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

FEEDING OF WILDLIFE AND NUISANCE ANIMALS PROHIBITED

**AN ORDINANCE OF THE CITY OF SEABROOK, TEXAS, CHAPTER 10
“ANIMALS”, ARTICLE 1 “GENERAL”, CREATING NEW SECTIONS 10-
11, “FEEDING OF WILDLIFE PROHIBITED”, AND SECTION 10-12
“NUISANCE ANIMALS”, ALL AS DEFINED AND PROVIDED HEREIN,
WITH RELATED UPDATES; 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 a nuisance causing overabundant and highly concentrated populations of wildlife and feral animals 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, maintaining an attractive environment for wildlife by the placement of food or related lures 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 and the Texas Parks and Wildlife Department find that discouraging and prohibiting the artificial feeding of wildlife is in the best interest of the health, safety and welfare of the community and wildlife populations; now therefore

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

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

45 **SECTION 2.** That the Seabrook Code of Ordinances, Chapter 10, “Animals”, Article I,
46 “In General” be amended by adding a new Section 10-11 “Feeding of “Wildlife Prohibited”, to
47 provide protections to the wildlife and public as follows:
48

49
50 **“ARTICLE I. - IN GENERAL**

51
52 **Sec. 10-1. - Definitions.**

53
54 For the purpose of this chapter, the definitions as stated in the current or latest Rabies
55 Control and Eradication rules of the state department of health shall apply with the following
56 exceptions and/or additions:
57

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

59
60 *Animal at large* shall mean:

61
62 (1) On premises of owner. Any animal not confined to the premises of the owner by
63 some physical means of sufficient height, strength, length and/or manner of construction to
64 preclude the animal from leaving the premises of the owner.

65
66 (2) Off premises of owner. Any animal which is not physically and continually
67 restrained by some person by means of a leash or chain of proper strength and length that precludes
68 the animal from making any unsolicited contact with any person, their clothing, their property
69 and/or their premises.

70
71 (3) Provided, however, that any animal confined within a cage, automobile, truck or
72 any other vehicle of its owner shall not be deemed at large if the animal is constrained in such a
73 manner which will not cause injury and will prevent the animal from reaching the outside of the
74 cage or vehicle.

75
76 (4) Provided, however, that any dog lawfully allowed in an off-leash site as defined by
77 the City Code shall not be deemed at large.

78
79 **Animal control officer** [~~*Animal control officer*~~] means the supervisor of the animal control
80 department or his or her duly authorized representative.

81
82 *Animal establishment* means any pet shop, grooming shop, auction, riding school or stable,
83 zoological park, performing animal exhibition, or kennel.

84
85 *Animal shelter* means any facility operated by the city, a humane society, municipal
86 agency, or any other governmental entity or their authorized agents for the purpose of impounding
87 or caring for animals held under the authority of this chapter or state law.
88

89 *Confined and confinement* includes confined within a building, house, or structure or
90 within a fenced yard or premises, so that the animal cannot escape from the building, house,
91 structure, or fenced yard or premises without human assistance.

92
93 *Enclosure* means a house, a building, or a fenced area as further described in section 10-6.

94
95 *Exotic animal* means the same as wild animal.

96
97 **Feral means an animal that is not domesticated, cultivated, intentionally bred or**
98 **generally approachable and/or an animal that is not readily able to be handled by humans,**
99 **including a domestic animal that has returned to a wild state.**

100
101 *Grooming shop* means a commercial establishment where animals are bathed, clipped,
102 plucked, or otherwise groomed.

103
104 *Harbor and harboring* means that an animal is fed, sheltered, or allowed or permitted to
105 remain on a person's property or property under control of such person for three or more days
106 without the person notifying the office of the [~~humane officer~~] **animal control officer**.

107
108 *High-risk animals* include skunks, bats, foxes, raccoons, and all other animals declared to
109 be so by the state department of health.

110
111 *Hobby breeder* means any person engaged in the part time recreational activity of raising
112 or breeding animals to strengthen or further develop the species. This can include the occasional
113 sale or trade of the offspring as a means to recover expenses and reduce the population of the
114 animals housed.

115
116 *Licensing authority* means the same as city secretary.

117
118 *Livestock* includes horses, mules, other equine, cattle, sheep, goats, hogs, domestic rabbits
119 and domestic fowl.

120
121 *Livestock at large* is the condition of an animal when it is not located on the property of its
122 owner and not under control of a competent person. The term "at large" includes but is not limited
123 to the condition of being staked, tied or hobbled in any manner within the city limits which allows
124 the animal to go upon public streets or sidewalks or property other than the owner's.

125
126 *Low-risk animals* are all animals of the orders of Marsupialia, Insectivore, Rodentia,
127 Lagomorpha and Xenartha.

128
129 *Multiple dwelling* means any structure designed and intended to accommodate more than
130 one family and includes but is not limited to duplex buildings and apartment buildings.

131
132 *Owner* means any person owning, keeping or harboring one or more animals, and if the
133 owner of an animal is a minor, the parent or guardian of that minor shall be responsible for
134 compliance with the specifications of this chapter.

135
136 *Pet shop* means any building, establishment, premises, or place used for or in the business
137 of buying, selling, trading, or boarding any species of animal, which shall include but not be limited
138 to gerbils, hamsters, guinea pigs, mice, rabbits, birds, dogs, cats, and reptiles. The term does not
139 include a licensed kennel or a person making individual sales of animals by owners. This definition
140 shall not include hobby breeders or persons engaging in the raising or breeding of large
141 domesticated animals such as cattle, horses, or sheep.

142
143 *Quarantine* means complete and total isolation in such a place and in such a manner and
144 for a period of time as may be prescribed by the [~~humane officer~~] **animal control officer**.

145
146 *Regulatory authority* means the [~~humane officer~~] **animal control officer** or his or her duly
147 authorized representative.

148
149 *Riding school or stable* means any place which has available for hire, boarding, and/or
150 riding any horse, pony, donkey, mule, or burro.

151
152 *Veterinary hospital* means any establishment maintained and operated by a licensed
153 veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

154
155 *Wild animal* means and includes any mammal, amphibian, reptile, or fowl which is of a
156 species that is wild by nature, and of a species which, due to size, vicious nature, or other
157 characteristic, is or may be dangerous to human beings **or property**. Such animals include but are
158 not limited to lions; tigers; leopards; panthers; lynx; wolves; raccoons; ferrets; skunks, whether
159 deodorized or not; monkeys whose average weight as an adult exceeds 20 pounds; foxes;
160 elephants; rhinoceroses; alligators; crocodiles; and all forms of poisonous reptiles. The term "wild
161 animal" does not include gerbils, hamsters, guinea pigs, mice, or rabbits.

162
163 (Code 1976, § 5-3; Code 1996, § 10-1; Ord. No. 2012-07, § 2, 3-20-2012)

164
165 State Law reference— Similar provisions, V.T.C.A., Health and Safety Code §§ 821.051, 822.001,
166 822.011, 822.041, 822.101, 823.001, 826.002, V.T.C.A., Agriculture Code § 161.001, V.T.C.A.,
167 Local Government Code § 240.001.

168
169 **Sec. 10-2. - Purpose.**

170
171 The primary function and intent of this chapter is protection of the health, safety, and
172 welfare of the people within the city by controlling **nuisances related to** the animal population
173 and establishing uniform rules for the control and eradication of rabies and **related diseases**.

174
175 (Code 1976, § 5-2; Code 1996, § 10-2)

176
177 State Law reference— Local regulation of dangerous dogs, V.T.C.A., Health and Safety Code §
178 822.047; municipality may adopt ordinances or rules to control rabies, V.T.C.A., Health and Safety
179 Code § 826.015.

180

181 **Sec. 10-3. - Rules and state laws adopted by reference.**
182

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

188
189 (Code 1976, § 5-1; Code 1996, § 10-3; Ord. No. 2000-23, § 1, 11-21-2000)
190

191 **Sec. 10-4. - Penalty.**
192

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

197
198 (Code 1976, § 5-34; Code 1996, § 10-4)
199

200 **Sec. 10-5. - Bird sanctuary.**
201

202 (a) The entire area embraced within the corporate limits of the city shall be and is
203 designated as a bird sanctuary.
204

205 (b) It shall be unlawful to trap, hunt, shoot or molest in any manner any bird or wildfowl
206 or to rob bird nests or wildfowl nests of protected species within the corporate limits.
207

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

220 (d) Domestic, feral and related invasive bird species, specifically including "Cairina
221 moschata" commonly known as "Muscovy ducks" are specifically removed from the protections
222 afforded by this section. Any removal of such birds shall be done as provided by the City Code of
223 Ordinances, and in compliance with state and federal law.
224

225 (Code 1976, §§ 5-26—5-28; Code 1996, § 10-5; Ord. No. 2010-04, § 2, 3-23-2010; Ord. No. 2012-
226 22, § 2, 11-6-2012)

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Sec. 10-6. - Enclosures.

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

(Code 1976, § 5-3; Code 1996, § 10-6)

Sec. 10-7. - Number of animals limited.

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

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

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

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

- (1) Veterinary hospitals.
- (2) Pet shops.
- (3) Animal shelters.
- (4) Hobby breeding activities for dogs and cats conducted on tracts of land of not less than five acres, provided that the total number of animals shall not exceed two per acre or 12, whichever is less. Further, all enclosures or other kennel facilities utilized by hobby breeders operating pursuant to this subsection shall be located and constructed so as to protect adjacent property owners from noise and air pollution which may result from such breeding activities.

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

273
274 State Law reference— Permitting registration and restraint of dogs and cats by the governing body
275 of a municipality, V.T.C.A., Health and Safety Code § 826.31 et seq.
276

277 **Sec. 10-8. - School project exception.**
278

279 Certain small domestic animals may be kept in certain residential zones as permitted in
280 appendix A to this Code pertaining to zoning, when and only so long as the following conditions
281 are met:
282

- 283 (1) The animals are being kept as part of a formal school project, for example and not
284 by way of limitation, a Future Farmers of America project.
285
- 286 (2) The school instructor in charge must approve the project, monitor the project,
287 approve the pens, and make periodic inspections at least once each three months to
288 ensure good order and cleanliness.
289
- 290 (3) Such animals may not weigh more than 15 pounds each.
291
- 292 (4) No more than 15 such animals may be kept on any premises at any one time.
293
- 294 (5) Spraying or other extermination for flies, insects and odor control shall be
295 performed at least weekly, and more often if necessary.
296
- 297 (6) The killing or butchering of animals for other than personal, noncommercial
298 consumption is prohibited.
299
- 300 (7) The area in which such animals are kept shall not be visible from in front of the
301 residence. Animals shall be contained in pens a minimum of ten feet from the
302 property line.
303
- 304 (8) Unscheduled inspections may be made by the city building inspector or by the city
305 health official to ensure all conditions of this section are complied with. Failure to
306 meet or continue to comply with all conditions of this section may result in
307 cancellation of the permit by the city building inspector or health official. Upon
308 written notice of such cancellation, all animals and pens shall be removed within
309 ten days after loss of the permit.
310
- 311 (9) Each person participating in such a project shall apply in writing to the city for
312 issuance of a permit. Such a permit shall be issued only upon presentation of the
313 instructor's written approval, the address at which the animals will be kept, an
314 application fee of \$1.00, and such other information and terms as the building
315 inspector or health official may require.
316

317 (Code 1976, § 5-25; Code 1996, § 10-8)
318

319 **Sec. 10-9. - Keeping wild or exotic animals.**
320

- 321 (a) Possession prohibited. It shall be unlawful for any person to buy, sell, possess, keep,
322 permit, suffer, cause, or allow any wild or exotic animal upon or within any
323 premises within the city, except as permitted in this section.
324
- 325 (b) Temporary permit. The [~~humane officer~~] animal control officer may issue a
326 temporary permit for the keeping, care, and protection of an infant animal native to
327 this area which has been deemed to be homeless or injured. The application for a
328 temporary permit shall be accompanied with a letter or statement of approval from
329 the state department of parks and wildlife.
330
- 331 (c) Exceptions. This section shall not be construed to apply to veterinary hospitals or
332 zoological parks or performing animal exhibitions for which application has been
333 made and a permit received from the city as provided for and required in this
334 chapter.
335

336 (Code 1976, § 5-22; Code 1996, § 10-9)
337

338 State Law reference— Similar provision, V.T.C.A., Parks and Wildlife Code § 62.015.
339

340 **Sec. 10-10. - Zoological parks.**
341

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

355 (Code 1976, § 5-3; Code 1996, § 10-10)
356

357 Secs. 10-11—10-35. - Reserved.
358

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

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

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

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

370
371 *Wildlife means any undomesticated or feral animals.*

372
373 (a) It shall be unlawful for any person to feed wildlife or feral animals, as defined
374 in this section. There shall be a presumption that a dog or cat is a feral animal
375 if it is not licensed in compliance with Division 2 – License, of this chapter.

376
377 (b) A person shall be deemed to feed wildlife or feral animals, if the person places
378 food, as defined in this section, in any form, (not including live vegetation such
379 as ornamental landscaping or flowers) on the ground, or within reach of
380 wildlife or feral animals.

381
382 (c) Defenses:

383
384 It is a defense to prosecution under this section that:

385
386 (1) the person placed the food solely for the purpose of apprehending an
387 animal for surrender to a humane organization, city authorized
388 program, or to the animal control officer,

389
390 (2) the person was keeping an infant or injured animal which was not
391 capable of surviving on its own and that such wildlife or feral animal
392 was kept for 72 hours or less, or for such reasonable time as was
393 necessary, before giving the animal to a licensed wildlife rehabilitator.

394
395 (d) Exceptions:

396
397 This section shall not apply to:

398
399 (1) the use of bird feeders designed for feeding wild birds, which are kept
400 at a minimum of 5 feet above the ground surface.

401
402 (2) an animal control officer, peace officer, city employee, federal or state
403 wildlife official who is acting pursuant to a lawfully authorized
404 program to treat, manage, capture, trap, hunt, or remove wildlife and
405 who is acting within the scope of the persons authority.

406
407 Sec 10-12. Nuisance animals.

- 408 (a) As used in this chapter, a nuisance animal shall be defined as any animal which
409 commits any of the following acts:
- 410 (1) molests or chases pedestrians, passersby, or passing vehicles, including
411 bicycles;
- 412 (2) makes unprovoked attacks on other animals of any kind;
- 413 (3) is repeatedly at large;
- 414 (4) damages private or public property;
- 415 (5) defecates on property not belonging to or under the control of its
416 owner;
- 417 (6) barks, whines, howls, crows, crackles, or makes any noise excessively
418 and continuously, and such noise disturbs a person of ordinary
419 sensibilities; or
- 420 (7) is unconfined when in heat or in estrus; or
- 421 (8) the keeping of any animal in a manner that endangers the public health,
422 annoys neighbors by the accumulation of animal wastes which cause
423 foul and offensive odors, or poses a hazard to any other animal or
424 human being is considered to be a nuisance under this chapter.”

427 **SECTION 3. INCORPORATION INTO THE CODE, PENALTY CLAUSE.**

428
429 This Ordinance is hereby incorporated and made a part of the Code of the City of Seabrook.
430 Violation of this Ordinance is subject to the penalty section of said Code of Ordinances, Section
431 1-15 “General penalty; continuing violations” which provides that any person who shall violate
432 any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction,
433 shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a
434 separate offense.

435 436 **SECTION 4. REPEAL OF CONFLICTING ORDINANCES.**

437
438 All ordinances or parts of ordinances in conflict or inconsistent with this Ordinance are
439 hereby expressly repealed.

440 441 **SECTION 5. SEVERABILITY.**

442
443 In the event any clause phrase, provision, sentence, or part of this Ordinance or the
444 application of the same to any person or circumstances shall for any reason be adjudged invalid or
445 held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate
446 this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid

447 or unconstitutional; and the City Council of the City of Seabrook, Texas, declares that it would
448 have passed each and every part of the same notwithstanding the omission of any such part thus
449 declared to be invalid or unconstitutional, whether there be one or more parts.

450

451 **SECTION 6. NOTICE.**

452

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

456

457 **PASSED AND APPROVED** on first reading with a quorum present, by an affirmative vote of a
458 majority of Councilmembers present, in accordance with Seabrook City Charter Section 2.10 on
459 this _____ day of _____, 2021.

460

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

464

465

466

467

Thomas G. Kolupski
Mayor

468

469 ATTEST:

470

471

Robin Lenio, TRMC
City Secretary

474

475

476 APPROVED AS TO FORM:

477

478

Steven L. Weathered
City Attorney

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481