: That Chapter 2, Section 2.04.002, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.04.002 Animal shelter Quarantine Facility

(a) A suitable animal shelter shall be provided for the purpose of boarding and caring for any animal impounded under the provisions of this chapter. Such ~~shelter facility~~ shall be constructed in accordance with recommendations from the department of state health services. In lieu of constructing a ~~shelter facility~~, the city may contract with any licensed veterinarian to provide this service at a fee mutually agreed upon and having a suitable facility within the county that has been approved by the department of state health services. (1996 Code, sec. 2.1002)

Sec. 2.04.003 Removal of animals from Animal-shelter Quarantine Facility

(a) The impoundment of dogs and cats that have inflicted human bites shall be for a period of ten (10) days for observation and shall not be terminated until consent from the proper officer or agency is secured. It shall be unlawful for any person to remove any impounded animal from the animal ~~shelter facility~~ without the consent of the animal control officer or other impounding official or agency. (1996 Code, sec. 2.1003; Ordinance adopting Code)

SECTION 7: That Chapter 2, Section 2.04.007, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by added as a new section to read as follows:

Sec. 2.04.007 Adoption of impounded dogs and cats(a) Conditions.

(1) The adoption of a dog or cat from the animal quarantine facility may take place under the following conditions:

(A) The animal has been classified as "adoptable" by the animal control officer;

(B) The prospective adopter shall meet all of the adoption guidelines

(C) The prospective adopter obtains all necessary vaccinations, registration and sterilization.

(2) The animal control officer shall refuse to allow a person to adopt a dog or cat from the animal quarantine facility when the officer has reason to believe that person would be not able to obtain a registration certificate under this chapter, would not have proper facilities for care of the animal, wants the animal for purposes of resale or purpose other than pet ownership, or would not be a

suitable owner within the sole discretion of the animal control officer, or that the animal would be a hazard to humans or other animals.

(b) Adoption fee and sterilization deposit.

(1) The prospective adopter shall pay the adoption fee of an amount set forth in Appendix A: Fee Schedule, Chapter 2 Section A2.04.007 of this code for a dog or cat, per animal, plus a sterilization deposit in an amount set forth in Appendix A: Fee Schedule, Chapter 2 Section A2.04.007 of this code for a dog or cat, per animal.

(2) Upon proof of vaccination and sterilization, the deposit will be refunded by the City of Palacios.

(c) Requirements for Adoption.

Except as provided by Section 828.013 of the Health and Safety Code Title 10 Health and Safety of Animals Chapter 828, dog and cat sterilization, a releasing agency may not release a dog or cat for adoption unless the animal has been sterilized or the release is made to a new owner who signs an agreement to have the animal sterilized.

(d) Sterilization Agreement.

(1) The sterilization agreement used by an animal control officer must contain:

- (i) the date of the agreement;
- (ii) the names, addresses, and signatures of the animal control officer and the new owner;
- (iii) a description of the animal to be adopted;
- (iv) the sterilization completion date; and
- (v) a statement, printed in conspicuous, bold print, that sterilization of the animal is required under Chapter 828, Health and Safety Code, and that a violation of this chapter is a criminal offense punishable as a Class C misdemeanor.

(2) The sterilization completion date contained in the sterilization agreement must be:

- (i) the 30th day after the date of adoption in the case of an adult animal;
- (ii) the 30th day after a specified date estimated to be the date an adopted infant female animal becomes six months old or an adopted infant male animal becomes eight months old; or

SECTION 8: That Chapter 2, Section 2.05.001, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.05.001 Keeping of swine

It shall be unlawful for a person to keep any swine within the city limits, except ~~that the city secretary, with animal control registration, upon application to him, may~~ issue permits to agricultural and/or civic organizations allowing them to publicly exhibit swine for a period not to exceed fifteen (15) days.

SECTION 9: That Chapter 2, Section 2.05.002, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.05.002 Keeping of large animals

It shall be unlawful for any person to keep any large animals, including cows, horses, mules, donkeys, goats, and sheep, on any premises. The overall area of which is less than two ~~one-third (1/3)~~ one-half (1/2) of an acre for each large animal kept, or keep more than can be cared for under sanitary conditions and not create a public nuisance. The number of large animals permitted shall not exceed one animal per ~~one-third (1/3)~~ one-half (1/2) acre for the first acre, and two (2) animals per acre for each additional acre over one (1) acre of a single tract of land. The person in lawful possession of the premises, as owner or tenant, may keep thereon large animals belonging to others, but the limitation as to the number of large animals on the premises and the area and distance requirements of this section shall still apply.

SECTION 10: That Chapter 2, Section 2.05.003(d), of the Code of Ordinances of the City of Palacios, Texas is hereby amended by deletion of the provisions marked by strikeouts and addition of the underlined provisions to read as follows:

Sec. 2.05.003 Enclosures (for show animals only)

(d) Any animal enclosure must maintain at least twenty (20) feet from resident structure and ten (10) feet from property line.

SECTION 11: That Chapter 2, Section 2.05.004, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by added as a new section to read as follows:

Sec. 2.05.004 Livestock Show Animals

(a) Students participating in 4-H or FFA who engage in the raising of livestock or fowl for the purpose of showing them in a livestock show.

(b) These persons shall be required, however, to register the keeping of such animals or fowl with the animal control department.

(c) There will be no fee for registering of livestock or fowl for the purpose of showing in a livestock show. Registration shall list the name and address of the student, the exact address and location where the animals or fowl are being kept, and period of time the animals or fowl will be kept at that location. All owners or keepers of the fowl within the city limits will be held responsible for the cleanliness of enclosures and upkeep of the tract of land or lot upon which the fowl are being kept so as not to allow it to become a public nuisance by the odor that may be created by the keeping of the fowl.

(d) Show animals and or fowls must be removed forty-five (45) days after showing at livestock show for which that the animal has been raised.

SECTION 12: That Chapter 2, Section 2.05.005, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by added as a new section to read as follows:

Sec. 2.05.005 Keeping or raising poultry

It shall be unlawful for any person, firm, or corporation to raise, keep or maintain turkeys or other domestic fowl within the limits of the city, within any confined area or building, any part of which is within 200 feet of any residence or business. Chickens are exempt with the following conditions:

(1) A maximum of six (6) chicken hens and/or chicks will be allowed per property. More than one rooster is prohibited.

(2) All chickens shall be kept in an enclosure located at least twenty (20) feet from any residential dwelling. Such enclosure shall be a minimum of ten (10) feet from any property line. Free ranging is allowed within the confines of owner's property, provided property is enclosed with a fence.

(3) All pens, coops or enclosures shall be cleaned and disinfected with sufficient frequency to prevent any unsanitary conditions, or failing to store the waste from such animals in a fly proof container and remove the waste from the

city on a weekly basis.

(4) All coops or pens must be a minimum of at least three-square feet of floor space per chicken.

(5) It is unlawful for a person to permit, suffer or allow any carrion to be used for feed for any chickens.

(6) It is unlawful for a person to permit, suffer or allow any chicken owned, kept or possessed by him or under his control to wander in or upon or invade the premises of any other person.

SECTION 13: That Chapter 2, Section 2.05.006, of the Code of Ordinances of the City of Palacios, Texas is hereby amended by added as a new section to read as follows:

Sec. 2.05.006 Bee Keeping

(a) All bee colonies shall be kept in hives with removable frames, which shall be kept in sound and useable condition.

(b) Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, water faucets, pet watering bowls, birdbath, or other water sources where they may cause human, bird, or domestic pet contact.

(c) In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly "re-queen" the colony. Queens shall be selected from stock bred for gentleness and non-swarmling characteristics.

(d) The name, address, and telephone numbers of the owner or beekeeper shall be painted, or otherwise clearly marked upon the structure of each hive.

(e) The animal control manager, upon determination that any colony situated within the city is not being kept in compliance with this section, may order the bees removed from the city or destroyed.

(f) It shall be unlawful to keep more than the following number of colonies on any lot, in an area zoned residential within the city, based upon the size of the lot which the apiary is situated:

- (1) One (1) acre or less lot size: one (1) colonies;
- (2) Larger than one (1) acre: one (1) colony per each acre;

(g) It shall be an offense for any owner, person, or beekeeper to keep any colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others or in violation of any of the other provisions of this section.

SECTION 14: If any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 15: All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 16: Any person who shall violate any provision or provisions of this ordinance

shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than \$500.00 for each violation. Each day in which any violation shall occur or continue shall constitute a separate offense.

SECTION 17: The City Secretary is hereby directed to give notice hereof by causing the caption of this ordinance to be published in the official newspaper of the City of Palacios, and this ordinance shall take effect upon such publication.

SECTION 18: This Ordinance shall become effective after its approval and adoption upon second and final reading and its publication pursuant to law.

PASSED AND APPROVED on first reading this 11th day of August, 2020.

PASSED, APPROVED AND ADOPTED on second and final reading this 25th day of August, 2020.

CITY OF PALACIOS, TEXAS

Glen Smith
GLEN SMITH, Mayor

ATTEST:
Clissa Mills
CLISSA MILLS, City Secretary



APPROVED AS TO FORM:

RANDALL B. STRONG, City Attorney
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