

CITY OF HUMBLE

ORDINANCE NO. 18-820

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUMBLE, TEXAS, AMENDING CHAPTER 10, "ANIMALS", ARTICLE I "IN GENERAL", BY DELETING THE ENTIRETY OF SECTION 9 "KENNELS PROHIBITED IN RESIDENTIAL NEIGHBORHOODS"; REPLACING WITH A NEW SECTION 9 "KENNELS TO BE REGULATED"; MAKING CERTAIN FINDINGS; IMPOSING A PENALTY IN THE AMOUNT OF \$500.00 AS SET OUT IN SECTION 1.11 OF THE CODE OF ORDINANCES FOR EACH DAY OF VIOLATION AND PROVIDING FOR SEVERABILITY.

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

SECTION 1. The Code of Ordinances of the City of Humble, Texas, is amended by deleting the entirety of Section 9, Chapter 10, Article I, thereof and substituting therefore a new Section 9, Chapter 10, Article I, to read as follows:

"CHAPTER 10. - ANIMALS

ARTICLE I. - IN GENERAL

Sec. 10-09. – Kennels Regulated.

- (a) Kennel means any building, establishment, place, premises or residence wherein any person keeps, harbors, owns, or maintains more than four dogs over three months of age or more than four cats over three months of age.
- (b) Residential neighborhood means:
 - (1) A subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face;
 - (2) A subdivision for which a plat is recorded in the real property records of the county and a majority of the lots of which are subject to deed restrictions limited the lots to residential use; or
 - (3) A block that is divided into four or more lots or tracts and in which 75 percent or more of the lots or tracts contain a private residence; or
 - (4) A block face that has been divided into at least four or more lots or tracts and at least 75 percent of the front footage along the block face are lots or tracts on which there is a private residence.

- (c) A person commits an offense if the person constructs, maintains or operates a kennel in a residential neighborhood.
- (d) A person commits an offense if the person constructs, maintains or operates a kennel as defined in this section within 200 feet of a dwelling, school or church.
- (e) Any person in the city conducting, managing or maintaining a kennel shall obtain a license to do so from the Building and Permits Department and pay an annual license fee, regardless of the number of animals kept. The annual license fee may be determined by resolution of the City Council and included on the city fee schedule.
- (f) The license fee shall be for the calendar year or any part thereof during which the kennel is maintained, and shall be due and payable in advance on or before January first of each year.
- (g) Any person desiring to obtain a license shall make application on forms provided by the City and shall include information requested by the City for implementation of this section, including the following information:
 - (1) The full name of the applicant, the street address where the kennel is to be located, and the residence address of each owner, manager and operator of the kennel;
 - (2) Whether any owner or operator is an individual, partnership, corporation or other legal entity;
 - (3) If any owner or operator is a corporation, the names and addresses of all officers of the corporation; and if there are fewer than five shareholders, the names of all shareholders;
 - (4) If any owner or operator is a partnership, the type of partnership and names and addresses of all general partners, and for limited partnerships, the names and addresses of all members;
 - (5) If any owner or operator is an unincorporated association, the names and addresses of all officers of the association;
 - (6) If any applicant does business under an assumed name as that term is defined in Texas Business and Commerce Code §71.002, all assumed names used;
 - (7) A declaration that the operation of a kennel at the street address where the kennel is to be located will not violate any applicable deed restrictions enforceable by the city;
 - (8) A description of the types of services to be provided at the facility;
 - (9) A declaration that the minimum standards regarding maintenance, sanitation and prevention of nuisances as set forth in the rules and regulations established by the City pursuant to Section 10.09 (h) of Code have been met;
 - (10) A declaration that the City may enter and inspect the facility at any reasonable time to ensure compliance with this division; and
 - (11) Any other information reasonably required by the City to ensure compliance with the requirements of this section.
- (h) The City shall establish rules and regulations for the minimum standards regarding maintenance, sanitation, and prevention of nuisances for the various types of kennel facilities to be issued a license under this section. The City shall base the rules and regulations on the standards set forth in 9 C.F.R. Part 3, Subpart A (Specification for

the Humane Handling, Care, Treatment, and Transportation of Dogs and Cats), and any amendment or successor thereto. The City shall maintain a copy of the City's rules and regulations for public inspection in the Office of the City Secretary. Each licensee shall maintain a kennel facility in accordance with the applicable minimum standards set forth in such rules and regulations.

- (i) The City shall issue a certificate to the person paying for a kennel facility license, which certificate shall contain the information specified in Section 10.09 (m) of this Code. The licensee shall display the certificate at all times in a prominent place in the kennel facility.
- (j) A licensee shall notify the City by personal delivery or certified mail of any change in the name, address, management, or substantial control or ownership of ten percent or more of the outstanding shares of stock as shown on the license application of the business or operation within ten calendar days of any such change.
- (k) A license issued under this section shall be personal to the applicant and shall not be transferrable or otherwise assigned.
- (l) A license issued under this section shall only be valid for the address of the facility provided in the application.
- (m) The City shall keep permanent record of all kennel facility licenses issued under the terms of this chapter, which record shall show the following information:
 - (1) The name and address of all persons being issued a kennel license;
 - (2) The name and address of the kennel;
 - (3) The number of the kennel license;
 - (4) The date the license was issued;
 - (5) The amount paid for the license.
- (n) The city may suspend and/or revoke any kennel license if any of the following conditions occur:
 - (1) Animals at the kennel facility are being deprived of necessary food, water, care or shelter;
 - (2) Animals at the kennel facility are being cruelly confined or are otherwise being cruelly treated;
 - (3) Unsanitary conditions exist at the kennel to such an extent that those conditions create a possible medium for the transmission of disease to the animals kept there or to human beings; or
 - (4) The licensee or any agent or employee of the licensee responsible for the oversight or operation of the kennel receives three or more convictions for violations of this Chapter in relation to the operation of the kennel in a 12-month period.
- (o) Prior to suspension and/or revocation, written notice shall be given to the licensee, the person in charge of the kennel, or any employee or agent of the licensee. The notice shall set forth:

- (1) The specific conditions existing at the kennel that are grounds for suspension and/or revocation of the license pursuant to subsection (a) of this section);
- (2) That a hearing will be held by the Municipal Court Judge;
- (3) The date, time and place of the hearing; and
- (4) That the licensee may appear in person and/or be represented by counsel and may present testimony and cross-examine all witnesses.

The hearing shall be held not later than ten business days after the date the licensee received notice of the suspension.

- (p) All hearings shall be held by the Municipal Court Judge and shall be conducted under rules consistent with the nature of the proceedings; provided, however, the following rules shall apply to each hearing:

- (1) All parties shall have the right to representation by a licensed attorney, though an attorney is not required;
- (2) Each party may present witnesses in his/her own behalf;
- (3) Each party has the right to cross-examine all witnesses; and
- (4) Only evidence presented before the Municipal Court Judge at the hearing may be considered in rendering the order.

If the licensee fails to appear at the hearing at the time, place and date specified, the City shall present sufficient evidence to establish a prima facie case showing that conditions exist at the kennel that are grounds for suspension of the license pursuant to subsection (a) of this section.

- (q) If the license is suspended or revoked, no one shall accept or place any animal in the kennel and all animals at the kennel on the date the license is suspended and/or revoked shall be removed by the licensee as soon as possible, but in no case no later than ten calendar days after receipt by the licensee, his/her agent or his/her employee of the order of the suspension and/or revocation from the Municipal Court Judge.
- (r) In the event a license is revoked, the City shall not be liable to the licensee for any refund of any part of the license fee. Reinstatement of a license that has been suspended or revoked shall require application and payment of a license fee as if it were an initial application; provided, however, no license shall be issued to the same licensee if the licensee has been convicted of any offense involving cruelty to animals; no license shall be issued to the same licensee within one year of the date a license has been revoked; and no license shall be issued for the same location unless it is shown that adequate precautions have been taken so that the conditions under which the license was revoked shall not reoccur. If there is a dispute between the inspector and a person applying for a license for a place for which a license was revoked as to whether adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur, the applicant may require a hearing before the Municipal Court Judge. The hearing shall be conducted under the same procedures as a hearing for a suspension and/or revocation of a license; however, the burden shall be on the applicant to show that adequate precautions have been taken so that the conditions under which the license was revoked will not reoccur.

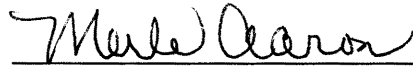
SECTION 2. Any person who shall willfully or intentionally violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction shall be fined in accordance with Section 1-11 of the Code of Ordinances. Each day of violation shall constitute a separate offense.

SECTION 3. In the event any clause phrase, provision, sentence, or part of this ordinance or the application of the same to any person or circumstances 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 than the part declared to be invalid or unconstitutional; and the City Council of the City of Humble, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 4. That, this ordinance supersedes all ordinances or parts of ordinances in conflict with the provisions stated herein.

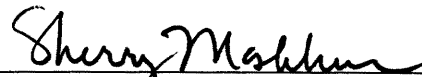
SECTION 5. That this ordinance shall become effective upon its adoption and after publication in the official newspaper of the City of Humble pursuant to Section 13 of the Charter of the City of Humble.

PASSED, APPROVED, AND ADOPTED this 19th day of April, 2018



Merle Aaron
Mayor

ATTEST:



Sherry Mashburn
City Secretary