

**ORDINANCE NO. 1453**

**AN ORDINANCE OF THE CITY OF BENBROOK, TEXAS, AMENDING TITLE 6 – ANIMALS OF THE BENBROOK MUNICIPAL CODE (1985), AS AMENDED, ESTABLISHING REGULATIONS PERTAINING TO DOG DEFECATION AND FECAL MATTER COLLECTION; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Benbrook is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, it is common practice for a person who owns or has custody of a dog to walk their dog on public sidewalks within the public rights-of way; and

**WHEREAS**, it is the responsibility of a person who owns or has custody of a dog to remove their dog's feces from public property or private property not owned or possessed by the owner or custodian of the dog; and

**WHEREAS**, to protect the health and safety of the general public the dog's feces shall be immediately removed and disposed of in a sanitary manner.

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

**SECTION 1**

That Chapter 6.12.070 – Animal nuisances of Title 6 – Animals of the Benbrook Municipal Code (1985 as amended) is hereby amended to read as follows:

## **Chapter 6.12.070 - Animal nuisances.**

The following acts are declared to be nuisances and constitute violations of this chapter:

- A. The keeping of any animal which, by causing frequent or long continued barking, cry or noise shall disturb any person of ordinary sensibilities in the vicinity;
- B. The failure to remove and sanitarily dispose of a dog's feces from public property or private property not owned or possessed by the owner or custodian of the dog;
  - o Exception: The provision of this Section shall not apply to a visually-impaired person with a guide dog.
- C. The keeping of any animal in such a manner as to endanger the public health, to annoy neighbors by the accumulation of animal wastes which cause foul and offensive odors, or are considered to be a hazard to any other animal or human being, or by continued presence on the premises of another;
- D. The keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health and welfare.

### **SECTION 2**

#### **CUMULATIVE CLAUSE**

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Benbrook, Texas (1985), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

### **SECTION 3**

#### **SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the City

Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 4**

##### **PENALTY CLAUSE**

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be fined not less than ten dollars nor more than two hundred dollars. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 5**

##### **SAVINGS CLAUSE**

All rights and remedies of the City of Benbrook, Texas, are expressly saved as to any and all violations of the provisions of the Benbrook Municipal Code or any other ordinances affecting the issuance of permits and the payment of fees which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

#### **SECTION 6**

##### **ENGROSSMENT AND ENROLLMENT**

The City Secretary of the City of Benbrook is hereby directed to engross and enroll this Ordinance by copying the caption, penalty clause, and effective date clause of this Ordinance in the Ordinance records of the City.

#### **SECTION 7**

##### **PUBLICATION IN PAMPHLET FORM**

The City Secretary of the City of Benbrook is hereby authorized to publish this ordinance in book or pamphlet form for general distribution among the public, and the operative provisions of this ordinance as so published shall be admissible in evidence in all courts without further proof than the production thereof, as provided in Section 3.10 of the Charter of the City of Benbrook.

## **SECTION 8**

### **PUBLICATION IN OFFICIAL NEWSPAPER**

That the City Secretary is hereby directed to publish the caption, penalty clause, publication clause and effective date clause of this Ordinance for two (2) days in the official newspaper of the City of Benbrook, Texas, as authorized by Section 52.013 of the Local Government Code.

## **SECTION 9**

### **EFFECTIVE DATE**

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

**PASSED AND APPROVED** this 5th day of December, 2019.

---

Jerry B. Dittrich, Mayor

**ATTEST:**

---

Joanna King, City Secretary