

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

3
4 **FEEDING OF WILDLIFE PROHIBITED**

5
6 **AN ORDINANCE OF THE CITY OF SEABROOK, TEXAS, CHAPTER 10**
7 **“ANIMALS”, ARTICLE 1 “GENERAL”, CREATING A NEW SECTION 10-**
8 **11, “FEEDING OF WILDLIFE PROHIBITED”, AS DEFINED AND**
9 **PROVIDED HEREIN; PROVIDING PENALTIES FOR VIOLATION BY**
10 **INCLUSION INTO THE CODE; REPEALING ALL ORDINANCES OR**
11 **PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT**
12 **HEREWITH; PROVIDING FOR SEVERABILITY, NOTICE AND**
13 **ESTABLISHING AN EFFECTIVE DATE**
14

15 **WHEREAS**, it is of the utmost importance by Charter for the City Council to safeguard
16 the health and safety of its citizens and inhabitants; and
17

18 **WHEREAS**, the City Council recognizes that many citizens of Seabrook live in the
19 community because of the opportunities to see wild animals and wildlife, as defined herein; and
20

21 **WHEREAS**, the City Council of Seabrook, after review, finds that unnatural feeding of
22 wildlife has resulted in overabundant and highly concentrated populations of wildlife throughout
23 the city and within city parks that is a danger to the wildlife and public at large; and
24

25 **WHEREAS**, feeding wildlife food that is not part of their natural diet may lead to the
26 production of wildlife families larger than the natural food supply can support and begins to
27 impede on private property; and
28

29 **WHEREAS**, the feeding of deer has shown to increase the concentration of deer in
30 urbanized areas, thereby increasing the likelihood of collision between vehicles and deer, and
31 causing other damage to residential and commercial vegetation and landscaping the in the City;
32 and; and
33

34 **WHEREAS**, the feeding of any wildlife has shown to increase the concentration of feral
35 hogs in areas within the park system that creates a public safety and health issue; and
36

37 **WHEREAS**, the City finds that overabundant deer and avian wildlife populations have
38 contributed to increase of bacteria pollution in the Galveston Bay, Clear Creek and surrounding
39 watersheds; and
40

41 **WHEREAS**, the feeding of wildlife can cause concentrated areas of biological waste,
42 containing bacteria, nitrogen and phosphorus, which can lead to water quality degradation, and
43 disease thereby impacting popular contact recreation waterways; and
44

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 animal
77 from making any unsolicited contact with any person, their clothing, their property and/or their
78 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)

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

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

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

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

Sec. 10-4. - Penalty.

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

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

Sec. 10-5. - Bird sanctuary.

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

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

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

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

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

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

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)

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

Sec. 10-8. - School project exception.

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

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

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

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

Sec. 10-9. - Keeping wild or exotic animals.

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

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

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

Sec. 10-10. - Zoological parks.

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

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

Secs. 10-11—10-35. - Reserved.

Sec. 10-11. - Feeding of wildlife prohibited.

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

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

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

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

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

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

(c). Exceptions

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

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

SECTION 3. INCORPORATION INTO THE CODE, PENALTY CLAUSE.

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

SECTION 4. REPEAL OF CONFLICTING ORDINANCES.

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

SECTION 5. SEVERABILITY.

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

SECTION 6. NOTICE.

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

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

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

Thomas G. Kolupski
Mayor

ATTEST:

Robin Lenio, TRMC
City Secretary

APPROVED AS TO FORM:

Steven L. Weathered
City Attorney