

ORDINANCE REGULATING LIVESTOCK /FOWL WITHIN THE CITY OF ELMENDORF, TEXAS. REPLACING ORDINANCE NUMBER 06-08-2011-1.

Whereas, the City of Elmendorf, Texas has the power to adopt this ordinance to regulate livestock within the city limits of the City of Elmendorf, Texas;

Whereas, the keeping of livestock/fowl within the City of Elmendorf, Texas is in need of regulation;

WHEREAS, the City desires to promote health and safety and general welfare of the citizens of Elmendorf and finds that it is in the best interest of the citizens of Elmendorf to control the location and presence of livestock within the City limits of Elmendorf; **NOW, THEREFORE**,

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBER OF THE CITY OF ELMENDORF AS FOLLOWS:

Part 1: Enacted

THAT, the following regulations are hereby enacted regarding the location of animals/fowl in the incorporated area of Elmendorf:

Sec. 1.01: Definitions.

For the purposes of this Ordinance and unless the context specifically indicates otherwise, the meanings of terms used in this ordinance shall be as follows:

Animal. Any and all types of animals and other non-human living creatures, whether a member of the animal kingdom or not, domesticated and wild, male and female, singular and plural.

At Large. Off premises of the owner or custodian of the animal/fowl and not under the control of the owner or custodian, a member of the immediate family of the owner or custodian, or a person expressly designated by the owner or custodian, either by means of a leash, cord, chain or other secure means.

Livestock. Any farm or tame animals owned, kept, raised for profit or pleasure, with the exception of domestic dogs and cats owned or kept as pets.

Fowl. Any wing bird, such as chickens, peacocks, turkeys, geese, guineas, duck, pigeons, pheasants, and similar classified fowl.

Owner. Any person, partnership, association, firm, or corporation owning, keeping or harboring an animal.

Residence. Any dwelling utilized or capable of being utilized for residential purposes.

Sec. 1.02: Applicability

- A) This chapter shall apply to all animals/fowls and persons owning animals/fowls or in control or possession of animals/fowls within the corporate limits of the City, regardless of when such animals/fowls were obtained, acquired or otherwise received.
- B) Any person owning or in control or possession of animals/fowls of such a type or in such a manner as to be in violation of the ordinance must fully comply with all terms of this ordinance within thirty (30) days of this ordinance becoming effective. All violations continuing at the expirations of this thirty-day period will be prosecuted to the fullest extent of the law.

Sec. 1.03: Enforcement Responsibility.

- A) The police department and any other lawfully designated official or representative of the City shall have the primary duty and responsibility of enforcing the provisions of this ordinance. Any officer of the City's police department and any such designated official or representative is fully authorized and empowered to enforce any and all of the provisions hereof.
- B) Any official or representative of the city lawfully designated to enforce the provisions of this ordinance shall have the power and authority to issue summonses returnable to the municipal court or to any other proper authority for violations of this ordinance. Such summonses shall have the same full force and effect as if issued by the police department.
- C) The police department or other designated official or representative of the city may develop and utilized such forms as may be required and necessary to implement these powers and actively enforce this ordinance.

Sec. 1.04: Penalties.

The failure or refusal of any person to comply with any of the provisions of this ordinance and the violation of and provisions of the ordinance by any person shall constitute a misdemeanor. Any person, firm or individual who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding Two Thousand Dollars (\$2,000.00). Each and every day the violation continues shall constitute a separate and distinct offense.

Sec. 1.05: Place where animals/fowl to be kept .

It shall be unlawful for any lot, stall, stable, pen or other place where animals/fowls are kept to be in an unclean, filthy or unsanitary condition. All lots, stalls, stables, pens and other places where cattle, horses, mules or other animals/fowls are lawfully kept for the purposes whatever, anywhere in the city, shall be kept clean, wholesome and free of offensive odors, flies, rodents and other pests, by removal of all offensive matter and by suitable cleansing and disinfecting as often as may be necessary, which is hereby required and made the duty of every person having, owning or controlling such places.

Sec. 1.06: Promoting Animal Fights Prohibited.

It shall unlawful for any person to promote or allow or cause to be promoted or allowed any fight involving animals/fowls with in the corporate limits of the city.

Sec. 1.07. Animals/Fowl Making Excessive Noise.

A) Definitions in this section:

Excessive Noise means and includes any noise made and produced by an animal/fowl which is so loud and continuous or untimely so as to disturb the sleep of a neighbor, interfere with the proper enjoyment of a neighbor's property, or create a material disturbance or discomfort to a neighbor.

Neighbor means an individual residing in a residential structure that is within three hundred (300) feet of the property on which the animal/fowl is kept harbored and who does in writing state that he will testify under oath to such animal/fowl making excessive noise.

- B) Prohibited. No person shall own or keep any animal/fowl, which by making excessive noise disturbs a neighbor or neighborhood.
- C) Issuance of subpoena in Contested Proceeding. Should a charge of a violation under this section be contested, a subpoena shall be issued to the disturbed neighbor requiring his testimony in the matter.

Part 2: Livestock

Sec. 2.01: Restriction on Keeping Animals/Fowl in Certain Areas.

- A) It shall be unlawful for any person to house, keep or confine any livestock in any area of the City zoned for residential or business purposes, unless the livestock is kept in a open area of at least one (1) acre per two animals, with no part of the area lying within three hundred (300) feet of any residence, other than a residence located on the property where the livestock is being kept in accordance to this Ordinance.
- B) The following are exempt from the requirements of this section.
- 1) Any duly authorized livestock or cattle barn permitted to lawfully operate within the City;
 - 2) Any lawfully operated animal hospital or animal shelter;
 - 3) Any hospital for humans or laboratory lawfully using animals for research or experimental purpose.
 - 4) Any lawfully operated livestock show, rodeo, carnival, charitable function, or similar event at which the presence of animals is a part of the temporary event.
 - 5) Livestock that is currently being used as FFA or 4-H show projects.
 - a) Individuals seeking an exemption for FFA or 4-H show projects must obtain a signed affidavit from each individual occupying a residence or owning property, if the resident of the property is different from the owner, within three hundred feet of the property line of the property where the livestock will be temporarily located.
 - b) Livestock under this exemption may not be placed on the property until the affidavits from each resident and property owner are placed on file at the City Hall.

- d) The duration of this exemption shall be no longer than six (6) months. If additional time is required, the individual requesting the exemption must file affidavits as directed above referencing the requested extension.
- e) Each affidavit must specifically list the number and type of livestock that will be located on the property under this exemption.
- f) This exemption is limited to two animals per acre of land.

Sec. 2.01: Keeping of Fowl in Certain Areas.

A) It shall be unlawful for any person to house, keep or confine any fowl in any area of the City zoned for residential or business purposes, unless the fowl is kept in an enclosed area. These enclosures must be able to maintain that the fowl are not running loose within the City limits and three hundred (300) feet from any residence.

Sec. 2.03: Keeping Swine within the City.

It shall be unlawful for any person to raise or keep hogs and pigs within the corporate limit of the City.

Part 3: Miscellaneous

Sec. 3.01: Insofar as the provisions of this Ordinance are inconsistent with the provisions of other ordinances of the City of Elmendorf, the provisions of this Ordinance shall be controlling.

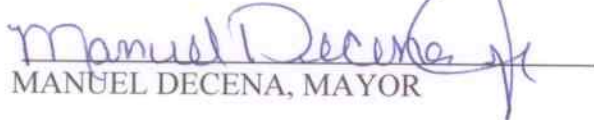
Sec 3.02: In event any provision of this ordinance is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the applicability of such provision to other persons or circumstances and the constitutionality or validity or every other provision of this ordinance shall be valid and enforceable and shall not be affected thereby.

Sec. 3.03: The City Administrator is hereby authorized and directed to cause the publication of the caption and penalty for violation of this ordinance as required by law.

Sec. 3.04: This Ordinance shall take effect thirty (30) days from the date of its adoption and after its publication in a local newspaper as required by law.

PASSED AND APPROVED on this the 13th day of October, 2011.

CITY OF ELMENDORF


MANUEL DECENA, MAYOR

ATTEST:



Cody Dailey, City Administrator