

ORDINANCE NO 2015-04

AN ORDINANCE OF THE CITY OF RIESEL, TEXAS DECLARING THE KEEPING OF LIVESTOCK, FOWL, SWINE AND RABBITS WITHIN THE CITY LIMITS EXCEPT IN COMPLIANCE WITH THE REGULATIONS ESTABLISHED THEREIN A NUISANCE; PROVIDING DEFINITIONS; ESTABLISHING REGULATIONS ON THE KEEPING OF LIVESTOCK, FOWL, SWINE AND RABBITS WITHIN THE CITY, INCLUDING REQUIRED AREA, DISTANCE FROM STRUCTURES OR PROPERTY LINES, MAXIMUM NUMBER OF ANIMALS AND REQUIRED ENCLOSURE; PROVIDING MODIFIED REGULATIONS FOR EDUCATIONAL PROJECTS; PROHIBITING THE KEEPING, GRAZING OR ROAMING OF LIVESTOCK, FOWL, SWINE AND RABBITS IN THE FRONT OR SIDE YARD OF ANY RESIDENTIAL STRUCTURE; PROVIDING CERTAIN EXCEPTIONS; PROVIDING THAT VIOLATION OF THE ORDINANCE IS AN OFFENSE (MISDEMEANOR) PUNISHABLE BY A FINE NOT TO EXCEED \$500.00; MAKING EACH DAY OF VIOLATION A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE AND 90 DAY GRACE PERIOD

WHEREAS, the unregulated keeping of livestock, fowl, rabbits, and swine within the boundaries of the City of Riesel creates a nuisance adversely affecting the use, enjoyment and value of neighboring properties by the creation of odor, noise, unsanitary conditions, enticement of flies, the harborage of vermin and insects, and possible transmission of disease, and potential safety issues; and

WHEREAS, the welfare of such animals is also a valid concern; and

WHEREAS, the keeping of certain animals in close proximity to yards where children may be at play creates yet an additional safety concern; and

WHEREAS, the City Council finds that reasonable regulation of the keeping of such animals within the City's boundaries is necessary and proper to mitigate the adverse impact on neighboring properties; potential injury to public health, safety, and welfare; and potential adverse effects to the health of such animals.

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

1. Definitions.

“Livestock” means cattle, horses, bison, sheep, goats, mules, donkeys, llamas, and alpacas.

“Fowl” means chickens, ducks, geese, turkeys, guineas, and peacocks.

“Swine” means hogs or pigs.

2. Nuisance Declared. Pursuant to Chapter 217 of the Local Government Code, the City’s police powers, and other law, it is hereby declared that the keeping of livestock, fowl, rabbits, or swine on a premises within the boundaries of the City of Riesel other than in compliance with the requirements set forth in this Ordinance is a nuisance.

3. Livestock.

a) *Required area.* It shall be unlawful for any person to keep, maintain, house, harbor or raise any livestock within the city limits unless such livestock is kept, maintained, housed, harbored or raised on an area comprising at least one-half (1/2) surface acre for the first animal unit and one-third (1/3) acre for each additional animal unit.

b) *Location of barn or pen in proximity residential structures.* Livestock shall not be housed, penned, tied or tethered within one hundred (100’) feet of any residential dwelling other than the dwelling of the animal owner. An existing structure housing livestock that is not in compliance with this requirement may continue to be used to house livestock for a period of 12 months after the passage of this Ordinance. An extension of time may be granted by the Council if the owner can establish that a longer period of time is necessary to recoup the value of the structure.

c) *Grazing/Roaming.* Livestock shall not be allowed to graze or roam within fifty (50’) feet of any residential dwelling other than the dwelling of the animal owner.

4. Fowl. Unless kept at least two-hundred (200’) feet away from any residential dwelling other than the dwelling of the animal owner, the following restriction on the number of fowl applies. No more than six (6) fowl over four (4) months of age may be kept on the premises. In addition, any coop or pen must be located no closer than fifty (50’) feet from any residential dwelling other than the dwelling of the animal owner, any school building not devoted to agricultural studies, any church building, or any commercial business building. All fowl shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.

5. Rabbits. Unless kept at least fifty (50’) feet away from any residential dwelling other than the dwelling of the animal owner, the following restriction on the number of rabbits applies. No more than six (6) rabbits over four (4) months of age may be kept on the premises. In addition, any coup, hutch, pen, or cage must be located no closer than thirty-five (35’) feet from any residential dwelling other than the dwelling of the animal owner, any school building not devoted to agricultural studies, any church building, or any commercial business building. All rabbits shall be kept within a pen, coop or hutch. A fenced yard shall not qualify as a pen or coop.

6. Swine.

(a) *Location.* Swine shall be kept in a suitable pen or enclosure, so that no part of the pen or enclosure shall be closer than one hundred (100) feet from any residential structure not owned by or under the control of the owner of the swine provided that this distance requirement shall not apply if the swine is kept within the owner's dwelling. Regardless of distance from a residential structure, no pen or enclosure shall be located within twenty (20') feet of any boundary line with another property owner unless it is of a solid barrier construction that would prevent children from reaching through the fence.

(b) *Number.* No person shall, keep, maintain, harbor or possess more than two (2) swine, over four (4) months of age.

(c) *Area requirement.* It shall be unlawful for any person to keep, harbor or raise swine within the city limits where the pen or enclosed area is less than one-fourth (1/4) acre of ground per animal, unless the swine is kept within the owner's dwelling.

7. Certain Educational Projects. The location and area requirements do not apply for an animal that is the project of a child residing at the premises as part of a Future Farmers of America, 4-H, or similar non-profit youth organization program or a school program as long as the modified requirements set out herein are met and the animals are kept for no longer than the term of the project. For cattle, horses, bison, llamas or alpacas, at least 500 square feet of area is provided for each animal (limit 2). For goats or sheep, at least 200 square feet of area is provided for each animal (limit 5). For swine, at least 200 square feet of area is provided for each animal (limit 2) and no part of the enclosure is within fifteen (15') feet of any property line of property owned by another. For fowl or rabbits, the coop/pen/hutch must not be closer than twenty-five (25') feet of any residential dwelling other than the dwelling of the animal owner (limit 10).

The limited exception provided herein only applies during the term of the project, and once the project ends, the animal must be removed or brought into compliance. This exception only applies for children actually residing at the premises. The number limitation is per child in the home who is participating in the program, but any area requirements apply to each animal.

8. FRONT OR SIDE YARD. No animal identified herein, including in Section 7 above, may be kept or allowed to graze or roam in the front or side yard of any residential structure on the premises.

9. Exceptions.

(a) The foregoing regulations do not apply to the premises of a public school operating an agricultural education program;

(b) The foregoing regulations do not apply to a property annexed into the city after 1980 if the keeping of animals on the property was an agricultural operation as defined by the

Texas Agriculture Code at the time of the annexation and continues to be an agricultural operation;

(c) The foregoing regulations do not apply to property annexed in the future if the keeping of animals on the property is an agricultural operation as defined by the Texas Agriculture Code at the time of the annexation and continues to be an agricultural operation.

10. Offense, Penalties, and Enforcement. Violation of any provision of this Ordinance is an offense (misdemeanor) punishable by a fine not to exceed \$500.00. Each day of violation shall be a separate offense. In addition, the City may institute a civil action to enforce this ordinance.

11. Severability. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Riesel hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

12. Effective Date. This Ordinance shall become effective upon passage and publication of the ordinance or the caption thereof in the official city newspaper.

13. Grace Period. A period of 90 days will be allowed after the passage of this Ordinance for animal owners to come into compliance. Thereafter, enforcement will begin.

PASSED this 10th day of March, 2015.

Roy Fitzpatrick
MAYOR

Attest:

Alisha January
CITY SECRETARY

