

ORDINANCE 182-E

AN ORDINANCE AMENDING AND RESTATING ORDINANCE 182-D OF THE CITY OF ARCHER CITY, TEXAS; DEFINING CERTAIN TERMS; PROVIDING FOR THE LICENSING AND VACCINATION OF DOGS; PROHIBITING OWNERS OR KEEPERS OF DOGS FROM ALLOWING DOGS TO RUN AT LARGE; PROVIDING FOR THE IMPOUNDMENT OF DOGS AND NOTICE THEREOF, THE DISPOSITION OF UNCLAIMED DOGS, THE REGULATION OF DOGS THAT ATTACK A PERSON, THAT ARE A DANGER TO PERSONS OR THAT ARE DANGEROUS, AND THE CONTROL OF RABIES; ESTABLISHING CERTAIN OFFENSES FOR VIOLATION OF THIS ORDINANCE, SETTING THE PENALTIES FOR VIOLATIONS AND ADMINISTRATIVE FEES FOR THE DISMISSAL OF CHARGES; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND REPEAL OF PRIOR, AND INCONSISTENT ORDINANCES, ORDERS AND RESOLUTIONS.

WHEREAS, the public health and safety of the City of Archer City is endangered by the running at large of dogs; and

WHEREAS, there have been increasing instances of persons, pets, and livestock having been attacked and injured by dogs running at large; and

WHEREAS, there is a real and present danger of the spread of rabies as a consequence of being bitten by a dog without a current rabies vaccination; and

WHEREAS, it has come to the attention of the City Council that dogs are being kept within the City limits in a manner which is disturbing and dangerous to the residents of the City; and

WHEREAS, pursuant to TEX. LOC. GOVT. CODE ANN. §51.001 the City is authorized to adopt regulations that are for the good government, peace, or order of the City; and

WHEREAS, the City Council of the City of Archer City has determined, based upon the findings stated above, that the regulations established by this Ordinance are necessary for the good government, peace and order of the City; and

WHEREAS, the City Council finds that this Ordinance was adopted at a meeting which was open to the public and preceded by proper notice, as required by Chapter 551 of the Texas Government Code (the Open Meetings Act); and

WHEREAS, the City has heretofore adopted Ordinance No. 182-D and now desires to restate and amend the regulations set forth therein in the manner set forth in this Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARCHER CITY, THAT:

Sect. 2.101 Definitions

For the purpose of this Ordinance the following words, terms, or phrases shall have the following respective meanings ascribed to them:

- a. At Large. Any dog not confined within a fenced area or other enclosure or not otherwise secured by a leash, lead, or other physical restraint.
- b. Documented. A dog running at large is deemed documented if a city employee takes a digital photograph of the dog running at large where such digital photograph includes a record of the date of the occurrence or an Archer City resident takes a digital photograph of the dog running at large on their property within the City, and where such digital photograph includes a record of the date of the occurrence.
- c. Dog. A domesticated animal that is a member of the canine family.
- d. License Tag. A metallic tag issued by the City of Archer City.
- e. New Owner. A person who is legally competent to enter into a binding contract and who is purchasing or adopting an unclaimed dog from the City of Archer City.
- f. Owner or keeper of a dog. Any natural or juridical person possessing, harboring, keeping, holding, caring for, having an interest in, or having control or custody of a dog. If the owner or keeper of a dog is a minor, the parent or guardian of that minor shall be responsible for compliance with this article.
- g. Purchasing or adopting. The process of obtaining the right of possession of an unclaimed dog from the City, whether or not a purchase price or other consideration was paid.
- h. Rabies Tag. A metallic tag, issued by a veterinarian, licensed to practice veterinary medicine in the State of Texas, showing that the dog for which it is issued has been vaccinated against rabies within the current calendar year.
- i. Complaint. A sworn statement of the Animal Control Officer or any person alleging a violation of this Ordinance or state law relative to the regulation of dogs.
- j. Animal Control Officer. The “Animal Control Officer” shall be the individual employed by the City with the primary authority to oversee and

administer the provisions of this Ordinance. The Chief of Police or any police officer of the City are also designated Animal Control Officers.

j. City. The City of Archer City, Texas.

k. Ordinance. This Ordinance including any amendments thereto.

Sect. 2.102 Licensing and vaccination

A. Any person in possession of a dog that is more than four (4) months old shall obtain a license from the City of Archer City at a fee of \$5.00 per license. No license refunds shall be given for any reason. A separate license is required for each dog and must be renewed annually during the month of April. No license shall be issued until the following requirements are met:

(1) The owner or keeper of the dog to be licensed must present a certificate from a veterinarian, licensed to practice veterinary medicine in the State of Texas, showing that such dog has been vaccinated against rabies during the calendar year for which the license is sought;

(2) The owner or keeper of the dog to be licensed must pay the license fee as stated above; and

(3) The owner or keeper of the dog to be licensed must complete a City of Archer City dog license application form stating the owner's or keeper's name, address, and telephone number, along with the name, breed, color, and sex of the dog to be licensed.

B. Upon completion of all requirements stated above, the City of Archer City shall issue to the owner or keeper a license tag for each dog so licensed. The license tag shall have stamped thereon the year for which it was issued and the number corresponding to the number of the license certificate. Both the license tag and rabies tag shall be affixed to the dog's collar and shall be worn at all times by the dog.

C. A person commits an offense if he or she intentionally or with reckless disregard transfers a license tag or rabies tag from the dog for which such tag was issued to any other dog.

Sect. 2.103 Running at large

A. It shall be unlawful for owner or keeper of a dog to allow such animal to run at large, as defined in § 2.101(a) of this ordinance.

B. Any citizen shall have the right to file a complaint with the City of Archer City for violations of this section.

C. An owner or keeper of a dog which has been documented running at large is in violation of this ordinance, whether or not such dog has been impounded.

Sect. 2.104 Impoundment

A. Any dog found running at large, whether or not such dog has been documented running at large, may be taken up by the City of Archer City and placed in the City impound shelter. Upon impoundment, an entry shall be made in the impoundment registry showing the breed, color, and sex of the dog, along with any information contained on the dog's license tags. A copy of the registry shall be placed on file at City Hall and shall be open to public inspection. The Animal Control Officer shall provide written notice to the owner or keeper of a dog if the owner or keeper is known to the Animal Control Officer or any police officer of the City from personal knowledge or from a review of the City's dog licensing records. The notice shall:

- (i) describe the dog,
- (ii) state that the dog has been impounded and
- (iii) advise the owner or keeper that if the dog is not redeemed within 7 days from the date the notice is sent by the owner or keeper of the dog paying all applicable fees and licensing the dog (if the dog does not have a current license) all in accordance with City regulations then:

- (A) the dog will become the property of the City, and
- (B) will be subject to sale, disposition or humane euthanasia in accordance with this Ordinance.

The notice shall be delivered or sent not later than the business day following the date on which the dog is impounded. This notice will be delivered personally to the owner or keeper of the dog when possible. If the owner or keeper of the dog cannot be located and the address of the owner or keeper of the dog is known, then this notice will be sent by certified mail, return receipt requested to the owner or keeper of the dog.

B. Dogs shall be held in the City impoundment shelter for a minimum of 7 days, for dogs, before becoming subject to disposition pursuant to Section 2.105 of this Ordinance. No unlicensed dog shall be released from impoundment until a license is obtained from the City or the owner or keeper of the dog makes arrangements with the Animal Control Officer to take the necessary steps to license the dog or remove the dog from the City within 10 days from the date it is redeemed.

C. The following fees and charges shall be applied against any dog so impounded:

- (1) The sum of \$50.00 per head for picking up and impounding each dog; and
- (2) The sum of \$5.00 per day per head for the care and maintenance of the dog while in impoundment.

Sect. 2.105 Unclaimed dogs

A. After the time limit for impoundment as set forth in this Ordinance has expired, the City of Archer City may sell or give away to a new owner, or humanly euthanize, any dog without further notice. Accurate records showing the disposition of each dog shall be kept by the City.

B. The owner or keeper of any dog at the time it was impounded may, within thirty (30) days from the date such dog was sold or given away, reclaim and repossess the same from the new owner by reimbursing the new owner for all expenses incurred in the purchase of the dog plus \$1.00 per day for each day the new owner had the dog in his or her possession. In no event shall the new owner be held liable for spaying or neutering the dog while in his or her possession. At the end of the thirty (30) day period from the new owner's date of purchase or adoption, the right of the owner to reclaim the dog shall expire.

Sect. 2.106 Dogs That Attack Person or Are a Danger to Persons and Dangerous Dogs

A. Dogs that attack persons or that are a danger to persons or dangerous dogs shall be regulated in the manner provided in Subchapters A and D of Chapter 822 of the Texas Health and Safety Code. For purposes of this Ordinance, the term "dangerous dog" shall have the meaning assigned to it in that state statute.

B. For purposes of administering the provisions of Subchapters A and D of Chapter 822 of the Texas Health and Safety Code the Animal Control Officer shall be the "animal control authority" and the court to which appeals of the determination that a dog is dangerous by the animal control authority (pursuant to TEX. HEALTH AND SAFETY CODE §822.0421) may be taken is the City's Municipal Court.

Sect. 2.107 Rabies control - animal bite procedure

Any dog that bites, scratches, or otherwise injures a person shall be, upon complaint of the injured person, quarantined and held for a period of ten (10) days at the owner or keeper's expense in any veterinary hospital or animal shelter approved by the City of Archer City. Prior to being redeemed by the owner or keeper, the quarantined dog shall be examined by a veterinarian, licensed to practice veterinary medicine in the State of Texas, or other rabies control specialist for rabies or other communicable disease at the owner or keeper's expense.

Sect. 2.108 Offense; Penalties.

A. Any violation of the regulations established by this Ordinance shall constitute an offense. Violation of any of the regulations established by this Ordinance shall: (i) constitute a separate offense for each day any such violation continues and (ii) shall constitute a separate violation or offense for each dog relative to which a violation occurs.

B. A person found guilty of an offense established by this section shall be guilty of a misdemeanor and may be assessed a fine of up to \$500.00 and may be subject to other orders or conditions as are permitted by applicable law. If a person found guilty of any violation of this Ordinance has been previously found guilty of a violation of this Ordinance, the fine for the subsequent violation of this Ordinance shall be in an amount not less than twice the amount of the standard fine established by the City, for the first violation, up to a maximum amount of \$500.00.

C. The City Attorney may require the payment of an administrative fee not to exceed \$20.00 upon the dismissal of any charges filed under this Ordinance.

Sect. 2.109 Severability

If any section, subsection, sentence, phrase, or word of this Ordinance shall be held to be unenforceable or unconstitutional by a court of competent jurisdiction, such decision shall not affect the enforceability of the remaining portions of this Ordinance.

Sect. 2.112 Effective Date and Repeal of Prior Ordinances.

A. This Ordinance shall be effective on the date following the date on which the caption of this Ordinance is published, in accordance with TEX. LOC. GOVT. CODE §52.011, in the *Archer County News*, the official newspaper of the City. The affidavit of the publisher of said newspaper shall be placed on file with the City Administrator and shall be *prima facie* proof of publication. The City Administrator is hereby directed to attach a true copy of said affidavit to this Ordinance provided that the failure of the City Administrator to do so shall not affect the validity or enforceability of this Ordinance.

B. All prior ordinances, orders, and resolutions of the City which: (i) relate to the subject matter of this Ordinance, including, without limitation, Ordinance No. 182-D, or (ii) are in conflict with this Ordinance, are hereby expressly repealed as of the effective date set forth in subsection 2.112(A) above but such prior ordinances, orders or resolutions shall remain effective as to, and shall govern, any circumstances or situations in existence prior to the effective date of this Ordinance .

PASSED AND APPROVED on the 17th day of June 2010.

David A. Levy, Mayor

ATTEST:

Kim Whitsitt, City Administrator