

**ORDINANCE NO. 2019-020**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 5, "ANIMALS," SECTIONS 5-1, "PURPOSE," 5-2, "DEFINITIONS," AND 5-7, "PROHIBITION OF CRUELTY TO ANIMALS," AND CREATING SECTION 5-8.1, "WATERFOWL," TO PROHIBIT THE FEEDING OF WATERFOWL, PROVIDE FOR ENFORCEMENT AND PRESUMPTION OF VIOLATIONS, PROVIDE PENALTIES FOR VIOLATION, AND UPDATE RELATED DEFINITIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Coconut Creek has determined that the feeding of waterfowl within the City constitutes a health and safety hazard for City residents, pets, and waterfowl; and

**WHEREAS**, feeding waterfowl is detrimental to the health, socialization and life of the birds, as it:

- habituates the animals to humans, encouraging them to associate with humans without regard to the intent of the human;
- inhibits the development of essential survival skills;
- provides unhealthy diets, which can lead to physical deformities;
- promotes unnatural congregation and clustering supporting the unnatural spread of disease due to the increased numbers and close proximity of the birds; and

**WHEREAS**, it has come to the City's attention that people may be feeding waterfowl within the City's limits, and the City Commission desires to deter them from continuing to do so; and

**WHEREAS**, feeding waterfowl within and in close proximity to parks, playgrounds and athletic fields leads to heavy quantities of excrement deposited on sidewalks, children’s play areas, and athletic fields creating unsafe footing for pedestrians and unsanitary conditions for children, athletes and pets; and

**WHEREAS**, the City Commission is charged with protecting the health, safety, and welfare of its residents and visitors to the City and believes this ordinance to be in the best interest of the residents and visitors.

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:**

**Section 1: Ratification.** That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

**Section 2: Amendment.** That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 5, “Animals,” Sections 5-1, “Purpose,” 5-2, “Definitions,” and 5-7, “Prohibition of cruelty to animals,” and creating Section 5-8.1, “Waterfowl,” to read as follows:

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Chapter 5 - ANIMALS

Sec. 5-1. - Purpose.

The purpose of this chapter is to control the keeping and feeding of domestic and agricultural animals so as to prevent the creation of nuisances and to protect the animals from harm and cruelty.

Sec. 5-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Agricultural or farm animals* means those animals such as horses, cattle, pigs, sheep, goats and fowl that are kept by an owner within those areas zoned agricultural for the purposes of raising, breeding or selling them for profit or that are kept within those residential districts permitting such animals.

*At large* means off the premises of the owner and not under the control, custody, charge or possession of the owner, or some other responsible person.

*Domestic animal* means those animals normally kept as household pets within a residence such as dogs, cats, rabbits, guinea pigs, hamsters, parrots, parakeets or turtles.

Feed or feeding means the placing, exposing, depositing, distributing, or scattering, directly or indirectly of shelled, shucked, or un-shucked corn, wheat, meal or other grain, sorghum, alfalfa, bread, salt, food, garbage, food scraps, fruits, nuts, honey, vegetables, or any other food or animal byproducts, or nutritive substances, in any manner or form, so as to constitute a lure, attraction, or enticement to, on, or over any such area where such feed items have been placed, exposed, deposited, distributed, or scattered, out of doors, or inside any structure, whether in a container or otherwise, where such substance is accessible to or used by any animal.

Keep or keeping means the act of sheltering, holding in confinement, offering refuge or protection, or feeding in such a manner as to establish regular congregation, travel or visitation patterns.

*Kennel* means an establishment for the breeding, boarding or selling of cats and dogs or any place where four (4) or more dogs or cats, or any combination, over four (4) months of age are kept unless such kennel is maintained in compliance with applicable zoning and licensing requirements of this Code.

*Owner* means any person owning, boarding, harboring, keeping or controlling an animal within the city.

*Tether* shall mean the restraining of an animal by the tying to any object or structure, including, without limitation, a house, tree, fence, post, garage, weight or shed, by any means, including, without limitation, a chain, rope, cord, leash or running line, but shall not include the use of a leash used to walk the animal or to forms of restraint used in the transportation of animal.

Waterfowl means a water bird, particularly swimming birds including but not limited to swans, geese, ducks, anhinga, and cormorants.

*Wild animal* means any non-domesticated animal whether native or non-native, protected or non-protected, or any non-human primate, raccoon, feral cat, skunk, fox, ferret, poisonous snake, leopard, panther, tiger, lion, lynx or any bird, amphibian, fish, invertebrate, mammal or reptile so classified by the Florida Fish and Wildlife Conservation Commission or such successor agency.

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#### Sec. 5-7. - Prohibition of cruelty to animals.

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- (c) It shall be unlawful for any person within the city to shoot, ~~trap~~ or in any manner kill, wound or maim any bird of any kind, to throw at any birds any type of projectile, or to disturb ~~their eggs~~ or their young or their nests. The city or its designee shall be exempt

from this provision when it is necessary for the health, safety and welfare of the residents or for the protection of wild birds and fowl to remove or destroy eggs, nests, or the birds themselves.

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Sec. 5-8.1. – Waterfowl.

(a) Prohibited conduct. It shall be unlawful for any person to feed any waterfowl in any area of the City. This prohibition shall not apply to the feeding of waterfowl within designated wildlife sanctuaries or the feeding of songbirds or squirrels, so long as the food placed for these creatures is not accessible to or consumed by any waterfowl or other wild animals.

(b) Complaint.

(1) In addition to standard enforcement pursuant to the City's Code, an investigation of an alleged violation of this section shall commence upon the receipt of:

- a. one (1) sworn affidavit of complaint signed by one (1) City employee (such as a utility worker or park ranger); or
- b. two (2) sworn affidavits of complaint signed by two (2) unrelated residents living in separate dwellings in the close vicinity of the alleged violation.

(2) The affidavit(s) shall specify the address or location of the alleged violation, the nature, time and date(s) of the act, the name and address of the person feeding, if known, and a description of the animal(s), if known.

(3) Upon receipt of the required affidavits, enforcement procedures pursuant to section 2-230 of this Code may be instituted against the individual alleged to have acted in violation of this section.

(c) Presumption. Evidence of two or more of the following shall create a rebuttable presumption that waterfowl are being fed by a property owner:

(1) Affidavit(s) pursuant to paragraph (b) above;

(2) Evidence of feeding such as food debris, seed hulls, shells or other food or food container remains is found;

(3) Waterfowl are witnessed congregating more than three (3) times in any given five (5) day period on a property, including waterward of a waterfront property within the area lying between the side property lines if they were extended to the water's edge; or

(4) Waterfowl excrement is found in large quantities within a concentrated area indicative of multiple animals congregating in a single area more than three (3) times in any given five (5) day period, on any given property, including waterward of a waterfront property within the area lying between the side property lines if they were extended to the water's edge.

- (d) Nothing contained in this section shall prevent the enforcement actions authorized by this code independent of this section.
- (e) Penalty. Any person cited for a violation of this section shall be charged with a fine in the amount of one hundred dollars (\$100.00) per animal. A second violation shall be charged with a fine in the amount of two hundred fifty dollars (\$250.00) per animal. Third and subsequent violations shall be charged with a fine in the amount of five hundred dollars (\$500.00) per animal.

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**Section 3: Conflicts.** That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

**Section 4: Severability.** That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

**Section 5: Codification.** That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

**Section 6: Effective Date.** That this ordinance shall become effective upon its passage on second and final reading.

**PASSED FIRST READING THIS 11<sup>TH</sup> DAY OF JULY, 2019.**

**FAILED ON SECOND READING THIS 8<sup>TH</sup> DAY OF AUGUST, 2019.**

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Sandra L. Welch, Mayor

Attest:

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Leslie Wallace May, City Clerk

	<u>1<sup>st</sup></u>	<u>2<sup>nd</sup></u>
Welch	<u>Aye</u>	<u>Nay</u>
Sarbone	<u>Aye</u>	<u>Nay</u>
Tooley	<u>Aye</u>	<u>Nay</u>
Belvedere	<u>Aye</u>	<u>Absent</u>
Rydell	<u>Nay</u>	<u>Nay</u>

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 KMM  
 6/20/19

CODING: Words in ~~struck through~~ type are deletions from existing text.  
 Words in underscored type are additions to existing text.  
 A line of \*\*\* indicates existing text not shown.