

DOG AND CAT ORDINANCE NO. 95-1

AN ORDINANCE KNOWN AS THE DOG AND CAT ORDINANCE REGULATING THE KEEPING OF DOGS AND CATS IN THE CITY OF LYFORD, TEXAS; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR THE LICENSING AND REGISTRATION OF DOGS AND CATS AND ESTABLISHING A LICENSE TAX; PROVIDING FOR DOG AND CAT TAGS AND COLLARS; PROVIDING FOR RESTRAINT OF DOGS AND CATS AND PROVIDING EXCEPTIONS; PROVIDING FOR PUBLIC NUISANCE; PROVIDING FOR THE POSITION OF ANIMAL CONTROL OFFICER; PROVIDING FOR A LOCAL HEALTH AUTHORITY; PROVIDING FOR QUARANTINE OF BITING ANIMALS; ESTABLISHING THE RELEASE OR DISPOSITION OF QUARANTINED ANIMALS AND IMPOUNDING FEES ; ESTABLISHING IMPOUNDING/DESTRUCTION PROCEDURES; THE RESPONSIBILITIES OF OWNERS FOR DISPOSAL OF DEAD ANIMALS AND DISEASED ANIMALS; PROVIDING FOR NOTICE AND HEARING ON IMPOUNDMENT AND IMPOUNDING CHARGES; PROVIDING FOR REGULATION OF DANGEROUS DOGS; PROVIDING FOR PROCEDURE DESIGNATING A DOG AS BEING DANGEROUS; PROVIDING FOR NOTICE OF A DANGEROUS DOG DECLARATION AND A HEARING THEREON; PROVIDING FOR MUZZLING BY PROCLAMATION OF THE MAYOR IN CERTAIN INSTANCES; PROVIDING FOR NOTICE OF RABIES; PROVIDING FOR RABIES VACCINATION OF DOGS AND CATS; PROVIDING FOR RECORDS, DELIVERY OF DOGS AND CATS AND INSPECTION PROVIDING FOR UNCONSTITUTIONALITY; PROVIDING FOR A FINE OF NOT LESS THAN \$25.00 AND NOT MORE THAN \$500 FOR VIOLATION OF THIS ORDINANCES; REPEALING ANY OTHER ORDINANCE. TO THE EXTENT THEY MAY BE INCONSISTENT WITH THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY AND RELATING TO THE SUBJECT MATTER THEREOF.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS, OF THE CITY OF LYFORD, TEXAS:

SECTION 1. DEFINITION OF TERMS. As used in this ordinance, unless the context otherwise indicates:

A. "Animal Control Authority" means a municipal or county Animal Control Officer with authority over the area where the dog is kept or a County Sheriff in an area with no animal control office.

B. "Local Health Authority"

1. The commissioners court of each county and the governing body of each municipality shall designate an officer to act as the local health authority for the purposes of this chapter.

2. Except as restricted by board rule, the officer designated as local health authority may be the county health officer, municipal health officer, animal control officer, peace officer, or any entity that the Commissioners Court or governing body considers appropriate.

3. Among other duties, the local health authority shall enforce:

- a. this chapter and the board rules that comprise the minimum standards for rabies control;
- b. the ordinances or rules of the municipality or county that the local health authority serves; and

c. the rules adopted by the board under the area rabies quarantine provisions of these ordinances.

C. "Dog" shall be intended to mean both male and female members of the canine family;

D. "Cat" shall be intended to mean a domesticated member of the felidea (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other prohibited animal.

E. "Rabies" means an acute viral disease of a man and animal affecting the central nervous system and usually transmitted by an animal bite.

F. "Quarantine" means strict confinement of an animal specified in an order of the board or designee.

G. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring, or having custody or control of a dog.

H. "Run at Large" shall be intended to mean to be free of restraint off the premises of the owner, and not under the control of the owner or a member of his or her immediate family, either by leash, chain or similar device.

I. "Dangerous Dog" shall mean and include a dog that;

1. makes an unprovoked attack on a person that causes bodily injury and occurs 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 own; or
2. commits unprovoked acts 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 and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

J. "Public Nuisance Dog" shall mean any dog

1. Any dog that unreasonably annoys humans, endanger the life or health of other animals or persons, or substantially interfere, with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance dog" shall mean and include, but is not limited to, any dog that;
2. is repeatedly found at large;
3. damages the property of anyone other than its owner;
4. molests or intimidates pedestrians or passers-by;
5. chases vehicles;
6. excessively makes disturbing noises, including, but not limited to, continued and repeated howling barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored;

7. causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the dog is kept or harbored;
8. causes unsanitary conditions in enclosures or surrounding where the dog is kept or harbored;
9. is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of dogs maintained;
10. attacks other domestic animals; or
11. has been found by the Municipal Judge, after notice of its owner and a hearing, to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety.

K. DISEASE- a condition of a living animal that one of its part that impairs the performance of a vital function, sickness, distemper, parvo, mangy.

L. RESTRAINT- any animal securely caged or secured by a leash or lead and under the effective control of a responsible person and obedient to that person's commands, or within the confines of its owner's home or yard which is fully enclosed by a good, secure and substantial fence.

SECTION 2. LICENSE AND REGISTRATION REQUIRED. All dogs and cats kept, harbored, or maintained by their owners in the City of Lyford shall be licensed and registered annually if over three (3) months of age. Dog and cat license shall be issued by the City Tax Collector upon payment of their license tax of \$3.00 for each male or female dog and/or cat upon proof of current rabies vaccination.

The owner shall state at the time application is made for such license and upon forms provided for such purpose his name and address and name, breed, color, and sex of each dog and/or cat owned or kept by him. The provisions of this section shall not be intended to apply to dogs and cats whose owners are non-residents temporarily within the City, nor to dogs and cats brought into the City for the purpose of participating in any dog or cat show, nor to "seeing-eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place.

SECTION 3. TAG AND COLLAR. Upon payment of the license fee, the City Assessor-Collector shall issue to the owner a license certificate and a metallic tag for each dog and cat so licensed. The shape of the tag shall be changed every year and shall have a stamp thereon showing the year for which it was issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog and cat with a collar to which the license tag must be affixed and shall see that the collar and tag are constantly worn. In case a dog or cat tag is lost or destroyed, a duplicate will be issued by the City Tax Collector upon presentation and the payment of a \$1.50 fee for such duplicate. Dog and cat tags shall not be transferable from one dog or cat to another and no refund shall be made on any dog or cat license fee because of death of the dog or cat or the owner's leaving the City before expiration of the license.

SECTION 4. RESTRAINT; EXCEPTIONS.

A. It shall be unlawful for an owner to fail to keep or permit such animal to run at large within the City of Lyford as provided under section #1 Letter L.

B. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

C. Except for the provisions relating to the restraint of dangerous dogs, nothing herein contained shall be construed to prohibit the owner of any dog: From escorting such dog, properly leashed, to premises other than those of such owner for purposes of exercise, visitation, companionship, participation in shows and exhibitions or treatment and care by a duly constituted veterinarian or kennel for hire to the public; or from transporting such animal in an automobile or other vehicle; or from training, exhibiting or maintaining such dog without leash on private premises or at any public shows and exhibition premises, with the consent of the owner of such premises, under conditions where such unleashed dog or dogs are otherwise restrained from leaving such premises;

D. Notwithstanding any provision in this Section to the contrary, restraint of such dogs that have been determined to be dangerous dogs as the term is defined herein shall be in accordance with the terms and provisions of Section 10-D hereof.

E. Except for cats, all animals shall be kept under restraint as defined in this ordinance.

F. The owner of any dog found running at large in violation of this ordinance shall upon conviction thereof be guilty of a misdemeanor punishable by a fine as hereinafter provided by this ordinance.

SECTION 5. PUBLIC NUISANCE DOG.

It shall be a violation of the Ordinance for any owner to fail to exercise proper care and control of a dog to prevent them from becoming a public nuisance dog or defined herein.

SECTION 6. IMPOUNDMENT/DESTRUCTION. The City Council shall designate a special officer to be known and designated as the Animal Control Officer, whose duty it shall be to carry out the terms of this Ordinance.

A. The Animal Control Officer may order the impoundment and destruction of a dog when:

1. Any dog not kept under restraint as required by this ordinance
2. Any dog or cat not having affixed to its collar a valid Rabies and City license tags.
3. the dog and/or cat has attacked, bitten, or injured a human being or domestic animal;
4. the dog is dangerous as defined in Section 10 and the owner has failed to comply with the requirements and conditions for keeping a dangerous dog as defined in Section 10-D; or
5. the dog or cat poses a threat of serious harm to the public health or safety.

B. Notwithstanding any provision in this ordinance to the contrary, when impoundment of a dog cannot be reasonably made with safety to the Animal Control Officer, policeman, or other person, the animal may be destroyed at once without prior notice to the owner.

C. Any animal impounded under the provisions of this ordinance shall be taken to the Animal Shelter or other suitable place and the Animal Control Officer upon receiving any such dog shall make a complete registry, entering the breed, color and sex of such animal and whether licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag.

D. Any person may take up and deliver to the Animal shelter or Animal Control Officer or to any policeman any animal which the Animal Control Officer may impound by the provisions of this ordinance.

E. Any animal found trespassing or running at large on any private property may be taken up by any person and delivered to the Animal Control Officer, or to the Animal shelter.

F. This ordinance may be enforced by any policeman.

SECTION 7. LENGTH OF IMPOUNDMENT/IMPOUNDMENT FEES. Impounded animals not claimed shall be kept for not less than three (3) working days from date of impoundment. In calculating the length of this time period, the first working day after impoundment shall be considered Day 1.

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| Impoundment Fee----- | \$10.00 |
| For keeping any animal----- | \$5.00 per day after 1st day |
| For giving notice----- | \$5.00 By Certified Mail |
| Quarantined Animal----- | \$50.00 for 10 days |
| Disposal Fee----- | \$10.00 per animal |

SECTION 8. GROUND FOR IMPOUNDMENT OF ANIMALS.

A. Animals may be impounded by the Animal Control Officer in any of the following circumstances:

1. Any dog not kept under restraint as required by this ordinance.
2. Any dog or cat not having affixed to its collar a valid city tag.
3. Any dog or cat not having affixed to its collar a valid rabies tag.
4. Any animal which constitutes a public nuisance.
5. Any animal that a person could reasonably suspect as having any infectious or contagious disease other than rabies and being the custody of a keeper who fails or refuses to make arrangements satisfactory to the Animal Control Officer looking to the proper treatment of such dog or other animal.
6. Any animal that trespasses on school grounds.

SECTION 9. RESPONSIBILITIES OF OWNERS FOR DISPOSAL OF DEAD AND DISEASED ANIMALS. It shall be the responsibility of every person or persons, firm, association or corporation owning, keeping, or harboring, or having custody or control of an animal, to dispose of all dead and diseased animals in a manner that shall be prescribed by the local health authority. The keeping of dead or diseased animals inside the city is hereby prohibited and all dead and diseased animals shall be disposed of daily. If the owner is requesting for the animal control officer to dispose of said animal, then the owner shall have to pay a fee. The fee will be paid to the Municipal Court Clerk by the owner of said animal.

SECTION 10. REGULATION OF DANGEROUS DOGS.

A. Declaring a Dog Dangerous. If the Animal Control Officer has cause to believe that a dog is dangerous, the Animal Control Officer may find and declare that dog, a dangerous dog.

B. Notice of Dangerous Dog Declaration. Within 2 days of declaring a dog dangerous, the Animal Control Officer shall notify the dog's owner in writing of the declaration. The notice shall identify the requirements and conditions for maintaining a dangerous dog as set forth in this Section. If the owner cannot be located, the dog may be immediately impounded and notice shall be posted on the owner's property or sent by certified mail to the owner's last known address, or in the case where the owner's address is unknown, notice shall be given by posting a notice in a conspicuous place in Police Department for 3 days.

C. Hearing on Dangerous Dog Declaration.

1. The owner of a dog, declared dangerous shall have the right to file, within 5 days after receiving notice, a written request for a hearing to contest the dangerous dog declaration. Where notice is by posting, said 5 day period shall commence on the 4th day after such posting. The hearing shall be held within 5 days after receipt of the owner's written request, unless said 5 day time period is extended by the Municipal Judge, on his own motion, or upon the request of a party.
2. The hearing shall be before the municipal judge of the City and shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross-examine witnesses.
3. The municipal judge shall issue a decision within 2 days after the close of the hearing and shall notify the owner in writing of the decision.
4. If the municipal judge upholds the dangerous dog declaration, the owner shall comply with all of the requirements and conditions for maintaining a dangerous dog as set forth in this Section.
5. The decision of the municipal judge is final.

D. Requirements for Keeping a Dangerous Dog.
The owner of a dangerous dog shall be subject to the following requirements:

1. Confinement. All dangerous dogs shall be securely confined indoors or in an enclosed and locked pen or

structure upon the premises of the owner. The pen or structure must have a minimum dimensions of five feet by ten feet and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet. All pens or structures must be adequately lighted and kept clean and sanitary. The enclosure must also protect the dog from the elements.

2. Leash and Muzzle. The owner of a dangerous dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, restrained by a chain or leash not more than four feet in length, and under the physical control of a person. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human or animal.
3. Signs. The owner of a dangerous dog shall display in a prominent place on the owner's premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. The sign must be readable from the public highway or thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a dangerous dog. Similar signs shall be posted on the dog's kennel, pen, or enclosed structure.
4. Insurance. The owner of a dangerous dog must provide proof to the City Secretary that the owner has procured public liability insurance of at least \$100,000.00 insuring the owner for any damage or personal injury which may be caused by his or her dangerous dog.

E. Exemptions.

1. This Section shall not apply to dogs used by a police department or law enforcement agency.
2. No dog may be declared dangerous for injury or damage sustained by a person who was committing a willful trespass or other tort upon the premises of the dog's owner.
3. No dog may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing, or assaulting the dog.

F. Change of Status. The owner of a dangerous dog shall notify the Animal Control Officer within three hours if the dangerous dog is unconfined and on the loose, or has attacked a human being or domestic animal.

G. Change of Ownership. If the owner of a dangerous dog sells, gives away, or otherwise transfers custody of a dangerous dog, the owner shall, within 3 days, provide the Animal Control Officer with the name, address, and telephone number of the new owner. The previous owner shall notify the new owner of the dog's designation as a dangerous dog and of the requirements and conditions for keeping a dangerous dog.

H. Dog Fighting. No person shall possess, harbor, or maintain care or custody of any dog for the purpose of dog fighting, nor shall any person train, torment, badger, bait, or use any dog for the reason of causing or encouraging the dog to attack human beings or domestic animals.

SECTION 11. MUZZLING. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the Mayor, if he or she deems it necessary shall issue a proclamation ordering every person owning a dog to confine it securely on his premises unless such dog has a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled dog found not securely confined to the premises of its owner during the time of the proclamation, shall be seized and impounded unless noticeably infected with rabies. All dogs so noticeably infected with rabies may be killed by the Animal Control Officer or any policeman, without notice to the owner. Dogs impounded during the period of such proclamation shall, if claimed within three days, be released to the owner, unless infected with rabies, upon payment of the impounding charges provided for in Section 7. If unclaimed after that period such dog may be summarily destroyed. Failure of the owner of a dog to keep his or her dog muzzled in accordance with the provisions hereof and said Mayor's proclamation, shall constitute a violation of this ordinance.

SECTION 12. REPORT OF RABIES.

A. A person who knows of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animal to the local health authority of the county or municipality in which the person lives, in which the animal is located, or in which the exposure occurs.

B. The report must include:

1. the name and address of the victim and of the animal's owner, if known; and
2. any other information that may help in locating the victim or animal.

C. The local health authority shall investigate a report filed under this section.

SECTION 13. RELEASE OR DISPOSITION OF QUARANTINED ANIMAL.

A. If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, the local health authority shall release the animal to its owner when the quarantine period ends if:

1. the owner has an unexpired rabies vaccination certificate for the animal; or
2. the animal is vaccinated against rabies by a licensed veterinarian at the owner's expense.

B. If a veterinarian determines that a quarantined animal shows the clinical signs of rabies, the local health authority shall humanely destroy the animal. If an animal dies or is destroyed while in quarantine, the local health authority shall remove the head or brain of the animal and submit it to the nearest department laboratory for testing.

C. The owner of an animal that is quarantined under this chapter shall pay to the local health authority the reasonable costs of the quarantine and disposition of the animal. The local health authority may bring suit to collect those costs.

D. The local health authority may sell the animal and retain the proceeds or keep, grant, or destroy an animal if the owner or custodian does not take possession of the animal before the fourth day following the final day of the quarantine period.

SECTION 14. QUARANTINE.

A. A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing an animal that:

1. is required to be placed in quarantine or presented for testing under such ordinance and board rules; or
2. is required to be placed in quarantine under ordinances or rules adopted under this chapter by a county or municipality within whose jurisdiction the act occurs.

B. An offense under this section is a Class C misdemeanor.

SECTION 15. RABIES VACCINATION.

A. It shall be unlawful for any person to own, keep, harbor or have custody or control of a dog or cat over four (4) months of age within the city, unless such dog or cat has been immunized against rabies by the injection of anti-rabies vaccine by a licensed veterinarian.

B. Every owner of a dog or cat immunized against rabies as required herein shall procure a rabies vaccination certificate from the veterinarian administering the vaccine.

C. A veterinarian who vaccinates a dog or cat as required herein shall furnish the owner thereof with a metal tag bearing a number corresponding to the number placed on the certificate, and with lettering showing immunization and the year thereof. This tag shall be attached to the collar of the dog or cat for which it is issued, and shall be worn at all times in a conspicuous place on the collar.

SECTION 16. RECORDS. The Animal Control Officer shall keep necessary records as are required to show in detail the disposition of all animals impounded and the money collected by him, and such other records as are required by the City Treasurer. All money collected shall be delivered as required by the City Treasurer, who will deposit same in the general fund.

SECTION 17. DELIVERING OF DOGS AND CATS. Any person who shall refuse to deliver any dog or cat running at large or any unlicensed or unvaccinated dog to the Animal Control Officer, or any of his deputies or any City policeman upon demand for impounding, shall be guilty of a Class C misdemeanor and shall be fined as provided herein.

SECTION 18. INSPECTION. The Animal Control Officer or his authorized deputies shall have the right at any reasonable time to inspect any dog or cat to determine if said dog or cat is licensed and vaccinated as required by this ordinance, and shall have the authority to enter any premises for such purpose, and it shall be unlawful for any person to refuse entrance to such Animal Control Officer or his deputies, or to impede, obstruct or exclude such Animal Control Officer or his deputies when attempting to enter such premises for the purpose of inspecting such dog

or cat, and any person who shall refuse entrance or impede or obstruct such Animal Control Office or deputy, shall be guilty of a misdemeanor, and shall be fined as provided herein.

SECTION 19. UNCONSTITUTIONALITY. If any section, sub-section, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this ordinance.

SECTION 20. PENALTIES. In addition to the fees, charges and Impounding, destruction procedures otherwise providing for herein:

A. Any person who shall willfully take from any dog or cat a collar or tag shall be deemed guilty of a Class C misdemeanor and upon conviction shall be fined in any sum not to exceed \$500.00; and:

B. Any person violating any provision of this ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction shall be fined not less than \$25.00 dollars and not more than \$500.00 dollars for each violation. Each day that a violation continues shall be considered a separate offense.

SECTION 21. REPEAL OF EXISTING ORDINANCE. All other ordinances are hereby repealed in so far as they may be inconsistent with this ordinance.

SECTION 22. EFFECTIVE DATE. The Board of Commissioners finds and determines that the problem of animals running at large and unrestrained in the City of Lyford creates an emergency justifying the waiving of requirements for reading of this Ordinance on three occasions, and the Board finds that such emergency exists, and this Ordinance shall become effective after passage on 1-16-95 and upon publication of the caption only in the official newspaper.

PASSED AND APPROVED on this the 16th day of January, 1995.

Mayor of the City of Lyford

ATTEST:

City Secretary