

ORDINANCE# 03042019

A ORDINANCE OF THE CITY OF MILES, TEXAS, REPEALING ORDINANCE 080700 AND ANY AMENDMENTS AND REPLACING SAME WITH A NEW ORDINANCE ESTABLISHING RULES AND REGULATIONS GOVERNING LIVESTOCK AND FOWL; PROVIDING EXCEPTIONS THERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS OF SAID ORDINANCE; PROVIDING FOR PUBLICATION OF THE CAPTION THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about August 8, 2000, the City Council of the City of Miles adopted Ordinance No. 080700 governing livestock within the City limits;

WHEREAS, on or about March 7, 2011, the City Council of the City of Miles adopted an ordinance amending Ordinance 080700 governing livestock within the City limits; and

WHEREAS, under section 51.001 of the Local Government Code, the City has the power to adopt, publish, amend or repeal an ordinance that is for the good government, peace or order of the City; and

WHEREAS, the City Council has determined it is in the best interest of the City to repeal Ordinance No. 080700 and all amendments and replace it with a new ordinance governing livestock within the City limits.

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

SECTION 1. "SECTION 1: LIVESTOCK AND FOWL NEAR RESIDENCE OR BUSINESS REQUIREMENTS ON KEEPING LIVESTOCK AND FOWL.

(A) It shall be unlawful for any owner to keep or harbor any livestock or fowl within the corporate limits of the city in any pen, stable, shed, coop, or enclosure, if any part of such enclosure or structure is within seventy-five (75) feet from the adjoining property line unless such property is also the owners.

(B) *Livestock* shall be inclusive of horses, mules, cows, bulls, swine, sheep, goats, geese, chicken, ducks, rabbits, fowl and any other large or small animal other than domesticated dogs or cat.

(C) The owner or person in possession of animals shall keep yards, pens, and enclosures in which these animals are confined in such a manner so as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes, or other noxious insects, or in any manner to endanger the public health or safety, or create a public nuisance. All persons keeping these animals shall comply with the following sanitary regulations: (1) Manure and droppings shall be removed from pens, yards, cages and other enclosures daily, and handled or disposed of in such manner as to keep the premises free of any nuisance.

(D) It is an exception to this section that: (1) The animal or structure was at a veterinary clinic or hospital, pet store, feed store, farm store, school building, or any similar establishment properly designated for keeping these animals; (2) The structure, pen, corral

or other enclosure was in existence at the time the premises on which it is located were annexed by the City of Miles. However, if the ownership or primary use of the premises changes, this exception shall not apply; (3) The structure, pen, corral or other enclosure was in existence prior to the time a habitation was erected on another's property; or (4) The livestock was purchased and housed prior to January 1, 2005.

SECTION 2: PUBLIC NUISANCE DECLARED

a) Complaints regarding the keeping of livestock and/or fowl will be referred to and investigated by the City of Miles Animal Control Officer or such designee. Any stable, barn, pen or other area where livestock and/or fowl are kept which produces any obnoxious odor, in which flies or rodents may be found or may be breeding or where unreasonable accumulations of fecal material or decaying organic matter may be found is hereby declared a health hazard and a nuisance, injurious to the welfare of the Citizens of Miles. If such conditions are found the animal control officer inspecting the premises shall serve written notice of nuisance, itemizing those matters found in violation of this code, on the landowner, and the owner of the livestock and/or fowl if not the same as the owner, and shall also 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.

b) It shall be unlawful for any person to harbor or keep on his premises or in or about his premises, or premises under his control, any animal which, by making any loud barking, growling, howling, whining and/or excessive noise, that shall disturb any person of ordinary sensibilities in the vicinity. Such person shall be guilty of a misdemeanor and, upon conviction, shall be fined as provided in Section 10. Violations of this article on different days shall constitute separate offenses.

c) The owner of any animal who permits, takes or causes such animal to be on any sidewalk, park, street or other public place shall clean up immediately any waste created by such animal and remove and dispose of it in, and to, an appropriate trash disposal receptacle.

SECTION 3: ALL LIVESTOCK AND/OR FOWL MUST BE KEPT UNDER RESTRAINT

It shall be unlawful for any person to allow any horses, mules, cows, bulls, sheep, goats, chickens, turkeys, geese, ducks or pigeons or other fowls owned or under their control to be or run at large upon the highways, streets, or alleys of the city or upon premises owned or occupied by other persons, without the consent of such other persons, within the city limits..

SECTION 4: UNREASONABLE ACCUMULATION DEFINED

All pens and enclosures wherein fowl are kept shall be maintained and kept in such manner as not to become unsanitary, offensive or disagreeable to persons residing or working in the vicinity thereof, nor shall they be so maintained or kept as to breed flies or in any manner cause any injury to the health of the public or any person residing in the vicinity of the said pen or enclosure.

All pens and enclosures wherein (1) or more cows, pigs, swine, hogs, horses, goats, sheep, donkeys, or mules and all other livestock are kept shall be maintained and kept in such condition as not to become unsanitary, offensive or disagreeable to persons residing in the vicinity thereof, nor shall they be so maintained or kept as to permit the breeding of flies or in any manner cause injury to the health or comfort of the public or any person working or residing in the vicinity of the said pen or enclosure. Every cow lot, horse lot, goat, sheep, donkey, or mule lot, or fowl pen wherein a cow, horse, goat, sheep, donkey, mule or fowl and all other livestock is kept or maintained shall be

cleaned of droppings daily, and the manure on such lot, pen or enclosure shall be promptly removed after each cleaning.

SECTION 5: PIGS, HOGS AND SWINE

Restrictions. *Slaughter* shall mean to kill, eviscerate, disembowel, or behead. It shall be unlawful for any person to keep, breed, raise for profit or keep for purposes of slaughter, any swine, pigs, domestic pig or hog in the corporate city limits, except under the following circumstances:

- (a) It shall be unlawful for any person, resident or occupant to keep, harbor or raise more than one (1) "domestic" pig, swine or hog in any one (1) residence within the City.
- (b) All such pig, swine or hog shall be kept on the property of the residence in which said pig, hog or swine dwells and be confined to that property. All waste material shall be evacuated daily.
- (c) All pigs, swine or hogs shall receive annual vaccinations for erysipelas. It shall be the responsibility of the owner of the pig or the property to forward to the animal control supervisor an erysipelas vaccination certificate from a licensed veterinarian, which shall include the following information: a). Name and address of the owner. b). Description of the pig. c). Date of vaccination. d). Weight. e). Other appropriate information.

SECTION 6: PROHIBITED ACTIONS/PRACTICES.

It shall be unlawful for any person or any firm or any corporation or any occupant of any commercial property, other than a veterinarian, to keep any pig, hog or swine within the city limits for longer than a period of seventy-two (72) hours.

SECTION 7: FORMAL COMPLAINTS MUST BE FILED TO INITIATE THE COMPLIANCE PROCEDURES

Formal complaints must be filed with the City Secretary in writing. Such complaints will be investigated by the Animal Control Officer or his designee.

SECTION 8: OWNERS MUST COMPLY

Any person, firm, or corporation owning livestock and/or fowl must comply with the provisions of this section within 90 days.

SECTION 9: PENALTY

Generally. Any person who violates any of the provisions of this chapter for which no other penalty is set forth shall be guilty of a class C misdemeanor which shall bear a maximum fine of \$500. Provided, however, any person who violates the provisions of Tex. Health and Safety Code, Title 10, shall be guilty of a misdemeanor punishable by a fine not to exceed \$2,000. Each day the violation of any section of this chapter continues or each day the violation of any provision of state law adopted in this chapter continues constitutes a separate offense. (B) Fines. The municipal court of the city will establish a schedule of fines for the violation of any provisions of any sections of this chapter. This schedule of fines will be subject to review by the City Council and will be subject to such periodic review and revision as deemed necessary for proper implementation and enforcement of the provisions contained herein. Court costs may be added to

basic fines. Each day that a violation is permitted to exist shall constitute a separate offense.”

SECTION 2. That all ordinances in conflict with the provisions of this ordinance be and the same are hereby repealed and all other ordinances of the City of Miles, Texas not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

SECTION 4. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

SECTION 5. The City Secretary is hereby directed to publish in the Official Newspaper of the City of Miles, the caption and effective date clause of this Ordinance as required by Section 52.013 of the Texas Local Government Code.

SECTION 6. The recitals set forth above are hereby found to be true and correct and are incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

DULY PASSED by the City Council of the City of Miles, Texas, this the 4th day of March, 2019.

APPROVED:

By: Sylvester Schwertner
Sylvester Schwertner, Mayor

ATTEST:

By: Amy Fischer
Amy Fischer, City Secretary

