

SECTION 10 – DOGS CAUSING DEATH OR SERIOUS BODILY INJURY TO A PERSON

10.1 Comal County adopts the provisions of 822.001-822.006 of the Texas Health and Safety Code regarding dogs causing death of or serious bodily injury to a person.

10.2 ATTACK BY DOG CAUSING DEATH OR SERIOUS BODILY INJURY:

A person commits an offense if the person is the owner of a dog and the person:

- a) with criminal negligence, as defined by Section 6.03, Penal Code, fails to secure the dog and the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or in or on the owner's motor vehicle or boat and that causes serious bodily injury, as defined by Section 1.07, Penal Code, or death to the other person.
- b) knows the dog is a dangerous dog by learning in a manner described by Section 822.042(g) of the Texas Health and Safety Code that the person is the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure and that causes serious bodily injury or death to the other person.

10.3 SEIZURE OF A DOG CAUSING DEATH OF OR SERIOUS BODILY INJURY TO A PERSON:

- a) A justice court, county court, or municipal court shall order the Animal Control Office to seize a dog and shall issue a warrant authorizing the seizure:
 - 1) on the sworn complaint of any person, including the Criminal District Attorney of Comal County or a Peace Officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
 - 2) on a showing of probable cause to believe that the dog caused the death of or serious bodily injury to the person as stated in the complaint.

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- b) The Animal Control Officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court order the disposition of the dog.

10.4 HEARING:

- a) The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the tenth (10th) day after the date on which the warrant is issued.
- b) The court shall give written notice of the time and place of the hearing to:
 - 1) the owner of the dog or the person from whom the dog was seized; and
 - 2) the person who made the complaint.
- c) Any interested party, including the Criminal District Attorney, is entitled to present evidence at the hearing.
- d) The court shall order the dog destroyed if the court finds that the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person.
- e) If either of these findings is not made, the court shall order the dog released to:
 - 1) its owner;
 - 2) the person from whom the dog was seized; or
 - 3) any other person authorized to take possession of the dog.
- f) The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:
 - 1) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:
 - A) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
 - B) the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

- 2) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred.
- 3) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
- 4) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
- 5) the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

10.5 DESTRUCTION OF DOG: The destruction of a dog under this section must be performed by:

- a) a licensed veterinarian;
- b) personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or
- c) personnel of Animal Control who are trained in the humane destruction of animals.

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10.6 PROVOCATION OR LOCATION OF ATTACK IRRELEVANT: Except as provided by Subsection 10.4(f), this Section applies to any dog that causes a person's death or serious bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or serious bodily injury occurred.

10.7 PENALTY FOR VIOLATION:

- a) An offense under this section is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.
- b) If a person is found guilty of an offense under this section, the court may order the dog destroyed by any person listed in Section 822.004 of the Texas Health and Safety Code.
- c) A person who is subject to prosecution under this section and under any other law may be