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**CITY OF SEABROOK
ORDINANCE NO. 2021-04**

FEEDING OF WILDLIFE PROHIBITED

**AN ORDINANCE OF THE CITY OF SEABROOK, TEXAS, CHAPTER 10
“ANIMALS”, ARTICLE 1 “GENERAL”, CREATING A NEW SECTION 10-
11, “FEEDING OF WILDLIFE PROHIBITED”, AS DEFINED AND
PROVIDED HEREIN; PROVIDING PENALTIES FOR VIOLATION BY
INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR
PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT
HEREWITH; PROVIDING FOR SEVERABILITY, NOTICE AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, it is of the utmost importance by Charter for the City Council to safeguard the health and safety of its citizens and inhabitants; and

WHEREAS, the City Council recognizes that many citizens of Seabrook live in the community because of the opportunities to see wild animals and wildlife, as defined herein; and

WHEREAS, the City Council of Seabrook, after review, finds that unnatural feeding of wildlife has resulted in overabundant and highly concentrated populations of wildlife throughout the city and within city parks that is a danger to the wildlife and public at large; and

WHEREAS, feeding wildlife food that is not part of their natural diet may lead to the production of wildlife families larger than the natural food supply can support and begins to impede on private property; and

WHEREAS, the feeding of deer has shown to increase the concentration of deer in urbanized areas, thereby increasing the likelihood of collision between vehicles and deer, and causing other damage to residential and commercial vegetation and landscaping the in the City; and; and

WHEREAS, the feeding of any wildlife has shown to increase the concentration of feral hogs in areas within the park system that creates a public safety and health issue; and

WHEREAS, the City finds that overabundant deer and avian wildlife populations have contributed to increase of bacteria pollution in the Galveston Bay, Clear Creek and surrounding watersheds; and

WHEREAS, the feeding of wildlife can cause concentrated areas of biological waste, containing bacteria, nitrogen and phosphorus, which can lead to water quality degradation, and disease thereby impacting popular contact recreation waterways; and

45 **WHEREAS**, the City and the Texas Parks and Wildlife Department find that discouraging
46 and prohibiting the artificial feeding of wildlife is in the best interest of the health, safety and
47 welfare of the community and wildlife populations; now therefore
48

49 **BE IT ORDANINED BY THE CITY COUNCIL OF THE CITY OF SEABROOK,**
50 **STATE OF TEXAS:**

51
52 **SECTION 1.** That the City Council of the City of Seabrook adopts the preceding
53 preamble paragraphs as if repeated verbatim herein and find them as matters of fact.
54

55 **SECTION 2.** That the Seabrook Code of Ordinances, Chapter 10, “Animals”, Article I,
56 “In General” be amended by adding a new Section 10-11 “Feeding of “Wildlife Prohibited”, to
57 provide protections to the wildlife and public as follows:
58

59 **“ARTICLE I. - IN GENERAL**

60
61 **Sec. 10-1. - Definitions.**

62
63 For the purpose of this chapter, the definitions as stated in the current or latest Rabies
64 Control and Eradication rules of the state department of health shall apply with the following
65 exceptions and/or additions:
66

67 *Animal* means a warm-blooded or cold-blooded animal, other than Homo sapiens.

68
69 *Animal at large* shall mean:

70
71 (1) On premises of owner. Any animal not confined to the premises of the owner by some
72 physical means of sufficient height, strength, length and/or manner of construction to preclude the
73 animal from leaving the premises of the owner.
74

75 (2) Off premises of owner. Any animal which is not physically and continually restrained
76 by some person by means of a leash or chain of proper strength and length that precludes the
77 animal from making any unsolicited contact with any person, their clothing, their property and/or
78 their premises.
79

80 (3) Provided, however, that any animal confined within a cage, automobile, truck or any
81 other vehicle of its owner shall not be deemed at large if the animal is constrained in such a manner
82 which will not cause injury and will prevent the animal from reaching the outside of the cage or
83 vehicle.
84

85 (4) Provided, however, that any dog lawfully allowed in an off-leash site as defined by the
86 City Code shall not be deemed at large.
87

88 *Animal establishment* means any pet shop, grooming shop, auction, riding school or stable,
89 zoological park, performing animal exhibition, or kennel.
90

91 *Animal shelter* means any facility operated by the city, a humane society, municipal
92 agency, or any other governmental entity or their authorized agents for the purpose of impounding
93 or caring for animals held under the authority of this chapter or state law.
94

95 *Confined and confinement* includes confined within a building, house, or structure or
96 within a fenced yard or premises, so that the animal cannot escape from the building, house,
97 structure, or fenced yard or premises without human assistance.
98

99 *Enclosure* means a house, a building, or a fenced area as further described in section 10-6.
100

101 *Exotic animal* means the same as wild animal.
102

103 *Grooming shop* means a commercial establishment where animals are bathed, clipped,
104 plucked, or otherwise groomed.
105

106 *Harbor and harboring* means that an animal is fed, sheltered, or allowed or permitted to
107 remain on a person's property or property under control of such person for three or more days
108 without the person notifying the office of the humane officer.
109

110 *High-risk animals* include skunks, bats, foxes, raccoons, and all other animals declared to
111 be so by the state department of health.
112

113 *Hobby breeder* means any person engaged in the part time recreational activity of raising
114 or breeding animals to strengthen or further develop the species. This can include the occasional
115 sale or trade of the offspring as a means to recover expenses and reduce the population of the
116 animals housed.
117

118 *Humane officer* means the supervisor of the animal control department or his or her duly
119 authorized representative.
120

121 *Licensing authority* means the same as city secretary.
122

123 *Livestock* includes horses, mules, other equine, cattle, sheep, goats, hogs, domestic rabbits
124 and domestic fowl.
125

126 *Livestock at large* is the condition of an animal when it is not located on the property of its
127 owner and not under control of a competent person. The term "at large" includes but is not limited
128 to the condition of being staked, tied or hobbled in any manner within the city limits which allows
129 the animal to go upon public streets or sidewalks or property other than the owner's.
130

131 *Low-risk animals* are all animals of the orders of Marsupialia, Insectivore, Rodentia,
132 Lagomorpha and Xenartha.
133

134 *Multiple dwelling* means any structure designed and intended to accommodate more than
135 one family and includes but is not limited to duplex buildings and apartment buildings.
136

137 *Owner* means any person owning, keeping or harboring one or more animals, and if the
138 owner of an animal is a minor, the parent or guardian of that minor shall be responsible for
139 compliance with the specifications of this chapter.

140
141 *Pet shop* means any building, establishment, premises, or place used for or in the business
142 of buying, selling, trading, or boarding any species of animal, which shall include but not be limited
143 to gerbils, hamsters, guinea pigs, mice, rabbits, birds, dogs, cats, and reptiles. The term does not
144 include a licensed kennel or a person making individual sales of animals by owners. This definition
145 shall not include hobby breeders or persons engaging in the raising or breeding of large
146 domesticated animals such as cattle, horses, or sheep.

147
148 *Quarantine* means complete and total isolation in such a place and in such a manner and
149 for a period of time as may be prescribed by the humane officer.

150
151 *Regulatory authority* means the humane officer or his or her duly authorized representative.

152
153 *Riding school or stable* means any place which has available for hire, boarding, and/or
154 riding any horse, pony, donkey, mule, or burro.

155
156 *Veterinary hospital* means any establishment maintained and operated by a licensed
157 veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

158
159 *Wild animal* means and includes any mammal, amphibian, reptile, or fowl which is of a
160 species that is wild by nature, and of a species which, due to size, vicious nature, or other
161 characteristic, is or may be dangerous to human beings. Such animals include but are not limited
162 to lions; tigers; leopards; panthers; lynx; wolves; raccoons; ferrets; skunks, whether deodorized or
163 not; monkeys whose average weight as an adult exceeds 20 pounds; foxes; elephants; rhinoceroses;
164 alligators; crocodiles; and all forms of poisonous reptiles. The term "wild animal" does not include
165 gerbils, hamsters, guinea pigs, mice, or rabbits.

166
167 (Code 1976, § 5-3; Code 1996, § 10-1; Ord. No. 2012-07, § 2, 3-20-2012)

168
169 State Law reference— Similar provisions, V.T.C.A., Health and Safety Code §§ 821.051, 822.001,
170 822.011, 822.041, 822.101, 823.001, 826.002, V.T.C.A., Agriculture Code § 161.001, V.T.C.A.,
171 Local Government Code § 240.001.

172
173 **Sec. 10-2. - Purpose.**

174
175 The primary function and intent of this chapter is protection of the health, safety, and
176 welfare of the people within the city by controlling the animal population and establishing uniform
177 rules for the control and eradication of rabies and **related diseases**.

178
179 (Code 1976, § 5-2; Code 1996, § 10-2)

180

181 State Law reference— Local regulation of dangerous dogs, V.T.C.A., Health and Safety Code §
182 822.047; municipality may adopt ordinances or rules to control rabies, V.T.C.A., Health and Safety
183 Code § 826.015.

184

185 **Sec. 10-3. - Rules and state laws adopted by reference.**

186

187 Animal population and animal control shall be accomplished and regulated in accordance
188 with this chapter; V.T.C.A., Health and Safety Code § 821.001 et seq.; V.T.C.A., Health and Safety
189 Code § 822.001 et seq.; V.T.C.A., Health and Safety Code § 826.001 et seq.; and, the Rabies
190 Control and Eradication rules of the state department of health, §§ 169.21—169.33; which are
191 made part of this chapter by reference.

192

193 (Code 1976, § 5-1; Code 1996, § 10-3; Ord. No. 2000-23, § 1, 11-21-2000)

194

195 **Sec. 10-4. - Penalty.**

196

197 Any person who intentionally, knowingly, recklessly, or with criminal negligence commits
198 any act prohibited or made or declared to be unlawful by this chapter or who fails to perform any
199 act required by this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall
200 be punished as provided in section 1-15.

201

202 (Code 1976, § 5-34; Code 1996, § 10-4)

203

204 **Sec. 10-5. - Bird sanctuary.**

205

206 (a) The entire area embraced within the corporate limits of the city shall be and is
207 designated as a bird sanctuary.

208

209 (b) It shall be unlawful to trap, hunt, shoot or molest in any manner any bird or wildfowl
210 or to rob bird nests or wildfowl nests of protected species within the corporate limits.

211

212 (c) If starlings or similar birds are found to be congregating in such numbers in a
213 particular locality within the corporate limits and by such congregating constitute a nuisance or a
214 menace to health or property in the opinion of the proper city health authorities or the city council,
215 the proper health authority or city council shall meet with representatives of the Audubon Society,
216 bird club, garden club and Humane Society or as many of such clubs as are found to exist in the
217 city and with any members of the public who may be interested, after giving three days' actual
218 notice of time and place for such meeting. If, as a result of such meeting, no satisfactory alternative
219 is found to abate the nuisance, the birds constituting such nuisance may be destroyed, in such
220 numbers and in such manner as may be deemed advisable by the health authorities or city council,
221 under supervision of the chief law enforcement officer of the city or such other person as may be
222 appointed by the city council to supervise such destruction.

223

224 (d) Domestic, feral and related invasive bird species, specifically including "cairina
225 moschata" commonly known as "Muscovy ducks" are specifically removed from the protections

226 afforded by this section. Any removal of such birds shall be done as provided by the City Code of
227 Ordinances, and in compliance with state and federal law.

228
229 (Code 1976, §§ 5-26—5-28; Code 1996, § 10-5; Ord. No. 2010-04, § 2, 3-23-2010; Ord. No. 2012-
230 22, § 2, 11-6-2012)

231
232 **Sec. 10-6. - Enclosures.**

233
234 For purposes of this chapter, to qualify as an enclosure, the fenced area or pen must have
235 minimum dimensions of five feet by ten feet; must be of such height as to prevent entry of young
236 children or escape by jumping by the animal; must be locked and secured such that the animal
237 cannot climb, dig, or otherwise escape of its own volition; shall be securely locked at all times;
238 must have secure sides to prevent an animal from escaping from the enclosure; and must provide
239 protection from the elements for the animal contained therein.

240
241 (Code 1976, § 5-3; Code 1996, § 10-6)

242
243 **Sec. 10-7. - Number of animals limited.**

244
245 (a) Dogs and cats in single-family dwelling. It shall be unlawful for any person to keep,
246 harbor, possess, maintain, or allow to be kept, harbored, possessed, or maintained more than six
247 dogs or six cats or a combination of such animals with the total number exceeding six, over four
248 months old, upon or within the premises of a single-family dwelling owned, occupied, or under
249 the control of such person.

250
251 (b) Dogs and cats in multiple dwellings. It shall be unlawful for any person to keep,
252 harbor, possess, maintain, or allow to be kept, harbored, possessed, or maintained more than two
253 dogs or two cats or a combination of such animals with the total number exceeding two, over four
254 months old, upon any premises or within any apartment of a multiple dwelling structure.

255
256 (c) Litters. Only one litter from animals permitted under subsections (a) and (b) of this
257 section may be allowed at any given time.

258
259 (d) Exemptions. The provisions of this section limiting the number of animals shall not
260 apply to the following:

- 261
262 (1) Veterinary hospitals.
263
264 (2) Pet shops.
265
266 (3) Animal shelters.
267
268 (4) Hobby breeding activities for dogs and cats conducted on tracts of land of
269 not less than five acres, provided that the total number of animals shall not
270 exceed two per acre or 12, whichever is less. Further, all enclosures or other
271 kennel facilities utilized by hobby breeders operating pursuant to this

272 subsection shall be located and constructed so as to protect adjacent
273 property owners from noise and air pollution which may result from such
274 breeding activities.
275

276 (Code 1976, § 5-21; Code 1996, § 10-7; Ord. No. 98-32, § 1, 10-20-1998)
277

278 State Law reference— Permitting registration and restraint of dogs and cats by the governing body
279 of a municipality, V.T.C.A., Health and Safety Code § 826.31 et seq.
280

281 **Sec. 10-8. - School project exception.**
282

283 Certain small domestic animals may be kept in certain residential zones as permitted in
284 appendix A to this Code pertaining to zoning, when and only so long as the following conditions
285 are met:
286

- 287 (1) The animals are being kept as part of a formal school project, for example and not
288 by way of limitation, a Future Farmers of America project.
289
- 290 (2) The school instructor in charge must approve the project, monitor the project,
291 approve the pens, and make periodic inspections at least once each three months to
292 ensure good order and cleanliness.
293
- 294 (3) Such animals may not weigh more than 15 pounds each.
295
- 296 (4) No more than 15 such animals may be kept on any premises at any one time.
297
- 298 (5) Spraying or other extermination for flies, insects and odor control shall be
299 performed at least weekly, and more often if necessary.
300
- 301 (6) The killing or butchering of animals for other than personal, noncommercial
302 consumption is prohibited.
303
- 304 (7) The area in which such animals are kept shall not be visible from in front of the
305 residence. Animals shall be contained in pens a minimum of ten feet from the
306 property line.
307
- 308 (8) Unscheduled inspections may be made by the city building inspector or by the city
309 health official to ensure all conditions of this section are complied with. Failure to
310 meet or continue to comply with all conditions of this section may result in
311 cancellation of the permit by the city building inspector or health official. Upon
312 written notice of such cancellation, all animals and pens shall be removed within
313 ten days after loss of the permit.
314
- 315 (9) Each person participating in such a project shall apply in writing to the city for
316 issuance of a permit. Such a permit shall be issued only upon presentation of the
317 instructor's written approval, the address at which the animals will be kept, an

318 application fee of \$1.00, and such other information and terms as the building
319 inspector or health official may require.

320
321 (Code 1976, § 5-25; Code 1996, § 10-8)

322
323 **Sec. 10-9. - Keeping wild or exotic animals.**

324
325 (a) Possession prohibited. It shall be unlawful for any person to buy, sell, possess, keep,
326 permit, suffer, cause, or allow any wild or exotic animal upon or within any
327 premises within the city, except as permitted in this section.

328
329 (b) Temporary permit. The humane officer may issue a temporary permit for the
330 keeping, care, and protection of an infant animal native to this area which has been
331 deemed to be homeless or injured. The application for a temporary permit shall be
332 accompanied with a letter or statement of approval from the state department of
333 parks and wildlife.

334
335 (c) Exceptions. This section shall not be construed to apply to veterinary hospitals or
336 zoological parks or performing animal exhibitions for which application has been
337 made and a permit received from the city as provided for and required in this
338 chapter.

339
340 (Code 1976, § 5-22; Code 1996, § 10-9)

341
342 State Law reference— Similar provision, V.T.C.A., Parks and Wildlife Code § 62.015.

343
344 **Sec. 10-10. - Zoological parks.**

345
346 The term "zoological park" means a tract of land set aside in a natural or manmade state
347 which displays or exhibits more than one nondomesticated animal which is under the control and
348 supervision of a trained experienced professional animal handler and cared for by a licensed
349 veterinarian. The humane officer may require proof of training and experience. The park shall be
350 constructed in such a manner as to preclude the possibility of an animal escaping from such park
351 and/or cages or pens. Park construction, pens, cages, and equipment shall be designed and
352 constructed in such a manner as to protect the animals and the public. Proof of acceptable design
353 and construction may be required by the humane officer. All animals therein and their enclosures
354 shall be approved by the humane officer. Where required, all zoological parks shall be federally
355 inspected and licensed. A park attendant shall be on duty at all times the park is open or accessible
356 to the public.

357 (Code 1976, § 5-3; Code 1996, § 10-10)

358 Secs. 10-11—10-35. - Reserved.

359
360 **Sec. 10-11. - Feeding of wildlife prohibited.**

361
362 **For purposes and application of Sec.10-11, the following definitions shall apply:**

364 Feed means to give, place, expose, deposit, distribute or scatter food that attracts or
365 entices wildlife.

366
367 Food means any edible material including bread products, corn, fruit, oats, hay, nuts,
368 wheat, alfalfa, salt blocks, feed, grain, vegetables, and commercially sold wildlife feed, or
369 livestock feed but excludes live naturally growing shrubs, live crops, plants, flowers,
370 vegetation, gardens, trees, and fruit or nuts that have fallen on the ground or are within
371 reach of wildlife.

372
373 *Wildlife means any undomesticated or domesticated animal living in the wild.*

374
375 (a) Except as provided in the exceptions (c) below, it shall be unlawful for any
376 person to feed, or cause to be fed, wildlife, as defined in this section.

377
378
379 (b) A person shall be deemed to have fed, or caused wildlife to be fed, if the person
380 places food, as defined in this section, in any form, (not including live
381 vegetation such as ornamental landscaping or flowers) on the ground, or
382 within reach of wildlife.

383
384 (c). Exceptions

385
386 (1) This section does not apply to the placement of food into feeders kept
387 at a minimum of 5 feet above the ground surface and intended for birds.

388
389 (2) This section does not apply to an animal control officer, peace officer,
390 city employee, federal or state wildlife official who is acting pursuant to
391 a lawfully authorized program to treat, manage, capture, trap, hunt, or
392 remove wildlife and who is acting within the scope of the persons
393 authority.”

394
395
396 **SECTION 3. INCORPORATION INTO THE CODE, PENALTY CLAUSE.**

397
398 This Ordinance is hereby incorporated and made a part of the Code of the City of Seabrook.
399 Violation of this Ordinance is subject to the penalty section of said Code of Ordinances, Section
400 1-15 “General penalty; continuing violations” which provides that any person who shall violate
401 any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction,
402 shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a
403 separate offense.

404
405 **SECTION 4. REPEAL OF CONFLICTING ORDINANCES.**

406
407 All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are
408 hereby expressly repealed.

410 **SECTION 5. SEVERABILITY.**
411

412 In the event any clause phrase, provision, sentence, or part of this Ordinance or the
413 application of the same to any person or circumstances shall for any reason be adjudged invalid or
414 held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate
415 this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid
416 or unconstitutional; and the City Council of the City of Seabrook, Texas, declares that it would
417 have passed each and every part of the same notwithstanding the omission of any such part thus
418 declared to be invalid or unconstitutional, whether there be one or more parts.
419

420 **SECTION 6. NOTICE.**
421

422 The City Secretary shall give notice of the enactment of this Ordinance by promptly
423 publishing it or its descriptive caption and penalty after final passage in the official newspaper of
424 the City; the Ordinance to take effect upon publication.
425

426
427 **PASSED AND APPROVED** on first reading with a quorum present, by an affirmative vote of a
428 majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on
429 this 2nd day of February, 2021.
430

431 **PASSED, APPROVED, AND ADOPTED** on final reading with a quorum present, by an
432 affirmative vote of a majority of Councilmembers present, in accordance with Seabrook City
433 Charter Section 2.10 on this _____ day of _____, 2021.
434

435
436
437
438 _____
439 Thomas G. Kolupski
440 Mayor

441 ATTEST:
442
443

444 _____
445 Robin Lenio, TRMC
446 City Secretary
447

448
449 APPROVED AS TO FORM:
450
451

452 _____
453 Steven L. Weathered
454 City Attorney
455