

CITY OF SEGUIN

ORDINANCE NO.:

STATE OF TEXAS

AN ORDINANCE OF THE CITY OF SEGUIN, TEXAS, AMENDING THE SEGUIN CODE OF ORDINANCES, CHAPTER 14, ANIMALS, ARTICLE III, DOGS AND CATS, TO ESTABLISH NEW GUIDELINES FOR THE DETERMINATION THAT A DOG IS DANGEROUS; AND ARTICLE V, ANIMAL SERVICES ADVISORY COMMITTEE; PROVIDING FOR PUBLICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND AUTHORIZING CITY STAFF TO PREPARE THIS ORDINANCE FOR SUBMISSION AS A SUPPLEMENT TO THE CODE OF ORDINANCES

WHEREAS, as the result of an at-large domesticated dog death the City's dangerous dog ordinance was reviewed; and

WHEREAS, in the review of the dangerous dog ordinance several changes were identified that staff believes would help maintain best practices; and

WHEREAS, during the ordinance review staff found several areas that needed to be reworded to reflect current conditions; and

WHEREAS, in that review staff also found that Article V did not conform to present city practice; and

WHEREAS, staff also recommends that the director of animal services be a permanent member of the committee rather than be subject to term limits.

BE IT ORDAINED by the City Council of Seguin, Texas:

SECTION ONE. The Seguin Code of Ordinances, Chapter 14, Animals, Article III, Dogs and Cats, Section 14-51, Definitions, is amended as follows(underlining indicates added text, ~~striketrough~~ indicates deleted text):

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal control department* means Seguin Animal Services and the Seguin Animal Services Facility.

*Animal control officer* means the person appointed by the city to manage Seguin Animal Services and the Seguin Animal Services Facility.

*Animal shelter* means a facility that is used to house or contain stray, homeless, abandoned or unwanted animals and that is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization organized for the protection and humane treatment of animals.

*At large* means any dog or cat not under the restraint of a person capable of controlling the dog or cat on or off the premises of the owner.

*Bodily injury* means an injury which results in bite wounds, tears or scratches requiring medical attention, and includes serious bodily injury or death which results from any such injury.

*Cat* means any live or dead *Felis catus*.

*Dangerous dog* means a dog that:

- ~~(1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than a secure enclosure as defined by this chapter;~~
- ~~(2) Commits unprovoked acts in a place other than a secure enclosure that cause a person to reasonably believe that the dog will attack and cause bodily injury to that person;~~
- ~~(3) Outside of a secure enclosure, makes an unprovoked attack which causes serious bodily injury or death to a domestic animal;~~
- ~~(4) Is the subject of a final, nonappealable determination that it is dangerous under the provisions of this article; or~~
- ~~(5) Has been registered as, or finally determined or declared to be a dangerous dog in another city or county in Texas and has made an unprovoked attack on another person or domestic animal outside a secure enclosure, regardless of whether bodily injury results from the attack.~~

(1) Any individual dog which, because of its physical nature or vicious propensity, would constitute a danger to human life or property; or any dog that is possessed of tendencies to attack or to injure human beings or other domesticated animals;

(2) A dog that commits an unprovoked attack on a human being that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own;

(3) An dog that commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the dog will attack and cause bodily injury to that person; or,

(4) A dog that makes an unprovoked attack on another domesticated animal that causes bodily injury or death; and which occurs when such animal is at large.

*Dog* means any live or dead *Canis familiaris*.

*Dog or cat license* means a privilege granted, in compliance with this chapter, to own, keep, harbor or have custody or control of a dog or cat legally within the city during the calendar year.

*Harbor* means the act of keeping and caring for an animal or of providing a location to which the animal returns for food, shelter, or care for a period of three days or longer.

*Impound* means to take into custody or place in the city animal shelter.

*Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

*Owner* means any person owning, keeping or harboring one or more dogs or cats.

*Public nuisance animal* means and includes any animal that:

- (1) Is repeatedly at large (defined as three or more impoundments or citations for violation of the restraint provisions of this chapter during a 12-month period);
- (2) Causes more than \$100.00 in damages to the property of someone other than its owner;
- (3) While not in a secure enclosure, molests or intimidates pedestrians;
- (4) Excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or other in close proximity to the premises where the animal is kept or harbored;
- ~~(5) Attacks and causes bodily injury to other domestic animals; or~~
- ~~(6) Has been previously determined to be a dangerous dog and which is in violation of the dangerous dog requirements of division 3 of this article.~~

*Rescue shelter* means a person or group of persons who hold themselves out as an animal rescue, accept or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats.

*Restraint* means any dog secured by a leash or lead and under the control of a responsible person and obedient to that person's commands.

*Secure enclosure* means a house, building, fenced area, structure or pen that:

- (1) Is at least six feet in height;
- (2) Has minimum dimensions of five feet by ten feet;
- (3) Forms an enclosure suitable to prevent entry of young children;
- (4) Is locked and secured such that the dog cannot climb, dig, jump or otherwise escape of its own volition; and
- (5) Provides the animal with protection from the elements.

*Seguin Animal Services and Animal Services Facility* means the City of Seguin animal facility and all services related to the operation of that facility, including the enforcement of animal related state law and city ordinances.

*Serious bodily injury* means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

*Unprovoked*, with respect to an attack by an animal, shall mean that the animal was not hit, kicked, or struck by a person with an object or part of a person's body nor was any part of the animal's body pulled, pinched, or squeezed by a person. With respect to a dog attacking a domesticated animal unprovoked shall also mean that the dog being attacked was not at large or otherwise not restrained or within a fenced yard or enclosure.

*Vaccinated* means properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

**SECTION TWO.** The Seguin Code of Ordinances, Chapter 14, Animals, Article III, Dogs and Cats, Section 14-98, Impoundment and destruction of dangerous dogs, is amended as follows (underlining indicates added text, ~~striketrough~~ indicates deleted text):

**Sec. 14-98. - Impoundment and humane euthanization ~~destruction~~ of dangerous dogs.**

(a) A dangerous dog found in violation of this article may be impounded as a public nuisance animal or humanely euthanized ~~destroyed~~ in accordance with the provisions of this article.

(b) If impoundment of a dangerous dog is being attempted away from the premises of the owner or harbinger and the impoundment cannot be made with safety, the animal may be impounded and humanely euthanized ~~destroyed without notice to~~ if the owner or harbinger cannot be found or notified within 72 hours.

(c) If an attempt is made to impound a dangerous dog from the premises of the owner or harbinger and the impoundment cannot be made with safety, the owner or harbinger will be given 24 hours notice that if the dog is not surrendered to the animal services control ~~department~~, or a veterinary facility, for impoundment within said 24-hour period, then the dog will be humanely euthanized ~~destroyed~~ wherever it is found. ~~After expiration of this period, if impoundment cannot be with safety, the dangerous dog may be humanely euthanized destroyed during an attempt to impound, wherever the impoundment is attempted.~~ Written notice left at the entrance to the premises where the dangerous dog is harbored will be considered valid notice under this section.

**SECTION THREE.** The Seguin Code of Ordinances, Chapter 14, Animals, Article III, Dogs and Cats, Section 14-99, Determination of dangerous dog, is amended as follows(underlining indicates added text, ~~strikethrough~~ indicates deleted text):

(a) The animal ~~services control~~ department may find and determine a dog to be dangerous dog upon receipt of an affidavit of complaint signed by one or more individuals with actual knowledge of the event, including an animal ~~services control~~ officer, made under oath before an individual authorized by law to take sworn statements, setting forth an act defined under "dangerous dog" in section 14-51. The complaint shall set forth the following:

- (1) The nature and date of the act complained of;
- (2) The location of the event; and
- (3) The name and address of the owner of the animal in question; and
- (4) The description of the animal in question.

(b) Upon receipt of complaint meeting the requirements of this section, the animal ~~services control~~ department shall investigate the complaint and ~~may~~ determine whether or not the dog is dangerous under the provisions of this article.

**SECTION FOUR.** The Seguin Code of Ordinances, Chapter 14, Animals, Article III, Dogs and Cats, Section 14-100, Notification and appeal of dangerous dog determination, is amended as follows(underlining indicates added text, ~~strikethrough~~ indicates deleted text):

(a) Within five working days of determining a dog to be dangerous, the animal ~~services control~~ department will notify, by certified mail return receipt requested, the person owning the dog of its designation as a dangerous dog. Within 15 days of delivery of written notice, which shall be deemed delivered when deposited in the United States mail, the owner of a dog determined dangerous under this article may appeal the determination by making a written request for appeal to the Seguin municipal court of record. Failure to appeal the determination of a dangerous dog shall result in the animal ~~services control~~ department's determination becoming as final.

(b) Upon conclusion of the hearing if the Judge affirms the dangerous dog finding the Judge may order that the dangerous dog be humanely euthanized or may require that the owner meet one or more of the following conditions:

(1) Removal of the dangerous dog from within the city limits. In which case, the owner must provide, in writing, the destination address of where the animal is to reside and proof that the owner has alerted the agency responsible for animal services in that area to the animal services manager prior to the animal being released from the animal services facility; or

(2) Registration and compliance with all of the following requirements, at the owner's expense, before the dog is released from the animal services facility or other state approved quarantine facility.

- i. Obtaining liability insurance coverage or showing financial responsibility in an amount of at least \$250,000.00 to cover damages resulting from an attack by the dangerous dog

causing bodily injury to a person or for damages to any person's property resulting from the keeping of such dangerous dog. A certificate of insurance or other evidence of meeting the above requirements shall be filed with the animal services director;

ii. Registering with the City of Seguin by providing the name and address of the owner; the breed, age, sex, color and any other identifying marks of the animal; the location where the animal is to be kept if it is not at the address of the owner; and two color photographs that clearly identify the dangerous dog;

iii. Having the dog sterilized;

iv. Constructing a cage, pen or enclosure for the dangerous animal that has secure sides constructed in a manner to prevent the dog from digging out. In lieu of a separate enclosure the dangerous dog may be kept in a yard completely encircled by a six foot fence constructed in such a manner as to prevent a person or child from being able to reach the dog; and constructed in a manner that the dangerous dog cannot escape therefrom. In the case of a human bite the dangerous dog shall be kept in an enclosure that meets state law as set forth in the Texas Health Code;

v. Not allowing the dog to go outside of its cage, pen, fence, or enclosure unless the animal is under physical restraint. No person shall permit a dangerous dog to be kept outside of its cage, pen or enclosure on a chain, rope or other type of leash unless a person is in physical control of the chain, rope or leash and the person is of competent strength to control the dog at all times. Dangerous dogs shall not be tethered or otherwise leashed to inanimate objects, such as trees, posts, buildings, etc. All dangerous dogs outside their cage, pen or enclosure must be securely fitted with a muzzle that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent the animal from biting other animals or human beings;

vi. Posting signs giving notice of a dangerous dog in the area or on the premises in which such dog is confined. Such signs shall be conspicuously posted at both the front and rear property entrances and shall bear letters not less than two inches high, stating

"DANGEROUS DOG ON PREMISES."

Such signs shall also display a symbol that is understandable by small children, that warns of the presence of a dangerous dog;

vii. Implanting a microchip into the dog and registering it for life with the city's animal services division and a recognized national registry; and

viii. Paying the appropriate dangerous animal permit fee annually.

(3) The dangerous dog shall remain impounded, at the Owner's expense, until the Owner meets all requirements set by the Court.

(c) Upon receipt of a request for appeal the Court shall set a time and place for a hearing, said hearing being set within 10 days of the request for appeal.

(d) A party may appeal the decision of the Municipal Court of Record to the Guadalupe County Court by filing a notice of appeal within ten days of the hearing. The notice of appeal must be accompanied by the posting of an appeal bond in the amount determined by the municipal court.

**SECTION FIVE.** The Seguin Code of Ordinances, Chapter 14, Animals, Article III, Dogs and Cats, Section 14-101, Status of dog pending appeal, is amended as follows(underlining indicates added text, ~~striketrough~~ indicates deleted text):

Pending the outcome of an dangerous dog determination or the appeal thereof, the animal ~~services control~~ department may order the dog to be confined at ~~a licensed veterinary clinic, or at the City of Seguin Animal Services Control Facility, or the Owner may elect to have the dog~~ confined at a veterinary facility that must be a licensed quarantine facility for cases where the attack occurred against a human, the cost of which shall be borne by the owner. If the dog in question is not in the possession of the animal ~~services control~~ facility or an approved ~~facility clinic~~ veterinary facility, the owner must surrender said dog to the animal ~~services control~~ department when ordered to do so by any animal ~~services control~~ officer or police officer. If the owner fails to immediately surrender the dog, the animal ~~services control~~ department shall have the right to impound the dog wherever the dog may be found in the manner and under the conditions set forth in section 14-98. If the dog cannot be taken into custody by the animal ~~services control~~ department, it may be taken into custody under a search warrant issued by the municipal court or other court having jurisdiction.

**SECTION SIX.** The Seguin Code of Ordinances, Chapter 14, Animals, Article V, Animal Services Advisory Committee, Section 14-253, Composition of the Committee, is amended as follows(underlining indicates added text, ~~striketrough~~ indicates deleted text):

Composition of the committee.

(a) The committee shall consist of five active members (the "members") appointed by the Mayor and approved by vote of the Seguin City Council to fulfill the following composition:

- (1) A veterinarian licensed to practice in the State of Texas;
- (2) A City of Seguin municipal official;
- (3) A person who is employed as the director of the ~~by Seguin Animal Services and works in the Seguin Animal Services Facility as part of their daily employment;~~
- (4) A person who is a representative from an animal welfare organization; and
- (5) A citizen who resides within the Seguin city limits.

(b) Except for the director of the Seguin Animal Services the ~~The~~ term for each member shall be three years. A member's service shall be limited to two consecutive terms, but may be reappointed after sitting out at least three years. If no other veterinarian is willing to serve, the

current veterinarian may serve more than two terms. Vacancies shall be filled by the Seguin City Council.

(c) The voluntary absence of a member from two consecutive regular meetings of the committee or any four regular meetings within one year will result in automatic resignation of the member from the committee. A voluntary absence means an absence other than an excused absence. An excused absence means an absence that results from a medical reason of a member or a relative of the member. The chair shall make the initial determination as to whether or not an absence is excused; however, a member may appeal that decision to the committee as a whole.

**SECTION SEVEN.** In accordance with Section 3.10 of the Seguin City Charter, this Ordinance shall become effective upon ten (10) days following passage on second reading and shall be published in a newspaper of general circulation.

**SECTION EIGHT.** If any clause or provision of this Ordinance shall be deemed to be unenforceable for any reason, such unenforceable clause or provision shall be severed from the remaining portion of the Ordinance, which shall continue to have full force and effect.

**SECTION NINE.** City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

**PASSED AND APPROVED** on first reading this 19<sup>th</sup> day of January, 2016.

**PASSED AND APPROVED** on second reading this 2<sup>nd</sup> day of February 2016.

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DON KEIL, Mayor

ATTEST:

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Thalia Stautzenberger, City Secretary