

ORDINANCE NO. 649

AN ORDINANCE REGULATING VICIOUS DOGS

WHEREAS, the City of Las Animas is desirous of protecting the health and safety of its citizens by the regulation of vicious dogs,

BE IT THEREFORE ORDAINED AS FOLLOWS:

Section 1.A: A new Section 5-51 entitled "Definition of Terms" is enacted as follows:

Section 5-51: Definition of Terms:

- (1) **Owner** means any person, firm, corporation, organization or department possessing, harboring or having the care or custody of a dog.
- (2) **Vicious Dog** means:
 - a. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to or otherwise threaten the safety of human beings or domestic animals;
 - b. Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this Chapter;
 - c. Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal;
 - d. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting;
 - e. Any pit bull terrier, which shall be defined as any American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American

Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Bull Terrier; or

- f. Any offspring of any dog defined in Subsection (2)d through (2)e above.
- (3) No dog may be declared vicious if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog, or has in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

Section 2: A new Section 5-52 entitled "Construction Matters" is enacted as follows:

Section 5-52: Construction Matters:

- (A) A vicious dog is "unconfined" if the dog is not securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have a minimum dimensions of five feet by ten feet and must have secure sides and a secure top.
- (B) Unless alternate construction materials are approved by the City Code Enforcement Officer prior to construction of the structure, only fencing/wire materials shall be used in the construction of said pen or structure. Such pen or structure must have a minimum dimension of five feet by ten feet and reconstructed of a metal fabric no thinner than 12 gage with holes in the fabric no larger than three inches.
- (C) Sides must be secured to the top and bottom of the enclosure. The top of the enclosure must be completely enclosed and must be secured to the top of all of the sides of the structure.
- (D) The enclosure must have a bottom that is completely enclosed. The bottom must be constructed of a metal fabric no thinner than 12 gage with holes in the fabric

no larger than three inches or concrete no less than three inches thick secured to the sides. If there is no bottom, the sides (to include the fabric) must be embedded into the ground no less than two feet.

- (E) If the Code Enforcement Officer is requested to authorize use of alternative construction materials, those alternate materials must be of such a nature as to comply with the general intent of this section as to security and containment of the animal.
- (F) This enclosure must also provide protection from the elements for the dog and must be adequately lighted and kept in a clean and sanitary condition.

Section 3: A new Section 5-53 entitled "Confinement" is enacted as follows:

Section 5-53: Confinement:

The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

Section 4: A new Section 5-54 entitled "Leash and Muzzle" is enacted as follows:

Section 5-54: Leash and Muzzle:

The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, not exceeding six (6) feet in length, and under the physical restraint of a responsible person.

Section 5: A new Section 5-55 entitled "Signs" is enacted as follows:

Section 5-55: Signs:

The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal. Such signs shall be in lettering clearly visible from either the curbline or a distance of fifty (50) feet.

Section 6: A new Section 5-56 entitled "Insurance" is enacted as follows:

Section 5-56: Insurance:

Owners of vicious dogs must, within ten (10) days of the effective date of the ordinance codified herein, provide proof to the City Clerk of public liability insurance in the amount of at least fifty thousand dollars (\$50,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

Section 7: A new Section 5-57 entitled "Registration and Identification Photographs" is enacted as follows:

Section 5-57: License, Registration and Identification Photographs:

Any person having the custody, ownership or control of any vicious dog must, within ten (10) days of the effective date of the ordinance codified herein, City license and register said dog with the City on a form to be provided by the City. Said form shall require the following information: name, address and telephone number of the dog's owner; the address where the dog is harbored if different from the owner's address; dog's sex, color, rabies certificate and tag number. At the time of the registration, said owner, keeper or harborer must provide the City Clerk two (2) photographs of the animal, clearly showing the color and approximate size of the animal.

Section 8: A new Section 5-58 entitled "Reporting Requirements" is enacted as follows:

Section 5-58: Reporting Requirements:

All owners, keepers or harborers of a vicious dog must, within ten (10) days of the incident (defined below), report the following information in writing to the City Clerk as required hereinafter:

- (1) The removal from the City or death of a vicious dog;
- (2) The birth of offspring of a vicious dog as defined in Section 5-51 above.

- (3) The new address of a vicious dog owner, should the owner move within the corporate City limits.

Section 9: A new Section 5-59 entitled "Sale or Transfer of Ownership Prohibited" is enacted as follows:

Section 5-59: Sale or Transfer of Ownership Prohibited:

No person shall sell, barter or in any other way dispose of a vicious dog registered with the City to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a vicious dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the City.

Section 10: A new Section 5-60 entitled "Animals Born of Registered Dogs" is enacted as follows:

Section 5-60: Animals Born of Registered Dogs:

All offspring born of vicious dogs, defined in Section 5-51 above, registered with the City must be registered in accordance with the requirements of Section 5-57 above.

Section 11: A new Section 5-61 entitled "Dog Fighting" is enacted as follows:

Section 5-61: Dog Fighting:

No person shall possess, harbor, maintain, care or have custody of any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

Section 12: A new Section 5-62 entitled "Confiscations" is enacted as follows:

Section 5-62: Confiscations:

- (A) Any vicious dog shall be immediately confiscated by the Police Department if:
- (1) The dog is not validly registered;

- (2) The owner does not secure the liability insurance coverage required;
 - (3) The dog is not maintained in the proper enclosure; or
 - (4) The dog is outside of the dwelling of the owner or outside of the proper enclosure and not under the physical restraint of the owner. The owner of any dog so confiscated may within five (5) days reclaim the dog upon providing satisfactory proof to the Police Department that the violation has been corrected and upon the payment of the appropriate impoundment fees. If the owner does not reclaim the dog within five (5) days, the dog shall be thereafter destroyed in an expeditious and humane manner.
- (B) If the vicious dog of an owner with a prior conviction under this Chapter attacks or bites a person or another domestic animal, the dangerous dog shall be immediately confiscated by the Police Department and placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- (C) Any dog that aggressively attacks and causes severe injury or death of any human being, whether the dog has previously been declared potentially vicious or vicious, shall be immediately confiscated by the Police Department, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

Section 13: A new Section 5-63 entitled "Determination of a Vicious Dog" is enacted as follows:

Section 5-63: Definition of Terms:

- (A) In the event that a law enforcement officer has probable cause to believe that a dog is vicious, the chief dog officer or his or her immediate supervisor or the Chief of Police or his or her designee, shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The dog officer or Chief of Police shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why

the dog should not be declared vicious. The hearing shall be held promptly within no less than five (5) nor more than ten (10) days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public.

- (B) After the hearing, the owner or keeper of the dog shall be notified in writing of the determination. If a determination is made that the dog is vicious, the owner or keeper shall comply with the provision of this Chapter in accordance with a time schedule established by the dog officer or Chief of Police, but in no case more than forty-five (45) days subsequent to the date of the determination. If the owner or keeper of the dog contests the determination, he or she may, within five (5) days of such determination, bring a petition in the Municipal Court within the City wherein the dog is owned or kept, praying that the Court conduct its own hearing on whether or not the dog should be declared vicious. After service of notice upon the dog officer, the Court shall conduct a hearing *de novo* and make its own determination as to viciousness. Said hearing shall be conducted within seven (7) days of the service of the notice upon the dog officer or law enforcement officer involved. The issue shall be decided upon the preponderance of the evidence. If the Court rules the dog to be vicious, the Court may establish a time schedule to insure compliance with this Chapter, but in no case more than forty-five (45) days subsequent to the date of the Court's determination.
- (C) The Court may decide all issues for or against the owner or keeper of the dog regardless of the fact that said owner or keeper fails to appear at said hearing.
- (D) The determination of the Municipal Court shall be final and conclusive upon all parties thereto. However, any law enforcement officer shall have the right to declare a dog to be vicious for any subsequent actions of the dog.
- (E) In the event that the law enforcement officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the law enforcement officer may seize and impound the dog pending the aforesaid hearings. The owner or keeper of the dog

shall be liable to the city or town where the dog is impounded for the costs and expenses of keeping such dog, if the dog is determined to be vicious.

Section 14: A new Section 5-64 entitled "Penalties" is enacted as follows:

Section 5-64: Penalties:

Whoever violates any provision of this Chapter shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300.00), or imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

Section 15: A new Section 5-65 entitled "Exemptions" is enacted as follows:

Section 5-65: Exemptions:

The provisions of this Chapter shall not apply to K-9 or other dogs owned by any Police Department or other law enforcement agency or privately owned by any law enforcement officer if said dog is regularly used in the performance of police work at the request of the law enforcement agency.

Section 16: The ordinance shall become effective on May 1, 2004.

PASSED on First Reading this 9th day of March, 2004.

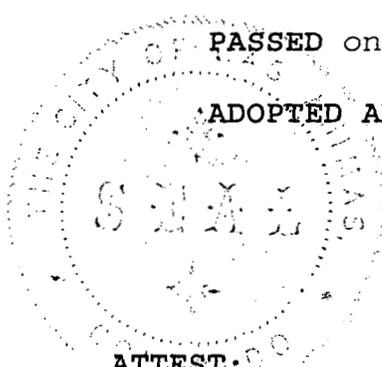
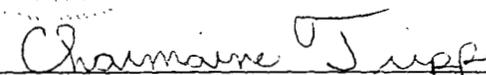
ADOPTED AND APPROVED this 13th day of April, 2004.

CITY OF LAS ANIMAS



William Lutz, Mayor

ATTEST:

Charmaine Tripp, City Clerk