

MOCK ORDINANCE NO. 3111

An ordinance amending Chapter 5, Article I, Section 5-11 of the Broken Arrow Code pertaining to Restriction on location of stables, kennels, coops, etc.; repealing all ordinances to the contrary; and declaring and declaring an emergency.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BROKEN ARROW, OKLAHOMA:

SECTION I: Chapter 5, Article I, Section 5-11— Restriction on location of stables, kennels, coops, etc. is hereby amended to read as follows:

Sec. 5-11. - Restriction on location of stables, kennels, coops, etc.

- (a) It shall be unlawful and a class B offense for any person to maintain any stable, dog kennel, chicken coop, dovecote, rabbit warren, yard or other establishment wherein animals are kept closer than 40 feet from any tenement or apartment house, hotel, restaurant, boarding house, retail food store, building used for educational, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which such animal is kept.
- (b) No person shall keep, harbor or possess five or more domestic animals on their property. Property zoned agricultural (A-1) is excepted from this subsection. Property which is unplatted and zoned residential is exempted from the section only as to agricultural uses not intended for commercial purposes (pecuniary gain); and this exemption shall not apply to any form of hog or pig farming. The term "domestic animal" as used in this section does not include unicorns, goats, cows, horses, sheep, or other similar farm animals including miniature versions of any of these farm animals.
- (c) It shall be unlawful and a class B offense for any person to harbor, keep or possess domestic honeybees unless the bees are located as follows:
 - (1) No person shall keep or maintain more than one bee hive per 2,500 square feet of lot area. "Hive" shall mean an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.
 - (2) No person shall locate colonies of bees closer than 20 feet from any property line; and
 - (3) In each instance in which any hive is situated 20 feet from a public or private property line of the tract upon which the hive is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the apiary.

- (4) Each beekeeper shall locate all hives to ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.
 - (5) Regardless of tract size, where property is zoned agricultural and all hives are situated at least 200 feet in any direction from all property lines of the tract on which the hive is situated, there shall be no limit to the number of hives.
- (d) Hobbyist exemption permit.
- (1) *[Maintenance of a register of qualified hobbyist exemption permit holders.]* The city shall maintain a register of qualified hobbyist exemption permit holders. Application shall be submitted in writing to the city and the city manager or his designee will notify the applicant of the acceptance or denial. If the exemption permit is denied, the applicant shall be notified of the reason for the denial. A fee of as set forth in the Manual of Fees adopted by the Broken Arrow City Council will be charged for the initial and subsequent renewal of permits. A holder of a hobbyist exemption permit will be permitted to own and keep, at a single-family dwelling, a total of 20 dogs and cats that would otherwise constitute an offense under subsection 5-11(b) of this chapter, provided, however, that a permit holder other than an owner of hunting dogs shall not allow outside the residence at any one time more than the number of cats and dogs permitted by subsection 5-11(b); provided, however, that an individual who is operating an animal rescue facility must comply with the licensing and vaccination requirements as to those dogs and cats owned by the rescuer on a permanent basis and as to all animals kept on a less than permanent basis within 60 days of possession. Any activity involving the fighting or comparable physical contact between animals or any activity otherwise illegal or dangerous to animals shall not be considered an organized sport or hobby for purposes of this section.
 - (2) *Permit qualification.* Any individual or organization not a commercial breeder, that:
 - a. Is actively involved in any nationally recognized, organized animal sport or hobby for a period of at least one year prior to making application for a hobbyist exemption; or
 - b. Participates in field trials, owns nationally recognized breeds used specifically as hunting dogs, participates in hunting activities, and has held and continues to hold a current, valid State of Oklahoma hunting license for a period of at least one year prior to making application for a hobbyist exemption; or
 - c. Qualifies as a rescuer according to the provisions of this chapter; and
 - d. Has not been convicted in the past ten years of any offense related to: illegal commercial breeding, broker, dog fighting, a nuisance offense under this chapter, a cruelty offense under this chapter, a neglect offense under this chapter, a violation of the Oklahoma Wildlife Conservation Code or regulations, or two or more violations of this chapter shall qualify for a hobbyist exemption permit.
 - (3) *Application documents.* An applicant for a hobbyist exemption permit shall submit to the city one of the following:

- a. Certificates of completion of at least two training classes, dated within the 12 months immediately preceding the date of application; or
 - b. A show catalog including the applicant's name as an exhibitor, and not less than two superintendents' confirmation receipts, dated within the 12 months immediately preceding the date of application; or
 - c. A certificate of title(s) from a national registry for a dog or cat owned by the applicant; or
 - d. For a rescuer organization, proof that the organization is a nonprofit animal welfare organization incorporated as such in Oklahoma. The organization shall submit a list of individual households that are authorized to serve as rescuers under the organization's permit; or
 - e. For an owner of hunting dogs, proof that the owner holds or is exempt from holding a current and valid State of Oklahoma hunting license.
- (4) *Renewal.* A permit holder must reapply for the exemption permit every year. To make application, the permit holder must furnish to the city one or more of the items listed in subsection 5-11(d)(3) that are dated within the previous year.
- (5) *Records.* If applicable, the permit holder shall keep accurate records in accordance with the requirements of his associated national registry on each dog or cat owned, and on each dog or cat where ownership has been transferred. These records shall be open to the registry with which the hobbyist is affiliated.
- (6) *Requirements of a rescuer.* A rescuer may harbor dogs and cats in accordance with this section; provided, however, that such cats and dogs are harbored for no longer than 90 days each while the rescuer attempts to locate the animal's home or a new home. If a rescuer must harbor an animal for longer than 90 days due to its medical condition, the rescuer shall so notify the director of finance.
- (7) *Revocation.* A permit holder shall have his hobbyist exemption permit or the right to serve as a rescuer under an organization's permit revoked if he has been convicted of an offense of: Illegal commercial breeding; brokering dog fighting; a nuisance under this chapter; cruelty under this chapter; negligence under this chapter; violation of the Oklahoma Wildlife Conservation Code or regulations; or two or more violations of this chapter prohibiting at-large.
- (8) *Inspections.*
- a. An animal control officer will conduct an inspection of the housing facilities utilized by adoption or rescue organizations prior to approval for rescue status with the Broken Arrow Animal Shelter. The animal control officer will primarily determine the number of animals being kept at the facility, the overall physical condition of the animals housed there, and the cleanliness of the facility. Animal control officers further have the authority to conduct random inspections of the animal housing facilities for the purpose of verifying compliance with City of Broken Arrow ordinances.
 - b. If an adoption or rescue organization is found to be outside the parameters of the ordinances, the inspecting officer will have the authority to remove animals from

the facility or give the organization 72 hours to remedy the violation. Intermediate care and housing during the 72 hours may be provided by a veterinarian or at the Broken Arrow Animal Shelter all at the organization's expense. If the adoption or rescue organization comes into compliance within seven calendar days and all charges for animal care are paid in full, the animals shall be returned to the organization. If the adoption or rescue organization does not remedy the situation within seven calendar days, the city prosecutor may petition the municipal judge for a decision as to whether the animals shall be released back to the adoption or rescue organization. Those persons or organizations who plead guilty or are found guilty of a violation of this section shall be prohibited from applying for a hobbyist permit for a period of five years.

PASSED AND APPROVED and the emergency clause ruled upon separately, this 7th day May, 2019.

My Vu Le
YOUTH COUNCIL MAYOR

ATTEST:

Morgan Hubbard
(SEAL) Youth City Clerk

APPROVED:

Tori Kostas
Youth City Attorney