

CITY ORDINANCE NO. 4873

AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 8-22 OF THE LEWISTON CITY CODE TO AMEND, ADD, AND DELETE DEFINITIONS RELATED TO DOGS; AMENDING SECTION 8-31 TO ADD AN AGGRESSIVE DOG AT LARGE PROVISION AND THE ASSOCIATED PENALTY; AMENDING SECTION 8-43 TO REMOVE THE PENALTY FOR DOGS AT LARGE; AMENDING SECTION 8-45 RELATED TO VICIOUS DOGS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEWISTON,

IDAHO:

SECTION 1: Lewiston City Code § 8-22 is hereby amended as follows:

Sec. 8-22. Definitions.

As used in this article, the following terms shall have the meanings set forth below:

Aggressive behavior: A dog that, without being provoked, either: (1) approaches or chases a person in a hostile manner, or (2) causes a reasonable person to fear that the dog will attack that person.

...

At large: To be off the owner's premises and not secured by a leash. ~~under the control of the owner or another person.~~

...

Dog under control: ~~A dog secured by a leash or lead not exceeding eight (8) feet in length and by a responsible person, or confined within a vehicle or confined within the boundaries of its owner's real property.~~

...

Provoke: A person or animal performing an act or omission that a reasonable person would conclude is likely to result in dog aggression in the form of a bite or attack.

...

Vicious dog: A dog that: (1) while at large, without being provoked, caused serious injury to or killed another domestic animal; or (2) has a prior documented history of injuring or killing other domestic animals in any jurisdiction.

SECTION 2: Lewiston City Code § 8-31 is hereby amended as follows:

Sec. 8-31. Dogs at large.

(1) It shall be unlawful for any person to cause, permit, or allow a dog or dogs, owned, harbored, controlled, or kept by him or her, to roam, run, or stray away from the premises in which the dog or dogs are owned, harbored, controlled, or kept, except where the dog or dogs are secured by a leash, kept under control by means of a leash or chain not exceeding eight (8) feet in length by the owner or other person. A leash or chain shall not be required for a dog which that is securely confined in any vehicle. Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come in contact with another dog except for planned breeding. Any person who violates this provision shall be deemed to have committed a civil infraction and shall be subject to a fine of forty-five dollars (\$45).

(2) In the event a dog exhibits aggressive behavior while at large, as described in subsection (1) of this section, then the owner, custodian, or keeper of said dog shall be deemed to have committed a civil infraction and shall be subject to a fine of one hundred dollars (\$100).

SECTION 3: Lewiston City Code § 8-43(a) is hereby amended as follows:

Sec. 8-43. Offenses; civil infractions and misdemeanors; penalties.

(a) Any person or entity ~~which~~ that violates the provisions of sections:

...

~~8-31, Dogs at large~~

...

shall be deemed to have committed a civil infraction and for each violation shall be fined ~~not to exceed the sum of forty-five dollars (\$45.00)~~. In lieu of a court appearance, any person or entity charged with having committed a civil infraction prohibited by the provisions set forth in this subsection may forfeit to the Nez Perce County Court a penalty in the sum of forty-five dollars (\$45.00).

...

SECTION 4: Lewiston City Code § 8-45 is hereby amended as follows:

Sec. 8-45. Vicious dogs.

...

(b) *Recommendation of vicious dog.* The code enforcement officer or a police officer may provide a written recommendation to the support services commander recommending that a dog be declared a vicious dog if the code enforcement animal control officer or police officer has probable cause to believe that ~~the~~ a dog falls within the definition of vicious dog, pursuant to section 8-22 of this ~~code~~ article. Such written recommendation shall be based on:

- (1) The ~~written complaint~~ information received from of a person who is willing to testify that the dog acted in a manner causing it to fall within the definition of vicious dog;
- (2) Actions by the dog witnessed by the code enforcement officer or a police officer; and/or
- (3) Other evidence admissible in court.

(c) *Declaration of vicious dog and notice.* Within ~~five (5) business~~ ten (10) calendar days following receipt of such written recommendation, the support services commander shall review the code enforcement officer or police officer's recommendation and determine whether the dog should be declared a vicious dog. If the support services commander declares that the dog is a vicious dog, then written notice of such declaration shall be served on the dog's owner. Service may be accomplished by hand-delivery, mail,

or email. If such notice is hand-delivered or emailed, it shall be deemed received immediately. If such notice is mailed, it shall be deemed received seventy-two (72) hours after depositing the same in the U.S. mail, certified or registered, addressed to the dog owner's last known address.

...

(d) *Appeal to the mayor.* The dog's owner may appeal the support services commander's declaration of vicious dog to the mayor by filing a written notice of appeal with the city clerk within five (5) calendar days from the date of receipt of the support services commander's written declaration. The notice of appeal shall specify the grounds for appeal. If an appeal is not filed within five (5) calendar days from the date of receipt of the support services commander's written declaration, then the support services commander's declaration shall be final.

The mayor shall hold a hearing on the appeal within ~~seven (7)~~ ten (10) calendar days of receipt of the notice of appeal. The appellant shall have the right to be represented by legal counsel at the hearing and rebut any evidence that is submitted. The formal rules of evidence shall not apply. The mayor's review of the support services commander's declaration shall be de novo.

...

SECTION 5: This ordinance shall take effect and be in full force from and after its passage and publication.

PASSED this _____ day of _____, 2023.

CITY OF LEWISTON

By: _____
Daniel G. Johnson, Mayor

ATTEST:

Kari J. Ravencroft, City Clerk