



City of Saginaw

City of Saginaw

Meeting Date: 4/04/2017

Staff Contact: Kevin McMillin
Chief Building Official

Agenda Item: 8a
(CC-0417-09)

E-mail: kcmillin@saginawtx.org

Phone: 817-230-0500

SUBJECT: Consideration and Action regarding Ordinance No. 2017-04, amending Chapter 6 of the Saginaw City Code; providing that the City is deemed the owner of impounded animals not redeemed within 72 hours of impoundment, notice to owner, or court order authorizing release; amending the definition of dangerous dog; amending the designation and enforcement procedures related to dangerous animals and dangerous dogs; and amending the requirement for maintaining a dangerous animal or dangerous dog

BACKGROUND/DISCUSSION:

Ordinance No. 2017-04 amends Chapter 6 of the Code of Ordinances. The amendments address several items regarding stray animals as well as dangerous animals and dogs. There have been several incidents involving dog attacks recently and approval of the ordinance will assist the Animal Services Department in addressing the involved dogs. The proposed ordinance was prepared by the City Attorney. Animal Services Coordinator Destinee Dozier will make a presentation regarding the proposed ordinance.

FINANCIAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of Ordinance No. 2017-04 amending Chapter 6 of the Saginaw City Code; providing that the City is deemed the owner of impounded animals not redeemed within 72 hours of impoundment, notice to owner, or court order authorizing release; amending the definition of dangerous dog; amending the designation and enforcement procedures related to dangerous animals and dangerous dogs; and amending the requirement for maintaining a dangerous animal or dangerous dog.

Attachments

Memo with Proposed Ordinance from Kevin McMillin
Presentation



City of Saginaw

March 24, 2017

205 Brenda Lane
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Saginaw, Texas 76179
817-230-0500
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www.ci.saginaw.tx.us

Re: Stray animal ownership and dangerous dog ordinance amendment

Staff Report

Nan

This request is for the amendment of Chapter 6 of the Saginaw City Code of Ordinances. The amendment would clarify animal ownership of animals not redeemed within 72 hours of impoundment. This amendment will also amend the designation and enforcement procedures related to dangerous animals and dangerous dogs along with the definition of dangerous animal and dangerous dogs. This amendment will also enhance the requirements for the keeping of a dangerous animal or dangerous dog. Staff has reviewed the amendment and supports the changes.

Kevin McMillin CBO
City of Saginaw
Building Department

ORDINANCE NO. 2017-04

AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS, AMENDING CHAPTER 6 OF THE SAGINAW CITY CODE; PROVIDING THAT THE CITY IS DEEMED THE OWNER OF IMPOUNDED ANIMALS NOT REDEEMED WITHIN 72 HOURS OF IMPOUNDMENT, NOTICE TO OWNER, OR COURT ORDER AUTHORIZING RELEASE; AMENDING THE DEFINITION OF DANGEROUS ANIMAL AND DANGEROUS DOG; AMENDING THE DESIGNATION AND ENFORCEMENT PROCEDURES RELATED TO DANGEROUS ANIMALS AND DANGEROUS DOGS; AMENDING THE REQUIREMENTS FOR MAINTAINING A DANGEROUS ANIMAL OR DANGEROUS DOG; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Saginaw, Texas, is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council has previously adopted ordinances concerning the impoundment and disposition of certain animals in the City and the designation and maintenance of dangerous animals and dangerous dogs in the City; and

WHEREAS, recent case law suggests a city's animal control ordinances should clearly state that the city takes ownership of an impounded animal before the city takes any action to dispose of the animal by placing the animal for adoption or humanely euthanizing the animal; and

WHEREAS, the City Council now desires to amend the previously adopted provisions to clearly set forth the circumstances under which the City becomes the owner of an impounded animal; and

WHEREAS, the current ordinance concerning dangerous animals and dangerous dogs is not adequate to protect the public from dangerous dogs that are not maintained in compliance with the requirements for dangerous animals and dangerous dogs; and

WHEREAS, the City Council now desires to amend the previously adopted provisions concerning dangerous animals and dangerous dogs to create additional enforcement authority to adequately protect the public from the threat and danger of dangerous animals and dangerous dogs in the City; and

WHEREAS, the City Council hereby finds and determines that the amendments set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:

SECTION 1.

That Article II of Chapter 6 of the Saginaw City Code is hereby amended by amending Section 6-34 to read as follows:

“Sec. 6-34. – Impoundment of animals.

- (a) *Impoundment Generally.* Animals owned or harbored in violation of this chapter, any other ordinance of the city, or any law, rule or regulation of the State of Texas or of the United States shall be taken into custody by an animal control officer or other designated official and impounded under the provisions of this section.
- (b) *Disposition of impounded animals.* If the owner of an animal is known, immediate notice shall be given to him. Any impounded animal may be redeemed upon payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges and such other costs as set by the animal control officer. If such animal is not redeemed within 72 hours after notification of owner where the owner is known, or within 72 hours after impoundment where the owner is unknown, it shall be deemed abandoned, the city shall be deemed the owner of the animal, and the animal may be placed for adoption, subject to payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges, and such other costs as set by the animal control officer, or the animal control officer may humanely euthanize said animal by injection or other humane means commonly used by such officials.
- (c) *Disposition of impounded animals being held on complaint.* If a complaint has been filed in municipal court for the city against the owner of an impounded animal for violation of this chapter, the animal shall not be released except on the order of the court, which may also direct the owner, prior to release, to pay any penalties for violation of this chapter in addition to all impoundment fees, care and feeding charges, veterinary charges, rabies vaccination charges, and any other costs reasonably related to the animals impound and care as set by the animal control officer. Surrender of any animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this chapter. Any animal not released under this subsection within 72 hours after the court authorizes release, shall be deemed abandoned, the city shall be deemed the owner of the animal, and the animal may be placed for adoption, subject to payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges, and such other costs as set by the animal control officer, or the animal control

officer may humanely euthanize said animal by injection or other humane means commonly used by such officials.”

SECTION 2.

That Article II of Chapter 6 of the Saginaw City Code is hereby amended by amending Section 6-32 by amending the definition of “dangerous animal,” “dangerous dog,” “dangerous incident,” and “enclosure” to read as follows:

“Dangerous animal means an animal, other than a dog, that:

- (a) Makes an unprovoked attack on a person or another 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; or
- (b) Commits unprovoked acts 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 and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a person or to another animal.

Dangerous dog means a dog that:

- (a) Makes an unprovoked attack on a person or another animal 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; or
- (b) 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 to reasonably believe that the dog will attack and cause bodily injury to a person or to another animal.

Dangerous incident means an incident in which a dog or another animal:

- (a) Makes an unprovoked attack on a person or another animal that causes bodily injury and occurs in a place other than an enclosure in which the dog or animal was being kept and that was reasonably certain to prevent the dog or animal from leaving the enclosure on its own; or
- (b) Commits unprovoked acts in a place other than an enclosure in which the dog or animal was being kept and that was reasonably certain to prevent the dog or animal from leaving the enclosure on its own and those acts cause a person to

reasonably believe that the dog or animal will attack and cause bodily injury to a person or to another animal.

Secure enclosure means a fence or structure, being securely enclosed and locked, having four sides, a top, and a bottom, and having signs posted on all sides warning of the presence of a dangerous dog or dangerous animal with four-inch letters, that is suitable to confine and prevent the escape of a dangerous dog or dangerous animal and to prevent any unauthorized entry.”

SECTION 3.

That Article II of Chapter 6 of the Saginaw City Code is hereby amended by amending Division 2, “Dangerous Dogs and Other Animals,” to read as follows:

“Sec. 6-47. – Dangerous incident report.

(a) A person may report a dangerous incident involving an animal to the animal control authority of the city. The report must be in writing and made under oath, and the report must include the following:

- (1) Name, address, and telephone number of complainant and other witnesses;
- (2) Date, time, and location of the incident forming the basis of the report;
- (3) Description of the animal(s) involved in the incident;
- (4) Name, address, and telephone number of the animal owner, if known;
- (5) A statement of facts upon which such report or application is based;
- (6) A statement addressing whether the animal has exhibited dangerous propensities in past conduct, if known;
- (7) Any other relevant facts or circumstances; and
- (8) A Texas state notary stamp and signature.

(b) The animal control authority, upon receipt of a report filed under this section or upon learning of a dangerous incident, shall investigate the dangerous incident and may issue sworn reports based on the animal control authority’s investigation or observation.

Sec. 6-48. – Determination that animal is dangerous.

(a) If, after performing an investigation of a dangerous incident and receiving the sworn statements of any witnesses, the animal control authority determines the animal is a dangerous

dog or a dangerous animal, the animal control authority shall notify the owner in writing of the determination.

(b) An owner, not later than the 15th day after the date the owner is notified that an animal owned by the owner is a dangerous dog or dangerous animal, may appeal the determination of the animal control authority to the municipal court of the city. Upon the filing of an appeal under this section, the municipal court of the city shall schedule a hearing on the appeal in accordance with Sec. 6-52.

(c) To file an appeal under Subsection (b), the owner must:

(1) file a notice of appeal of the animal control authority's dangerous dog or dangerous animal determination with the clerk of the municipal court of the city, which must include the name, address, and phone number of the owner;

(2) attach a copy of the determination from the animal control authority; and

(3) serve a copy of the notice of appeal on the animal control authority by mailing the notice through the United States Postal Service.

(d) An appeal filed under Subsection (b) shall be considered effective on the date it is postmarked by the United States Post Office or hand-delivered to the clerk of the municipal court of the city.

(e) Upon filing an appeal under Subsection (b), the owner shall immediately deliver the animal to the animal control authority, and the city shall provide for the impoundment of the animal in secure and humane conditions pending an order of disposition from the municipal court of the city.

(f) If the owner fails to deliver the animal as required by Subsection (e), the court shall issue a warrant authorizing the seizure of the animal. The animal control authority shall seize the animal or order its seizure and shall provide for the impoundment of the animal in secure and humane conditions. The owner may be ordered to pay any cost or fee assessed by the city related to the seizure, acceptance, impoundment, or destruction of the animal. The governing body of the city may prescribe the amount of the fees. The animal shall remain impounded pending an order of disposition from the municipal court of the city.

Sec. 6-49. – Knowledge of a dangerous dog or dangerous animal.

For purposes of this division, a person learns he or she is the owner of a dangerous dog or dangerous animal and is subject to the requirements in Sec. 6-50 upon the occurrence of any of the following:

- (1) the owner knows of a dangerous incident involving the animal;
- (2) the owner is notified by the animal control authority that the animal is a dangerous dog or dangerous animal; or
- (3) the owner is notified by the municipal court that the court has upheld the animal control authority's determination that the animal is a dangerous dog or dangerous animal.

Sec. 6.50. – Requirements of a Dangerous Dog or Dangerous Animal.

(a) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog or dangerous animal:

- (1) the person shall:
 - (A) register the animal with the animal control authority for the city and maintain current registration at all times;
 - (B) restrain the animal in a secure enclosure inspected and approved by the animal control authority;
 - (C) not permit the animal to be outside the secure enclosure unless the animal is muzzled, in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal, and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash;

- (D) obtain and maintain liability insurance coverage that includes coverage for animal attacks in an amount of at least One Hundred Thousand Dollars (\$100,000.00) to cover damages resulting from an attack by the animal and provide proof of the required liability insurance coverage animal control authority;
- (E) present proof to the animal control authority that the animal has been sterilized so as to prevent reproduction;
- (F) pay any cost or fee assessed by the city in the amount set by the city council that is related to the seizure, acceptance, impoundment, compliance inspection or re-inspection, or destruction of the animal;
- (G) microchip the animal and register the animal for its life with a national registry, and present proof to the animal control authority;
- (H) provide the animal with a fluorescent yellow collar visible at 50 feet in normal daylight; and
- (I) comply with all applicable regulations, requirements, and restrictions on dangerous dogs or dangerous animals; or

(2) the person shall deliver the animal to the animal control authority and the animal control authority shall provide for the impoundment of the animal in humane and secure conditions.

(b) Once in compliance with Subsection (a), the owner of a dangerous dog or dangerous animal shall maintain compliance with Subsection (a) at all times thereafter.

Sec. 6-51. – Failure to Comply.

(a) Any person may make a sworn application to the municipal court of the city that the owner of a dangerous dog or dangerous animal has failed to comply with Sec. 6-50 or that a dangerous dog or dangerous animal has attacked a person or another animal. Upon the filing of a sworn application under this section, the municipal court of the city shall schedule a hearing on the application in accordance with Sec. 6-52.

- (b) A sworn application under this section must include:
- (1) Name, address, and telephone number of complainant and other witnesses;
 - (2) Date, time, and location of the incident forming the basis of the report;
 - (3) Description of the animal(s) involved in the incident;
 - (4) Name, address, and telephone number of the animal owner, if known;
 - (5) A statement of facts upon which the application is based;
 - (6) A statement addressing whether the animal has exhibited dangerous propensities in past conduct, if known;
 - (7) Any other relevant facts or circumstances; and
 - (8) A Texas state notary stamp and signature.

(c) Upon the filing of a sworn application under this section, the municipal court of the city shall order the animal control authority to seize the dangerous dog or dangerous animal and shall issue a warrant authorizing the seizure. The animal control authority shall seize the dangerous dog or dangerous animal or order its seizure and shall provide for the impoundment of the dangerous dog or dangerous animal in secure and humane conditions. The owner may be ordered to pay any cost or fee assessed by the city related to the seizure, acceptance, impoundment, or destruction of the dangerous dog or dangerous animal. The governing body of the city may prescribe the amount of the fees. The dangerous dog or dangerous animal shall remain impounded pending an order of disposition from the municipal court of the city.

(d) If, after a hearing on an application filed under this section, the municipal court of the city finds that the owner of the dangerous dog or dangerous animal has failed to comply with Sec. 6-50 or that the dangerous dog or dangerous animal has attacked a person or another animal, the municipal court of the city shall order the animal control authority to humanely destroy the dangerous dog or dangerous animal, that the dangerous dog or dangerous animal be permanently removed from the city, or that the dangerous dog or dangerous animal be returned to the owner upon proof of compliance with all of the requirements of Sec. 6-50. No dangerous dog or dangerous animal shall be ordered returned to its owner more than one time. The court may also

order the owner of the dangerous dog or dangerous animal to pay all costs or fees assessed by the city related to the seizure, acceptance, impoundment, and destruction of the dangerous dog or dangerous animal due to the sworn complaint filed under this section.

(e) If, after a hearing on an application filed under this section, the municipal court finds that the owner of the dangerous dog or dangerous animal has not failed to comply with Sec. 6-50 and that the dangerous dog or dangerous animal has not attacked a person or another animal, the municipal court shall order that the animal control authority immediately release the dangerous dog or dangerous animal to the owner, and the owner shall not be responsible for the costs of seizure or impoundment of the dangerous dog or dangerous animal due to the sworn complaint filed under this section.

(f) A dangerous dog or dangerous animal ordered to be humanely destroyed or permanently removed from the city shall remain impounded until the dangerous dog or dangerous animal is humanely destroyed or until the owner reclaims the dangerous dog or dangerous animal under Sec. 6-56(a).

(g) Notwithstanding any other law or local regulation, a dangerous dog or dangerous animal shall not be destroyed during the pendency of an appeal under Sec. 6-53.

(h) If the owner of a dangerous dog or dangerous animal seized due to a sworn application filed under this section cannot be located within fifteen (15) days after the seizure and impoundment of the dangerous dog or dangerous animal, the dangerous dog or dangerous animal shall be considered abandoned and the city shall be deemed the owner of the dangerous dog or dangerous animal. The court shall order the humane destruction of a dangerous dog or dangerous animal abandoned under this section upon application of the animal control authority, without a hearing.

Sec. 6-52. – Hearing.

(a) The municipal court of the city, on receiving notice of appeal under Sec. 6-48(b) or a sworn application under Sec. 6-51(a), shall set a time for a hearing to determine whether the animal is a dangerous dog or dangerous animal or whether the owner of the animal has complied with Sec. 6-50 or the dangerous dog or dangerous animal has attacked a person or another animal. A hearing under this section must be held not later than the 10th day after the date on which the animal is seized or delivered.

- (b) The court shall give written notice of the time and place of the hearing to:
- (1) the owner of the animal or the person from whom the animal was seized or who delivered the animal;
 - (2) the person who made the report or filed the application; and
 - (3) the animal control authority.
- (c) Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- (d) At a hearing under this section, the court shall determine the estimated costs to house and care for the impounded animal during any appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
- (e) An owner or the person who made the report or filed the application may appeal the decision of the municipal court of the city at a hearing under this section in the manner described by Sec. 6-53.
- (f) An animal that is the subject of a proceeding under this division shall remain impounded throughout the pendency of any appeal of a determination or order under this division.

Sec. 6-53. – Appeal.

- (a) A party to an appeal under Sec. 6-48(b) or a hearing on an application filed under Sec. 6-51(a) may appeal the decision to a county court or county court at law in the county in which the municipal court is located and is entitled to a jury trial on request.
- (b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the decision is issued by the municipal court, the appellant must file a notice of appeal and, if applicable, an appeal bond in the amount determined by the municipal court from which the appeal is taken.

(c) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(d) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(e) A decision of a county court or county court at law under this section may be appealed in the same manner as an appeal for any other case in a county court or county court at law.

Sec. 6-54. – Notices.

All required notices under this division shall be personally delivered or deposited with the United States Postal Service, sent certified mail, return receipt requested. When the city mails a notice in accordance with this section and the United States Postal Service returns the notice as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered delivered.

Sec. 6-55. – Registration.

(a) The animal control authority shall annually register a dangerous dog or dangerous animal if the owner:

- (1) presents proof satisfactory to the animal control authority showing compliance with all the requirements contained in Sec. 6-50(a)(1);
- (2) presents proof of current rabies vaccination of the dangerous dog or dangerous animal, if required by this chapter; and
- (3) pays the annual registration fee of \$100.00.

(b) The animal control authority shall provide to the owner registering a dangerous dog or dangerous animal a registration tag. The owner of the dangerous dog or dangerous animal shall attach the current registration tag to the yellow fluorescent collar that is worn by the dangerous dog or dangerous animal. The current registration tag shall be displayed on the dangerous dog or dangerous animal in this manner at all times. The registration of a dangerous dog or dangerous animal shall be valid for one (1) year from the date of issuance.

(c) If an owner of a dangerous dog or dangerous animal sells or moves the dangerous dog or dangerous animal to a new address, whether in the city or not, the owner, not later than the 10th day after the date of the sale or move, shall notify the animal control authority of the new address.

(d) If the owner of a dangerous dog or dangerous animal sells or gives a dangerous dog or dangerous animal to another person, the owner shall notify the other person at the time of the sale or gift that the animal has been determined to be a dangerous dog or dangerous animal.

(e) A person who buys or receives a dangerous dog or dangerous animal and continues to keep the animal in the city must register the animal within ten (10) days after receiving the animal. The new owner shall be issued a registration tag upon compliance with the requirements of Subsection (a).

(f) An owner of a dangerous dog or dangerous animal shall notify the animal control authority of any attack the dangerous dog or dangerous animal makes on a person or another animal within five (5) days of the attack.

(g) An animal, which has been deemed dangerous in another jurisdiction, shall not be maintained, kept, or harbored in the city.

(h) In the event a dangerous dog or dangerous animal dies, the owner of the animal shall provide proof to the animal control authority or present written verification by a licensed veterinarian sufficient to verify the identity of the deceased animal as a dangerous dog or dangerous animal.

Sec. 6-56. – Dangerous dog or dangerous animal ordered removed from the city.

(a) The owner of a dangerous dog or dangerous animal that is ordered to be permanently removed from the city must provide to the animal control authority the plan for removal of the dangerous dog or dangerous animal from the city and the name, address, and phone number for the place where the dangerous dog or dangerous animal will be relocated outside of the city before the dangerous dog or dangerous animal will be released to the owner. Upon receipt of the required information, the animal control authority shall release the dangerous dog or dangerous animal to the owner to be removed from the city. A dangerous dog or dangerous animal ordered to be permanently removed from the city must be removed from the city within ten (10) days of the date of the order.

(b) If the owner does not provide the information required by Subsection (a) to the animal control authority and reclaim the dangerous dog or dangerous animal within ten (10) days of the order of the municipal court of the city, the dangerous dog or dangerous animal shall be deemed

abandoned by the owner and the city shall be deemed the owner of the dangerous dog or dangerous animal. A dangerous dog or dangerous animal ordered to be removed from the city under this division must be removed from the city within ten (10) days of the date of the order. Upon application by the animal control authority, without a hearing, the court shall order that a dangerous dog or dangerous animal deemed to be abandoned under this subsection be humanely destroyed.

(c) It shall be unlawful for a person to harbor, keep, or have possession of a dangerous dog or dangerous animal previously ordered to be removed from the city under this division within the corporate limits of the city.

(d) The animal control authority or any officer enforcing this division shall seize any dangerous dog or dangerous animal that has been previously ordered to be removed from the city and is found to be at any location within the corporate limits of the city. Upon seizure, the animal control authority shall provide for the impoundment of the dangerous dog or dangerous animal in humane and sanitary conditions.

(e) Upon application by the animal control authority, without a hearing, the court shall order that a dangerous dog or dangerous animal that was previously ordered to be removed from the city and later found to be in the city be humanely destroyed.

Sec. 6-57. – Nuisance declared.

It is hereby declared to be a nuisance that an owner or other person harbors, keeps, or maintains a dangerous dog or dangerous animal in the city unless the owner complies with the requirements of this division and, with respect to dogs, all state statutes regulating dangerous dogs.

Sec. 6-58. – Offenses.

(a) A person commits an offense if the person is the owner of a dangerous dog or dangerous animal and the dangerous dog or dangerous animal makes an unprovoked attack on another person outside the animal's enclosure and causes bodily injury to the other person.

(b) A person commits an offense if the person is the owner of a dangerous dog or dangerous animal and the dangerous dog or dangerous animal makes an unprovoked attack on another animal while the dangerous dog or dangerous animal is at large and the attack causes bodily injury or death to the other animal.

(c) A person commits an offense if the person is the owner of a dangerous dog or dangerous animal and performs an act prohibited or fails to perform an act required by this division.

(d) A person commits an offense if the person is the owner or new owner of a dangerous dog or dangerous animal and the animal attacks a person or another animal and the owner fails to notify the animal control authority within five (5) days of the attack.

(e) An offense under Subsection (a), (b), (c), or (d) is a Class C misdemeanor punishable by a fine up to but not more than \$2,000. Each day that a violation is committed or continues is a separate offense.

(f) If a person is found guilty of an offense under this section, the court may order that the animal be humanely destroyed immediately, that the animal be permanently removed from the city, or that the animal be returned to its owner upon proof of compliance with all of the requirements of Sec. 6-50. If a person is found guilty of an offense under this section for a second time, the court may order that the animal be humanely destroyed immediately or that the animal be permanently removed from the city.

Sec. 6-59. – Defenses.

(a) It is an affirmative defense to prosecution under Sec. 6-58 that the person is 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 animal in connection with that position.

(b) It is an affirmative defense to prosecution under Sec. 6-58 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses the dog for law enforcement or corrections purposes.

(c) It is an affirmative defense to prosecution under Sec. 6-58 that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Texas Occupations Code.

(d) It is an affirmative defense to prosecution under Sec. 6-58 that the person injured was teasing, tormenting, abusing, or assaulting the animal.

(e) It is an affirmative defense to prosecution under Sec. 6-58 that the person injured was committing or attempting to commit a crime.

(f) It is an affirmative defense to prosecution under Sec. 6-58 that the animal was protecting or defending a person, while in the person's control, from an unjustified attack or assault.

Secs. 6-60—6-69. – Reserved.”

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Saginaw City Code, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2000.00, as provided by Sec. 1-13 of the Saginaw City Code. Each day that a violation continues shall be deemed a separate offense.

SECTION 7.

All rights and remedies of the City of Saginaw, Texas, are expressly saved as to any and all violations of the City's animal control regulations, as amended, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8.

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

SECTION 9.

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

PASSED AND APPROVED ON this the _____ day of _____, 2017.

GARY BRINKLEY, MAYOR

ATTEST:

JANICE ENGLAND, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

BRYN MEREDITH, CITY ATTORNEY

Dangerous Dog Ordinance

Changes in Proposed Ordinance

- If an owner files an appeal of the determination by the animal control officer that a dog is dangerous:

→The owner is required to deliver the dog to the city until the hearing is held

→ or, if the dog is found to be dangerous, until the owner is in compliance with the requirements of the ordinance.

- Additional requirements to maintain a dangerous dog:

- *Microchip the animal and register it for life with a national registry*

The process if an owner fails to comply with the dangerous dog requirements is revised as follows:

→ *The animal control officer can file an application with the Municipal Court alleging that the owner failed to comply with the dangerous dog requirements or that the dog has attacked a person or another animal.*

→ *The animal control officer immediately has authority to seize the dog upon filing the application with the court.*

–If the owner is found to have failed to comply with the dangerous dog requirements or that the dog has attacked a person or another animal, the court has authority to do one of three things:

1. Order the animal returned to the owner, but this may only be ordered one time for each dangerous dog;
2. Order the animal permanently removed from the city; or
3. Order the animal be humanely euthanized.

- After a hearing for failure to comply, the dangerous dog will remain impounded until, either the owner is in compliance with the requirements for a dangerous dog, the owner shows a plan to remove the dog from the city, or the dog is humanely euthanized.

–If the dangerous dog is ordered removed from the City, the owner has 10 days to make arrangements to remove the dog and provide proof of those arrangements to the City. The City must know the name, address, and a contact number for the location where the dog is going.

→ *It is a criminal offense to have a dangerous dog in the city that has been ordered permanently removed.*

**→ Any dangerous dog
ordered removed
shall be
immediately
impounded if found
in the City.**

**→ Any dangerous dog
ordered removed from
the City and later
found in the City shall
be humanely
euthanized**

- The owner still has the right to appeal any decision of the municipal court, but the dog will remain impounded throughout any appeal process.

- If the dangerous dog is moved, the city must be informed of the new location.

- If the dangerous dog is sold, the owner must advise the receiver that the dog has been deemed a dangerous dog.

- The new owner, if within the city, must register the dangerous dog within 10 days of receiving the dog.

- If a dog has been deemed dangerous by another jurisdiction, the dog is not allowed to be brought into the city.

Staff recommends
approving the proposed
changes.