

ORDINANCE NO. O-2023-012-01

AN ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS AMENDING CHAPTER 10, "ANIMALS," OF THE CODE OF ORDINANCES, CITY OF HALTOM CITY, TEXAS, PROVIDING FOR THE PROSECUTION AND ABATEMENT OF ANIMAL NUISANCES; REGULATING AGGRESSIVE DOGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haltom City (the "City") 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 Council has previously adopted regulations governing animals, codified as Chapter 10 of the Code of Ordinances, City of Haltom City, Texas (the "Haltom City Code"); and

WHEREAS, the City Council has determined that it is in the best interests of the public to provide for comprehensive regulations governing the prosecution and abatement of animal nuisances and the identification, classification, and maintenance of aggressive dogs; and

WHEREAS, for purposes of promoting the health, safety, and general welfare of the City, the City Council now desires to amend the regulations related to animals as set forth herein.

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

SECTION 1

Section 10-2, "Definitions," of Article I, "General," of Chapter 10, "Animals," of the Haltom City Code is hereby amended by changing the definition of "dangerous animal" and adding new definitions for "aggressive dog" and "domesticated fowl", inserted alphabetically to read as follows:

"Aggressive dog. A dog that, while at large:

- (1) Is found to menace, charge or display threatening or unprovoked aggressive behavior, or endangers the safety of a domestic animal or person; or
 - a. Commits an unprovoked attack on a domestic animal, and

- b. Causes bodily injury to the attacked animal and the attacking animal has already committed at least one (1) unprovoked attack on a previous occasion against a person or restrained domestic animal; or
- c. Causes the death of the attacked animal.

* * *

Dangerous animal. Any domestic animal 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 animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own; or
- (2) Commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person.

Domesticated fowl. A bird raised for the production of meat or eggs, including chickens, turkeys, geese, and ducks.”

SECTION 2

Article I, “General,” of Chapter 10, “Animals,” of the Haltom City Code is hereby amended by adding a new section 10-12 to read as follows:

“Sec. 10-12. - Animal nuisance declared; nuisance abatement.

- (a) *Animal nuisance.* The owner or person in control of any animal in the city is responsible for the behavior and conduct of that animal at all times, including conduct that creates a public nuisance. It is an offense to allow an animal to create a public nuisance by act, omission, or possession. The following are public nuisances when committed by the owner or person in control of an animal:
 - (1) Failing to prevent an animal from being at large in violation of section 10-8 herein, including failure to provide an enclosure or system of restraint secure enough to prevent the animal from escaping and/or being at large. It shall be a defense to prosecution under this subsection if the animal is a dog and is off-leash in a dog park.
 - (2) Permitting animal waste to accumulate in any pen, enclosure, yard, grounds, premises or structures belonging to, controlled by, or occupied by the owner or person in control of such animal in a quantity sufficient to

become nauseating, foul, offensive, or disagreeable to a person of reasonable sensibilities residing in the vicinity, or which creates a condition conducive to the breeding or attraction of insects or other pests, or in any manner endangers the public health, safety, or welfare, in violation of section 10-3 herein.

- (3) Allowing an animal's feces to remain in any public place or on another's private property in violation of section 10-3 herein. It is the duty of any owner or person in control of an animal to carry a container or bag to properly dispose of their animal's feces.
 - (4) Allowing any animal to make or create a frequent or continuous animal noise disturbance in such a manner that it disturbs a person of reasonable sensibilities in the immediate vicinity.
 - (5) Intentionally feeding any animal or making food available for animal consumption, by placing any substance that meets the nutritional needs of the animal(s) within reach of such animals, in a manner that creates a danger to public health or safety; destroys public or private property; or causes more than ten (10) adult animals to congregate in one (1) location at the same time.
- (b) *Continuing public nuisance; abatement.* A continuing public nuisance in this section is defined as an irresponsible action of ownership or control of an animal(s) that endangers the public health, public safety, or public welfare; an action that offends the public morals; or an action that endangers life or health, gives unreasonable offense to the senses, or obstructs the reasonable and comfortable use of another's property. If the animal services officer determines that a continuing public nuisance exists and continues unabated despite enforcement efforts, the animal services officer may take action to abate such nuisance.
- (1) Upon finding that an owner or person in control of any animal has received three (3) or more notices of violation related to any animal nuisance identified in section 10-12(a) herein, the animal services officer may determine that a continuing public nuisance exists.
 - (2) Investigation and determination. The animal services officer may investigate any reported or observed nuisance, including by conducting witness interviews. The animal services officer shall make a disposition determination based on the necessity to preserve the public health, safety, and welfare of the community. This determination shall be one of the following:
 - a. Impoundment and disposition of the animal(s) causing the continuing public nuisance in accordance with chapter 10, article II of this code, except that the owner, their agent(s) or representative(s), or their

family member(s) may not adopt the animal(s) adjudged a continuing public nuisance; or

- d. Exclusion and removal from the city of the animal(s) determined to be a continuing public nuisance.
- (3) Notice. Upon such determination, the animal services officer shall notify the owner or person in control of the animal(s). This notice shall be in writing and shall contain a statement that such person has a right to file an appeal in the municipal court. Notice shall be mailed certified mail, return receipt requested, to the last known mailing address of the owner or person in control of the animal(s), or delivered in person. Notice that is mailed is deemed received three (3) working days after it is placed in a mail receptacle of the United States Postal Service.
 - (4) Appeal. The owner or person in control of the animal(s), not later than ten (10) days after the date such person is notified that an animal is deemed a continuing public nuisance, may appeal the determination of the animal services officer to the municipal court. If the municipal court judge finds that the animal is a continuing nuisance, the judge may, in addition to the imposition of a determination listed in subsection 10-12(b)(2), prohibit, either temporarily or permanently, the owner or person in control of the animal from further ownership of animals within the city limits.
 - (5) Impoundment. Upon the expiration of the appeal period or the determination of an appeal to municipal court, and in accordance with a determination that an animal is deemed a continuing public nuisance and shall be impounded, the owner or person in control of such animal(s) shall surrender such animal(s) to the animal services officer within forty-eight (48) hours. The failure to surrender such animal(s) shall be an offense and each day thereafter that such person fails to surrender such animal(s) shall constitute a separate offense.
 - (6) Exclusion and removal. Upon the expiration of the appeal period or the determination of an appeal to municipal court, and in accordance with a determination that an animal is deemed a continuing public nuisance and shall be excluded from the city, the owner or person in control of such animal shall remove such animal(s) from the city within forty-eight (48) hours. The failure to remove such animal(s) shall be an offense and each day thereafter that such person fails to remove such animal(s) shall constitute a separate offense.
 - a. In the event of failure to comply with this subsection, such animal(s) may be subject to impoundment and disposition in accordance with chapter 10, article II of this code.

- b. The owner or person in control of such animal(s) must report the disposition and exact address or relocation of such animal(s) to the animal services department in writing within ten (10) days after the expiration date for removal of such animal(s) from the city. Each day thereafter that such information is not provided shall constitute a separate offense.
- (7) The animal services officer shall be authorized to obtain an administrative warrant for the purposes of enforcing this section in accordance with chapter 2, article IV, division 2 of the code.
- (c) It is a defense to prosecution under this section that a person is a licensed veterinarian, a peace officer, or a person employed by the city, the state, or a political subdivision of the state who is acting pursuant to a lawfully authorized program to manage animal populations and who is acting within the scope of the person's duties and authority.

Secs. 10-13—10-19. Reserved.”

SECTION 3

Article VIII, “Dangerous Animals,” of Chapter 10, “Animals,” of the Haltom City Code is hereby amended to reserve only the following sections, reading as follows:

“Secs. 10-122—10-129. Reserved.”

SECTION 4

Chapter 10, “Animals,” of the Haltom City Code is hereby amended by adding a new Article IX to read as follows:

“ARTICLE IX. - AGGRESSIVE DOGS

Sec. 10-130. - Aggressive dog classification; regulations by classification; de-classification.

- (a) An aggressive dog, as defined by section 10-2 herein, may be classified based upon the following specific behaviors exhibited by the dog:
 - (1) Level 1 behavior is established if a dog at large is found to menace, chase, or display threatening or aggressive behavior, without provocation, towards another domestic animal or person.
 - (2) Level 2 behavior is established if a dog, while at large, causes a severe injury to any contained domestic animal or livestock, as determined by either the animal control officer or a veterinarian.

- (3) Level 3 behavior is established if:
 - a. A dog, while at large, kills or causes the death of any contained domestic animal, livestock, or poultry; or
 - b. A dog classified as a Level 2 aggressive dog repeats the Level 2 behavior after the owner or person in control of the dog receives notice of the Level 2 classification.
- (b) The owner of an aggressive dog shall comply with the following conditions for the applicable classification:
 - (1) Level 1 dogs shall be restrained, so as not to be at large, by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk or adjoining property, and such dogs must be located so as not to interfere with the public's legal access to the owner's premises whenever that dog is outside the owner's home and not on a leash. The animal services officer may also order sterilization of the animal.
 - (2) Level 2 dogs shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's premises. In addition, the animal services officer may require the owner or person in control of the dog to obtain and maintain public liability insurance in the amount of \$100,000.00. In addition, the owner or person in control of the dog may be required to complete a responsible pet ownership or dog training program as prescribed by the animal services officer or the municipal judge. The animal services officer may order sterilization of the animal.
 - (3) Level 3 dogs may be ordered to be humanely destroyed by the animal services officer or, upon appeal, the municipal judge.
 - (4) Level 3 dogs that are not ordered to be humanely destroyed shall be confined within a secure enclosure whenever the dog is not on a leash. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's or person in control's premises, and the owner or person in control shall post a clearly visible sign, provided by the owner or person in control of the dog and subject to the animal services officer's approval, readable from any public sidewalk or street adjacent to the property, on the secure enclosure in which the dog is kept identifying the presence of an aggressive dog on the property. In addition, the animal services officer may require the owner or person in control of the dog to obtain and maintain proof of public liability insurance in the amount of \$100,000.00. The owner or person in control of the dog shall not permit the dog to be off the premises unless the dog is muzzled, restrained by an adequate leash, and under the control of a capable person. In addition, the animal services officer may require the owner to satisfactorily complete a

pet ownership or dog training program. The animal services officer may order sterilization of the animal.

- (5) To ensure correct identification, all dogs that have been classified as aggressive shall be micro-chipped and photographed, and shall be fitted with a special tag or collar determined by the animal services officer at the owner's expense.
 - (6) The owner of a Level 3 aggressive dog shall not permit the warning sign to be removed from the secure enclosure. The owner of any aggressive dog shall not permit the special tag or collar to be removed from the dog. The owner of an aggressive dog shall not permit the dog to be moved to a new address or change owners without providing the animal services officer with ten (10) days prior written notification.
- (c) An aggressive dog may be declassified in accordance with the following provisions:
- (1) Declassification of Level 1 or Level 2 dogs will occur and the restrictions required by section 10-130(b) may be removed when the following conditions have been met:
 - a. The dog has been classified for one (1) year without further incident;
 - b. There have been no violations of the specified regulations; and
 - c. If ordered by the animal services officer or municipal judge at the time of classification, the owner or person in control of the dog provides the animal services officer with written certification of satisfactory completion of obedience training for the dog and written verification from a licensed veterinarian that the dog has been sterilized.
 - (2) Declassification of Level 3 dogs will occur and the restrictions required by section 10-130(b) may be removed, with the exception that the dog must continue to be confined in a secure enclosure whenever the dog is not on leash, when the following conditions have been met:
 - a. The dog has been classified for two (2) years without further incident;
 - b. There have been no violations of the specified regulations; and
 - c. If ordered by the animal services officer or municipal judge at the time of classification, the owner or person in control of the dog provides the animal services officer with written certification of satisfactory completion of obedience training for the dog and written

verification from a licensed veterinarian that the dog has been sterilized.

Sec. 10-131. - Aggressive dog determination.

- (a) Upon report by any person, the animal services officer shall investigate to determine if a dog meets any classification outlined in section 10-130(a) herein.
- (b) The animal services officer may seize and impound the dog at the owner's expense pending the determination of whether the dog is aggressive if:
 - (1) The dog has exhibited Level 3 behavior; or
 - (2) With due diligence, the animal services officer cannot locate the owner of the dog. If the owner of the dog has not been located before the 15th day after seizure and impound, the animal services officer may order the dog to be humanely destroyed.
- (c) At the conclusion of the animal services officer's investigation, the animal services officer shall:
 - (1) Determine that the dog does not meet any classification outlined in section 10-130(a) herein; or
 - (2) Determine that the dog has exhibited a specific behavior, classify the dog in the corresponding aggressive dog level, and order the owner to comply with the ownership requirements for such classification as identified in section 10-130(a).
- (d) The animal services officer shall have discretionary authority to refrain from classifying a dog as aggressive, even if the dog has engaged in the behaviors outlined in section 10-130(a) if the animal services officer determines that the behavior was the result of the victim abusing or tormenting the dog, was directed towards a trespasser, or was the result of similar mitigating or extenuating circumstances.
- (e) The animal services officer shall have the discretion to increase or decrease an aggressive dog's restrictions based upon relevant circumstances.
- (f) If the dog is classified as aggressive at any level, the animal services officer shall notify the owner or person in control of the dog, either in person or by certified mail, return receipt requested, of the following information:
 - (1) That the dog was classified as aggressive, as well as which level of behavior applies;
 - (2) The restrictions applicable to the dog based upon the classification; and

- (3) That the owner has the right to appeal the classification.
- (g) An impounded dog classified by the animal services officer as aggressive must remain impounded and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership set forth in this article. If the owner of an impounded dog has not complied with this article within thirty (30) days after a final determination is made that an impounded dog is aggressive, then the dog becomes the property of the city and may be humanely destroyed.

Sec. 10-132. - Appeals; hearing; dog status pending appeal.

- (a) The owner or person in control of a dog determined to be aggressive in accordance with this article may appeal this determination using the procedures outlined in section 10-112(a)(4) of the code. Hearings shall proceed using the procedures outlined in section 10-113(a)-(c) of the code.
- (b) At the conclusion of the hearing, the municipal judge may:
 - (1) Uphold the classification by the animal services officer that the dog in question is aggressive and order:
 - a. The owner of the dog in question to comply with the requirements for keeping of an aggressive dog set forth in this article; or
 - b. If the dog was classified as Level 3, the animal services officer to humanely destroy the dog.
 - (2) Find the dog is not an aggressive dog and order the dog released to the owner or person in control of the dog.
- (c) If the animal services officer has possession of the dog at the time the owner or person in control of the dog files an appeal of the aggressive dog determination, the animal services officer will maintain possession of the dog and keep it at the owner's or person in control's expense in a secure and humane manner until final determination is made, unless the owner or person in control of the dog requests custody of the dog in question and complies with applicable conditions contained in section 10-130. If the owner or person in control of the dog has possession of the dog in question at the time the owner or person in control files an appeal of classification of the dog as aggressive, the owner may:
 - (1) Keep possession of the dog until final determination has been made, provided that the owner or person in control keeps the dog in a secure enclosure that, upon inspection by the animal services officer, is deemed to be secure enough to prevent the dog from escaping;
 - (2) Keep the dog confined at a licensed veterinary clinic, at the owner's or person in control's expense, until final determination is made; or

- (3) Surrender the dog to the animal services officer , who will maintain possession of the dog and keep it at the owner's or person in control's expense in a secure and humane manner until a final determination is made.
- (d) If the owner or person in control fails to keep the dog in a secure enclosure required pursuant to section 10-130 while the appeal is pending, the animal services officer shall impound the dog and keep it at the owner's or person in control's expense in a secure and humane manner until final determination is made.

Secs. 10-133—10-139. Reserved.”

SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances, City of Haltom City, Texas (1998), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code 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 or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-5 of the Haltom City Code. Each day that a violation is permitted to exist shall constitute a separate offense and shall be punishable as such.

SECTION 8.

All rights and remedies of the City of Haltom City are expressly saved as to any and all violations of the provisions of Chapter 10 of the Code of Ordinances, City of Haltom City, Texas (1998), as amended, or any other ordinances regarding the regulation of animals that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending

in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Haltom City is hereby directed to publish in the official newspaper of the City of Haltom City, the caption and penalty clause of this ordinance one (1) time within ten (10) days after the first reading of this ordinance as required by Section 10-01 of the Charter of the City of Haltom City.

SECTION 10.

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

PASSED AND APPROVED ON FIRST READING THIS 12th DAY OF JUNE, 2023.

PASSED AND APPROVED ON SECOND READING THIS 26th DAY OF JUNE, 2023.


MAYOR

ATTEST:


CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:


CITY ATTORNEY



ADOPTED: JUNE 26, 2023

EFFECTIVE: JUNE 26, 2023

ORDINANCE NO. O-2023-012-

01

AN ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS AMENDING CHAPTER 10, "ANIMALS," OF THE CODE OF ORDINANCES, CITY OF HALTOM CITY, TEXAS, PROVIDING FOR THE PROSECUTION AND ABATEMENT OF ANIMAL NUISANCES; REGULATING AGGRESSIVE DOGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

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SECTION 8.

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SECTION 9.

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SECTION 10.

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

PASSED AND APPROVED ON FIRST READING THIS 12th DAY OF JUNE, 2023.

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Jun 14 2023