

## ORDINANCE NO. 15-28

AN ORDINANCE PERTAINING TO ANIMALS AMENDING SECTION 5-2-201, SECTION 5-2-202, SECTION 5-2-203, SECTION 5-2-204, SECTION 5-2-205 AND SECTION 5-2-206, ARTICLE 5-2, CHAPTER 5, LAWTON CITY CODE, 2005, BY AUTHORIZING A CHANGE IN THE USE OF THE TERM DANGEROUS DOG(S) TO DANGEROUS ANIMAL(S), WHERE APPLICABLE, PROVIDING FOR SEVERABILITY, AND ESTABLISHING AN EFFECTIVE DATE.

***NOW, THEREFORE, BE IT ORDAINED*** by the Council of the City of Lawton, Oklahoma, that:

Section 1. Section 5-2-201 is hereby amended to read as follows:

### **Article 5-2 - DANGEROUS ~~DOGS~~ ANIMALS**

#### **Sections:**

#### **5-2-201 - Definitions.**

A. As used in this article, the following terms shall have the meanings respectively ascribed to them in this section:

1. "Dangerous ~~dog~~ animal" means any ~~dog~~ animal that:
  - a. Has inflicted severe injury on a human being or another animal without provocation on public or private property, or
  - b. Endangers the safety of humans or other animals by aggressively attacking in an apparent attempt to inflict severe injury, or
  - c. ~~Dogs~~ Animals shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was unlawfully present upon the premises occupied by the owner or keeper of the ~~dog~~ animal, or was tormenting, abusing, or assaulting the ~~dog~~ animal or was committing or attempting to commit a crime under any federal, state or local law. For the purpose of this article, a person is considered to be lawfully present upon the property of a ~~dog~~ animal owner or keeper when he is on such property in the performance of any duty imposed upon him by the laws of the state, or by the laws of the United States, or the postal regulations of the United States, or when reading meters, or making repairs to any public utility or service located on the premises, or when working on said property at the request of the owner, keeper or any tenant having a lease upon any portion of said property, or when on such property upon the invitation, expressed or implied, of the owner, keeper or lessee of such property;

"Provoke" or "provocation" means, with respect to an attack by an animal, that the animal was hit, kicked, agitated by teasing or struck by a person with an object or part of a person's body or that any part of the animal's body is pulled, pinched, or squeezed by a person;

3. "Severe injury" means any physical injury that reasonably results in hospitalization or medical treatment;
4. "Proper enclosure of a dangerous ~~dog~~ animal" means, a securely enclosed and locked pen or structure with at least one hundred fifty (150) square feet of space for each ~~dog~~ animal kept therein which is over six months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall be constructed of commercial grade materials such as heavy gauge chain link fencing, with escape proof sides, floor and top, and shall provide protection from the elements for the ~~dog~~ animal;
5. "Animal control authority" means the city's animal welfare division acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city and state for the protection of the general public and the welfare of animals;
6. "Owner" means any person, firm, corporation, or organization, possessing, harboring, keeping, having an interest in, or having control or custody of an animal. The occupant of any premises on which a domesticated animal remains, or to which it customarily returns, for a period of ten (10) days or more, shall be deemed to be harboring or keeping the animal.

Section 2. Section 5-2-202 is hereby amended to read as follows:

**5-2-202 - Unlawful to own dangerous ~~dog~~ animal without certificate of registration.**

- A. It is unlawful for an owner or keeper to have a dangerous ~~dog~~ animal in the city without the certificate of registration issued as provided in this section. This section shall not apply to ~~dogs~~ animals used by law enforcement officials for police work.
- B. The animal welfare division shall issue a certificate of registration to the owner or keeper of a dangerous ~~dog~~ animal if the owner or keeper presents to the animal welfare division sufficient evidence of:
  1. A properly locked enclosure to confine a dangerous ~~dog~~ animal and the posting of the premises with a clearly visible warning sign that there is a dangerous ~~dog~~ animal on the property. In addition, the owner or keeper shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous ~~dog~~ animal;
  2. A policy of liability insurance, such as homeowner's insurance, or surety bond, issued by an insurer qualified under Title 36 of the Oklahoma Statutes in the amount of no less than one million dollars (\$1,000,000.00) insuring the owner or keeper for any personal injuries inflicted by the dangerous ~~dog~~ animal;
  3. Written documentation from a licensed veterinarian stating said ~~dog~~ animal has been spayed or neutered and microchipped for identification and law enforcement purposes;

- 4. Ownership of a muzzle; and
- 5. A city license.
- C. The animal welfare division may issue the owner of a dangerous ~~dog~~ animal under six (6) months of age a tentative city license until the ~~dog~~ animal reaches the age of six (6) months, provided that the owner demonstrates that all the requirements set forth in Section 5-2-202B herein have been substantially satisfied.
- D. The transfer of ownership of a dangerous ~~dog~~ animal is not allowed and will not be recognized within the city limits.

Section 3. Section 5-2-203 is hereby amended to read as follows:

**5-2-203 - Unlawful for dangerous ~~dogs~~ animals to be outside enclosure.**

It is unlawful for an owner or keeper of a dangerous ~~dog~~ animal to permit the ~~dog~~ animal to be outside the proper enclosure unless the ~~dog~~ animal is muzzled and restrained by a substantial leash and under physical restraint of a responsible person of at least eighteen (18) years of age. The muzzle shall be made in a manner that will not cause injury to the ~~dog~~ animal or interfere with its vision or respiration but shall prevent it from biting any person or animal.

Section 4. Section 5-2-204 is hereby amended to read as follows:

**5-2-204 - Confiscation of dangerous ~~dogs~~ animals authorized under certain conditions—Penalty.**

- A. Any dangerous ~~dog~~ animal shall be immediately confiscated by an animal welfare officer if:
  - 1. The ~~dog~~ animal is not validly registered under Section 5-202 of this code or the owner lacks proof of a current policy of liability insurance in an amount of no less than one million dollars (\$1,000,000.00) insuring against personal injuries inflicted by a dangerous ~~dog~~ animal;
  - 2. The ~~dog~~ animal is not being maintained in a properly locked enclosure;
  - 3. The ~~dog~~ animal is outside the dwelling of the owner or keeper or outside the properly locked enclosure and not muzzled and under physical restraint by a responsible person; or
  - 4. Animal control authorities have reason to believe the ~~dog~~ animal has inflicted a severe injury to another person without provocation while the ~~dog~~ animal was off the premises of the owner or keeper after identification of the ~~dog~~ animal by the victim.
- B. The ~~dog~~ animal shall remain in the custody of the animal welfare division until such time as a hearing is held in Municipal Court. If the address of the owner or keeper is known, the

animal welfare division will provide the owner or keeper of the ~~dog~~ animal notice of the date and time for hearing by either regular mail, personal service, or posting the same at their residence. If the address of the owner or keeper cannot readily be determined, the animal welfare division will certify these facts to the court prior to the hearing and the hearing may proceed.

- C. If the court finds that the circumstances leading to confiscation existed or occurred, the judge shall order that the ~~dog~~ animal be destroyed immediately or require that the owners or keepers comply with the provisions of this article within eight (8) working days of the judgment. The judge may additionally order that the owner or keeper comply with other preventative measures including, but not limited to, those set out in Article 5-6. The ~~dog~~ animal will be held at the animal shelter until such time as the owners or keepers reach compliance. Should the owners or keepers fail to comply by the designated date, the owners or keepers, after paying a fee as stipulated in the fee schedule, shall relinquish ownership or custody of the ~~dog~~ animal to the animal welfare division and said ~~dog~~ animal shall be destroyed.
- D. The confiscation proceedings authorized herein shall be separate from and in addition to any citations issued to the owner or keeper of a dangerous ~~dog~~ animal for any violations of Lawton City Code.

Section 5. Section 5-2-205 is hereby amended to read as follows:

#### **5-2-205 - Purpose and construction of Article 2.**

It is the purpose of this article to provide additional and cumulative remedies to control dangerous ~~dogs~~ animals in the city. Nothing in this article shall be construed to abridge or alter rights of action or remedies of victims under the common law or statutory law, criminal or civil.

Section 6. Section 5-2-206 is hereby amended to read as follows:

#### **5-2-206 - Court proceedings against vicious or dangerous ~~dogs~~ animals.**

The owner or keeper of any ~~dog~~ animal alleged to be dangerous or in violation of this chapter may be charged in Municipal Court after a complaint has been duly filed therein by any person having knowledge thereof. If the court finds that the ~~dog~~ animal is a dangerous ~~dog~~ animal as defined in this article, the court shall order that the ~~dog~~ animal be confiscated and destroyed or confiscated until the owner or keeper complies with the provisions of this article within eight (8) working days of the judgment. The judge may additionally order that the owner or keeper comply with other preventative measures including, but not limited to, those set out in Article 5-6. The ~~dog~~ animal will be held at the animal shelter until such time as the owner or keeper reaches compliance. Should the owner or keeper fail to comply by the designated date, the owner or keeper, after paying a fee as stipulated in the fee schedule, shall relinquish ownership or custody of the ~~dog~~ animal to the animal welfare division and said ~~dog~~ animal shall be destroyed. The court may also assess the penalty provided for in Section 1-1-119 of this code for any convictions(s) associated with violating this chapter.

Section 7. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

Section 8. Effective Date. The provisions of this ordinance shall become effective thirty days after the date of the ordinance's passage.

**ADOPTED and APPROVED** by the Council of the City of Lawton, Oklahoma this 13<sup>th</sup> day of October, 2015.

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FRED L. FITCH, MAYOR

ATTEST:

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TRACI L. HUSHBECK, CITY CLERK

APPROVED as to form and legality this \_\_\_\_\_ day of October, 2015.

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FRANK V. JENSEN, CITY ATTORNEY