

CITY OF LAKE QUIVIRA

ORDINANCE NO. 311

AN ORDINANCE PROVIDING FOR REGULATIONS OF DOGS AND DOMESTIC ANIMALS AND THEIR OWNERS WITHIN THE CITY OF LAKE QUIVIRA, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAKE QUIVIRA, KANSAS.

PARAGRAPH ONE

Title VIII, Section 2 of the Code of the City of Lake Quivira, Kansas is hereby amended to read as follows:

Section 2 Regulation of Domestic Animals within City Limits

A. Definitions. The terms used in this Section shall be defined as follows:

“Aggressive Behavior” means any animal that charges at, snaps at, claws, growls or jumps on any person, and causes said person reasonable fear of injury, regardless of whether actual injury occurs.

“Dog Pound” – the Governing Body designated Dog Pounds are included but not limited to: Great Plains SPCA, 9600 West 67th St., Merriam, Kansas and/or Broadmore Kennels 20614 West 47th Street, Shawnee, Kansas.

“Domestic Animals or Pets” – means any animal, including a dog, who at the pleasure and/or option of a person is allowed to live in or about the residence of such person.

“Household” – consists of one or more related or unrelated persons living in the same residential structure within the City.

“Law Enforcement” – the Governing Body designates and authorizes the duly appointed law enforcement officers of the City to perform or enforce the provisions of this Section.

“Licensed Veterinarian” – a veterinarian duly licensed to practice such profession by the state in which such veterinarian’s principal office is located.

“Vicious Behavior” means to cause a contusion or laceration and/or puncture of the skin.

B. License Fee to be paid by Owners and Harborers of Dogs. The owner or harborer of dogs within the City of Lake Quivira, Kansas shall pay to said City an annual license fee as follows:

There shall be and there hereby is established an annual license fee to be paid for each dog over the age of six (6) months or which dog reaches such age during the license year, within the corporate limits of the City, as follows:

\$15.00 for the first dog in each household

\$25.00 for the second dog in each household

\$50.00 for the third & each additional dog in each household

The license fee herein required shall cover the period from March 1 to February 28 or 29 of each year, and shall be due and payable on or before May 1 of each year; provided that the license fee for a dog subject to this Section which reaches the age of six (6) months or which is brought in the City on or after the 1st day of May shall be due and payable within thirty (30) days after the date such dog reaches the age of six (6) months or is brought in the City.

The license fee of this Ordinance shall not apply to any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

C. Fractional Year License. No fractional year license shall be issued.

D. Penalty on Overdue License Fee.

Any person who fails to timely pay the required license fee when due as set forth in Section B, shall as a condition of registration pay the following additional penalty fee at the time of registration:

\$15 for each dog that is registered within 10 days following the date required for registration;

\$25 for each dog that is registered within 30 days following the date required for registration;

\$50 for each dog that is registered within 60 days following the date required for registration;

\$100 for each dog that is not registered within 60 days of the date required for registration.

E. Dog Registration; Display of Tags. It shall be unlawful for any owner, keeper or harborer to maintain or possess any dog over the age of six (6) months in the City without registering the dog and paying the license fee. The owner or harborer of any dog shall cause the same to be listed or registered at the office of the City Clerk in a proper book or record provided for that purpose. The City Clerk shall, upon payment of the license fee for such dog, issue and deliver to the owner a suitable metal check or tag, bearing a number and stating the year for which issued. Such tag shall be securely affixed to the collar or harness of each dog so registered in such manner that the same shall at all times be easily visible to the law enforcement officers of the City. If such tag be lost, the City Clerk, upon request and satisfactory proof that the same has been lost, shall issue a duplicate tag upon the payment of the sum of \$5.00. The failure to display the required registration tag shall be a violation of this Ordinance.

F. Vaccination. No dog registration tag shall be issued until the owner or harborer shall furnish to the City Clerk a certificate signed by a licensed veterinarian showing thereon that said dog has been immunized for rabies for a period of not less than the

calendar year of the animal's registration.

G. City Clerk Keeps Records; Enumeration. The City Clerk shall keep a book or record in which he or she shall enter the names and addresses of the owners paying license fees for dogs, the name, color and description of the dog, and such other information as may be deemed necessary; provided, that the Governing Body may require an annual enumeration during the month of May of each year, of all dogs owned or harbored within the City, which enumeration shall be taken by some person appointed by the Governing Body or Mayor for that purpose. The enumeration shall account for the number, ownership and sex of all dogs owned or harbored.

H. Three Days for Ownership. Any person keeping, feeding, harboring and or allowing a dog, other domestic animal or pet to remain on their residential property within the limits of the City for (3) consecutive days shall be deemed the owner or harborer thereof.

I. Annual Notice. Each year, on or before the 15th of March, it shall be the duty of the City Clerk to cause a notice of the registration requirements to be given in a publication or other written form which is distributed to each home within the City of Lake Quivira, Kansas. Such notice shall notify owners and harborers of dogs in the City that the annual dog license fee will be due and payable on or before May 1st following. Such other information as is pertinent may be included in said notice.

J. Devices or Methods of catching Animals. It shall be lawful for any officer or person designated to enforce the provisions of this Ordinance to use any device, rope, net or enticement now devised or hereafter devised or any other method to enforce such Ordinance so long as such method is humane; provided, that such methods are optional with the City and nothing herein shall be construed to be a condition precedent to the methods provided for in Subsections (K) and (L).

K. Killing Dangerous Animals. The law enforcement officers of the City may humanely euthanize, without notice, any dog, other domestic animal or pet that is vicious or which appears to be infected with rabies or hydrophobia, or severely injured whether it bears the tag herein provided or not.

L. Examination & Quarantine. It shall be the duty of an *owner, keeper, or* harborer of any dog, other domestic animal or pet upon receiving notification, whether written or verbal, from a law enforcement officer that such animal has bitten a person, caused injury or harm to another domestic animal, or has so injured a person as to cause a laceration and/or puncture of the skin, to immediately place such dog, other domestic animal or pet in a licensed veterinary hospital where such dog, domestic animal or pet shall be confined for a period of not less than ten (10) days and such owner or person harboring such dog, other domestic animal or pet shall notify the City Clerk and Police Department of the name and location of said veterinary hospital and the date such dog, other domestic animal or pet was so confined. The owner must request and pay for an examination of contagious diseases if the person who was bitten so requests, or if personnel from the police

department have reason to believe the dog may have a contagious disease. The owner, keeper or harbinger of said dog, other domestic animal or pet shall pay any and all unpaid license fees, penalties and board costs of said dog, other domestic animal or pet. Further, it shall be unlawful for the owner, keeper or harbinger of any dog, other domestic animal or pet, upon receiving notice of the character aforesaid, to sell or give away such dog, other domestic animal or pet or to permit or allow such dog, other domestic animal or pet to be taken beyond the limits of the City for a period of fifteen (15) days after the date that such dog, other domestic animal or pet has so bitten or injured any person, except under the care of a licensed veterinarian as provided herein.

M. Actual or Threatened Personal Injury.

(1) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or other domestic animal or pet, which dog or domestic animal or pet that, at any location within the City of Lake Quivira, Kansas outside the property lines of such owner or harbinger, is determined by said Court, to have behaved aggressively, or outside the enclosed residence of such owner or harbinger, is determined by said Court, to have behaved viciously, shall be fined at least \$250 but no more than \$500.00. From the date of the allegation, and from and after such Court determination, such owner or harbinger shall, further, keep such dog or other domestic animal or pet tied to a leash or confined to a securely fenced area while such dog or other domestic animal or pet is outside the enclosed residence of such owner or harbinger, or shall keep such dog or other domestic animal or pet confined to a securely fenced area when on the property of the owner or harbinger. Failure to comply with said confinement, upon conviction, shall result in a fine of \$1,000.00 for the first such violation, \$2,000.00 for the second such violation and such dog or other domestic animal or pet, unless immediately and permanently removed from the City by such owner or harbinger, shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

(2) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or domestic animal or pet, which dog or domestic animal or pet that, at any location within the City of Lake Quivira, Kansas outside the enclosed residence of such owner or harbinger, is determined by said Court, for a second time, to have behaved aggressively or viciously shall, upon such second determination, be fined \$1,500.00 and said dog or other domestic animal or pet, unless immediately and permanently removed from the City by such owner or harbinger, shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

N. Injury to a Domestic Animal.

(1) Any person who is determined by the Municipal Court of the City of Lake Quivira, Kansas to be the owner or harbinger of a dog or other domestic animal or pet, which dog or other domestic animal or pet, at any location within the City of Lake Quivira, Kansas outside the residential property of such owner or harbinger, is further determined by said Court to have injured any dog or other domestic animal or pet as to cause a contusion or laceration and/or puncture of the skin, shall be fined the sum of \$500 for the first violation and \$1,000 for the second violation. Upon a second conviction for a violation

of this section, said animal shall be immediately and permanently removed from the city or shall be humanely euthanized by a law enforcement officer or other duly authorized city representative. From the date of the allegation, and from and after such Court determination, such owner or harbinger shall, further, keep such dog or other domestic animal or pet tied to a leash or confined to a securely fenced area while such dog or other domestic animal or pet is outside the enclosed residence of such owner or harbinger. Failure to so confine shall result, upon conviction, in a fine of \$500 for the first conviction. For the second conviction, the fine shall be \$1,000 and the animal shall be either immediately and permanently removed from the City or shall be humanely euthanized by a law enforcement officer or other duly authorized city representative.

O. Noises, Disturbance of Peace Prohibited. No person shall keep or harbor a dog, other domestic animal or pet which by loud, excessive barking, howling, yelping, screeching or fighting, shall annoy or disturb the peace of a member of the public. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

P. Removal of Excrement. It is unlawful for any person to fail to immediately remove an excrement deposited by a dog owned or harbored by him or her or any dog then under his or her control, or otherwise on any public or private property other than the residential property of the owner or harbinger of the dog. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

Q. Destruction of Property. It is unlawful for any owner, keeper or harbinger of a dog, or any person having such dog in their possession, to permit such dog to go upon a sidewalk, crossway, or private land or premises, without the permission of the owner of such premises, and visibly damage any lawn, flower bed, plant, shrub, tree, garden or other improvement to such premises. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

R. Scattering of Garbage-Trash. It shall be unlawful for any owner, keeper or harbinger of a dog, or any person having such dog in their possession, to permit such dog to scatter garbage or other trash that has been placed for the purpose of collection on private property or on a street or at any other location within the City. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

S. Prohibited Areas. It shall be unlawful for any owner, keeper, or harbinger of a dog, or any person having such dog in their possession, to permit such dog to enter or remain on:

(1) The areas of the Quivira Incorporated Golf Course, Beach, Tennis Courts, Basketball Courts, and those areas within and adjoining the Country Club at 100 Crescent Blvd, including the outdoor reception areas; and,

(2) The residential or private property of another person, when the owner or occupant thereof has advised the owner, keeper, or harbinger that such dog is not authorized to enter or remain upon such property.

The presence of a dog within the Prohibited Areas shall constitute prima facie evidence that the owner, keeper, or harbinger of such dog is in violation of this Subsection S.

This Subsection S shall not apply to Assistance Dogs as defined by KSA 39-1113, or dogs recognized as service animals under Titles II and III of the Americans with Disabilities Act. Provided, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices.

A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

T. Nuisance Activity. It is unlawful for any owner, keeper or harbinger of a dog, or any person having such dog in their care and possession, to permit such dog to chase or molest a pedestrian, bicyclist, or vehicle occupants, in a manner as to cause apprehension in a person of reasonable sensibilities. A first offense shall result in written documentation of a warning. A second offense shall upon conviction result in a penalty up to the sum of \$250.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$250.00 to a sum established by the Court.

U. Establishment of Dog Pound. There shall be and is hereby established a Dog Pound to be located at such place or places as may be designated by the Governing Body of said City, for the purpose of impounding and keeping dogs, other domestic animals and pets collected by the City, its agents and employees.

V. Unlicensed or Unregistered Dog Taken by Law Enforcement Officer. Whenever any dog shall be found within the city limits of Lake Quivira, Kansas without having a license or registration tag attached to a collar or some other device, such dog shall be taken up by a law enforcement officer, or by any other agency designated by the City to do so, and such dog shall be held ten (10) days at the City's dog pound, and, if within said ten (10) days the owner of any dog so held shall present to the person in charge of such dog pound a receipt for the payment of a current license fee for such dog, such dog shall be delivered to the owner thereof. If not so claimed within ten (10) days, said dog shall become the property of the dog pound to be disposed of in some humane manner or placed in a good home under the dog pound's regulations. The owner or keeper claiming any dog as provided in this section shall pay any reasonable fee in accordance with the rate schedule adopted by such dog pound.

W. Breaking Confinement Area. It shall be unlawful for any person other than a duly authorized officer to break open or attempt to break open the City's holding area or to take or attempt to take from a law enforcement officer of this City, any dog taken up by said officer under the provisions of this Section, or in any manner interfere with or hinder a law enforcement officer of this City in catching or taking up any dog.

X. License fees to General Fund. All license fees, charges and penalties payable under this Title may be paid to or collected by the City Clerk, and such funds shall be credited to the general operating fund.

Y. Enforcement. It is made the duty of the law enforcement officers of the City to enforce the provisions of this Title.

Z. Penalty. It shall be unlawful for any person to fail to comply with the mandatory provisions of this Section.

Any person violating any provision of this Section for which a penalty is not specifically stated herein, shall upon a first conviction be assessed a penalty in a sum up to \$250.00. A second offense shall upon conviction result in a minimum penalty of \$250.00 up to the sum of \$500.00. A third and subsequent offense shall upon conviction result in a minimum penalty of the sum of \$500.00 to a sum established by the Court.

Furthermore, any person convicted of violating any provision of this Section may and shall be held liable upon court order for any reasonable veterinarian fees and other reasonable costs associated with the care and custody or destruction in a humane manner, of any Animal, as well as the costs of reasonable restitution to any person who suffered damage to property based upon prohibited behavior of their canine. Each violation shall constitute a separate offense. Each day that a violation continues shall be deemed a separate offense.

(Ordinance 243, 2008; Ordinance 282, 2013; Ordinance 311, 2019)

PARAGRAPH TWO. SAVINGS CLAUSE.

Neither the passage of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof, nor the repeal of the previously existing provision, shall in any manner affect the prosecution for violation of this Ordinance or a violation of the previously existing provision, or any Ordinance or Code amended or repealed herein, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under any Ordinance or Code, nor be construed as affecting any of the provisions of such Ordinance or Code relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or

deposited pursuant to any Ordinance or Code, and all rights and obligations thereunder shall continue in full force and effect. Any Ordinance or Code sections amended or repealed, are hereby continued in force and effect after the passage, approval, and publication of this Ordinance for the purposes of such rights, fines, penalties, forfeitures, liabilities, and actions therefore.

PARAGRAPH THREE. SEVERABILITY.

If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

PARAGRAPH FOUR. REPEAL

Upon the effective date of this Ordinance, the previously existing provisions of Title VIII, Section 2 of the Code of the City of Lake Quivira, Kansas are hereby repealed.

PARAGRAPH FIVE. EFFECTIVE DATE.

This Ordinance shall take effect and be in full force and effect on and after publication in an official City newspaper.

PASSED by the Governing Body this 3rd day of June, 2019.

APPROVED AND SIGNED by the Mayor this ___ day of _____, 2019.

Ben Kalny, Mayor

ATTEST:

Erin Leckey, Interim City Clerk

APPROVED AS TO FORM:

Ellis Rainey, City Attorney

CITY OF LAKE QUIVIRA, KANSAS

Summary of Ordinance No. 311

On the 6th day of June 2019, the Governing Body of the City of Lake Quivira, Kansas passed Ordinance No. 311, to amend Title VIII, Section 2 of the Code of the City of Lake Quivira, Kansas to adopt new regulations related to the conduct of domestic animals and their owners within the City limits.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at www.cityoflakequivira.org.

The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. 311 is legally accurate and sufficient.

Dated: the 6th day of June 2019.

CITY ATTORNEY

Ellis Rainey, City Attorney