

CITY OF LOWRY CROSSING, TEXAS

ORDINANCE NO. 157

AN ORDINANCE OF THE CITY OF LOWRY CROSSING, TEXAS, PROVIDING FOR THE COMPREHENSIVE REGULATION OF ANIMALS; REQUIRING THAT ANIMALS BE KEPT UNDER RESTRAINT AND PROVIDING FOR THE CONFINEMENT OF ANIMALS WHICH HAVE BITTEN PERSONS OR OTHER ANIMALS; PROVIDING A SYSTEM OF RABIES CONTROL; REGULATING ANIMAL CARE AND PROHIBITING INHUMANE TREATMENT OF ANIMALS; PROHIBITING THE KEEPING OF WILD ANIMALS; PROHIBITING EXCESSIVE ANIMAL NOISE; PROHIBITING EXCESSIVE ANIMAL WASTE ACCUMULATION; ADOPTING STATE REGULATIONS REGARDING DANGEROUS DOGS; DECLARING CERTAIN ACTS TO BE UNLAWFUL; PROVIDING FOR THE ENFORCEMENT OF THIS ORDINANCE BY THE ANIMAL CONTROL AUTHORITY; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED \$500.00 FOR EACH OFFENSE; PROVIDING, HOWEVER, WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE, THE PENALTY SHALL BE THAT FIXED BY STATE LAW, AND FOR ANY OFFENSE WHICH IS A VIOLATION OF LAW THAT GOVERNS FIRE SAFETY, ZONING OR PUBLIC HEALTH AND SANITATION, INCLUDING THE DUMPING OF REFUSE, THE PENALTY SHALL BE A FINE NOT TO EXCEED \$2,000.00 FOR EACH OFFENSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOWRY CROSSING, TEXAS:

SECTION 1. DEFINITIONS. As used in this ordinance, the following terms are defined as set forth below:

A. *Animal* shall mean any living creature, including but not limited to dogs, cats, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock, but specifically excluding human beings.

B. *Animal Control Agency or Animal Control* shall mean the agency designated by contract by the City Council of the City of Lowry Crossing for the control of animals within the corporate city limits

C. *Animal control officer* shall mean any person designated by the supervisor of the animal control agency to enforce the provisions of this ordinance.

D. *Cat* shall mean any live or dead cat (*Felis catus*).

E. *Currently vaccinated* shall mean vaccinated and satisfying the following criteria:

- i. At least thirty (30) days have elapsed since the initial vaccination.
- ii. No more than twelve (12) months have elapsed since the most recent vaccination.

F. *Dangerous animal* shall mean any individual animal of any species that has made an unprovoked attack on a person or animal that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own.

G. *Direct supervision of the owner* as that term is used in the definition of "running at large" means that degree of control necessary to prevent the animal from attacking persons or other animals, or causing damage to public or private property.

H. *Dog* shall mean any live or dead dog (*Canis familiaris*).

I. *Harboring /Keeping* shall mean the act of caring for an animal within Lowry Crossing City limits or of providing a premise within Lowry Crossing City limits to which the animal returns for food, shelter, or care for a period of three (3) consecutive days.

J. *Local Health Authority* shall mean a person or agency designated by the animal control agency to receive reports of animal bite, investigate bite reports, insure quarantine of possible rabid animals and otherwise carry out provisions of the Texas law pertaining to control and eradication of rabies.

K. *Owner* shall mean any person, firm or corporation that owns, harbors or has care, custody or control of an animal or permits an animal to remain on or about his premises.

L. *Pet Animal* shall include dogs, cats, rabbits, rodents, birds, reptiles and any other species that are sold or retained as a household pet, but shall not include skunks, nonhuman primates and any other species of wild, exotic, or carnivorous animal that may be further restricted in this ordinance.

M. *Running at large* shall mean not completely confined by a building, wall or fence (to include electronic fence) of sufficient strength or construction to restrain the animal, or not on a leash or held in the hands of the owner or keeper, or not under the direct supervision of the owner within the limits of the owner's private property.

N. *Vaccinated* shall mean properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by a veterinarian licensed to practice in the State of Texas.

Q. *Wild animal* shall mean any poisonous or dangerous reptile or any other species of animal that exists in a natural, unconfined state and is usually not domesticated, including, but not limited to, foxes, opossums, raccoons, squirrels,

leopards, panthers, tigers, lions, lynx, unless certified for medical, biological, herpetological or other scientific research or study. This definition shall apply regardless of state or duration of captivity.

SECTION 2. RABIES CONTROL.

A. *Vaccinations* - every owner of a dog or cat four (4) months of age or older shall have such animal vaccinated against rabies. All dogs or cats vaccinated at four (4) months of age or older shall be revaccinated at one (1) year of age and annually thereafter. Any person moving into the City from a location outside of the City shall comply with this Section of this ordinance within thirty (30) days after having moved into the City.

B. *Certificate of vaccination* - upon vaccination, the veterinarian shall execute and furnish a certificate to the owner of the dog or cat as evidence of the vaccination. Such certificate shall contain the following information:

- i. The name, address and telephone number of the owner of the vaccinated dog or cat;
- ii. The date of vaccination;
- iii. The type of rabies vaccine used;
- iv. The year and number of the rabies tag; and
- v. The breed, age, color, and sex of the vaccinated dog or cat.

C. *Rabies tags* - concurrent with the issuance and delivery of the certificate of vaccination, the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and name of the issuing veterinarian and his address. The owner shall cause the collar or harness, with the attached metal tag, to be worn by his dog or cat at all times when off the premises of the owner.

D. *Duplicate tags* - in the event of loss or destruction of the original tag, the owner of the dog or cat shall obtain a duplicate tag. Vaccination certificates and tags shall be valid only for the animal for which they are originally issued.

E. *Proof* - it shall be unlawful for any person who owns or harbors a vaccinated dog or cat to refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this ordinance.

F. *Harboring unvaccinated animals* - it shall be unlawful for any person to harbor any dog or cat that has not been vaccinated against rabies, as provided herein, or that cannot be identified as having a current vaccination certificate.

G, *Animals exposed to rabies* - any person having knowledge of the existence of any animal known to have been, or suspected of having been, exposed to rabies must immediately report such knowledge to the animal control agency, giving any information that may be required. For any animal known to have been, or suspected of being, exposed to rabies, the following rules shall apply:

i. Animals having a current vaccination must be revaccinated immediately and quarantined according to the method prescribed by the animal control agency for a period of not less than ninety (90) days.

ii. Animals not having a current vaccination should be humanely destroyed. However, if the owner of such an animal elects, he may, at his own expense and in a manner prescribed by the animal control agency, confine said animal. Such animal shall be vaccinated immediately following exposure and shall be quarantined for not less than six (6) months. A revaccination shall be done one (1) month prior to release from quarantine.

SECTION 3. REPORTING CASES OF HUMANS BITTEN BY ANIMALS SUSCEPTIBLE TO RABIES.

A. Any person having knowledge of an animal bite to a human shall report the incident to the sheriffs department or animal control agency as soon as possible, but not later than twenty-four (24) hours from the time of the incident.

B. The owner of the biting animal shall place that animal in quarantine under the supervision of the animal control agency as prescribed in Section 4.

C. Utilizing standard reporting forms provided by the Texas Department of Health, the animal control agency shall investigate each bite incident.

SECTION 4. QUARANTINE PROCEDURE FOR ANIMALS.

A. When an animal that has bitten a human is identified, the owner is required to produce the animal for ten (10) days' confinement at the owner's expense. Refusal to produce said dog or cat constitutes a violation of this Section and each day of such refusal constitutes a separate and individual violation. The ten (10) day observation period shall begin on the day of the bite incident. The animal must be placed in a licensed quarantine facility. However, the owner of the animal may request permission from the animal control agency for home quarantine if the following criteria can be met:

i. Secure facilities are available at the home of the animal's owner, and is approved by the local health authority.

ii. The animal is currently vaccinated against rabies.

iii. The animal control officer, or licensed veterinarian shall observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the animal control officer or agency shall be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine shall be accomplished only after written permission from the animal control agency.

iv. The owner of the animal was not in violation of any laws at the time of the bite.

v. If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a Texas Department of Health (TDH) certified laboratory for rabies diagnosis.

vi. It shall be unlawful for any person to interrupt the ten (10) day observation period.

vii. At the discretion of the animal control agency, all wild animals involved in biting incidents shall be humanely destroyed in such a manner that the brain is not mutilated. The brain shall be submitted to a TDH certified laboratory for rabies diagnosis. No wild animal shall be placed in quarantine and shall be dispositioned by the animal control agency.

SECTION 5. RUNNING AT LARGE.

A. It shall be unlawful for any owner to allow any animal possessed, kept, or harbored by such owner, to run at large as that term is defined in Section 1 of this ordinance.

B. The animal control officer is authorized to impound animals found to be running at large.

SECTION 6. ANIMAL NUISANCE.

A. The keeping of any animal, which by causing frequent or long continued barking, crying or other noise that shall disturb any person of ordinary sensibilities in the vicinity is prohibited.

B. The keeping of any animal in such a manner as to endanger the public health, to annoy neighbors by the accumulation of animal wastes which cause foul and offensive odors, or are considered to be a hazard to any other animal or human beings or by continued presence on the premises of another is prohibited.

C. Stables or enclosures in which any animal may be kept or confined that have become offensive to a person of ordinary sensibilities are prohibited.

D. The keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health and welfare is prohibited.

SECTION 7. DANGEROUS DOGS.

The owner of a dangerous dog shall comply with the requirements of Subchapter D of Chapter 822 of the Texas Health and Safety Code.

SECTION 8. PROHIBITED ANIMALS.

It shall be unlawful to keep or sell any wild animal inside the City.

SECTION 9. DANGEROUS ANIMALS.

A. Any dangerous animal found running at large may be destroyed by any peace officer or animal control officer in the interest of public safety.

B. The animal control officer may order any owner or person having care, control, or custody of any dangerous animal to remove such animal permanently from the City. The animal must be removed immediately following receipt of such an order, even if an appeal is initiated. The order may be appealed in writing within ten (10) days to the Lowry Crossing City Council. The City Council may uphold, reverse or modify the animal control officer's order, and may stipulate restrictions on the animal as a condition to allowing the animal to remain in the City. If the Lowry Crossing City Council upholds the animal control officer's order, the owner or person having care, control, or custody shall not bring the animal back inside the City limits.

C. If the owner or person having care, custody, or control of a dangerous animal fails to remove such animal as provided for in Subsection B of this Section, such animal may be impounded and/or destroyed.

D. The owner or person having care, custody, or control of a dangerous animal must report the disposition and relocation of such animal to the animal control officer in writing within ten (10) days after the expiration date for removal of such animal from the City. Each day thereafter that such information is not provided shall constitute a separate offense.

E. To the extent allowed by law, the animal control officer is authorized to remove an animal ordered removed from the City which has not been so removed.

SECTION 10. IMPOUNDMENT.

A. The following animals may be impounded:

- i. Cats and dogs not exhibiting evidence of being vaccinated;
- ii. Any animal infected with rabies or kept under conditions *that could* endanger the public or animal health;
- iii. Any animal that creates a nuisance, as defined in Section 6;

- iv. Any animal found running at large, as described in Section 5;
- v. Any animal treated in a manner determined by an animal control officer to be cruel and inhumane;
- vi. Any animal that has bitten a human being or needs to be placed under observation for rabies determination, as determined by an animal control officer;
- vii. Any animal violating any provisions of this ordinance.

B. If any animal is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal in a humane manner until he can notify an animal control officer to retrieve the animal for impoundment. When so notified, it shall be the duty of the animal control officer to impound such animal.

C. Except where otherwise prohibited by this ordinance, the owner can regain possession of an impounded animal upon payment of impoundment fees, handling fees, and any veterinary bills incurred by animal control for the welfare of the animal, and upon compliance with vaccination provisions of this ordinance.

D. Disposition of animals impounded on the grounds of cruel or inhumane treatment shall be determined by the court of jurisdiction.

E. If any animal is being held in quarantine or observation for rabies, the owner shall not be entitled to possession until it has been released from quarantine.

F. The animal control agency shall select and establish a place for impounding animals under any provisions of this ordinance.

G. Any animal not reclaimed by the owner after the owner has been notified at the owner's last known address in writing by hand delivery or by the U.S. Mail, certified, return receipt requested, may be humanely euthanized after being impounded for three (3) working days, except that any animal wearing a current vaccination tag shall be impounded for not less than six (6) working days.

H. Any impounded dangerous or wild animal, unless there is reason to believe it has an owner, may be disposed of as may be deemed appropriate by the animal control agency.

I. Any nursing baby animal impounded without its mother, or where the mother cannot or refuses to provide nutritious milk, may be euthanized to prevent further suffering.

J. Any impounded dog or cat not wearing a registration certificate tag may be given up for adoption after three (3) working days of impoundment; except those under quarantine. Any impounded dog or cat wearing a current registration tag may be given up for adoption on the

seventh (7th) day of confinement after an attempt is made by the animal control agency to contact the owner.

K. Any impounded animal that appears to be suffering from extreme injury or illness may be euthanized or given to a non-profit humane organization for the purposes of veterinary care, as determined by the supervisor of the animal control agency after an attempt is made by the animal control agency to contact the owner.

L. An owner who no longer wishes responsibility for an animal, or believes the animal to be in an ill or injured condition, may sign a written waiver supplied by the animal control agency allowing the animal to be euthanized before expiration of the three (3) working day period, provided the animal is currently held at the animal control agency's shelter.

SECTION 11. ADOPTION.

The adoption of a dog or cat from the animal control agency may take place under the following conditions:

- A. The animal has been classified as adoptable by the animal control authority;
- B. The prospective adopter has proper facilities for the care of the animal, and shall certify same;
- C. The prospective adopter obtains all necessary vaccinations;
- D. The prospective adopter pays the adoption fee according to the scheduled rates as set by the animal control agency.
- E. The supervisor of animal control shall refuse to allow a person to adopt a dog or cat from the animal shelter when the supervisor has reason to believe that person would not be able to obtain a registration certificate under this ordinance, would not have proper facilities for care of the animal, wants the animal for purposes of resale or purposes other than pet ownership, would not be a suitable owner within the sole discretion of the supervisor of animal control, or that the animal would be a hazard to humans or other animals in the opinion of the supervisor of animal control,
- F. The adopted dog or cat has been neutered or spayed and the expense incurred paid for by the person adopting the dog or cat.

SECTION 12. SANITARY CONDITIONS AND ANIMAL CARE.

- A. The owner or person in possession of animals shall keep yards, pens and enclosures in which such animals are confined in such a manner as not to give off odors offensive to persons of ordinary sensibilities residing in the vicinity, or to breed or attract flies, mosquitoes or other noxious insects, or in any manner to endanger the public health or safety, or create a public nuisance.
- B. All persons keeping an animal shall comply with the following regulations:

i. Manure and droppings shall be removed from pens, stables, yards, and cages as necessary to maintain sanitary conditions and shall be handled or disposed of in such a manner as to keep the premises free of any nuisances.

ii. Mound storage of droppings or manure between such removals shall be permitted only under such conditions as to protect against the breeding of flies and to prevent the migration of fly larvae (maggots) into the surrounding soil.

iii. To the extent allowed by law, the animal control agency and animal control officer may go onto any private property in the city of Lowry Crossing for the purpose of determining whether or not any provision of this ordinance has been violated and to impound any animal kept or harbored in violation of any terms of this ordinance.

iv. An owner shall provide his animal with sufficient, good and wholesome food and water, proper shelter and protection from the weather, veterinarian's care when needed to prevent suffering, and with humane care and treatment.

v. No person shall beat, cruelly handle, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate, or permit dogfighting, cockfights, bullfights, or other combat between animals or between animals and humans in the corporate City limits of Lowry Crossing.

vi. No owner of an animal shall abandon such animal in the corporate City limits of Lowry Crossing.

vii. No person shall knowingly expose any known poisonous substance, whether mixed with food or not, so that the same may be eaten by any pet or domestic animal.

SECTION 13. PENALTY CLAUSE. That any person firm or corporation violating any provision of this ordinance, shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed the sum of \$500.00 for each offense; provided, however, where a different penalty has been established by state law for such offense the penalty shall be that fixed by state law, and for any offense which is a violation of law that governs fire safety, zoning, or public health and sanitation, including the dumping of refuse, the penalty shall be a fine not to exceed the sum of \$2000.00 for each offense. Each day that a violation occurs or continues constitutes a separate offense.

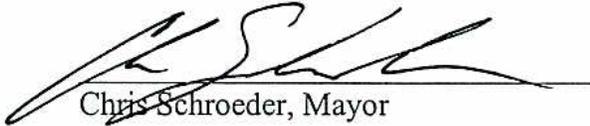
SECTION 14. REPEALER CLAUSE. That Ordinance No. 77, Ordinance No. 127; and Ordinance No. 152 are repealed.

SECTION 15. SEVERABILITY CLAUSE. That if any section or provision of this ordinance or the application of any section or provision to any person, firm, corporation, situation or circumstance is for any reason adjudged invalid or held unconstitutional, the same shall not affect the validity of any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect.

SECTION 16. EFFECTIVE DATE. That this ordinance shall take effect immediately after its passage and publication of the caption, as the law in such cases provides.

DULY ADOPTED by the City Council of the City of Lowry Crossing, Texas, on the 4th day of June, 2002.

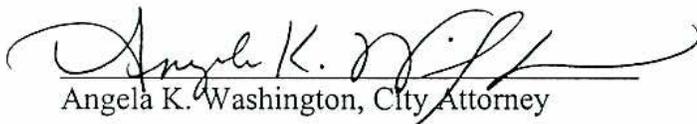
APPROVED:


Chris Schroeder, Mayor

ATTEST:


Earl "Eddie" Sturgal, Interim City Secretary

APPROVED AS TO FORM:


Angela K. Washington, City Attorney