

SECTION 9 - OWNERSHIP OF DANGEROUS DOGS

9.1 REQUIREMENTS FOR OWNER OF A DANGEROUS DOG: An owner of a dangerous dog must:

- a) Register the dangerous dog with the Comal County Animal Control Officer for the area in which the dog is kept.
- b) Pay an annual fee of one hundred (\$100.00) to the Animal Control Office.

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- c) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure which has been approved by the Animal Control Officer.
- d) Post a sign on his/her premises warning that there is a dangerous dog on the property. This sign shall be visible and be capable of being read from a public street or highway.
- e) Spay or neuter the dangerous dog.
- f) Obtain necessary insurance or show financial responsibility in the amount of at least one hundred thousand dollars (\$100,000.00) to cover damages to persons and property resulting from a dog attack.

9.2 LIMITATION OF OWNERSHIP OF DANGEROUS DOGS:

- a) Only one (1) dangerous dog may be owned per household.
- b) No more than two (2) dangerous dogs may remain at any residence for more than seven (7) days.

9.3 DECLARATION OF A DANGEROUS DOG:

- a) Animal Control may find and declare a dog to be dangerous or potentially dangerous if Animal Control has probable cause to believe that a dog committed any of the acts described in the definition of Dangerous Dog (Section 2.8), or that the dog repeatedly bit or vigorously shook its victim and the victim, or a person intervening, had difficulty terminating the attack; or
- b) Upon receipt of an affidavit of complaint signed by one or more individuals, made under oath before an individual authorized by law to take sworn statements or made at the Animal Control Office, setting forth the nature and the date of the act, the location of the event, the name of the owner of the dog, the address of the owner, and the description of the dog doing such act, Animal Control shall investigate the complaint and determine if a dog is dangerous.

9.4 NOTIFICATION OF DECLARATION OF DANGEROUS DOG:

- a) Within five (5) working days of declaring any dog dangerous or potentially dangerous, Animal Control will notify, by regular mail and by certified mail, return-receipt requested, the owner of the dogs designated as a dangerous. Animal Control shall also post a written notice at the entrance of the premises where the dog is harbored.
- b) Receipt of said notice shall be presumed upon proof of either of the following occurrences:
 - 1) Return of an executed return-receipt;
 - 2) Affidavit by Animal Control of deposit of a correctly addressed notice into United States mail; or
 - 3) Affidavit by Animal Control of posting of the notice at the premises where the dog was harbored.
- c) All owners may appeal this declaration to a justice court of competent jurisdiction. If the dog is declared to be dangerous, the notice shall inform the owner of the dog that a determination hearing may be requested to contest the declaration. The request for a determination hearing must be in writing and must be received by the appropriate Justice of the Peace no later than ten (10) working days from receipt of notice by the owner of the dog. Failure to appeal the declaration within ten (10) working days shall result in

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Animal Control's decision becoming final. Further appeals may be pursued in the same

manner as appeals for civil cases.

9.5 DETERMINATION HEARING:

- a) Upon written request for a determination hearing by the owner of a dog declared dangerous, the dog in question will be subject to any behavior assessment test or any other means available to Animal Control. The results of any tests will be presented at the determination hearing and be taken into consideration for the final determination. The owner shall be responsible for any costs incurred for the test or tests to be conducted and fees of the animal behaviorist to analyze the video test or tests.
- b) The owner shall be notified of the hearing by placing the notice in the United States mail, certified, return receipt requested addressed to the owner. Failure of the owner of the dog to appear at the determination hearing shall result in the Animal Control's declaration becoming final. Pending the outcome of the determination hearing, the dog must be securely confined in a humane manner at a licensed veterinarian facility or in an animal shelter. The costs of securing the dog pending the determination hearing shall be borne by the owner.
- c) The judge of a court of competent jurisdiction shall determine by a preponderance of the evidence whether to declare the dog a dangerous dog under this section based upon evidence, affidavits, and testimony presented at the time of the hearing.

9.6 DEFENSE TO DECLARATION OF DANGEROUS DOG: It is a defense to the determination of any dog as dangerous and/or to the prosecution of the owner of the dog:

- a) 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 of the dog;
- b) If the person was teasing, tormenting, abusing, or assaulting the dog;
- c) If the person was committing or attempting to commit a crime;
- d) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
- e) If the dog was injured and responding to pain.

9.7 DEFENSES: It is a defense to prosecution under these Regulations that a person is:

- a) A veterinarian, a peace officer, a person employed by a recognized animal shelter or a person employed by the state or a political subdivision of the State to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position;
- b) An employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- c) A dog trainer or an employee of a guard dog company under the Private Security Act, (Article 4413)(29bb), Vernon's Texas Civil Statutes.

9.8 CONFISCATION:

- a) Until the owner of a dog determined to be dangerous has met the requirements placed on that owner by Section 822.042, Texas Health and Safety Code and this order, the Animal Control Officer or his designee shall confiscate the animal whether it be found on public or private property.
- b) The Animal Control Officer shall have no authority to confiscate any animal unless he has first delivered to the owner of the animal, a written notice of the determination that the animal is a dangerous dog. The notice may be delivered either in person or by certified mail, return receipt requested, directed to the last known mailing address of the owner.
- c) The Animal Control Officer shall be required to obtain a search and seizure warrant only if the dangerous dog is located within a residence.
- d) If an attempt is made by the Animal Control Officer to impound a dangerous dog and the

impoundment cannot be made safely, the owner shall be notified and given twenty-four (24) hours to surrender the animal to the Animal Control Authority. The notice shall include a warning that failure to surrender the animal may result in destruction of the animal if it cannot be safely impounded on any subsequent attempt;

- e) The animal thus confiscated shall be ordered sheltered by the Animal Control Officer for a period of seventy-two (72) hours, not counting weekends and holidays, to allow the owner to claim the animal upon satisfaction of the provisions of Sections 822.042 and 822.043 of the Texas Health & Safety Code and this order. Upon failure of the owner to reclaim the animal during that period, the Animal Control Officer may humanely destroy the animal without compensation to the owner;
- f) In addition to the fees required for registration of the animal, the owner must, prior to the animal's release, satisfy all above-referenced provisions.

9.9 PENALTY FOR VIOLATION:

- a) Any person who violates a provision of this Section may be guilty of a Class C misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00).
- b) Each day that a person owns a dangerous dog in violation of this Section shall constitute a separate offense.
- c) An offense under this section is a Class B Misdemeanor if it is shown on trial of the offense that the defendant has previously been convicted under this section.

9.10 ATTACK BY A DANGEROUS DOG: Subject to the following, Section 822.044 of Texas Health and Safety Code shall apply to any attack by a Dangerous Dog after such determination has been made:

- a) After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Animal Control Office within twenty-four (24) hours of the attack or as soon as such attack is known by any person to have occurred.
- b) Attack on an Animal. The offense classifications of the statute (as set forth in Section 9.11 herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered with the Animal Control Office. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be surrendered to the Animal Control Office. The Animal Control Office shall schedule a hearing to be held pursuant to Section 9.5 with prior

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notice of such hearing to the owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed, the Animal Control Office shall humanely destroy the dog. If the Animal Control Office finds reason not to destroy the dog, and a second attack occurs, then the Animal Control Office must humanely destroy the dog.

9.11 VIOLATION AND PENALTY FOR VIOLATION: Attack by a Dangerous Dog against a person.

- a) A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- b) An offense under this section is a Class C misdemeanor, unless the attack caused serious bodily injury or death (see Section 10).
- c) If a person is found guilty of an offense under this section, and the offending dog caused death or serious bodily injury, the Court may order the dangerous dog destroyed by Animal Control in a humane manner.