

## ORDINANCE 72 - 10

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL CODE OF ORDINANCES, CHAPTER 4, ANIMALS AND FOWL, ARTICLE II, REGULATION OF DOMESTIC, NON-DOMESTIC, AND WILD OR EXOTIC ANIMALS, BY AMENDING SECTION 4-29, DEFINITIONS, TO DEFINE POT-BELLIED PIGS AND CLASSIFY THEM AS DOMESTIC ANIMALS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Cape Coral, Florida, deems it necessary in order to protect the health, safety and welfare of its citizens, to regulate the keeping or harboring of domestic, livestock, wild or exotic animals and,

WHEREAS, the City recognizes the rightful ownership of domestic animals and further recognizes that such animals can be and are a source of security and pleasure to their owners and to others; and

WHEREAS, the City Council has received requests for the keeping of pot-bellied pigs as domestic animals;

WHEREAS, the City Council recognizes the increasing popularity of these animals as pets; and

WHEREAS, the City Council has carefully considered the recommendations of staff and the testimony at the public hearing; and

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Code of Ordinances, Chapter 4, Article II, Section 4-29, is hereby amended as follows:

**§ 4-29 Definitions.**

The following definitions shall apply in the interpretation of this article.

**ANIMAL.** Every nonhuman species of animal, including aquatic, domestic, wild, and exotic animals.

**DOMESTIC ANIMAL.** An animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter. This shall include dogs, cats, parrots, parakeets, canaries, rabbits, guinea pigs, pot-bellied pigs, hamsters, turtles, or any other animals which are tamed by nature and not defined as livestock, wild, or exotic animals in this section so long as they are kept and maintained in compliance with other provisions of this article. However, a pot-bellied pig shall not be considered a domestic animal pursuant to this chapter unless it has been spayed or neutered and, if male, has had its tusks removed.

**EXOTIC ANIMAL.** An animal that was introduced into Florida by human activity and is free-ranging in an area to which it was not native.

**LIVESTOCK.** All animals of the bovine, equine, or swine class, with the exception of pot-bellied pigs, and also includes goats, sheep, mules, horses, hogs, and poultry, or any other animal used in and for utility or preparation of meat or meat products.

**WILD ANIMALS.** Those members of the animal kingdom wild by nature which, because of habitat, mode of life, or natural instinct, are not customarily made tame, and require the exercise of art, force, or skill to keep them in subjection, without regard to whether a specific animal is considered a pet or domesticated by his keeper or possessor. By way of example, and not by limitation, wild animals shall include monkeys, raccoons, skunks, foxes, poisonous snakes,

constricting snakes such as pythons and boas, leopards, panthers, and tigers, lions, lynxes, or any other warm blooded animal which can normally be found in the wild.

**§ 4-30. Non-domestic animals in all zoning districts, whether improved or unimproved.**

(a) Except as allowed in this section, it shall be unlawful for any person to keep, raise, maintain, or pasture any animal that does not fit under the definition of a domestic animal including, but not limited to, cattle, mules, goats, sheep, swine, poultry, other livestock, exotic, or wild animals in all zoning districts, whether improved or unimproved.

(b) Horses are permitted in residential estate districts provided that the landowner complies with § 2.7.4(D)(1) of the city Land Use and Development Regulations.


(c) The provisions of this section shall not apply to animal care businesses including, but not limited to, veterinary offices, animal kennels, animal grooming businesses, and pet shops that are listed as a permitted or special exception use in a particular zoning district nor to educational, cultural or scientific uses where the keeping of animals are incidental and secondary to the main purpose of the use.

(d) The provisions of this section shall not apply to any property that is located in a district that is zoned as agricultural.

(e) Wild or exotic animals that are regulated by the Florida Fish and Wildlife Conservation Commission are allowed to be kept in the city pursuant to said regulations.

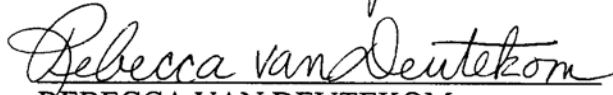
SECTION 2. Severability. In the event that any portion or section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this ordinance, which shall remain in full force and effect.

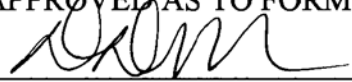
SECTION 3. Effective Date. This Ordinance shall take effect immediately upon its adoption by the Cape Coral City Council.

ADOPTED AT A REGULAR COUNCIL MEETING THIS 13<sup>th</sup> DAY OF September, 2010.  
  
JOHN J. SULLIVAN, MAYOR

VOTE OF MAYOR AND COUNCILMEMBERS:

SULLIVAN	<u>aye</u>
McCLAIN	<u>aye</u>
BRANDT	<u>aye</u>
DEILE	<u>aye</u>
CHULAKES-LEETZ	<u>aye</u>
KUEHN	<u>nay</u>
McGRAIL	<u>nay</u>
DONNELL	<u>nay</u>

ATTESTED TO AND FILED IN MY OFFICE THIS 17<sup>th</sup> DAY OF September, 2010.  
  
REBECCA VAN DEUTEKOM  
CITY CLERK

APPROVED AS TO FORM:  
  
DOLORES D. MENENDEZ  
CITY ATTORNEY  
ord/pot bellied pigs