

ORDINANCE NO. 985

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING SECTION 6.04.050 TO CHAPTER 6.04 OF THE LANCASTER MUNICIPAL CODE RELATING TO LIABILITY FOR DOG BITES

WHEREAS, Section 3342 of the California Civil Code provides that “[t]he *owner of any dog* is liable for the damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner of the dog, regardless of the former viciousness of the dog or the owner’s knowledge of such viciousness” (emphasis added); and

WHEREAS, under California common law, a landlord owes a duty of care to his or her tenant’s invitees to prevent injury from the tenant’s vicious dog when the landlord has “actual knowledge” of the dog’s vicious nature in time to protect against the dangerous condition on his or her property; however, a landlord is under no duty to inspect his or her property for the purpose of discovering the existence of a tenant’s dangerous animal—only when the landlord has actual knowledge of the animal, coupled with the right to have it removed from the premises, does a duty of care arise (*see, e.g., Uccello v. Laudenslayer*, 44 Cal. App. 3d 504 (1975); *Salinas v. Martin*, 166 Cal. App. 4th 404 (2008)); and

WHEREAS, the City Council of the City of Lancaster has determined that it is in the public interest and welfare to add Section 6.04.050 to the Lancaster Municipal Code, in order to impose upon landlords liability similar to the liability imposed upon the owner of a dog under Section 3342 of the California Civil Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES ORDAIN AS FOLLOWS:

Section 1. Section 6.04.050 is hereby added to Chapter 6.04 of Title 6 of the Lancaster Municipal as follows:

**“6.04.050 Liability of private real property owner.**

A. If the City is informed by the Los Angeles County Sheriff’s Department or the Los Angeles County Department of Animal Care and Control that a dog has bitten a person while such person was lawfully upon private real property, the City may, but shall not be required to, send to the owner and tenant(s) of such private real property a notice that indicates the dog bite occurred and informs the owner of such private real property that if and to the extent the same dog bites any person in the future the owner of such private real property will be liable for damages and will incur a fine as set forth in this section. No owner of private real property shall incur any liability under this section unless the notice described in this paragraph has first been provided.

B. The private owner of any real property is liable for the damages suffered by any person who is bitten by a dog while the person is lawfully upon the private owner's real property, regardless of the former viciousness of the dog or knowledge of such viciousness. A person is lawfully upon a private owner's real property within the meaning of this section when he or she is on such real property in the performance of any duty imposed upon him or her by the laws of this state or by the laws or postal regulations of the United States, or when he or she is on such real property upon the invitation, express or implied, of the private owner and/or tenant of the real property. The private owner of any real property shall only incur liability under this paragraph for a dog bite that is inflicted by the same dog and that occurs more than five (5) days after the City has mailed the notice described in Section 6.04.050(A).

C. The private owner of any real property shall be subject to a fine of one thousand dollars (\$1,000.00) for each dog bite that is suffered by a person who is lawfully upon the private owner's real property. The private owner of any real property shall only incur liability under this paragraph for a dog bite that is inflicted by the same dog and that occurs more than five (5) days after the City has mailed the notice described in Section 6.04.050(A). In the event the City Manager, or his/her designee, reasonably determines that the private owner of any real property is diligently attempting to have a dog removed from the private owner's real property, the City Manager may waive any fine that would otherwise be imposed under this paragraph. Any person against whom a fine is imposed based upon this paragraph may appeal the imposition of such fine pursuant to Chapter 2.44 of this Code. A fine imposed pursuant to this paragraph may be collected using any lawful means, including, without limitation, by placing such fine on the next available tax roll for the subject real property.

D. The notice described in Section 6.04.050(A) may be served upon the private owner of real property by regular mail, to the mailing address indicated on the last equalized assessment roll of the Los Angeles County Assessor's Office. The notice described in Section 6.04.050(A) may be served upon a tenant by regular mail, to the tenant's last known address.

E. Nothing in this section shall authorize the bringing of an action or imposition of a fine against any federal, state or local governmental agency or entity, including, without limitation, the City of Lancaster."

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Geri K. Bryan, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, and placed upon its second reading and adopted at a regular meeting of the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2013 by the vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

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GERI K. BRYAN, CMC  
City Clerk  
City of Lancaster

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R. REX PARRIS  
Mayor  
City of Lancaster

STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       ) ss  
CITY OF LANCASTER             )

CERTIFICATION OF ORDINANCE  
CITY COUNCIL

I, \_\_\_\_\_, \_\_\_\_\_ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 985, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

(seal)