

ORDINANCE NO. 2020-03

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY ADDING A NEW ARTICLE VII, KEEPING OF DANGEROUS ANIMALS, TO CHAPTER 8, ANIMALS, DEFINING AND ADOPTING REGULATIONS FOR DANGEROUS ANIMALS, AND PROVIDING EXCEPTIONS TO THE REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

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WHEREAS, the City Council of the City of Tomball, Texas finds that it is in the best interest of the health, safety and welfare of its citizens to adopt regulations regulating the keeping of dangerous animals; and

WHEREAS, the City Council desires to regulate dangerous animals in the manner set forth in this ordinance; now, therefore

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

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City is hereby amended by adding a new Article VII, Keeping of Dangerous Animals, to Chapter 8, Animals, of the City of Tomball Code of Ordinances, the new Article VII, Keeping of Dangerous Animals, to read as follows:

“ARTICLE VII. KEEPING OF DANGEROUS ANIMALS

Section 8-206. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous animal means any mammal, amphibian, reptile or fowl of a species that is dangerous by nature and that, because of its size, vicious nature or other characteristics, is dangerous to human beings. Dangerous animals shall include, but not be limited to, lions, tigers, leopards, panthers, wildcats, domestic cat hybrids, bears, wolves, wolf-dog hybrids, cougars, coyotes, coyote-dog hybrids, raccoons, skunks (whether deodorized or not), apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, rhinoceroses, alligators, crocodiles, caymans, fowl larger than a macaw, all forms of venomous reptiles and any snake that will grow to a length greater than eight feet. The term dangerous animal shall not include gerbils, hamsters, guinea pigs, mice and domesticated rabbits.”

Section 8-207. – Possession prohibited.

It shall be unlawful for any person to be in possession of a dangerous animal. It is unlawful for the owner or other person in possession or control of any property, residence or business premises to knowingly permit any other person to be in possession of a dangerous animal upon the property, residence or business premises. As used in this section, the term 'to be in possession' includes the harboring or keeping of any dangerous animal, whether on a temporary or permanent basis and includes, without limitation, holding or keeping the dangerous animal for the temporary and/or limited purpose of sale or transfer or offering of sale or transfer to another person.

It is an affirmative defense to prosecution under this section that the dangerous animal is in possession is:

- (1) Being kept for treatment in an animal hospital operated by a veterinarian;
- (2) Being kept at a public zoo that is accredited by a nationally recognized zoological association;
- (3) Being kept at a shelter operated by a state or federally recognized humane agency for the purpose of its transfer to a refuge or sanctuary;
- (4) Being kept for medical research or teaching purposes at a medical school or licensed hospital or by a university or college offering an accredited degree program;
- (5) In the possession of a freight agency or other carrier, and its possession in the city is incidental to transportation, provided that the dangerous animal is secured within a cage or other enclosure that is adequate to prevent its escape;

(6) The dangerous animal is being transported temporarily for use in film making and other productions under Chapter 6, Article III of this Code.”

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Any person who shall intentionally, knowingly, recklessly or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3rd DAY OF FEBRUARY 2020.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17TH DAY OF FEBRUARY 2020.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>ABSENT</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary