

ORDINANCE NO. 2021-11-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY AMENDING THE CODE OF ORDINANCES OF THE CITY BY AMENDING CHAPTER 26, "ANIMAL CONTROL," BY AMENDING SECTION 26-1, "DEFINITIONS," TO DEFINE "MINIATURE SWINE," AND AMENDING SECTION 26-41(A)(1)J TO ADD A NEW SUBSECTION (A)(3) ENTITLED "KEEPING OF MINIATURE SWINE RESTRICTED"; ESTABLISHING VIOLATIONS AND PROVIDING FOR A FINE UP TO \$500 FOR EACH OFFENSE IN VIOLATION OF THIS ORDINANCE; REPEALING CONFLICTING ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of McKinney, Texas (the "City") is a Home Rule City possessing the full power of local self-government pursuant to Article XI, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, and its Home Rule Charter; and

WHEREAS, the City adopted the Code of Ordinances, City of McKinney, Texas ("City Code") for the protection of the public health and general welfare; and

WHEREAS, the City Code prohibits residents of the City from keeping and maintaining a Miniature Swine, including potbellied pigs, as a pet; and

WHEREAS, the City Council of the City of McKinney, Texas ("City Council"), is of the opinion that the Animal Control Chapter, Chapter 26 of the Code of Ordinances, City of McKinney, Texas, should be amended to allow persons in the City to keep and maintain as a pet one Miniature Swine per single-family dwelling unit subject to certain conditions; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety, and welfare of the citizens of the City of McKinney to revise the ordinances of the City to allow persons to keep and maintain one Miniature Swine per single-family dwelling unit as a pet subject to the conditions set forth herein below.

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

Section 1. All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. From and after the effective date of this Ordinance, Chapter 26, "Animal Control," of the Code of Ordinances of the City of McKinney, Texas, is hereby amended by amending Section 26-1, entitled "Definitions," by inserting in alphabetical order a definition for the phrase "Miniature Swine" to hereafter read as follows:

"Miniature Swine means any member of the swine family including "potbellied pigs" that has, through selective breeding, been genetically manipulated to attain a maximum height of no more than 24 inches at the shoulder when fully grown, has short ears and a straight tail, and a maximum weight of 150 pounds. No swine shall be considered a Miniature Swine or a potbellied pig if its weight exceeds 150 pounds or its height at shoulder level is more than 24 inches."

Section 3. From and after the effective date of this Ordinance, Chapter 26, "Animal Control," of the Code of Ordinances of the City of McKinney, Texas, is hereby amended by amending Subsection 26-41(a)(1)j by deleting said

Subsection in its entirety and replacing it with a new Subsection 26-41(a)(1)j to hereafter read as follows:

“Sec. 26-41. Keeping of Livestock.

(a) *Generally.*

(1) It shall be unlawful for any person to keep or permit the keeping of livestock on premises owned by the person or under his or her control, except in compliance with the following regulations:

...

j. The provisions of sections 26-38 and 26-46, relative to animal care in general, shall specifically apply to the keeping of livestock. Notwithstanding anything herein to the contrary, it shall be unlawful and a violation of this chapter for any person other than a veterinarian, to keep any live swine within the city, except in zoning districts in which a stockyard or stable is permitted. However, “Miniature Swine” as that term is defined in Sec. 26-1, “Definitions,” may be kept as a pet subject to compliance with all of the requirements of Sec. 26-41(a)(3), “Keeping of Miniature Swine Restricted.”

Section 4. From and after the effective date of this Ordinance, Chapter 26, “Animal Control,” of the Code of Ordinances of the City of McKinney, Texas, is hereby amended by adding a new Subsection (a)(3), entitled “Keeping of Miniature Swine Restricted,” to Section 26-41 to hereafter read as follows:

“Sec. 26-41. Keeping of Livestock.

(a) *Generally.*

.....

(3) *Keeping of Miniature Swine Restricted.*

(a) Miniature Swine, as defined in Sec. 26-1, “Definitions,” may be kept as pets in the City of McKinney. The following requirements shall apply to the keeping of Miniature Swine within the City of McKinney.

(1) There shall be a maximum of one Miniature Swine per single-family dwelling unit or business. The Miniature Swine may be of any age. Under no circumstances may a person keep more than one Miniature Swine per dwelling unit or business.

(2) Miniature Swine shall be prohibited in multi-family dwelling units.

(3) All Miniature Swine must be either spayed or neutered. Under no circumstances may the person engage in

the propagation or breeding of Miniature Swine within the city limits.

- (4) It shall be unlawful for any person to keep or maintain Miniature Swine outdoors. A person may permit Miniature Swine outdoors for brief periods of time not to exceed one (1) hour per occurrence as necessary to exercise or for the elimination of waste. The outdoor area used for exercise and waste elimination must be a secure area from which the Miniature Swine may not escape to prohibit the Miniature Swine from running at large.
 - (5) The accumulation of waste from Miniature Swine that will create obnoxious odors and/or health hazards is prohibited. Miniature Swine are subject to all other applicable sections of this chapter including by way of illustration, and not limitation, the enclosure requirements in Sec. 26-41 regarding the keeping of livestock and the requirements of this chapter regarding the restraint of animals and prohibiting animals being or running at large.
- (b) *Vaccination Requirements.* It shall be unlawful for any person to keep or maintain Miniature Swine unless the Miniature Swine has received annual vaccinations against erysipelas, parvo virus and leptospirosis. The first inoculations for such diseases must be received before the animal is four months of age.

It shall be the responsibility of the owner or caretaker of the Miniature Swine to forward to the City of McKinney Code Compliance Department, within 14 days of vaccination, a certificate from a licensed veterinarian which shall include the following information:

- (1) Name, street address, and phone number of the owner; and
- (2) Name, street address, and phone number of the licensed veterinarian issuing the certificate; and
- (3) Name and description of the Miniature Swine; and
- (4) The microchip number and microchip manufacturer name for the microchip provided to the Miniature Swine; or
- (5) The other approved permanent identification and national registry name with which the Miniature Swine is registered; and

- (6) Types and dates of vaccinations; and
 - (7) Tag numbers, if any previously issued; and
 - (8) Approximate weight, height, and age of the Miniature Swine; and
 - (9) The Miniature Swine's general health.
- (c) *Conditions.* All locations where Miniature Swine are kept shall be kept in a clean and sanitary condition. Exercise areas shall be cleaned of swine excrement on at least a daily basis.
- (d) *Violations; Penalties.*
- (1) Any violation, disobedience, omission, neglect or failure or refusal to comply with the enforcement of any of the provisions of this section shall be punishable in accordance with Section 26-5 of this Chapter.
 - (2) In addition, thereto, if any person is found guilty of having violated any provision of this article, such violation may result in revocation of such person's authorization to keep or maintain Miniature Swine."

Section 5. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of McKinney, Texas, are hereby repealed to the extent that said ordinances, orders or resolutions, or parts thereof, are in conflict herewith.

Section 6. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 7. All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of McKinney in the discharge of his duties, shall not thereby render himself personally liable; and he is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his said duties.

Section 8. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and this Ordinance shall become effective from and after the date of its final passage and publication as provided by law.

Section 9. This Ordinance shall take effect and be in full force from and after its passage and publication, as provided by the Revised Civil Statutes of the State of Texas and the Home Rule Charter of the City of McKinney, Texas.

DULY PASSED APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
McKINNEY, TEXAS, ON THE _____ DAY OF _____, 2021.

CITY OF McKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney