

CITY OF BALCH SPRINGS, TEXAS

ORDINANCE NO. 3169-18

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING DIVISION 1, TITLED “GENERALLY” AND DIVISION 3, TITLED “LIVESTOCK” OF ARTICLE III, TITLED “ANIMAL CONTROL REGULATIONS “ OF CHAPTER 10, TITLED “ANIMALS,” OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, TEXAS TO AMEND PROVISIONS RELATED TO PENS AND ENCLOSURES FOR ANIMALS, PROXIMITY TO OTHER BUILDINGS, REQUIREMENTS FOR WATER AND CARE AND RELATED ISSUES, TO ADOPT PROVISIONS APPLICABLE TO LARGE LIVESTOCK, AND TO REORGANIZE EXISTING SECTIONS IN ORDER TO GROUP SIMILAR PROVISIONS IN THE CODE; PROVIDING FOR CONFLICTING PROVISIONS; SEVERABILITY; EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, Division 3 of Article III of Chapter 10 of the Balch Springs Code of Ordinances contains regulations related to requirements for pens for animals, the size of pens, the distance of such pens from residential living quarters and related issues associated with keeping and caring for animals in the City; and

WHEREAS, the City Council has determined that certain provisions in Division 3 should be amended and clearly made applicable to large livestock; and

WHEREAS, in so doing it is necessary to move certain provisions from Division 3 of Article III to Division 1 of Article III of Chapter 10; and

WHEREAS, the City Council has determined that it is in the best interest of the City and its citizens to amend and clarify such regulations in a manner that will promote the humane treatment of animals, support the needs of their owners, and minimize deleterious impact of keeping animals on other residents of the City

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Division 1 of Article III of Chapter 10 of the Balch Springs Code of Ordinances is hereby amended in order to re-organize and re-locate what are currently Sections 10-196, titled “Swine,” 10-197, titled “Keeping fowl in small lots in residential areas,” 10-198, titled “Keeping fowl in other areas,” and 10-199, titled “General fowl regulation” from Division

3 to Division 1 of Article III of Chapter 10 and to re-number such sections as 10-152 through 10-155, so that the following sections are added to Division 1 and shall read as follows:

Sec. 10-152. - Swine.

It shall be unlawful for any person to keep or maintain swine within the city, other than at the following locations:

- (1) Exhibition at stock shows, fairs and circuses;
- (2) Slaughter establishments.

Sec. 10-153. - Keeping fowl in small lots in residential areas.

(a) This section shall apply to all residentially zoned properties with a total area of less than 13,000 square feet.

(b) A person commits an offense if he possesses or harbors fowl in an enclosure in which any part of such enclosure is within 50 feet of any neighboring residential dwelling.

(c) A person commits an offense if the person keeps or harbors fowl in an enclosure which has a total area of less than 25 square feet per fowl.

Sec. 10-154. - Keeping fowl in other areas.

(a) This section shall apply to all residentially zoned properties with a total area of 13,000 square feet or more, as well as all properties which are zoned in a manner other than residential.

(b) A person commits an offense if the person possesses or harbors any fowl in an enclosure, or on a tether, any part of which is located within 45 feet of any neighboring residential dwelling.

Sec. 10-155. - General fowl regulation.

(a) All persons who own, harbor, or keep fowl within the city limits shall register such ownership with the city. The registration fee shall be \$10.00 per property.

(b) It shall be a violation for any individual to own, harbor or keep fowl and fail to secure such fowl in an enclosure or on a tether, as provided in this chapter.

(c) All fowl must be contained within a pen/coop, or tethered in such a way that the fowl do not run or stray onto neighboring properties. No fowl shall be housed in an enclosure of less than four feet in any dimension, or on a tether less than six feet long. Each enclosure may hold no greater than three fowl.

(d) A person commits an offense if he or she keeps or harbors fowl and fails to erect and maintain a substantial fence of sufficient height and strength to prevent fowl from entering on to neighboring properties.

(e) The property on which fowl are permanently housed shall be clean so as not to be a nuisance to the normal senses of any person. Fowl waste products/feces shall be routinely collected and disposed of in a sanitary and lawful manner. Such waste shall not be allowed to accumulate so as to create foul or offensive odors. Such odors constitute a health hazard and a public nuisance.

(f) Any fowl found stray or loose or otherwise not properly restrained on its owner's property will be subject to seizure by animal control as a stray animal. The standard 72-hour redemption period will apply to fowl.

(g) Fowl that are redeemed by their lawful owner will be subject to the same redemption fees and possible stray animal citations as any other animal picked up as any other stray animal running loose in the city.

(h) Fowl that are not redeemed by their lawful owner will be sold at a public auction with the dates and times posted as required by law.

SECTION 3. Division 3 of Article III of Chapter 10 of the City of Balch Springs Code of Ordinances is hereby amended so that the section shall hereafter read as follows:

DIVISION 3 - LARGE LIVESTOCK

Sec. 10-191. Definitions:

“Animal pen” means a wall or fence enclosing an area intended for the routine habitation of animals.

“Shelter” means a building within an animal pen intended to provide protection from the weather for animals.

Sec. 10-192. - Maintenance in pens.

It shall be unlawful for any person to regularly keep or harbor large livestock within the corporate limits of the city, except where such large livestock are maintained in a animal pen meeting the requirements of this section; provided, however, it is not the intent of this section to prevent the riding or use of livestock outside of their pens while such livestock are under the immediate control of a person.

Sec. 10-193. - Minimum lot size required for large livestock

It shall be unlawful for any person within the corporate limits of the city to regularly keep or harbor large livestock upon a lot with an area of less than one half acre (21,780 square feet).

Sec. 10-194. - Large livestock pens or enclosures

Large livestock shall be kept within an animal pen enclosing a minimum area of 4000 square feet per animal. The minimum area of 4000 square feet per animal

does not apply to the offspring of livestock until such newborn animals have been weaned from the mother animal.

The animal pen shall be constructed from one of the following options:

1. A solid wall of at least four feet in height constructed of proper and approved fencing material that does not sway or give way when tested by an animal control officer; or
2. A chain link fence; or
3. A fence constructed of at least double-stranded, twisted 16-gauge wire stretched tautly between fence posts. Such fence shall have at least four strands of wire, with one strand one foot above the ground and one strand at least four feet above the ground, with the two other strands uniformly spaced between the top and bottom strands. The maximum distance between fence posts shall be ten feet. The fence posts must not sway more than six inches when tested by an animal control officer. Trees may not be used as fence posts; or
4. A wooden fence, with a minimum height of four feet, with fence posts to be a minimum of four inches by four inches wide. The maximum distance required between fence posts is six feet. The fence posts must not sway more than six inches when tested by an animal control officer. Trees may not be used as fence posts. The fence shall have a minimum of two slats no smaller than six inches wide; or
5. A metal fence, with a minimum height of four feet, with fence posts to be a minimum of three inches in diameter. The maximum distance required between fence posts is six feet. The fence posts must not sway more than six inches when tested by an animal control officer. The top rail of the fence shall be no smaller than three inches in diameter. A minimum of two additional slats are required with the diameter of the slats to be no smaller than 1½ in diameter.

Sec. 10-195. - Water Requirements for large livestock animal pens

Large livestock shall not be kept upon lots which do not have a ready source of water. The source of water may be:

1. City provided water service
2. A stock pond
3. A registered and licensed water well.

Sec. 10-196. - Gate requirements for large livestock animal pens

Gates for animal pens intended for large livestock shall be mounted on hinges to either a solid wall or fence posts and stretch from one foot above the ground to at least four feet above the ground. The gate must connect with another fence post or solid wall in such a manner that large livestock cannot pass through it and if the gate itself must be constructed so that it contains no opening large enough for large livestock to pass through. Such gates must have a latch or chain attached capable of keeping the gate closed when tested by an animal control officer. Gates must be kept closed, except when in actual use.

Sec. 10-197. - Proximity restrictions to adjacent buildings

It shall be unlawful to possess, harbor or keep large livestock in such a manner that the animal will be quartered closer than 75 feet from any residential dwelling unit not owned by the owner or keeper of the animal.

Sec. 10-198. - Restriction on building within a large livestock animal pen

No building, either permanent or temporary or trailer shall be permissible within an animal pen intended for large livestock for any other purpose other than sheltering the large livestock or for storage of food or equipment used for the care for the animals without explicit permission of the city. It is permissible to use the area enclosed by the animal pen for recreational activities and to erect supporting equipment for the recreational activity (for example: baseball backstops or soccer goal posts); provided however that:

1. The activity and associated equipment do not materially reduce the safety of the area for the animals quartered therein.
2. The equipment does not materially reduce the area available for the use of the animals quartered therein.

Sec. 10-199. - Maintenance of large livestock animal pens

All animal pens maintained within the corporate limits of the city shall be kept clean and free of noxious and unpleasant odors and shall be sprayed with insecticides at reasonable intervals so as to keep such premises free from flies, mosquitoes and other insects. They shall be kept free from trash, clutter, or debris. The animal pens maintained within the corporate limits of the city shall not be used for storage of vehicles, trailers, building materials, or any other item or material not used for the care of the animals.

Sec. 10-200. - Restrictions on breeding large livestock

All male large livestock capable of breeding shall be confined in such a manner that the animal will not be dangerous to any person and all breeding will be under the control of the owner or handler.

Sec. 10-201. - Shelter Requirements for large livestock

The shelter required for large livestock, other than an unweaned animal accompanying its mother, shall consist of:

1. A solid roof; and
2. A minimum of two sides; and
3. A separate stall of a minimum size of 10 ft. by 10 ft. per animal
4. The minimum area required for the shelter shall be 100 square feet per animal.

Sec. 10-202. - Care and Treatment of large livestock

1. No owner of any large livestock shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter from the weather, veterinary care when needed to prevent suffering, and proper care and good treatment.
2. No person shall beat, cruelly treat, torment, overload, overwork or otherwise abuse any large livestock, or cause, instigate or permit to fight, bull fight or any other combat between large livestock or between large livestock and humans.
3. No owner of any large livestock shall abandon such large livestock.
4. No person shall leave in any place accessible to large livestock with the intent to kill or harm such large livestock any poisonous substance which has in any manner been treated with a poisonous substance. This subsection shall not be construed to prevent police officers, the director of animal control or his assistants from killing large livestock when entitled to do so by state statutes, this chapter or any other city ordinance.

Sec. 10-203.-Herding.

No person may move cattle from one location to another location by herding the livestock on, along or across a public street or highway within the city, unless such herding is authorized by the city.

SECTION 4. All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not

affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 6. This ordinance shall take effect on January 1, 2019.

SECTION 7. The meeting at which this Ordinance was adopted was open to the public and public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 14th day of May, 2018.

APPROVED:

Steven Gorwood, Mayor

ATTEST:

Cindy Gross, City Secretary