

**CITY OF BALCH SPRINGS, TEXAS**

**ORDINANCE NO. 3207-19**

**AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING THE ANIMAL CONTROL ORDINANCE SECTION 10-147 OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, TEXAS TO PROVIDE REGULATIONS FOR THE RESTRAINT, TETHERING, CONFINEMENT, AND CARE OF DOGS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING.**

**WHEREAS**, Sec. 10.147 of the Code of Ordinances of the City of Balch Springs currently prohibits dogs from running at large; and

**WHEREAS**, the City Council desires to amend the Code to provide regulations for the restraint, tethering, confinement and care of dogs;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:**

**SECTION 1.** All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

**SECTION 2.** Section 10-147 of the City of Balch Springs Code of Ordinances, currently titled “Dogs Running at Large Prohibited” is hereby amended and re-titled so that the section shall hereafter read in its entirety as follows:

**Sec. 10-147. - Dogs running at large; Restraint and Confinement of Dogs.**

(a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city limits unless such dog is at all times under direct control of a person by means of a leash or blind dog harness of sufficient strength and length to control the actions of such dog. A dog shall not be considered to be at large if it shall be confined within private premises by a substantial fence of sufficient strength and height and continuity to prevent such dog from escaping, or inside of a completely enclosed building of sufficient strength and height and continuity to prevent such dog from escaping. A leash or blind dog harness must be securely connected to the dog by means of a properly fitted collar and held by the person for the person to be considered to be in direct control of the dog.

(b) Any dangerous animal found running at large and endangering the safety of persons and property may be destroyed by a City of Balch Springs animal control officer or any peace officer in the interest of public safety, if danger or

injury to any person or animal is imminent and real and a necessity exists for such action.

(c) It shall be unlawful for an owner or person in control of an animal to fail to keep the animal under restraint in a securely enclosed or confined area, or on a leash, tethered in accordance with subsection (f) and in a manner that will isolate the animal from the public and other animals except for animals owned or under the control of the owner.

(d) It shall be unlawful for an owner to fail or refuse to exercise diligent care and control of his or her animal to prevent such animal from becoming a public nuisance.

(e) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.

(f) It is an affirmative defense to a violation of subsection (e) that the dog tethering:

(1) Is during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity and a person is present at all times to watch the dog;

(2) Is required to protect the safety or welfare of a person or the dog, and the dog's owner or agent is present and maintains physical control of the dog;

(3) Occurs in a designated city dog park, and the owner or owner's agent is present; or

(4) Occurs on the owner's premises and:

(A) While the dog is within the owner's or owner's agent presence; and

(B) Prevents the dog from advancing to within fifteen (15) feet of the edge of any public street.

(g) The affirmative defenses provided in subsection (f) are only available if the following specifications are met:

(1) The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;

(2) The chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;

(3) The chain, rope, tether, leash, cable, or other device does not exceed 1/20th of the dog's body weight;

- (4) The chain, rope, tether, leash, cable, or other device, by design and placement, allows the dog a reasonable and unobstructed range of motion without entanglement; and
  - (5) The dog has access to adequate shelter and clean and wholesome water.
- (h) A person commits an offense if the person fails to comply with this section.
- (1) An offense under this section is a class C misdemeanor. If a person fails to comply with this section with respect to more than one (1) dog, the person's conduct with respect to each dog constitutes a separate offense.
  - (2) An offense under this section is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (i) This section does not prohibit a person from walking a dog with a hand-held leash or device like a blind dog harness.
- (j) This section does not prohibit a person from transporting a dog within or upon a vehicle, provided the dog remains secure from escaping or running at large.
- (k) An owner of a dog commits an offense if the fenced yard, or other outdoor pen or structure, used as the primary living area for the dog or used as an area for the dog to regularly eat, sleep, drink, and eliminate is not:
- (1) at least 150 square feet for each dog six months of age or older;
  - (2) designed, constructed, and composed of material sufficient to prevent the dog's escape; and
  - (3) designed in a manner that provides the dog access to the inside of a doghouse, building, or shelter that meets all requirements of Subsection (k) of this section.
- (l) A doghouse or other building or shelter for a dog must:
- (1) have a weatherproof top, bottom, and sides;
  - (2) have an opening on no more than one side that allows the dog to remain dry and provides adequate shade during daylight hours to prevent overheating or discomfort to the dog;
  - (3) have a floor that is level and dry;
  - (4) be free from cracks, depressions, and rough areas that might be conducive to insects, parasites, and other pests;

- (5) be of adequate size to allow the dog to stand erect with the dog's head up, to turn around easily, and to sit and lie down in a comfortable and normal position;
- (6) have sufficient clean and dry bedding material or other means of protection from the weather that will allow the dog to retain body heat when the weather is colder than what a dog of that breed and condition can comfortably tolerate;
- (7) provide a suitable means for the prompt elimination of excess liquid;
- (8) be structurally sound, maintained in good repair, and constructed with material that protects the dog from injury; and
- (9) allow the dog easy access in and out.

**SECTION 3.** All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

**SECTION 5.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**SECTION 6.** The meeting at which this Ordinance was adopted was open to the public and public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

**DULY PASSED AND ADOPTED** by the City Council of the City of Balch Springs, Texas, on the 23rd day of September, 2019

**APPROVED:**

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Steven Gorwood, Mayor

**ATTEST:**

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Cindy Gross, City Secretary