

ORDINANCE NO. 2018-15

AN ORDINANCE REPEALING AND REPLACING THE CODE OF ORDINANCES, CITY OF BOERNE, TEXAS, BY REPEALING AND REPLACING CHAPTER 4, ANIMALS AND FOWL, ARTICLE II. FOWL; AND PROVIDING FOR A PENALTY NOT TO EXCEED \$500.00 FOR EACH VIOLATION OF THIS ORDINANCE

WHEREAS, the City Council has deemed it necessary to set out certain regulations pertaining to the keeping of animals within the city limits, to promote the public health, safety, and general welfare of the citizens of the City of Boerne, Texas; and

WHEREAS, from time to time it becomes necessary to update and amend ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOERNE, TEXAS:

That Chapter 4, Animals and Fowl Article II. Fowl, of the Code of Ordinances, City of Boerne, Texas, is hereby repealed and replaced to read as follows:

Sec. 4-26. - Running at large.

It shall be unlawful for any person raising or keeping chickens, turkeys, geese, guineas, ducks, pigeons **or other fowl** to permit or allow the same to run at large within the limits of the city.

(Ord. of 2-16-59, § 1)

Sec. 4-27. - Location of enclosures.

It shall be the duty of every person raising or keeping chickens, turkeys, geese, guineas, ducks, pigeons or other fowl to keep them in a pen, coop or enclosure and such pen, coop or enclosure shall be **a distance of** ~~distant~~ at least twenty (20) feet from every building or structure used for sleeping, dining or living and shall be kept in a sanitary condition. Such enclosure shall be kept in such a manner as will be reasonably calculated not to become offensive to adjacent neighbors or to the public.

(Ord. of 2-16-59, § 2)

Sec. 4-28. - Sanitation of pens.

~~The keeping of poultry or fowl~~ **raising or keeping chickens, turkeys, geese, guineas, ducks, pigeons or other fowl** within any structure in the city without scraping the floors of such room, coop, box or compartment and thoroughly cleaning the area within which such fowl are kept at least once in every week and disinfecting once in every month and so maintaining such a structure and enclosure that no odors are emitted therefrom, is a nuisance.

Sec. 4-29. -- Removal, abatement of nuisance. -- Penalties, Enforcement.

- a) ~~If any person within the city limits shall permit or suffer any of the nuisances described in sections 4-26 and 4-27 on premises occupied by him or under his control, any police officer shall order the owner or occupant thereof to remove such nuisance at his expense within a time not to exceed seven (7) days.~~ A violation of any of the provisions of this section affect the health, safety and welfare of the citizens of this City and any person, group, or organization found guilty of violating any provision within this section will be guilty of a Class C misdemeanor and shall be fined an amount not to exceed five hundred dollars (\$500.00) per violation. Each violation of a particular section of this article shall constitute a separate offense, and each day an offense is committed and/or allowed to continue shall be considered a new violation for the purpose of enforcing this section.
- b) ~~The order shall be sufficient if delivered orally to such owner or occupant, or to his representative if such owner or occupant cannot be found within the city, or the order may be in writing. When such order is written it shall be served by a police officer by delivering a copy thereof to the owner, occupant or agent of such property. If the owner or agent of the property is unknown or absent, with no known representative or agent, upon whom the notice can be served, then the police officer shall post a written or printed notice upon the property or premises setting forth that unless the nuisance is removed or abated within seven (7) days at the expense of the owner or occupant, the nuisance will be abated by the city at the expense of the owner.~~ The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of other ordinances or state law.
- c) The provisions of this section shall be enforceable by any enforcement officer, and such person shall have the authority to issue citations to persons violating the provisions of this section.

Sec. 4-30. -- Appeal.

- ~~(a) If any person affected by an order or notice to abate issued under this article shall be aggrieved thereby, he may have such order reviewed by the city council acting as a quasi-judicial body by notifying the city secretary within less than twenty-four (24) hours of the issuance of such order of his desire to pursue an appeal from such order. Upon receipt of such notice, the city secretary shall forthwith set the matter down for immediate hearing to be conducted as quickly as possible before the city council with a majority or quorum present and shall notify all interested persons, then available, in person or by telephone. At the conclusion of such hearing the city council shall affirm, revoke or modify such order as it may find proper.~~
- ~~(b) Such an appeal shall stay the abatement of such alleged nuisance only until the city council enters its order thereon.~~

~~(Ord. of 2-16-59, § 5)~~

Sec. 4-31. -- City may abate.

~~Unless the order to abate is revoked on appeal, if the owner or agent or occupant shall fail to timely comply with the requirements of the notice with such modification, if any, as had been ordered on review, the sanitary inspector, with the assistance of the police department shall proceed to have the nuisance, described in the written notice, removed from the lot or parcel of ground and abated and report the cost thereof to the city council who shall assess the sum against the property and the person maintaining the nuisance.~~

~~(Ord. of 2-16-59, § 6)~~

Sec. 4-32. - Impoundment, sale of poultry.

~~All poultry removed to abate such a nuisance shall be impounded by the city.~~

- ~~(1) If within forty-eight (48) hours after any poultry has been impounded the owner thereof pays the cost of abating such nuisance and agrees that upon the return of such poultry as has been removed from his property, he will forthwith dispose of such poultry in a manner which does not violate any ordinance of this city, such poultry shall be released to its owner.~~
- ~~(2) If the owner of poultry so impounded shall fail, neglect or refuse to contact the proper authorities within forty-eight (48) hours after the impounding of such poultry or to pay the cost of abating such nuisance and agree to dispose of such poultry in a manner which does not violate any ordinance of this city, the sanitary inspector shall sell the poultry to a poultry dealer and immediately turn the proceeds over to the city auditor who will credit the amount against the cost of abating the nuisance and pay over the excess, if any, to the owner of such poultry.~~

~~(Ord. of 2-16-59, § 7)~~

PASSED and APPROVED on first reading this the ____ day of April, 2018.

PASSED, APPROVED and ADOPTED on second reading this the ____ day of May, 2018.


APPROVED:

ATTEST:

Mayor

City Secretary

APPROVED AS TO FORM:



City Attorney

