



MORGAN MEYER
HOUSE OF REPRESENTATIVES

DISTRICT 108

April 1, 2019

RQ-0287-KP

The Honorable Ken Paxton
Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-48553-19
I.D. # 48553

Re: Conflicts between Chapter 7, "Animals" of the Dallas City Code and Subchapter 822.D.
Dangerous Dogs, Tex. Health & Safety Code.

Dear General Paxton:

I am requesting an opinion regarding questions as to certain language contained in the above-referenced municipal ordinance recently enacted by the City of Dallas, Texas. A copy of Chapter 7 of the Dallas City Code is attached hereto as Exhibit "A". It appears that certain sections in the Dallas ordinance are in conflict with certain provisions in the Texas Health & Safety Code Subchapter 822.D, a copy of which is attached hereto as Exhibit "B". The questions are as follows:

1. Can a municipal ordinance reduce the amount of time permitted in the state statute for an owner to comply with restrictions in order to keep a dog deemed to be dangerous?
 - In Sec. 7-5.3(d) DETERMINATION AS A DANGEROUS DOG: the Dallas ordinance states that the dog becomes the property of the city if the owner has not complied with all requirements for keeping a dangerous dog within 15 days, whereas the state statute, in Sec. 822.042(a), allows the owner 30 days to comply with restrictions for keeping the dog.
 - In Sec. 7-5.5(a) and (c); REQUIREMENTS FOR OWNERSHIP OF A DANGEROUS DOG: the Dallas ordinance allows the owner only 15 days to comply, whereas the state statute in Section 822.042(a) allows 30 days to comply.

2. Can a municipal ordinance change and increase the method computation and amount required of the owner to post an appeal bond, from that set forth in the state statute?
 - In Sec. 7-5.4(c); APPEAL OF DIRECTOR'S DANGEROUS DOG DETERMINATION: the Dallas ordinance not only requires the posting of a

bond for appeal based on anticipated cost of housing and caring of the dog during appeal as determined by the court, but further adds additional costs including care for other animals and shelter employees, whereas the state statute in Sec. 822.0423(c-1) provides only that "the court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs."

3. Can a municipal ordinance authorize the director of animal control to destroy a dog that is found at large without: (i) allowing some time element in which the owner can redeem the dog; and (ii) allowing the owner the right to appeal the determination? See Sec. 7-5.5(e)(2)(B)(iii).
4. Can a municipal ordinance control what an owner does with his property (the dog) once taken outside of the jurisdiction of the city and municipal court as set forth in the Dallas ordinance Sec. 7-5.5(f)? Does the authority of the City of Dallas to govern the dog extend to any location throughout the state and county for the life of the dog?

From a reading of the cited portions of the Dallas municipal ordinance, it appears they constitute a conflict with the cited portions of Tex. Health & Safety Code Ch. 822, which is prohibited by V.T.C.A. Texas Const. Art. II § 5 and pursuant to the relevant portions of your opinion in Tex. Atty. Gen. Op. GA-0660 (Tex.A.G.) 2008 WL 4066438 as well as assert lawful authority which it is not permitted under law.

Your consideration of these issues is respectfully requested and appreciated.

Sincerely,



Morgan Meyer
Chairman, House General Investigating Committee