

CORYELL COUNTY ANIMAL CONTROL ORDINANCE

NO. 2006 - 002

SECTION 1

INTENT AND AUTHORITY

Section 1.1 – Authority.

These regulations are adopted by the Commissioners' Court of Coryell County, Texas, acting in its capacity as the governing body of Coryell County, Texas as authorized by Chapter 822 of the Texas Health & Safety Code.

Section 1.2 – Intent.

It is the intent of the Commissioners' Court of Coryell County, Texas, to enact this ordinance in order to protect the public health and safety of the citizens of Coryell County and the Commissioners' Court hereby declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety. This ordinance is further intended to encourage the humane treatment of animals and prevent cruelty to animals.

Section 1.3 – Strict Liability.

Unless otherwise indicated, any person who violates a section of this ordinance shall be strictly liable for such violation and shall be subject to the penalties herein established.

Section 1.4 – Municipal Ordinances to Supersede.

This ordinance shall not prevent a corporate municipality within the county from establishing any rules and regulations to control animals within its corporate limits. Any such ordinance established by said corporate municipalities shall supersede this ordinance thereby preventing dual enforcement. In such cases, this ordinance will not be enforced within the corporate limits of that municipality.

Section 1.5 – Severance Clause.

If any section, sentence, or clause of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 2

DEFINITIONS

As used in this ordinance, the following words and phrases shall have the following meanings:

Section 2.1 – Animal Control Officer.

The Coryell County Sheriff, or his designee.

Section 2.2 – Animal Owner.

Any person who owns, keeps, or has custody or control of an animal for a period of ten (10) days or more.

Section 2.3 – Dangerous Dog.

A dog is dangerous if it:

- a) makes an unprovoked attack on a person causing bodily injury and the attack occurs in a place other than an enclosure in which the dog is being kept; or
- b) commits unprovoked acts in a place other than an enclosure in which the dog is being kept and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Section 2.4 – Dog.

Canis Familiaris.

Section 2.5 – Domestic Animal.

Any animal that is owned, kept, or controlled by a person.

Section 2.6 – Holiday.

Those days designated as official holidays by the Coryell County Commissioners' Court.

Section 2.7 – Secure Enclosure.

A fenced area or structure that is:

- a) locked;
- b) capable of preventing the entry of the general public, including children;
- c) capable of preventing the escape or release of a dangerous dog;
- d) clearly marked as containing a dangerous dog; and
- e) conforms to the requirements for enclosures established by the Animal Control Authority.

Section 2.8 – Serious Bodily Injury.

Bodily injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

SECTION 3

OWNERSHIP OF DANGEROUS DOGS

Section 3.1 - Requirements for Ownership of a Dangerous Dog.

An owner of a dangerous dog must:

- a) Register the dangerous dog with the Coryell County Animal Control Officer for the area in which the dog is kept.
- b) Pay an annual fee of \$100.00 to the Animal Control Officer.
- 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) Obtain necessary insurance or show financial responsibility in the amount of at least \$100,000 to cover damages to persons and property resulting from a dog attack.

Section 3.2 - Limitation of Ownership of Dangerous Dogs.

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

Section 3.3 - 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 acts described in the definition of Dangerous Dog (Section 2.5) 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.

Section 3.4 - 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 dog(s) designated as a dangerous dog. 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) An owner 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 Animal Control's decision becoming final.

Section 3.5 - 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 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 court shall determine by a preponderance of the evidence whether the declaration that the dog is dangerous is proper based upon the evidence, affidavits, and testimony presented at the hearing.

Section 3.6 - Defense to Declaration of Dangerous Dog.

It is a defense to the determination of any dog as dangerous and 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.

Section 3.7 - Exemptions.

The following are exempted from the application of this Ordinance:

- 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 Investigators and Private Security Agencies, Tex. Rev. Civ. Stat. Art. 4412 (29BB).

Section 3.8 - Confiscation.

- a) Until the owner of a dog determined to be dangerous has met the requirements placed on that owner by Section 822.042 and 822.0422(b), Texas Health & Safety Code and this order, the Animal Control Officer or his designee shall confiscate the dog whether it be found on public or private property.
- b) The Animal Control Officer shall have no authority to confiscate any dog unless he has first delivered to the owner of the dog, a written notice of the determination that the dog 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 dog to the Animal Control Officer. The notice shall include a warning that failure to surrender the dog may result in destruction of the dog if it cannot be safely impounded on any subsequent attempt;
- e) The dog thus confiscated shall be ordered sheltered by the Animal Control Officer for a period of five working day, not counting weekends and holidays, to allow the owner to claim the dog upon satisfaction of the provisions of Section 822.042 of the Texas Health & Safety code and this ordinance. Upon failure of the owner to reclaim the dog during that period, the Animal Control Officer may humanely destroy the dog without compensation to the owner.

f) In addition to the fees required for registration of the dog, the owner must, prior to the dog's release, satisfy all above-referenced provisions.

Section 3.9 - Penalty for Violation.

- a) Any person who violates a provision of Section 3 shall be guilty of a Class C misdemeanor.
- b) If it is shown on trial that a person has been previously convicted under this Section, no portion of a fine imposed for subsequent violations may be deferred, suspended or probated.
- c) Each day that a person owns a dangerous dog in violation of this section shall constitute a separate offense.
- d) An offense under this section is a Class B misdemeanor if the defendant has previously been convicted under this section.
- e) 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.
- f) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. The Coryell County Attorney or Special Counsel to the Coryell County Commissioners' Court under the direction of the Coryell County Attorney may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county to be used to defray the cost of administering this ordinance.

SECTION 4

ATTACKING DOMESTIC ANIMALS

Section 4.1 - Dogs That Attack Domestic Animals.

- a) A dog that is attacking, is about to attack, or has recently attacked sheep, goats, calves, or other domestic animals or fowls may be killed by any person witnessing or having knowledge of the attack.
- b) A person who kills a dog as provided by this section is not liable for damages to the owner of the dog.
- c) A dog known or suspected of having killed sheep, goats, calves, or other domestic animals or fowls is a public nuisance. Any person may detain or impound the dog until the dog's owner is notified and all damage done by the dog has been determined and paid to the property owner.
- d) The owner of a dog that is known to have attacked sheep, goats, calves, or other domestic animals or fowls shall:

- 1.) kill the dog,
- 2.) provide for the dog's destruction, or
- 3.) control the dog in a manner approved by the Animal Control Officer.

Section 4.2 - Protection of Domestic Animals.

- a) The owner of any sheep, goats, calves, or other domestic animals that are subject to the ravages of sheep-killing dogs may place poison on the premises where the animals are kept, subject to any other regulations or restrictions on the use of such poison by State or Federal Authorities.
- b) The owner must post notice of the poison at each entrance to the premises before placing the poison.

Section 4.3 - Criminal Penalty.

- a) A person commits an offense if the person intentionally fails, or refuses to allow, a dog to be killed when ordered by the proper authorities to do so, under Section 4.
- b) An offense under the above Section 4 is a class B misdemeanor punishable by a fine of not more than \$100, confinement in the county jail for not more than 30 days, or both.

SECTION 5

IMPOUNDMENT FACILITIES AND FEES

Section 5.1 - Animal Facilities.

The Coryell County Commissioners' Court may enter into contracts or agreements with public, private entities, or animal shelters to provide for the impoundment of animals under this ordinance or to carry out other activities required or authorized by this ordinance.

Section 5.2 - Impoundment Fees.

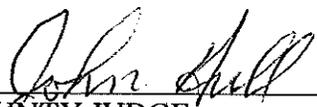
An owner of an animal that has been impounded under any section of this ordinance shall pay all applicable impoundment fees, as established by the animal facility and approved by the Animal Control Officer, before retrieving the animal.

This Order is hereby passed and approved, and shall become effective this ~~22nd~~¹ day of ~~January~~ 2006.

MARCA

CORYELL COUNTY COMMISSIONERS'
COURT

ATTEST:



COUNTY JUDGE



COUNTY CLERK

SUBCHAPTER D. DANGEROUS DOGS

§ 822.041. DEFINITIONS. In this subchapter:

(1) "Animal control authority" means a municipal or county animal control office with authority over the area where the dog is kept or a county sheriff in an area with no animal control office.

(2) "Dangerous dog" means a dog that:

(A) makes an unprovoked attack on a person 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 that person.

(3) "Dog" means a domesticated animal that is a member of the canine family.

(4) "Secure enclosure" means a fenced area or structure that is:

(A) locked;

(B) capable of preventing the entry of the general public, including children;

(C) capable of preventing the escape or release of a dog;

(D) clearly marked as containing a dangerous dog;

and

(E) in conformance with the requirements for enclosures established by the local animal control authority.

(5) "Owner" means a person who owns or has custody or control of the dog.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

§ 822.042. REQUIREMENTS FOR OWNER OF DANGEROUS

DOG. (a) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

(1) register the dangerous dog with the animal control authority for the area in which the dog is kept;

(2) restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;

(3) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept; and

(4) comply with an applicable municipal or county regulation, requirement, or restriction on dangerous dogs.

(b) The owner of a dangerous dog who does not comply with Subsection (a) shall deliver the dog to the animal control

authority not later than the 30th day after the owner learns that the dog is a dangerous dog.

(c) If, on application of any person, a justice court, county court, or municipal court finds, after notice and hearing as provided by Section 822.0423, that the owner of a dangerous dog has failed to comply with Subsection (a) or (b), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.

(d) The owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, impoundment, or destruction of the dog. The governing body of the municipality or county may prescribe the amount of the fees.

(e) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority. The court shall order the authority to return the dog to the owner if the owner complies with Subsection (a) before the 11th day after the date on which the dog is seized or delivered to the authority.

(f) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.

(g) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

(1) the owner knows of an attack described in Section 822.041(2) (A) or (B);

(2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under Section 822.0423; or

(3) the owner is informed by the animal control authority that the dog is a dangerous dog under Section 822.0421.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997;
Acts 1999, 76th Leg., ch. 96, § 1, eff. May 17, 1999.

§ 822.0421. DETERMINATION THAT DOG IS DANGEROUS. (a) If a person reports an incident described by Section 822.041(2), the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.

(b) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority to a justice, county, or municipal court of competent jurisdiction. An owner may appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county, or municipal court.

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

§ 822.0422. REPORTING OF INCIDENT IN CERTAIN COUNTIES

AND MUNICIPALITIES. (a) This section applies only to a county with a population of more than 2,800,000, to a county in which the commissioners court has entered an order electing to be governed by this section, and to a municipality in which the governing body has adopted an ordinance electing to be governed by this section.

(b) A person may report an incident described by Section 822.041(2) to a municipal court, a justice court, or a county court. The owner of the dog shall deliver the dog to the animal control authority not later than the fifth day after the date on which the owner receives notice that the report has been filed. The authority may provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

(c) If the owner fails to deliver the dog as required by Subsection (b), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.

(d) The court shall determine, after notice and hearing as provided in Section 822.0423, whether the dog is a dangerous dog.

(e) The court, after determining that the dog is a dangerous dog, may order the animal control authority to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog under Section 822.042 and the dog is returned to the owner or destroyed.

(f) The owner shall pay a cost or fee assessed under Section 822.042(d).

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 96, § 2, eff. May 17, 1999.

§ 822.0423. HEARING. (a) The court, on receiving a report of an incident under Section 822.0422 or on application under Section 822.042(c), shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with Section 822.042. The hearing must be held not later than the 10th day after the date on which the dog 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 dog or the person from whom the dog was seized; and

(2) the person who made the complaint.

(c) Any interested party, including the county or city attorney, is entitled to present evidence at the hearing.

(d) An owner or person filing the action may appeal the decision of the municipal court, justice court, or county court in the manner provided for the appeal of cases from the municipal, justice, or county court.

Added by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

§ 822.043. REGISTRATION. (a) An animal control authority for the area in which the dog is kept shall annually

register a dangerous dog if the owner:

- (1) presents proof of:
 - (A) liability insurance or financial responsibility, as required by Section 822.042;
 - (B) current rabies vaccination of the dangerous dog; and
 - (C) the secure enclosure in which the dangerous dog will be kept; and

(2) pays an annual registration fee of \$50.

(b) The animal control authority shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.

(c) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee of \$25, the animal control authority shall issue a new registration tag to be placed on the dangerous dog's collar.

(d) An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

§ 822.044. ATTACK BY DANGEROUS DOG. (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 causes serious bodily injury or death, in which event the offense is a Class A misdemeanor.

(c) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in Section 822.003.

(d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having civil jurisdiction in the county or an attorney for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county or municipality.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.

§ 822.045. VIOLATIONS. (a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 822.042 or Section 822.0422 (b) or an applicable municipal or county regulation relating to dangerous dogs.

(b) Except as provided by Subsection (c), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has

previously been convicted under this section.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.
Amended by Acts 1997, 75th Leg., ch. 99, § 2, eff. Sept. 1, 1997.

§ 822.046. DEFENSE. (a) It is a defense to prosecution under Section 822.044 or Section 822.045 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 dog in connection with that position.

(b) It is a defense to prosecution under Section 822.044 or Section 822.045 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 dogs for law enforcement or corrections purposes.

(c) It is a defense to prosecution under Section 822.044 or Section 822.045 that the person is a dog trainer or an employee of a guard dog company under Chapter 1702, Occupations Code.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.
Amended by Acts 2001, 77th Leg., ch. 1420, § 14.809, eff. Sept. 1, 2001.

§ 822.047. LOCAL REGULATION OF DANGEROUS DOGS. A county or municipality may place additional requirements or restrictions on dangerous dogs if the requirements or restrictions:

- (1) are not specific to one breed or several breeds of dogs; and
- (2) are more stringent than restrictions provided by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 916, § 1, eff. Sept. 1, 1991.