

ORDINANCE 17-02

AN ORDINANCE OF THE CITY OF WILLS POINT, TEXAS, AMENDING CHAPTER 8 ANIMALS, ARTICLE VI VICIOUS ANIMALS IN THE CODE OF ORDINANCES OF THE CITY OF WILLS POINT, TEXAS, BY CHANGING THE TERMS OF “VICIOUS ANIMALS” TO “DANGEROUS DOGS” AND “ANIMAL” TO “DOG” IN THE TITLE OF ARTICLE VI AND IN SECTIONS 8-139, 8-140, 8-141, 8-142, AND 8-143; AND SPECIFICALLY SECTION 8-139 PROVIDING THE DEFINITION OF DANGEROUS DOG; SECTION 8-140 PROVIDING CLARIFICATION FOR A DANGEROUS DOG DECLARATION, RIGHT OF OWNER TO APPEAL DECLARATION, AND RULES REGARDING APPEAL OF DECLARATION; SECTION 8-141 PROVIDING REGISTRATION AND INSURANCE REQUIREMENTS AND FAILURE TO COMPLY PERMITTING THE CITY OF WILLS POINT TO ISSUE WARRANT FOR SEIZURE AND IMPOUNDMENT OF DANGEROUS DOGS.

WHEREAS, Chapter 8 of the Code of Ordinances of the City of Wills Point, Texas provides for animal services within the City of Wills Point, Texas (the “City”);

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City Council may adopt an ordinance, rule or police regulation that is for the good government, peace, or order of the City or the trade and commerce of the City;

WHEREAS, the City is responsible for supporting and promoting the health, safety and welfare of its citizens;

WHEREAS, pursuant to Texas Local Government Code section 51.012, the City Council may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that the City Council considers necessary for the government, interest, welfare, or good order of the City as a body politic;

WHEREAS, the City Council of the City of Wills Point, Texas has determined that it is in their interest and in the interest of its citizens to amend certain provisions of Chapter 8 Animals, Article VI Vicious Dogs, as contained in the City of Wills Point Code of Ordinances.

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

SECTION 1. The Code of Ordinances of the City of Wills Point, Texas, shall be amended by amending Chapter 8-Animals, Article VI–Vicious Animals by changing the term “Vicious Animals” to “Dangerous Dogs” and “animal” to “dog” throughout the entirety; and by amending Section 8-139 “Definition”; Section 8-140 “Dangerous dog declaration”, Section 8-141 “Requirements for keeping dangerous dogs”; Section 8-142 “Impoundment and destruction”, Section 8-143 “Exemptions”, and Section 8-144 “Penalties”. The changes shall read as follows:

“Article VI. – Dangerous Dogs

Sec. 8-139. - *Definition.*

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous Dog means a dog that:

(1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than in 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; or

(2) commits an unprovoked attack or injures a human being or domestic animal in a place other than in 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; or

(3) is owned or harbored primarily or in part for the purpose of fighting, or any dog trained for fighting; or

(d) without provocation, chases or approaches a person upon the streets, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack; or

(e) has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of tendencies to attack or to bite human beings or other animals.

(Code 1981, § 4.40; Ord. No. 02-03)

Sec. 8-140. – *Dangerous Dog Declaration.*

(a) *Generally.* If the animal control authority or its designee receives sworn statements from any witnesses, the animal control authority or its designee will determine if the dog is a dangerous dog. The animal control authority or its designee shall notify the owner in writing of the determination.

(b) *Notice.* Notwithstanding any other law including a municipal ordinance, an owner, not later than the 15th day after the date the owner is notified that the dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority or their designee to the municipal court of competent jurisdiction.

(c) *Hearing.*

(1) The owner of a dog declared dangerous and in violation of compliance with section 8-141 shall have the right to appear before the municipal judge, no later than the 15th day after the date on which the dog is seized or delivered.

(2) The court shall give written notice of the time and place of the hearing to:

(a) The owner of the dog or the person from whom the dog was seized; and

(b) The person who made the complaint.

(3) Any interested party, including the city attorney/prosecutor, is entitled to present evidence at the hearing. The Court shall determine the costs to house and care for the impounded dog during the appeal process.

(4) The municipal judge may uphold the Dangerous Dog Declaration, in which event the owner shall comply with all requirements and conditions for maintaining a dangerous dog as set forth in section 8-141, or may unconditionally release the dog to its owner.

(Code 1981, § 4.41; Ord. No. 02-03)

Sec. 8-141. - Requirements for keeping dangerous dogs.

The owner of a dangerous dog shall be subject to the following requirements:

(a) *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 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.

(b) *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.

(c) *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.

(d) *Registration and Insurance Requirements.* The owner of a dangerous dog shall register the dangerous dog with the City Secretary and provide a current photo and vaccination record of said dog annually. Registration fees are as adopted by Resolution in the City's centralized fees document. The owner of a dangerous dog must obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the City Secretary of the City on an annual and quarterly basis for as long as the dog remains in the City limits.

(e) *Failure to comply.* The owner of a dangerous dog that does not comply with Section 8-141 shall deliver the dog to the animal control authority not later than the 30th day after the owner learns that the dog is a dangerous dog. If on application of any person the municipal court finds, after notice and hearing that the owner of a dangerous dog has failed to comply with Section 8-141 the court shall order the animal control authority or their designee to seize the dog and shall issue a warrant authorizing the seizure and impoundment of the dog. The owner shall pay any costs incurred in seizing/impoundment of the dog.

(Code 1981, § 4.42; Ord. No. 02-03)

Sec. 8-142. - Impoundment and destruction.

The Police Chief, or the Chief's designee, may order the impoundment and destruction of any dog where:

(a) The dog has attacked, bitten or injured a human being or domestic animal and the circumstances indicate that there is a probability of additional occurrences relating to such dog; or

(b) The dog is a dangerous dog as defined in section 8-139 or 8-140, and the owner has failed to comply with the requirements and conditions for keeping a dangerous dog as defined in section 8-141; or.

(c) The dog poses a threat of serious harm to the public health or safety.

(Code 1981, § 4.43; Ord. No. 02-03)

Sec. 8-143. - Exemptions.

(a) This article shall not apply to dogs used by a police department or law enforcement agency.

(b) 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 animal's owner.

(c) No dog may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing or assaulting the animal.

(Code 1981, § 4.44; Ord. No. 02-03)

Sec. 8-144. - *Penalties.*

Any person violating this article shall be subject to the penalties in section 1-12.

(Code 1981, § 4.45; Ord. No. 02-03)”

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

SECTION 3. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That should any word, phrase, paragraph, section or portion of this ordinance or of the Code of Ordinances, as amended hereby, be held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of this ordinance or of the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 5. That any person who violates any provision of this ordinance, as may be amended, shall be guilty of a misdemeanor and subject to a fine upon conviction in Municipal Court and shall be subject to the penalties for a violation of an ordinance governing public health found in section 1-12 of the City of Wills Point Code of Ordinances.

SECTION 6. That this ordinance shall become effective immediately from and after its passage and after publication of the caption as required by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WILLS POINT, VAN ZANDT COUNTY, TEXAS, ON THIS THE ____ DAY OF FEBRUARY, 2017.

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

PASSED AND APPROVED THIS THE _____ DAY OF FEBRUARY, 2017.

Mark Turner, Mayor

ATTEST:

Carla Oldacre, City Secretary

APPROVED AS TO FORM:

Tracy Lowe, City Attorney