

ORDINANCE NO. 664

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 3 “ANIMALS” OF THE KENNEDALE CITY CODE TO ADD DEFINITIONS FOR LIVESTOCK, FOWL AND SWINE AND ADD REGULATIONS REGARDING THE KEEPING OF CERTAIN FOWL, LIVESTOCK AND POTBELLED PIGS WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Kennedale desires to adopt regulations regarding the keeping and maintaining of certain fowl, livestock and pot-bellied pigs within the City limits of Kennedale;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS THAT:

SECTION 1.

Section 3-1 “Definitions” of Article I “In General” of Chapter 3 “Animals” of the Kennedale City Code is hereby amended to add the following definitions:

Large Fowl. Large birds such as emus, ostriches, rheas, and other similar size birds.

Small Fowl. Birds commonly considered poultry and including, but not limited to chickens, ducks geese, guinea fowl, turkeys, pigeons, and other similar size birds. For purposes of this chapter, the term "small fowl" shall not include Pet Birds.

Large Livestock. Animals such as horses, mules, cattle, ponies, llamas, alpacas, and other animal of the same approximate size and weight.

Small Livestock. Animals such as goats, sheep, lambs, and animals of the same approximate size and weight.

Pet Bird. Birds such as parrots, cockatoos, mccaaws, finches, and similar birds commonly maintained in households within cages, not to include large or small fowl.

Pot-bellied pig. A breed of miniature pig meeting the standards established by the North American Potbelly Pig Association (“NAPPA”)

Swine. A pig.

SECTION 2.

Section 3-9 "Livestock" of Article I "In General" of Chapter 3 "Animals" of the Kennedale City Code is hereby amended to read as follows:

Sec. 3-9. - Livestock.

(a) *Running at large.* It shall be unlawful for the owner or keeper livestock, fowl or swine to permit the same to run at large. The running at large of livestock, fowl or swine is hereby declared a nuisance.

(b) *Grazing.* It shall be unlawful for the owner or keeper of any livestock, fowl or swine to permit any such animal to graze upon or be unattended on any public street or thoroughfare within the city, or to permit the same to graze or go upon any public or private property within the city, except by permission of the owner or custodian of such private or public property.

(c) *Owner of premises may confine, etc.* If any livestock, fowl or swine is found upon the premises of any person without permission, the owner or occupant of such premises shall have the right to confine such animal until he can notify the police chief or other designated officer of the city. When so notified, such official shall cause such animal to be impounded.

SECTION 3.

Section 3-14 "Pet Birds" is added to Article I "In General" of Chapter 3 "Animals" of the Kennedale City Code to read as follows:

3-14. Pet birds.

It shall be unlawful for any person owning or having possession of pet bird to fail to keep the pet bird indoors.

SECTION 4.

Article VI "Livestock, Fowl and Swine" is hereby added to Chapter 3 "Animals" of the Kennedale City Code to read as follows:

ARTICLE VI. LIVESTOCK, FOWL AND SWINE

Sec. 3-101 Keeping generally

A person commits an offense if the person keeps or cause to be kept, for any purpose whatever, any large or small livestock, any large or small fowl, or swine within the corporate limits of the city, except as provided in this Article.

Sec. 3-102 Small fowl

- (a) A person commits an offense if he keeps, harbors or maintains small fowl in the City other than on a premises classified by the uniform development code as agricultural or residential or otherwise maintains residential use. Small fowl shall be kept within pens, coops or hutches which meet the requirements of this section. A fenced yard shall not qualify as a pen, coop, or hutch for purposes of this section.
- (b) All pens, coops, or hutches for the keeping of small fowl shall be maintained a minimum of fifty (50) feet from any residence or commercial building, excluding the residence of the person keeping or harboring the small fowl.
- (c) a person who keeps, harbors or maintains small fowl in the City shall ensure that the animal(s) in their care or custody are treated humanely by, at a minimum, providing the small fowl with sufficient food, potable water, adequate shelter, and protection from weather. All pens, coops, hutches and exercise runs shall be completely enclosed.
- (d) On lots of one acre or more, A person may keep no more than twenty-five (25) small fowl per acre. Roosters are prohibited.
- (e) On lots smaller than one acre, a person may keep no more than six (6) small fowl per quarter acre. Roosters are prohibited.

Sec. 3-103 Large fowl

- (a) A person commits an offense if he keeps, harbors or maintains large fowl in the City other than on a premises that is a minimum of one acre and that is classified by the uniform development code as agricultural or residential or otherwise maintains a residential use. Large fowl shall be kept within a fence or other enclosure so as to prevent the large fowl from wandering in or upon or invading the premises of any other person.
- (b) All large fowl shall be maintained a minimum of fifty (50) feet from any residence or commercial building, excluding the residence of the person keeping or harboring the large fowl.
- (c) a person who keeps, harbors or maintains large fowl in the City shall ensure that the animal(s) in their care or custody are treated humanely by, at a minimum, providing the large fowl with sufficient food, potable water, adequate shelter, and protection from weather.
- (d) A person may keep no more than twelve (12) large fowl per acre.

Sec. 3-104 Livestock

- (a) A person commits an offense if he keeps, harbors or maintains any

livestock in the City other than on a premises that is a minimum of one acre and that is classified by the uniform development code as agricultural or residential or otherwise maintains a residential use. Livestock shall be kept within a fence or other enclosure so as to prevent the livestock from wandering in or upon or invading the premises of any other person.

- (b) All livestock shall be maintained a minimum of fifty (50) feet from any residence or commercial building, excluding the residence of the person keeping or harboring the livestock.
- (c) a person who keeps, harbors or maintains livestock in the City shall ensure that the animal(s) in their care or custody are treated humanely by, at a minimum, providing the livestock with sufficient food, potable water, adequate shelter, and protection from weather.
- (d) A person may keep no more than eight (8) small livestock per acre.
- (e) A person may keep no more than one (1) large livestock per acre for the first acre with a minimum of one-half acre required per additional head of large livestock.

Sec. 3-104 Swine

- (a) A person commits an offense if he keeps, harbors or maintains any swine in the City except as otherwise provided in this Section.
- (b) A person commits an offence if he keeps, harbors or maintains any pot-bellied pig other than on a premises that is classified by the uniform development code as agricultural or residential or otherwise maintains a residential use. Pot-bellied pigs shall be kept within a fence or other enclosure so as to prevent the pot-bellied pig from wandering in or upon or invading the premises of any other person.
- (c) All pot-bellied pigs shall be maintained a minimum of fifty (50) feet from any residence or commercial building, excluding the residence of the person keeping or harboring the pot-bellied pig.
- (c) a person who keeps, harbors or maintains pot-bellied pigs in the City shall ensure that the animal(s) in their care or custody are treated humanely by, at a minimum, providing the pot-bellied pigs with sufficient food, potable water, adequate shelter, and protection from weather.
- (d) A person may keep no more than two pot-bellied pigs.

Sec. 3-105 Waiver

The City Council may authorize a waiver from the acre requirements contained in this Article when, in its opinion, an unnecessary hardship will result from requiring strict compliance. Before granting a waiver, the City Council shall hold a public hearing

regarding the requested waiver not earlier than fifteen days following notice of the public hearing. No waiver shall be granted unless the Council finds that all of the following conditions exist:

- (a) There are special circumstances or conditions affecting the property of the applicant seeking the waiver, or the surrounding area such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable ability to maintain fowl, livestock or pot-bellied pigs; and
- (b) The strict application of the provisions of this Ordinance is not necessary to promote the public health, safety and welfare; and
- (c) The granting of the waiver will not be detrimental to the public health, safety or welfare, or injurious to other persons or property in the area; and
- (d) The granting of the waiver will be in harmony with the spirit and purpose of this Ordinance.

In granting a waiver, the City Council may prescribe conditions that it deems necessary or desirable to protect the public interest.

SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and of Kennedale City Code, as amended, except where the provisions are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7.

Any person, firm or corporation who violates, disobeys, omits, neglects, refuses or fails to comply with, or who resists the enforcement of any provision of this ordinance shall be fined not more than Five Hundred dollars (\$500.00) for each offence. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 8.

All rights and remedies of the City of Kennedale are expressly saved as to any

and all violations of the provisions of the Kennedale City Code, as amended, which have accrued at the time of the effective date of this ordinance; and, as such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this ordinance but may be prosecuted until final disposition by the court.

SECTION 9.

This ordinance shall be in full force and effect from and after its passage as provided by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, ON THE 20th DAY OF JUNE, 2019.

APPROVED:

/SIGNATURE ON FILE
MAYOR, BRIAN JOHNSON

ATTEST:

/SIGNATURE ON FILE
CITY SECRETARY, LESLIE E. GALLOWAY

APPROVED AS TO FORM AND LEGALITY:

/SIGNATURE ON FILE
CITY ATTORNEY, DREW LARKIN