

# ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

## ORDINANCE NO. 1353

AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA, TO AMEND THE LA VISTA MUNICIPAL CODE SECTION 95.13 AND 95.15; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Section 95.13 of the La Vista Municipal Code is amended to read as follows:

### **§ 95.13 DANGEROUS AND POTENTIALLY DANGEROUS DOMESTIC ANIMALS; DEFINITIONS.**

(A) It shall be unlawful for any person to keep or harbor a dangerous domestic animal or a potentially dangerous domestic animal, except as otherwise provided in this chapter.

(B) For purposes of this chapter, **DANGEROUS DOMESTIC ANIMAL** means any domestic animal that:

- (1) Has killed a human being;
  - (2) Has inflicted injury on a human being that requires medical treatment;
  - (3) Has killed or inflicted serious injury on a domestic animal without provocation;
  - (4) Ferociously and without provocation has attacked, snapped at, or bitten one or more human beings, or one or more other domestic animals, one or more times, or has a history of any of such behaviors;
  - (5) Has been previously determined to be a potentially dangerous domestic animal by the animal control authority of the city, the owner of which has received notice from the animal control authority of the city of such determination, and that inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals;
  - (6) Is owned or harbored primarily or in part for the purpose of animal fighting;
- or
- (7) By training, disposition, or behavior poses a potential risk of attacking and inflicting injury without provocation upon human beings or other domestic animals.

(C) For purposes of this chapter, **POTENTIALLY DANGEROUS DOMESTIC ANIMAL** means:

- (1) Any domestic animal that, when unprovoked, inflicts an injury on a human being that does not require medical treatment, either on public or private property;
- (2) Any domestic animal that, when unprovoked, injures a domestic animal, either on public or private property;
- (3) Any domestic animal that, when unprovoked, chases or approaches a person who is upon a street, sidewalk, or any other public ground or public area, in a menacing or threatening fashion or apparent attitude of attack; or
- (4) Any specific domestic animal with a known propensity, tendency, or disposition to attack when unprovoked, or to cause injury, or to threaten the safety of human beings or other domestic animals.

(D) (1) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal if it inflicts injury or damage upon a human being committing a willful trespass or other tort upon premises occupied by the owner of the animal or upon a human being committing or attempting to commit a crime.

(2) No animal may be declared to be a dangerous domestic animal or a potentially dangerous domestic animal for taking action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.

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(3) No animal used in lawful activities of law enforcement officials shall be declared to be a dangerous domestic animal or a potentially dangerous domestic animal.

(4) No animal may be declared to be a dangerous domestic animal under division (B)(2) of this section if the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(5) No animal may be declared to be a dangerous domestic animal under division (B)(5) of this section if the injury, damage, or threat was sustained by an individual who, at the time, was tormenting, abusing, or assaulting the animal, or has, in the past, been observed or reported to have tormented, abused or assaulted the animal.

(E) *Definitions.* For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANIMAL CONTROL AUTHORITY.** An entity authorized to enforce the animal control laws of the city.

**ANIMAL CONTROL OFFICER.** Any individual designated or authorized by an animal control authority for the purpose of aiding in the enforcement of this chapter or of any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals, and also includes any state or local law enforcement officer as well as any other state or local employee or appointee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal or animals.

**DOMESTIC ANIMAL.** A cat or a dog.

**MEDICAL TREATMENT.** Treatment administered by a physician or other licensed health care professional that results in one or more sutures, surgery, or treatment for one or more broken bones.

**OWNER.** Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a domestic animal.

**SERIOUS INJURY ON A DOMESTIC ANIMAL.** An injury to a domestic animal that requires treatment administered by a veterinarian, veterinary clinic, veterinary hospital, or veterinary office, that results in one or more sutures, surgery, or treatment for one or more broken bones.

('79 Code, § 6-114) (Am. Ord. 283, passed 4-11-81; Am. Ord. 1160, passed 12-20-11) Penalty, see § 95.99

**SECTION 2.** Section 95.15 of the La Vista Municipal Code is amended to read as follows:

## **§ 95.15 SEIZURE AND CONFINEMENT.**

(A) It shall be the duty of the animal control authority to capture, secure, and remove to the animal shelter or other suitable impoundment or care facility, in as humane manner as is practicable under the circumstances, any animal running at large, owned, kept, harbored, or confined in violation of this chapter. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the animal shelter, impoundment, or other care facility for a period of not less than five days after public notice has been given unless keeping or harboring the animal is lawful within the city and the animal has been reclaimed earlier by its owner. Notice of impoundment of all animals, including any significant marks or identifications, shall be posted at the office of the animal control authority within 24 hours after impoundment as public notification of such impoundment.

(B) If keeping or harboring the impounded animal is lawful within the city, then such animal may be reclaimed by its owner during the period of impoundment by payment of the required fees as set by the animal control authority. The owner shall then be required to comply with applicable licensing and rabies vaccination requirements within 72 hours after release. If the animal is not claimed at the end of the required waiting period after public notice has been given, the animal control authority may dispose of the animal in accordance with the applicable rules and regulations pertaining to the same, provided that if, in the judgment of the animal control authority, a suitable home can be found for

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any such animal, the animal shall be turned over to that person and the new owner shall then be required to pay all fees and comply with all applicable licensing and vaccinating requirements provided in this chapter.

(C) The city and/or animal control authority shall acquire legal title to any unlicensed animal impounded in the animal shelter for a period longer than the required waiting period after giving notice.

(D) All expenses of licensing such animals and maintaining the city dog pound and the salary of the humane officer shall be paid out of the general fund of the city, and all sums collected by the City Clerk for animal licensing and all impounding charges collected shall be deposited to and become a part of the general fund of the city, unless otherwise provided for by a contract entered into pursuant to § 95.16 of this chapter.

(E) Notwithstanding anything to the contrary in this Code Section 95.15:

(1) In the event that the County Attorney files a criminal complaint in connection with a seized animal, the court in which such complaint was filed shall have exclusive jurisdiction for disposition of the animal and to determine any rights therein, including questions respecting the title, possession, control, and disposition thereof.

(2) In the event that an animal seized pursuant to Neb. Rev. State. Section 28-1006 or Neb Rev. Stat. Section 28-1012, disposition and the cost for the care of such animal shall be governed by Neb. Rev. Stat. Section 28-1012.01. ('79 Code, § 6-119) (Ord. 212, passed - -; Am. Ord. 348, passed 9-6-83; Am. Ord. 1160, passed 12-20-11)

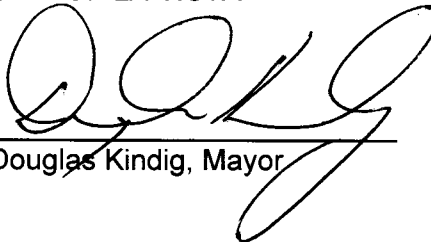
SECTION 2. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances as previously enacted that are in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

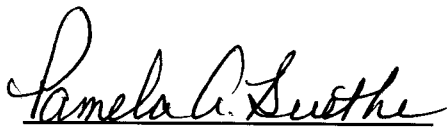
SECTION 4. Effective Date. This Ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 2ND DAY OF JULY 2019

CITY OF LA VISTA

  
Douglas Kindig, Mayor

ATTEST:

  
Pamela A. Buethe, CMC  
City Clerk