

ORDINANCE NO. 17-2126

AN ORDINANCE AMENDING CHAPTER 10 ANIMALS OF THE CITY OF LAKE JACKSON CODE OF ORDINANCES TO ADD PROVISIONS FOR ANIMALS THAT CAUSE HARM TO OTHER DOMESTIC ANIMALS; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING FOR A PENALTY; AND PROVIDING A SAVINGS CLAUSE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:

Section 1: That Section 10-2 shall be amended to add the following:

Sec. 10-2. Definitions.

Court means the Lake Jackson Municipal Court.

Destructive animal means an animal, while not on its owner's property, that injures or kills a domestic animal.

Injure means a wound characterized by bite wounds or ripping and tearing of skin or muscle that would cause a reasonably prudent animal owner to take the animal to a veterinarian.

Shelter means the Southern Brazoria County Animal Shelter.

Section 2: That Article III KEEPING ANIMALS GENERALLY shall be divided into two divisions. Division 1 shall be entitled Care and Confinement and encompass sections 10-81 through 10-86. Division II shall be entitled Destructive Animals and shall encompass the following new sections:

Sec. 10-91. Destructive animals – impoundment.

- (a) If a humane officer has probable cause to believe that an animal, while not on its owner's property, has injured or killed a domestic animal, the humane officer shall impound the animal at the Shelter, a boarding kennel or a veterinarian's office. The animal shall remain impounded until the Court holds a hearing to determine whether the animal is a destructive animal and to determine the disposition of that animal.
- (b) If the owner of the animal does not allow the humane officer to impound the animal, a humane officer or police officer shall obtain a seizure warrant for the animal.
- (c) If a humane officer or police officer finds an animal running at-large and the humane officer or police officer has probable cause to believe that, while not on its owner's property, the at-large animal has injured or killed a domestic animal, the humane officer or police officer shall take possession of the animal and impound it at the Shelter. A

humane officer shall send notice of the impoundment to the owner within two (2) business days of impoundment.

- (d) If the owner wants to surrender the animal, the owner shall surrender the animal to the Humane Department. The animal shall remain on a police hold at the Shelter or other appropriate facility until the court holds a hearing to determine the animal's disposition.

Sec. 10-92. Same – hearing.

- (a) Within 10 days of impoundment, the Court shall hold a bench hearing to determine whether the animal is a destructive animal. The court shall follow the procedures set forth in section 822.0423 of the Texas Health and Safety Code.
- (b) If the court finds that the animal, while off its owner's property, injured or killed a domestic animal, the Court shall deem the animal a destructive animal. The Court shall also issue at least one of the following orders:
1. Order the animal to be destroyed;
 2. Prohibit the owner from owning the same type of domestic animal as the destructive animal while the owner lives in the city limits;
 3. Order that the animal be placed in the custody of the Shelter so that the animal will be placed for adoption, with specific restrictions;
 4. Order the Shelter to release the animal to its owner with a written notification to the owner that the owner must do one or more of the following within a designated time:
 - i. Microchip the animal;
 - ii. Sterilize the animal;
 - iii. Place and keep a red collar on the animal with the wording "caution";
 - iv. Register the animal yearly with the Lake Jackson Humane Department;
 - v. Restrain the animal at all times on a leash or within a secure enclosure;
 - vi. Provide the Humane Department annual proof of liability insurance for the duration of the destructive animal's life, in an amount not less than \$100,000 per incident, to cover expenses for injured or killed domestic animals that the destructive animal may cause in the future.
 - vii. Retrieve the destructive animal from the Shelter only when the owner has paid all costs for the impoundment of the animal;
 - viii. Retrieve the destructive animal from the Shelter only when the owner has provided the Humane Department with proof that the animal will be kept in a secure enclosure.
- (c) Placing the destructive animal for adoption or transferring ownership does not affect the destructive animal designation or the requirements ordered by the court.
- (d) Restitution. The court may order the owner of the destructive animal to pay restitution to the owner of the animal that was injured or killed. If the owner cannot pay restitution, the court may order the owner to perform community service.

- (e) No Finding. The Court shall not deem the animal destructive if:
- 1 The damage or attack happened in an enclosure in which the animal was being kept;
 - 2 The animal was protecting its offspring, itself, or another animal; or
 - 3 The animal was protecting a person.
- (f) Appeal. An owner may appeal the decision of the Court in the same manner as provided for in section 822.0424 of the Texas Health and Safety Code.

Sec. 10-93. Same – adoption.

- (a) If ordered to be placed for adoption, the Court will order the Shelter to give the new owner written notification of the restrictions in section 10-92(b)(4) that the Court has put in place.
- (b) If the Court orders the animal to be placed for adoption, the Court may set limitations on who may adopt the animal and the type of environment in which the animal can live, such as no other animals or small children living in the house.
- (c) If a specific person wants to adopt the animal, that person must appear at the hearing and prove that person can control the animal.

Sec. 10-94. Same – violations.

- (a) An owner violates this ordinance if:
1. After being deemed a destructive animal, while not on its owner's property, the animal injures or kills another domestic animal; or
 2. An animal that has not been deemed destructive, while not on its owner's property, injures or kills another domestic animal and the owner of the animal had knowledge that the animal had injured or killed, or attempted to injure or kill another domestic animal before.
 3. The owner does not follow the court's orders.
- (b) If the destructive animal is found running at large or if the animal owner does not follow the Court's orders, the animal shall be impounded at the Shelter.
1. Within 10 days of impoundment, the Court shall hold a hearing to determine if the animal should be returned to the owner or if one or more of the options listed in section 10-92(b) should be ordered;
 2. The Court shall follow the same notice provisions as in section 10-92.

Section 3: That Section 10-171.2 shall be amended to read as follows:

Sec. 10-171.2. Redemption, disposition

- (a) Unrestrained animals impounded in the Southern Brazoria County Animal Shelter shall be kept for up to seventy-two (72) hours in the case of an animal without a collar or up to one hundred twenty (120) hours in the case of an animal wearing a current vaccination and/or license

tag. After such time period, the animal shall become the property of the Southern Brazoria County Animal Shelter, and the animal may be destroyed or placed for adoption.

(b) Nuisance animals impounded in the Southern Brazoria County Animal Shelter shall be kept until the nuisance situation has been abated. If the situation is not abated within 14 days, the City shall ask the Court to hold a hearing on whether the animal should be returned to the owner, temporarily retained at the Shelter to give the owner more time, or placed for adoption.

(c) Animals that are impounded at the Shelter because they are dangerous, destructive, cruelly treated, or nuisances shall remain on a police hold and shall not become the property of the Shelter without a court order.

Section 3: Unless otherwise specified in the ordinance, a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-5 of the Code of Ordinances of the City of Lake Jackson. Each day that a violation of this ordinance shall be considered a separate violation.

Section 4: All ordinances or part of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 5: If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of the ordinance.

Section 6: The City Secretary shall publish the caption of this ordinance within ten days of final passage in the official newspaper of the City. This ordinance shall take effect and be in force five days after publication in accordance with Section 3-15 of the Charter of the City of Lake Jackson, Texas.

PASSED AND APPROVED on first reading on the 17th day of January, 2017.

PASSED AND ADOPTED on second and final reading this 6th day of February, 2017.

Joe Rinehart, Mayor
City of Lake Jackson

ATTEST:

Alice Rodgers
City Secretary

APPROVED AS TO FORM:

Sherri Russell
City Attorney