

ORDINANCE NO. 70

AN ORDINANCE REGULATING THE POSSESSION OF DANGEROUS DOGS WITHIN THE CITY LIMITS OF LINN VALLEY, KANSAS.

IT IS HEREBY ORDAINED BY THE GOVERNING BODY OF LINN VALLEY, KANSAS:

**SECTION 1. DEFINITIONS**

A. **Animal Control Authority** shall mean a local government entity acting alone or in concert with other local governmental units for enforcement of the animal control laws of the city, county and state and the shelter and welfare of animals.

B. **Animal Control Officer** shall mean any individual employed, contracted with or, appointed by the animal control authority for the purpose of aiding the enforcement of any law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

C. **Dangerous Dog** shall mean any dog that:

1. Has inflicted severe injury on a human being without provocation on public or private property; or
2. Has been previously found to be potentially dangerous, the owner having received notice of such by the animal control authority in writing and the dog thereafter aggressively bites, attacks or endangers the safety of humans.

D. **Owner** shall mean any person, firm, corporation, organization or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

E. **Potentially Dangerous Dog** shall mean any dog that when unprovoked inflicts bites on a human either on public or private property.

F. **Proper Enclosure of a Dangerous Dog** means, while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure with at least one hundred fifty (150) square feet of space for each dog kept therein which is over six (6) months of age, and which is suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.

G. **Severe Injury** shall mean any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery.

**SECTION 2. CERTIFICATE OF REGISTRATION FOR CERTAIN DOGS REQUIRED--EXEMPTIONS--FEE**

A. **Certificate of Registration for Certain Dogs Required.** It is unlawful for an owner to have a dangerous dog without a certificate of registration issued according to this chapter. This chapter shall not apply to dogs used by law enforcement officials for police work.

B. **Exemptions.** The Chief of Police shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control unit sufficient evidence of:

1. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog; and

2. A policy of liability insurance, such as homeowner's insurance, or surety bond used by an insurer qualified under Kansas Statutes in the amount of not less than Fifty Thousand Dollars (\$50,000.00) insuring the owner for any personal injuries inflicted by the dangerous dog.

C. **Fee.** A fee of Ten Dollars (\$10.00) shall be remitted to the Director of Finance for the certificate of registration.

### **SECTION 3. MUZZLE AND RESTRAINT OF CERTAIN DOGS**

It is unlawful for an owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraining of a responsible person over sixteen (16) years of age. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

### **SECTION 4. DOGS NOT TO BE DECLARED DANGEROUS**

Dogs shall not be declared dangerous 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, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

### **SECTION 5. CONFISCATION OF A DANGEROUS DOG**

Any dangerous dog shall be immediately confiscated by the Chief of Police if:

- A. The dog is not validly registered according to this chapter;
- B. The owner does not secure the liability insurance coverage or surety bond required by this chapter;
- C. The dog is not maintained in the proper enclosure; and
- D. The dog is outside of the dwelling of the owner or outside the proper enclosure and not under physical restraint of the responsible person.

Any dangerous dog confiscated pursuant to this section and not reclaimed by its owner under the requirements of this chapter within thirty (30) days from the date of notice of confiscation shall be deemed abandoned and, at the discretion of the Chief of Police, euthanized pursuant to procedures provided in City Ordinances.

### **SECTION 6. FINES**

Any fine imposed as a result of a violation of this chapter, at the discretion of the court, may be offset by payments made by the dog owner to any victim of an attack by the dog. However, insurance payments may not be considered as an offset.

### **SECTION 7. PURPOSE**

It is the purpose of this chapter to provide additional and cumulative remedies to control dangerous and potentially dangerous dogs. Nothing in this chapter shall be construed to abridge or alter rights of action or remedies of victims under the common law or statutory law, criminal or civil.

### **SECTION 8. PENALTY**

Unless otherwise provided, every person violating any of the provisions of this chapter shall be guilty of an offense and upon conviction shall be punished by imprisonment for a period of not exceeding six (6) months or by a fine of

not more than ONE THOUSAND DOLLARS (\$1,000.00), excluding costs, fees and assessments, or both such fine and imprisonment.

**Section 3.** This ordinance shall become effective upon its passage and publication in the official newspaper of Linn Valley, Kansas.

ORDAINED AND APPROVED THIS 12<sup>th</sup> DAY OF April, 2004.

Ralph H. Felt  
MAYOR

ATTEST:  
Janice Vingo  
CITY CLERK