

ORDINANCE NO. 22-08-18-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGO VISTA, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, CHAPTER 2 ANIMAL CONTROL, ARTICLE 2.200 ANIMAL CONTROL GENERALLY, SECTIONS 2.212, 2.214, 2.225 AND 2.236, PROVIDING CODIFICATION AND PUBLICATION, AN EFFECTIVE DATE, REMAINDER AND REPEALER, SEVERABILITY, PROPER NOTICE AND OPEN MEETINGS CLAUSE.

WHEREAS, the City of Lago Vista, Texas is a home rule city; and

WHEREAS, the Texas Health and Safety Code Chapters 822, 826, and Texas Local Government Code Chapter 217 allow for municipal regulation of animals and animal related nuisances; and

WHEREAS, Chapter 2 of the City's Code of Ordinances contains Animal Control regulations; and

WHEREAS, the City Council desires to amend Chapter 2 Animal Control, Article 2.200 Animal Control Generally, Sections 2.212, 2.214 and Section 2.225 as reflected in Exhibit "A" to remove the specific penalties listed in the respective sections and instead utilize the penalty clause in Section 2.235 referring to the general penalty clause in Section 1.109; and

WHEREAS, the City Council also desires to amend Chapter 2 Animal Control, Article 2.200 Animal Control Generally, Section 2.236 as reflected in Exhibit "A" to conform the requirements to Chapter 822 Texas Health and Safety Code; and

WHEREAS, the City Council finds that it is necessary and proper for the purpose of promoting effective and efficient government of the City to adopt the proposed amendments to Sections 2.212, 2.214, 2.225, and 2.236 of the Code of Ordinances.

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

SECTION 1. FINDINGS OF FACT. All of the above and foregoing recitals are hereby found to be true and correct legislative findings of the City and are incorporated herein as findings of fact.

SECTION 2. AMENDMENT. The City Council of the City of Lago Vista, Texas, does hereby amend Chapter 2 Animal Control, Article 2.200 Animal Control Generally, Sections 2.212, 2.214, 2.225, and 2.236 of the Code of Ordinances as shown in Exhibit "A." Underlined language shall be added and language to be deleted is signified by strike-through.

SECTION 3. REMAINDER AND REPEALER. The remainder of all portions of Article 2.200 not amended by this Ordinance continue in force and effect. All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Lago Vista, Texas, are hereby repealed to the extent said ordinances, orders or resolutions or parts thereof are in conflict herewith.

SECTION 4. SEVERABILITY CLAUSE. If any section, subsection, article, paragraph, sentence, clause, phrase or word in this Ordinance is for any reason held to be 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 5. CODIFICATION AND PUBLICATION. The City Secretary is hereby directed to record and publish the attached amendments to the City's Code of Ordinances as authorized by Section 52.013 of the Texas Local Government Code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication in accordance with the Texas Local Government Code.

SECTION 7. OPEN MEETINGS. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

AND, IT IS SO ORDERED.

PASSED AND APPROVED this 18th day of August 2022 by a vote of the City Council of the City of Lago Vista, Texas.


Ed Tidwell
Ed Tidwell, Mayor

ATTEST:


Lucy Aldrich, City Secretary



On a motion by Councilmember Sullivan, seconded by Councilmember Hunt, the above and foregoing ordinance was passed and approved.

Exhibit "A"

Sec 2.212 Compliance With Registration, Permits And Tags Provision

If a dog or cat is picked up and the owner has registered and holds a current dog or cat city permit, but fails to have a current rabies tag worn by the dog or cat, a citation may be issued ~~and a fine of ten dollars (\$10.00)~~ per missing tag for the violation. ~~It shall be a violation~~ A citation for failure to register and possess a current city permit and ~~rabies~~ tag for any dog or cat. ~~shall carry a fine of fifty dollars (\$50.00).~~

Sec 2.214 Dogs And Cats At Large (Violation Of Restraint Provision)

- (a) ~~It is a class C Misdemeanor for an No owner shall to~~ allow any dog or cat to be at large in the city. Any dog or cat observed at large in the city may be impounded. Citations will be issued to owners, ~~and shall be separate of any other penalties, fines and fees.~~ Citations for violation of this provision shall be subject to the following fines:
~~1st Offense \$40.00~~
~~2nd Offense \$80.00~~
~~3rd Offense \$120.00~~
- (b) ~~Second and third offense fines apply to violations of this provision which have occurred cumulatively within the same calendar year.~~

Sec 2.225 Animal Control Nuisances

- (a) An animal control nuisance shall mean any animal problem which an owner causes or allows to be caused in the manner of keeping the animal, that disturbs the comfort, physical senses, health, or well-being of another person; or that interferes with another person's enjoyment or rightful use of his their own property.
- (b) ~~A citation or warning may be issued for a violation of any of the nuisance problems in the amount of:~~

~~1st Offense \$25.00
2nd Offense \$50.00
3rd Offense \$75.00~~

Sec 2.236 Dog Bite Investigations And Dangerous Dog Information

- (a) ~~Chapter 822 of the Texas Health and Safety Code relating to dangerous dogs was recently amended by the Texas State Legislature by House Bill 2065. The statute was amended to add Subchapter D which requires among other things that local animal control authorities annually register dangerous dogs for events that occur after September 1, 1991.~~
- (b) Dangerous dogs are dogs that:

- (1) Make an unprovoked attack on a person causing bodily injury and occurring in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.
- (2) Make an unprovoked attack on a person in a place other than an enclosure in which the dog was being kept, which enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own, causing the person to reasonably believe that the attack may have caused bodily injury.

(c) Owners of dangerous dogs must:

- (1) Register the dog annually as a dangerous dog with the local animal control authority and pay a registration fee as set forth in the fee schedule located in Appendix A of this code.
- (2) Restrain the dog at all times on a leash in the immediate control of a person or in a secure enclosure.
- (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least One Hundred Thousand Dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog against any person.
- (4) Submit proof of the dog's current rabies vaccination.
- (5) Attach the issued dangerous dog tag to the dog's collar or harness and insure that the tag is worn at all times.
- (6) Inform the local animal control authority, if the dangerous dog is sold or moved to a new address, within fourteen (14) days of the sale or move of the dog. The new owner of the dangerous dog shall register the dog by presenting the prior registration and remitting a fee as set forth in the fee schedule located in Appendix A of this code to the animal control authority.
- (7) Inform the local animal control authority office of any attacks on people by the dangerous dog.

(d) A secure enclosure for a dangerous dog is one that:

- (1) Is a fenced area or a structure that is:
 - (A) Locked;
 - (B) Capable of preventing the entry of the general public including children;
 - (C) Capable of preventing the escape or release of the dog; and
 - (D) Clearly marked as containing a dangerous dog.
- (2) Has been inspected and approved by the representatives of the local animal control program.

(e) Liability of owners of dangerous dogs.

- (1) The owner or person in possession of a dangerous dog may be charged with a Class C misdemeanor if the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury.
- (2) The owner or person in possession of a dangerous dog may be charged with a 3rd Degree Felony ~~Misdemeanor~~ if his dangerous dog makes an unprovoked attack on another person outside the dog's enclosure and causes serious bodily injury ~~or death~~.

(3) If the attack causes the death of a person, the owner or person may be charged with a 2nd Degree Felony. (If the owner of the dog is found guilty in either of the above cases, the court may order the destruction of the dangerous dog.)

(4) In addition to criminal prosecution, a person who commits an offense as detailed in (1) and (2) above is liable for a civil penalty not to exceed ten thousand dollars (\$10,000.00). A city or county attorney may file a suit in a court of competent jurisdiction to collect this civil penalty.

(f) Dog bite investigators should be familiar with this section and should inform the owners of dogs involved in a bite or injury, of the facts contained in this section. This section may be duplicated and given as a hand-out. A dog that was loose at the time of a bite resulting in bodily injury may be declared dangerous, required to be registered as a "dangerous dog," restrained in a secure enclosure, and insurance obtained, or proof of financial responsibility required.

(g) For the purposes of this section, the following words or phrases shall have the meaning provided below:

(1) Unprovoked Attack. An attempt by a dog to bite and inflict bodily injury on a person when the dog was not hit, kicked, or struck by the person with an object or part of the person's body, nor was any part of the dog's body pulled, pinched, or squeezed by the person, nor was the dog taunted or teased by the person. Consideration will be given to whether the person was in the dog's territory and on property of the dog's owner at the time of the attack (e.g. when the dog is confined to owner's property by rope or chain, or when a dog is defending its young on the property of its owner.) If at the time of the unprovoked attack the person was in the dog's territory and the dog was confined, then any attack will not be deemed an unprovoked attack.

(2) Bodily Injury. Physical pain, illness, or any impairment of physical condition.

(3) Serious Bodily Injury. means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.