

ORDINANCE NO. 2014-07**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE
AMENDING SECTIONS 3 AND 77 OF CHAPTER 1 OF TITLE 5 AND ADDING
SECTIONS 80, 29, 30 AND 31 OF CHAPTER 1 OF TITLE 5 OF THE LEMOORE
MUNICIPAL CODE RELATING TO ANIMAL CONTROL**

The City Council of the City of Lemoore does ordain as follows:

SECTION 1. Section 3 of Chapter 1 of Title 5 of the Lemoore Municipal Code is amended and restated in its entirety to read as follows:

“5-1-3: DEFINITIONS:

As used in this chapter, all words shall have their usual meanings except that the following words or terms as used in this chapter shall be defined as follows:

AGENT: Any agency, society or other organization with which the city has contracted to carry out the provisions of this chapter.

ANIMAL CONTROL OFFICER: The chief of police or his/her designee or any person employed by the city or under the supervision of the animal control officer or the police department for the purpose of enforcing the animal control laws and regulations. When the city has contracted for the performance of such services, animal control officer shall mean the party with whom the city has so contracted.

ANIMAL LICENSE FEE COLLECTOR: The animal control officer or any person or entity delegated by and under the supervision of the animal control officer for the purpose of issuing animal licenses for the city of Lemoore.

CITY: The city of Lemoore.

COUNTY HEALTH OFFICER: The Kings County health officer, or his designee.

DANGEROUS ANIMAL: Any animal that has bitten, injured or aggressively pursued any human being or other animal which the animal control officer, after conducting an investigation pursuant to section 5-1-56 of this chapter or a hearing officer, after an appeal hearing, finds that because of its behavior, temperament and physical characteristics combined with the manner in which it is maintained will probably cause great bodily harm to a human being or other animal in the future. No animal shall be found to be a dangerous animal based only on circumstances set forth in section 5-1-56 of this chapter.

DISEASED OR INJURED ANIMAL: Any animal not suspected of rabies which is apparently either diseased, sick, injured, disabled, infirm or crippled.

DOG KENNEL: Any place or premises where four (4) or more dogs or cats or combinations thereof, over the age of four (4) months, are kept. For the purposes of this chapter, "keeping" includes boarding, grooming, breeding, training, sale and related purposes other than places maintained by a licensed veterinarian or society for the prevention of cruelty to animals.

FOWL: As used herein includes chickens, turkeys, emus, ostriches, and all other domestic or domesticated fowl other than household pets.

GUIDE DOG: Any dog trained to lead a blind person.

HARBORING: A person "harbors" a dog within the meaning of this chapter when he feeds or shelters a dog.

LIVESTOCK: As used herein includes horses, ponies, mules, burros, jack or Jennies, cows, bulls, calves, heifers, sheep, goats, swine, hogs, pigs, and all other domestic or domesticated animals other than household pets.

OWNER: Any person, association, firm or corporation owning, having an interest in, or having control, custody, or possession of any animal.

POTENTIALLY DANGEROUS ANIMAL: Any animal that has bitten, injured or aggressively pursued any human being or other animal which the animal control officer, after conducting an investigation pursuant to section 5-1-56 of this chapter or a hearing officer, after an appeal hearing finds that because of its behavior, temperament and physical characteristics combined with the manner in which it is maintained there is a substantial possibility that it will cause injury or great bodily harm to a human being or other animal in the future. No animal shall be found to be a potentially dangerous animal based solely on circumstances set forth in section 5-1-56 of this chapter.

PUBLIC NUISCANCE: means, for the purposes of this section:

- A. Any animal or animals which:
 - 1. Harass or annoy passersby or chases passing vehicles;
 - 2. Attacks other animals;
 - 3. Trespasses on school grounds;
 - 4. Is at large three (3) or more times within a 12 month period;
 - 5. Damages private or public property;
 - 6. Barks, whines, or howls in an excessive or untimely fashion as described in Chapter 5-1-79.
- B. An owner allowing his/her animal to: (i) defecate on property not owned by the animal owner without immediately cleaning or removing the excrement to a proper receptacle or (ii) urinate on property not owned by an animal owner that causes damage to such property, including without limitation, damage to grass.
- C. Unsanitary conditions on any premises where the animal is kept which causes foul odor, attracts flies or vermin or otherwise threatens the public safety or health.
- D. Any other condition, act, omission or event not warranted by law or which endanger the life, health, property, morals, or comfort of the public, or obstructs the public in the exercise or enjoyment of rights common to all or as otherwise defined as a nuisance in this section, Code or by law.

RUNNING AT LARGE: A dog "runs at large" within the meaning of this chapter when it is on private property without the permission of the person owning or occupying the property, or when it is upon public property and is not upon a leash or chain continuously held in the hand of a responsible person capable of controlling such dog.

SIGNAL DOG: Any dog trained to lead or assist a deaf person. (Ord. 2007-03, 5-15-2007)"

SECTION 2. Section 77 of Chapter 1 of Title 5 of the Lemoore Municipal Code is amended and restated in its entirety to read as follows:

"5-1-77: VICIOUS OR CHASING DOG OR OTHER ANIMAL DEEMED NUISANCE:

The keeping or harboring of any animal which is by reason of vicious disposition a menace to persons or other animals, or which is a continual hazard or annoyance to persons or vehicles passing by the premises where it is kept, shall be an infraction and such animal shall be deemed a public nuisance. Any person may file a complaint with the animal control officer in writing, signed by, and bearing the address of the person complaining. The complaint shall state the place where such nuisance exists, describe such animal and its conduct and give the name and address of its owner or keeper, if known. The animal control officer upon complaint or his own knowledge shall investigate, and if a violation exists, may cause notice of abatement to be issued, make an arrest in accordance with section 5-1-8 of this chapter, or take such other action as is necessary. (Ord. 2002-11, 8-6-2002)

Any animal (except cats) permitted to be at large or trespassing upon private premises or public property in violation of this section shall be deemed prima facie to be under the control of the owner and declared to be a public nuisance and menace to public health and safety, and shall be seized and impounded as provided in this title.

Owners shall exercise proper care and control of their animals (except cats) and will prevent them from becoming a public nuisance, harassing or annoying passersby, chasing vehicles, attacking other domestic animals, and trespassing upon private property in such manner as to damage property. Failure to comply shall be deemed a public nuisance.

A public nuisance will exist as a result of the keeping or maintaining, or permitting to be kept or maintained, upon any premises owned, occupied, or controlled by any person of any animal or animals, which by any frequent or long continued noise shall cause annoyance or discomfort to two (2) or more reasonable persons of normal sensitiveness who reside in separate residences (including apartments and condominiums). However, an animal control officer may proceed on the basis of a complaint of only one person, if circumstances are determined to exist whereby a noise disturbance caused by an animal affects only one individual. Any noise caused by an animal which is audible continuously for ten (10) minutes, or intermittently for thirty (30) minutes, shall be prima facie evidence of such annoyance or discomfort. Factors which can be used to evaluate excessive animal noise include, but are not limited to: (a) pitch; (b) pattern; (c) frequency of occurrence; and (d) loudness."

SECTION 3. Chapter 1, Section 80 is hereby added Title 5 of the Lemoore Municipal Code to read as follows:

"5-1-80: PUBLIC NUISANCE

- A. Wherever any animal control officer or peace officer finds a public nuisance to exist within the meaning of this chapter, they shall notify the owner of the animal

by registered mail or in person that the owner shall either abate said nuisance within ten (10) days or show cause why said nuisance should not be summarily abated.

- B. If said nuisance is not abated and no show of cause is made, the animal control officer may then issue a citation to the owner of the animal or may impound the animal which is creating the nuisance. Any animal so impounded shall be taken to the Animal Shelter designated by the city.”

SECTION 4. Chapter 1, Section 29 is hereby added Title 5 of the Lemoore Municipal Code to read as follows:

“5-1-29: MICROCHIP IDENTIFICATION AND SPAY/ NEUTER COMPLIANCE FOR SHELTER ANIMALS.

- A. Animal services shall implant each dog and cat impounded at the Animal Shelter, not previously microchipped, with a microchip identification device. The owner of such dog or cat shall be obligated to pay for the cost associated with the implantation of the microchip identification device as part of the impound fee. It shall be the owner’s responsibility to have correct and current information registered with the city or the city’s designee at all times.
- B. Except as otherwise provided herein, any dog or cat sold, given away or released by the Animal Shelter or city designee shall be spayed or neutered in accordance with Food & Agricultural Code Section 30503, as may be amended. Male and female animals shall be at least 2 months of age and have a weight of at least 2 pounds. An extension of time to perform surgery may be granted by the Animal Shelter if a veterinarian provides a medical determination that the surgery cannot be performed as scheduled and must be postponed. The facility performing the surgery may spay or neuter an animal weighing less than two (2) pounds if by their determination it is safe to perform said surgery. The city, the Animal Shelter, or the city’s designee may release an un-spayed or unneutered animal if the party receiving the animal possesses or obtains a breeder’s permit and pays the required fees, including, without limitation, the cost of boarding, licensing (in the case of a dog), State fees.”

SECTION 5. Chapter 1, Section 30 is hereby added Title 5 of the Lemoore Municipal Code to read as follows:

“5-1-30 BREEDER PERMIT AND ADVERTISING

- A. It is unlawful for any person to breed dogs and/or cats for sale or profit or to advertise for the sale or adoption of such animals without first obtaining a breeder permit.
- B. The fees for a breeder permit shall be set by resolution of the city council and must be submitted to the animal control officer for the breeding of dogs or cats, as well as advertising for the sale or adoption of dogs and cats that are bred within the city limits. Breeding permit requirements are as follows:
 - 1. No offspring can be sold or adopted until eight (8) weeks of age;

2. No offspring can be sold or adopted until vaccinated against common diseases;
 3. The breeder permit holder must identify his/her/its permit number when advertising the animals for sale or adoption.
- C. It is unlawful for any person to advertise for the sale or adoption of a litter of dogs or cats in the city without including in the advertisement a city breeder permit number.
- D. A breeder permit shall be in addition to other requirements and conditions that must be satisfied under this code in order to undertake animal breeding operations within the city (e.g., city business permit, special use permit, etc.).”

SECTION 6. Chapter 1, Section 31 is hereby added Title 5 of the Lemoore Municipal Code to read as follows:

“5-1-31 BREEDER PERMIT REQUIREMENTS

- A. Application for all breeder permits pursuant to this chapter shall be filed with the, animal control officer or city designee on a form prescribed by the city. Fees charged for these permits shall be set by resolution of the city council as recommended by the Animal Control Officer or city designee. Permits shall be issued for the calendar year or any part thereof and are effective from January 1st of each year and expire on December 31st of that same year. If a permit is issued during a month other than January, the permit fee shall be prorated with respect to the month during which issuance occurs (e.g., the permit fee for a permit issued in February will be 11/12ths of the full annual fee). Renewal and payment of the permit is due and payable on January 1st of each year. The city designee shall collect a delinquent penalty in an amount equal to the amount as established for license penalties.
- B. The failure to obtain the appropriate permit is punishable as an infraction as set forth herein.
- C. Any or all of the permits within this code may be immediately suspended for any violations of the conditions of this title.”

SECTION 7. This Ordinance shall take effect 30 days after its adoption.

SECTION 8. The City Clerk is further directed to cause this Ordinance or a summary of this Ordinance to be published once in a newspaper of general circulation published and circulated within the City of Lemoore, within fifteen (15) days after its adoption. If a summary of the Ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed Ordinance to be posted in the office of the City Clerk at least five days prior to the Council meeting at which the Ordinance is adopted and again after the meeting at which the Ordinance is adopted. The summary shall be approved by the City Attorney.

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The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 7th day of October 2014 and was passed and adopted at a regular meeting of the City Council held on the 21st day of October 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary J. Venegas, City Clerk

Lois Wynne, Mayor