

ORDINANCE NO. 2018-001

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TODD MISSION, TEXAS PROVIDING FOR THE REGULATION OF LIVESTOCK AND FOWL WITHIN THE CITY; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TODD MISSION, TEXAS:**

I.

**Article 1.100 LIVESTOCK AND FOWL**

**Sec. 1.101 Definition**

Within the meaning of this Ordinance, livestock and fowl include but are not limited to cattle, horses, sheep, rabbits, chickens, ducks, guinea fowl, geese and exotic animals. Not included within the definition hereof are dogs, cats, caged songbirds, and other small domestic animals commonly kept as household pets and not raised for food or commercial purposes.

**Sec. 1.102 Keeping Regulated**

No person or other entity shall raise, keep, breed or maintain any livestock and/or fowl within the city without first having complied with this ordinance.

(1) Minimum Tract Size Required. No person or other entity shall raise, keep, breed or maintain any livestock and/or fowl within the city on a tract of land smaller than one (1) acre.

(2) Restricted to Personal Noncommercial Use. No person or other entity shall raise, keep, breed or maintain any livestock and/or fowl on a tract of land within the city except for personal non-commercial use.

(3) Number of Livestock or Fowl and Containment. The number of livestock or fowl that will be permitted on each one (1) acre tract are:

two horses, or two cows, or two goats or two sheep, or 25 rabbits, or 25 chickens or other fowl. All rabbits, chickens and other fowl shall be maintained in closed pens and shall not be allowed to wander about the premises. Horses, cows or sheep shall be contained within a fenced area. Such fence shall be of sufficient strength and design to hold such animals.

(4) Swine Not Allowed. No person or other entity shall raise, keep, breed or maintain swine within the City of Todd Mission unless they qualify for an exemption as hereinafter provided.

(5) Agricultural Tax Exempt Land. The regulations contained in this Article do not apply to land that qualifies as agricultural land under the provisions of Texas Tax Code Section 23 Subchapter C or D.

(6) A property that is in compliance with the requirements of this Article does not become out of compliance because of the subsequent location or relocation of a residence or commercial business establishment on adjacent property or the change in use of adjacent property.

#### **Sec. 1.103 Future Farmers of America and 4-H Projects**

Members of a chapter of the Future Farmers of America (FFA) or the 4-H located within the city limits wishing to maintain livestock or fowl under the direction of the FFA or 4-H on a tract smaller than one (1) acre may do so upon presentation of a waiver signed by all landowners within 100 feet of the pen, barn, stable or other area where such livestock or fowl will be maintained and such other information necessary to obtain a permit. The permit shall be renewable annually. Livestock or fowl maintained under this provision shall be maintained at the residence of the member. For the purposes of this article the prohibition against swine is waived.

### **Sec. 1.104 Permit Required**

(a) Any person or other entity raising, keeping, and maintaining livestock and/or fowl on a tract of land larger than one (1) acre shall obtain an annual permit from the city (animal permit), except that no permit is required for single tracts of land larger than five (5) acres.

(b) After the original permit is issued renewal permits must be obtained on or before the expiration date of the permit by completing a new application and paying a renewal fee as provided in a fee schedule adopted by City Council.

(c) Applications for animal permits shall be obtained from the City Secretary's Office.

(d) Applications for animal permits and renewals shall contain the following:

Name, address, telephone number of the persons, firm, or corporation raising, keeping, and maintaining livestock and/or fowl; mailing and street address of the owner of the property on which the livestock or fowl are to be kept; description of the property on which the livestock or fowl are to be kept; description and number of animals or fowl which will be kept; drawing showing location of premises where any stable, barn, pen, or other area where livestock or fowl are to be located and showing the location of and distance to neighboring residences or commercial buildings. With each application, applicants shall pay a nonrefundable fee as provided in the fee schedule adopted by City Council.

### **Sec. 1.105 School Districts**

The provisions of this ordinance regarding obtaining permits, location of area or shelter where livestock or fowl are kept and the type of animals and fowl allowed do not apply to any agricultural related activity sponsored by and located on property owned by a Public School District.

**Sec. 1.106 Inspection**

Prior to issuance of a permit, original or renewal, person designated by the city shall make an inspection of the site. If such site is denied approval, the city designee shall file a written report identifying the basis for denial with the city secretary with a copy furnished to the applicant.

**Sec. 1.107 Livestock or Fowl Near Residence or Business**

No stable, barn, pen, or other area or shelter where livestock or fowl are kept shall be closer than one hundred feet (100') to any residence or commercial business establishment unless such residence or commercial business establishment is located on the real estate where such stable, barn, pen, are located or the area where livestock or fowl are kept. Landowners wishing to maintain livestock or fowl within one hundred feet (100') of a residence or commercial business establishment that is not owned by the livestock owner may do so upon presentation of a waiver signed by all landowners within 100 feet of the pen, barn, stable or other area where such livestock or fowl will be maintained and such other information necessary to obtain a permit.

**Sec. 1.108 Sanitation**

All stables, barns, pens, or other areas where livestock or fowl are kept shall be maintained in a clean and sanitary condition so as to prevent obnoxious odors, the attraction and breeding of flies and/or rodents or the creation of any health hazard or accumulation of fecal matter or decaying organic matter. Fecal matter or decaying organic matter shall be prevented from being carried into road ditches, adjoining property and public streets by water runoff. Any stable, barn, pen or other area or shelter where livestock or fowl are kept must have attached a permanent water supply.

**Sec. 1.109 Noise**

The landowner and/or owner of the livestock and/or fowl shall maintain all livestock and fowl so that animal sounds and noises shall not disturb residents on adjoining or nearby tracts of land. The landowner and/or owner of the livestock and/or fowl shall maintain any animal or fowl with a natural propensity for nocturnal noises within a closed barn or building between the hours of 9 o'clock p.m. and 6 o'clock a.m.

**Sec. 1.110 Nuisances**

(a) Any stable, barn, pen or other area where livestock or fowl are kept which produces any obnoxious odor, or where flies or rodents may be found or may be breeding, or where unreasonable accumulations of fecal material or decaying organic matter are found, or which may be a health hazard or injurious to the welfare of the citizens of the city, is declared a public nuisance.

(b) Any livestock or fowl which creates unreasonable noise or other activity which disturbs the repose or comfort or peace and quiet of adjoining or nearby residents are declared a public nuisance.

(c) The flow of water carrying fecal matter or decaying organic matter from any property into a road ditch, onto any public road or onto any adjoining property is declared a public nuisance.

(d) Livestock or fowl found outside their designated pen, stable or barn and roaming on adjoining property or any public property on more than one occurrence are declared a public nuisance.

**Sec. 1.111 Livestock or Fowl running at large prohibited**

It shall be unlawful for any person owning, having control over or having custody of any livestock or fowl to allow such livestock or fowl to run at large outside their designated pen, barn or stable or to be at large on any public property, roadway, alley, square, park, sidewalk or any other property.

**Sec. 1.112 Impoundment of fowl running at large**

It shall be the duty of the animal control officer or deputy to impound all fowl found running at large on any public property, roadway, alley, square, park, sidewalk or any other property not belonging to the person owning the animals or who may otherwise be in control of the animals or fowl.

**Sec. 1.113 Redemption of impounded fowl**

The owner or person in control of impounded fowl may redeem the fowl by the payment of an impoundment fee in the amount established by City Council per head of fowl plus a per day impoundment fee for each head fowl redeemed in the amount established by City Council. Fowl not redeemed after seven (7) days shall be deemed abandoned. Abandoned fowl may be sold at public auction after publishing notice of sale at least twice in the local newspaper. Such notice shall contain a description of the fowl being auctioned. If after publishing notice the owner seeks to redeem the fowl, the owner, in addition to paying the impoundment fee and per diem fee, must also reimburse the city for the cost of publishing notice.

**Sec. 1.114 Complaints; correction of violations**

Complaints regarding the keeping of livestock and/or fowl will be referred to and investigated by the person designated by the City. If such conditions as health and sanitation, water runoff or noise violations or nuisance violations, as hereafter set out, are found, the person designated by the city inspecting the premises shall serve written notice of nuisance, itemizing those matters found in violation of this ordinance, on the landowner or the owner of the livestock and/or fowl if not the same as the owner, and shall post notice at the site. Thereafter, the landowner and/or owner of the livestock and/or fowl shall have ten (10) days to correct the violation and remove the nuisance. If not corrected, the owner shall be subject to any fine levied hereunder in addition to revocation of the animal permit.

**Sec. 1.115 Revocation**

Permits issued under this article are revocable by the City Council. Permits may be revoked on the grounds of violation of this ordinance, noise, or other circumstance the City Council determines creates a nuisance, and changed conditions. The City Council shall serve notice of its intention to revoke ten (10) days prior to the meeting at which such revocation will be considered. Any person holding a permit having received such revocation notice shall be allowed to appear and be heard by the City Council. The revocation provided herein shall be a remedy in addition to the criminal penalties provided herein for violation of this ordinance.

**Sec. 1.116 Violations, Penalties, and Enforcement**

Any person, firm, or corporation violating the provisions of this ordinance shall be guilty of a class C misdemeanor and for each day of violation in an amount not to exceed \$2,000.00 for each violation or the city may bring a civil action for the enforcement of this ordinance as provided by the Local Government Code, Chapter 54, Subchapter B, and seek a civil penalty not to exceed one thousand dollars \$1000 per day.

II.

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 Todd Mission, 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.

III.

An offense committed before the effective date of this ordinance is governed by prior law in effect when the offense was committed and the former law is continued in effect for this purpose.


IV.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such cases provided.


V.

The City Secretary is authorized to publish a summary or the Caption of this Ordinance as required by law.

PASSED and ADOPTED this 22<sup>nd</sup> of March, 2018.

  
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George Coulam  
Mayor

ATTEST:

  
\_\_\_\_\_  
Julie Lunsford  
City Secretary

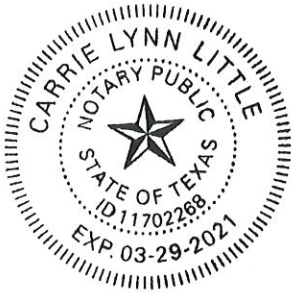


***Affidavit of Publication***

*The State of Texas*

*County of Grimes*

Before me, the undersigned authority, on this day personally appeared *Ana Cosino* of the Navasota Examiner, who being by me duly sworn, upon oath deposes and says: that the attached notice was published in the Navasota Examiner; a newspaper published in the English language and of general circulation in Grimes County, Texas for more than one year prior to the date of first publication of said notice in the issue(s) of *April 11* \_\_\_\_\_ 2018 and that the attached newspaper clipping is true and correct copy of said published notice.



Signed *Ana Cosino*

Sworn to and subscribed before me this *11*

day of *April* 2018.

*Carrie L. Little*

Notary Public in and for the State of Texas