

ORDINANCE NO. 27,302

ORDINANCE RELATING TO ANIMALS, AMENDING CHAPTER 8 OF THE OKLAHOMA CITY MUNICIPAL CODE, 2020, AMENDING ARTICLE III, MENACING BEHAVIOR BY DOGS AND DANGEROUS ANIMALS, SECTION 8-131, DEFINITIONS, AND SECTION 8-132, MENACING OR DANGEROUS BEHAVIOR BY DOGS PROHIBITED; CREATING A NEW SECTION, 8-133, MENACING ANIMALS PROHIBITED; AMENDING SECTION 8-135, EXCEPTIONS TO CLASSIFICATION, SECTION 8-148, CONFINEMENT; SECTION 8-150, HEARING AND ADJUDICATION; AND SECTION 8-154, PENALTY.

ORDINANCE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OKLAHOMA CITY:

SECTION 1. Sections 8-131 and 8-132 of Division 1 of Article III of Chapter 8 of the Oklahoma City Municipal Code, 2020, are hereby amended to read as follows:

CHAPTER 8.

ANIMALS

ARTICLE III. MENACING ~~BEHAVIOR BY DOGS~~ AND DANGEROUS ANIMALS

Division 1. Generally

§ 8-131. Definitions.

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

(a) *Animal bite* means any penetration, laceration, or contusion of the skin of a person or domestic animal, caused by the teeth or claws of an animal, ~~but shall exclude scratches by the claws of dogs.~~

(b) ~~*At large* means the status of any dog, livestock or domesticated fowl other than homing pigeons that is/are not confined to the property of the owner of the animal, or when the dog or livestock is not confined to the property of the owner and is not under the direct control of the owner or a person able to safely and humanely restrain the animal.~~

~~(e)~~(b) *Attack* means ~~the act by any aggressive, threatening, or hostile behavior by an animal of approaching a domestic animal or a person in such a manner that hostile contact with the other directed toward a domestic animal or the a person, regardless of whether actual physical contact occurs. occurs or an act of aggression against a person or a domestic animal that requires the~~ aggressive, threatening, or hostile behavior by an animal that causes a person or the other animal to take evasive action to prevent injury.

~~(d)~~(c) *Dangerous animal* means any animal:

(1) that bites or inflicts an injury upon a human person or domestic animal as a result of an unprovoked attack regardless if the dangerous animal is on or off the property on which it is harbored; or attempts to bite or attacks a human requiring that person to take evasive action regardless of the location; or

~~(2) that, when unprovoked, either kills, bites or attacks another animal off the property on which the dangerous animal is harbored; or~~

~~(3)~~(2) that is owned, trained, used, or harbored, primarily or in part, for the purpose of animal fighting.

(d) *Domestic animal* means an animal kept for pleasure or for utility, that has adapted to life in association with and to the use of human beings, and shall not include animals which normally can be found in the wild state. For the purposes of this article, homeless, free-roaming (a.k.a. community) cats shall be considered domestic animals.

(e) *Menacing animal behavior* ~~as used in this section~~ means an animal that, ~~unprovoked, charges an individual, growls, snarls, takes an aggressive stance, or shows its teeth toward a domestic animal or person, or that destroys property (e.g., a fence) in an attempt to get to a human person or domesticated animal. An animal cannot be considered as menacing if it is on its owner's property, unless its attempts to escape appear to be reasonably likely to be successful. Barking or being at-large does not of itself constitute menacing behavior.~~

(f) *Owner* means any person, firm, business, organization, or corporation owning, possessing, harboring, or keeping any animal, or having an interest in or control of an animal, or in the case of a person under 18 years of age, that person's parent or legal guardian. This definition shall not apply to any animal shelter, veterinary clinic or kennel that is boarding animals belonging to another.

~~(g) — *Unprovoked* means an act of aggression towards an animal or human that occurs without apparent cause, reason, prompting or motivation.~~

(g) *Provoked* means an animal that is acting:

(1) in response to being tormented, abused, or assaulted by any person;

(2) in response to pain or injury;

(3) in protection of itself or its food, kennel, immediate territory, or nursing offspring; or

(4) in response to an assault or attempted assault on a person.

(h) *K-9* means a dog specifically trained and being used by a public law enforcement agency. Article III of this chapter shall not apply to any K-9.

§ 8-132. ~~Menacing or Dangerous~~ animals ~~behavior by dogs~~ prohibited.

(a) It shall be unlawful for any person to own, harbor, possess, or maintain a dangerous animal, except as authorized by order of the Municipal Court ~~allow any dog owned, harbored, possessed or maintained by him within the City to exhibit menacing or dangerous behavior.~~ No person who has an ownership interest in real property shall permit another person to harbor, possess, or maintain on that property ~~and within the City limits any dangerous animal, except as authorized by order of the Municipal Court.~~ that is dangerous or menacing as defined in this chapter, unless the Municipal Court orders the animal returned to the person owning, harboring, possessing or maintaining the animal under restrictions designated by the Municipal Court.

(b) ~~A dog that is exhibiting menacing or dangerous behavior~~ Any animal that is the subject of a dangerous animal citation shall be immediately impounded.

(c) Any dog or cat that is judicially determined to be menacing or a dangerous animal but ordered released under specific conditions pursuant to § 8-151 of this chapter shall be micro-chipped and spayed or neutered, as set out in § 8-57, before the dog or cat ~~shall be~~ is released from impoundment.

(d) ~~A dog determined to be menacing or dangerous but ordered released under specific conditions pursuant to § 8-151 of this chapter shall be annually registered as a menacing or dangerous dog through a process established by the Superintendent for as long as the cited owner is in possession of the menacing or~~

~~dangerous dog. The process shall include annual verification that the Court's conditions continue to be met. The owner of any animal that is judicially determined to be a dangerous animal shall, as a condition of release, register the animal as a dangerous animal and pay the fees set forth in § 60-8-1 before the animal is released from impoundment.~~

~~(e) — No dog shall be determined to be exhibiting menacing or dangerous behavior toward a person who at the time such behavior was exhibited:~~

~~(1) — was committing or attempting to commit a willful trespass or other tort upon property occupied by the person who owns, harbors, possesses or maintains the animal; or~~

~~(2) — was not lawfully present upon the property occupied by the person who owns, harbors, possesses or maintains the animal; or~~

~~(3) — was attempting to or was tormenting, abusing, or assaulting the dog or who had, in the past, been observed or reported to have tormented, abused, or assaulted the dog; or~~

~~(4) — was committing or attempting to commit a crime.~~

~~(f) — A K-9 dog which attacks a human upon command of the person in charge of the dog at the time of the incident shall not, by reason of such incident, be deemed to be exhibiting menacing behavior.~~

SECTION 2. A new Section 8-133 in Division 1 of Article III of Chapter 8 of the Oklahoma City Municipal Code, 2020, is hereby adopted to read as follows:

CHAPTER 8.

ANIMALS

ARTICLE III. MENACING AND DANGEROUS ANIMALS

Division 1. Generally

§ 8-133. Menacing animals prohibited.

(a) It shall be unlawful for any person to own, harbor, possess or maintain a menacing animal, except as authorized by order of the Municipal Court. No person who has an ownership interest in real property shall permit another person to harbor,

possess, or maintain on that property any menacing animal, except as authorized by order of the Municipal Court.

(b) Any animal that is the subject of a menacing animal citation shall be immediately impounded.

(c) The Animal Welfare Division may release an impounded animal that is the subject of a menacing animal citation to the animal's owner prior to any hearing or final adjudication, subject to one or more of the following restrictions as a condition of release. The Superintendent, or designee, shall determine which restrictions or conditions are appropriate for the particular animal.

(1) If the animal is a dog or cat, it shall be micro-chipped and spayed or neutered;

(2) Confinement in a suitable enclosure constructed to prevent escape of the animal;

(3) Use of a muzzle to sufficiently prevent biting whenever the animal is outside of an enclosure;

(4) Use of a physical restraint whenever the animal is outside of an enclosure;

(5) Timely notification to Animal Welfare of escape or death of the animal;

(6) Timely notification to Animal Welfare of the owner's change of address or any change in ownership or transfer of the animal;

(d) If the owner does not agree with the restrictions required by the Superintendent, or designee, the owner is entitled to a hearing before the Superintendent, or designee, to contest the required restrictions. The hearing shall be scheduled within five (5) business days of the owner being provided with notice of the required restrictions. The Superintendent, or designee, shall determine the place, time, and manner of the hearing. The order issued after the hearing shall be final for the City. The owner may reclaim the animal by complying with any restrictions imposed by the Superintendent, or designee, payment of the required fees, and visual verification by the Superintendent, or designee, that the owner has complied with all required restrictions. Upon the failure to comply with the restrictions required by the Superintendent, or designee, the Superintendent, or designee, may take corrective action including, but not limited to, impounding the animal for the duration of the owner's pending Municipal Court proceedings regarding the animal or animals.

Animals impounded for the owner's failure to comply with the required restrictions are not eligible for further release under this section.

(e) Upon release of any animal under subsection (c), the Superintendent, or designee, shall attempt to timely notify any witnesses and victims of the animal's release.

(f) Any dog or cat judicially determined to be a menacing animal shall be micro-chipped and spayed or neutered pursuant to Section § 8-57, before the dog or cat is released from impoundment by order of the Municipal Court.

(g) The owner of any animal that is judicially determined to be a menacing animal shall, as a condition of release, register the animal as a menacing animal and pay the fees set forth in § 60-8-1 before the animal is released from impoundment.

SECTION 3. Section 8-135 of Division 1 of Article III of Chapter 8 of the Oklahoma City Municipal Code, 2020, is hereby amended to read as follows:

CHAPTER 8.

ANIMALS

ARTICLE III. MENACING AND DANGEROUS ANIMALS

Division 1. Generally

§ 8-135. ~~Exceptions to classification~~ Defenses.

~~(a) No animal, whether or not it was confined on its Owner's property, shall be classified as a dangerous animal because of injuries or death it has inflicted upon another domestic animal that, at the time, was attacking the animal. It is a defense to prosecution under Article III if the animal was provoked as defined in Section 8-131 of this chapter.~~

~~(b) Defenses. It is a defense to prosecution under Section 8-133 of this Chapter that the biting, attacking or death was sustained by a person who: It is a defense to prosecution under Article III if the animal's behavior was directed toward:~~

~~(1) at the time was a person committing or attempting to commit a willful trespass or other tort upon the property where the animal was owned, harbored, kept, or maintained; occupied by the owner of the animal;~~

(2) ~~was not~~ a person not lawfully present upon the property where the animal was owned, harbored, kept, or maintained; occupied by the owner of the animal

(3) ~~was attempting to or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal;~~

(4)(3) ~~was~~ a person committing or attempting to commit a crime.

(e) ~~A K-9 dog which approaches a person in an apparent attitude of attack or which attacks or bites a human upon command of the person in charge of the animal at the time of the incident shall not, by reason of such incident, be deemed to be in violation of Section 8-133.~~

(c) It is a defense to prosecution under Section 8-133 of this chapter that the animal's behavior occurred while the animal was on the property where it was being owned, harbored, kept, or maintained.

SECTION 4. Sections 8-148, 8-150 and 8-154 of Division 2 of Article III of Chapter 8 of the Oklahoma City Municipal Code, 2020, are hereby amended to read as follows:

CHAPTER 8.

ANIMALS

ARTICLE III. MENACING AND DANGEROUS ANIMALS

Division 2. Enforcement

§ 8-148. Confinement.

An animal that is impounded at the time of an incident that resulted in the owner being charged with harboring or possessing a menacing or dangerous animal, or an animal impounded by order of the Municipal Court, shall be confined in the City Animal Shelter pending the disposition of the animal, except as provided in § 8-133(c). Such confinement shall be at the owner's expense unless the Municipal Court does not find the animal to be a menacing or dangerous animal or the charge is declined or is dismissed. ~~Provided, however, the animal may be confined in a licensed veterinary clinic or other licensed facility at the sole discretion of the Municipal Court~~

~~Judge and at the owner's expense no matter what the outcome of the court hearing. Provided, however, that upon the owner's request or due to a medical necessity, the Animal Welfare Superintendent is authorized to place the animal in a licensed veterinary clinic or other licensed facility prior to a hearing for disposition of the animal before the Municipal Court. In all other circumstances, placement of the animal in a licensed veterinary clinic or other licensed facility shall be determined by the Municipal Court. Any placement of the animal in a licensed veterinary clinic or other licensed facility shall be at the owner's expense regardless of the outcome of the court hearing, if the placement was requested by the owner. Otherwise, the owner is not responsible for the costs of such placement if the animal is determined not to be a menacing or dangerous animal.~~

§ 8-150. Hearing and adjudication.

(a) If, after notice as set forth in this article, the owner does not appear at the hearing, the animal shall be deemed abandoned and subject to disposition under the provisions of Article I, Division 5 of this chapter.

(b) The Municipal Court, ~~after Judge, upon~~ the presentation of all evidence at the hearing and upon a finding that the animal is a menacing or dangerous animal, may order the animal euthanized ~~or require confinement of the animal~~ or may order the animal released from impound under certain restrictions designated by the Municipal Court.

(c) If the Municipal Court ~~does not order the animal euthanized, but does find the~~ finds an animal to be menacing or dangerous, the ~~judge~~ Municipal Court may ~~refer to the following list and may impose other remedies as determined by the Municipal Court. Such restrictions may include: order the animal's owner to comply with certain restrictions, as provided in § 8-151, as a condition of release of the animal.~~

~~(1) — Secure confinement in an enclosure;~~

~~(2) — No contact with other animals or humans;~~

~~(3) — Muzzle;~~

~~(4) — Restraint;~~

~~(5) — Signs;~~

~~(6) — Notification of escape or death of the animal; and~~

(7) — ~~Notification of change of address or ownership.~~

(d) Upon a conviction for a violation under this Article, the Municipal Court may suspend the execution of a sentence of euthanasia and order the animal released pursuant to the restrictions imposed by the Municipal Court. The Municipal Court may suspend the execution of such sentence for a period not to exceed six (6) months. During those six (6) months, any subsequent violation of this chapter or violation of any restrictions ordered upon the owner of the animal by the Municipal Court shall constitute cause for revocation of the suspended sentence. The Municipal Counselor's Office may petition the Municipal Court to revoke the suspension of the sentence and set the matter for a hearing before the Municipal Court. If the suspension of the sentence is revoked, the Municipal Court shall order the animal impounded and euthanized.

§ 8-154. Penalty.

(a) Any person who violates any of the provisions of Article III shall upon conviction be guilty of a Class "a" offense. ~~The animal determined to be in violation of this article shall be impounded and, at the discretion of the Court, may be euthanized or conditionally released pursuant to §§ 8-150 and 8-151.~~

(b) Upon a second or subsequent conviction, any person who shall be convicted of any of the provisions of Article III shall be guilty of a Class "b" offense, even if the first conviction involved a different menacing or dangerous animal. ~~The animal determined to be in violation of this article shall be impounded and, at the discretion of the Court, may be euthanized or conditionally released pursuant to §§ 8-150 and 8-151.~~

INTRODUCED AND CONSIDERED in open meeting of the Council of the City of

Oklahoma City the 28th day of February, 2023.

PASSED by the Council and **SIGNED** by the Mayor of the City of Oklahoma City this 28th day of March, 2023.

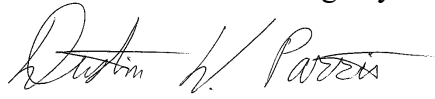
ATTEST: (Seal)

Amy K Simpson
CITY CLERK



David Holt
MAYOR

REVIEWED for form and legality.

A handwritten signature in black ink, appearing to read "Dustin H. Parris". The signature is written in a cursive, flowing style with a horizontal line extending from the middle of the signature.

Assistant Municipal Counselor

Ch 8 Ordinance Menacing and Dangerous Animals 2022-06-06.docx