

The Animal Shelter Commission proposed revisions for discussion purposes. They will make these recommendations to City staff for approval by the Dallas City Council.

1/3/08

Proposed Changes to Dallas City Code Chapter 7 - Animals

Dangerous Dogs

§ Amend Article V - Dangerous Dogs - to streamline the process for determining that a dog is dangerous dog and to provide additional alternative requirements for owners of dangerous dogs.

ARTICLE V.

DANGEROUS DOGS.

SEC. 7-5.1. DEFINITIONS.

(a) The definitions contained in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article by reference.

(b) The definition of SERIOUS BODILY INJURY contained in Sec. 822.001(2) of the Texas Health and Safety Code is incorporated into this article by reference.

(c) The definition of BODILY INJURY contained in Sec. 1.07 of the Texas Penal Code is incorporated into this article by reference.

(d) In this article, UNPROVOKED means an action by a dog that is not:

- (1) in response to being tormented, abused, or assaulted by any person;
- (2) in response to pain or injury;
- (3) in protection of itself or its food, kennel, immediate territory, or ~~nursing~~ offspring; or
- (4) in response to an assault or attempted assault on a person.

SEC. 7-5.2. STATE LAW; ANIMAL CONTROL AUTHORITY.

(a) The provisions of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article, and a violation of any provision of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is an offense under this article.

(b) The director shall serve as the animal control authority for the city for purposes of administering and enforcing this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended.

SEC. 7-5.3. DETERMINATION AS A DANGEROUS DOG.

(a) Upon receipt of a sworn, written complaint by any person of an incident described in Sec. 822.041(2) of the Texas Health and Safety Code, ~~in a form approved by the director~~, the director shall investigate and conduct a hearing to determine if a dog is dangerous. The hearing must be conducted within 30 days after receipt of the complaint.

(b) The director shall provide notice of the date, time, and location of ~~a~~the hearing to the dog owner, either in person or by certified mail, return receipt requested, and to the complainant by regular mail. ~~A~~The hearing must be conducted not less than 10 days after notice has been

mailed or delivered to the dog owner. At a the hearing all interested persons will be given the opportunity to present evidence on the issue of the dog's dangerousness.

(c) If a dog has caused serious bodily injury to any person, the director may seize and impound the dog at the owner's expense pending the hearing and a determination of whether the dog is a dangerous dog. If the director cannot with due diligence locate the owner of the dog that has been seized pursuant to this Subsection, the director shall cause the dog to be impounded for not less than 10 days. If after 10 days, the owner fails to claim the dog, the director may cause the dog to be humanely destroyed. If, during the time the dog is impounded, the owner claims the dog, the owner shall be served with notice of a hearing as provided for in Subsection (b).

(d) At the conclusion of a hearing required by this section, the director shall either:

(1) determine that the dog is not dangerous and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; ~~or~~

(2) determine that the dog is dangerous and order the owner to comply with the requirements for ownership of a dangerous dog set forth in Section 7-5.75 of this article and in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and, if the dog is impounded, release the dog to its owner after compliance with all applicable requirements of Subsection (f); or after payment of all impoundment fees required by this chapter.

(3) determine that the dog is dangerous and order the owner to remove the dog from the city; or

(4) determine that the dog is dangerous and has killed or caused serious bodily injury to a person and order the dog to be seized and humanely destroyed.

~~(e)~~ If a dog is determined to be dangerous, the director shall notify the dog owner, either in person or by certified mail, return receipt requested:

(1) that the dog has been determined to be a dangerous dog;

(2) if ordered to do so, what the owner must do to comply with requirements for ownership of a dangerous dog and to reclaim the dog, if impounded; ~~and~~

~~— (3) that the owner has a right to appeal the determination of dangerousness.~~

(3) if ordered to do so, what the owner must do to comply with the order to remove the dog from the city and to reclaim the dog, if impounded;

(4) if so ordered, that the dog has been ordered to be humanely destroyed; and

(5) that the owner has a right to appeal the determination of dangerousness or the order of humane destruction.

(f) An impounded dog determined by the director to be dangerous shall remain impounded, or confined at a location approved by the director, and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or, if applicable, provides the director with satisfactory evidence that the dog will be removed from the city. If all impoundment fees have not been paid and all requirements have not been met within two weeks after a final determination that a dog is dangerous, the director may cause the dog to be humanely destroyed.

SEC. 7-5.4. SEIZURE AND IMPOUNDMENT OF A DANGEROUS DOG.

(a) The director shall seize and impound, at the owner's expense, any dog previously determined to be dangerous, if:

(1) the owner violates and provision of this article or Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, or

(2) the dog bites or attacks any person outside of its enclosure.

(b) If a previously determined dangerous dog has been seized and impounded under this section, the director shall conduct a hearing to determine if the dog should be returned to the owner; removed from the City; or be humanely destroyed. The hearing must be conducted within 30 days after the date of seizure, and the director shall provide written notice of the hearing either in person or by certificate mail, return receipt requested, to the dog owner. In no event shall the hearing be conducted less than five days after the notice has been mailed or delivered to the dog owner.

(c) At the conclusion of a hearing required under this section, the director shall order that the dog either be returned to the owner, be removed from the city by the owner, or be humanely destroyed.

(d) A dangerous dog seized and impounded under this section shall not be returned to the dog owner until the owner pays all fees incurred for impoundment of the dog and complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or, if applicable, provides the director with satisfactory evidence that the dog will be removed from the city. If all impoundment fees have not been paid and all requirements have not been met within two weeks after the director issues the order to return the dog to the owner, the director may cause the dog to be humanely destroyed.

SEC. 7-5.54. APPEALS FROM DETERMINATION AS A DANGEROUS DOG.

(a) If the director determines that a dog is dangerous under Section 7-5.3 of this article, that decision is final unless the dog owner files a written appeal with the municipal court within 15 days after receiving notice that the dog has been determined to be dangerous. The appeal

standard is a substantial evidence review and is a civil proceeding for the purpose of affirming or reversing the director's determination of dangerousness.

(b) If the director orders a dangerous dog to be humanely destroyed under Section 7-5.3 or Section 7-5.4 of this article, that decision is final unless the dog owner files a written appeal with the municipal court within 15 days after receiving notice of the destruction order. If an appeal is timely filed, the director shall suspend the destruction order pending final determination of the court. The appeal hearing is a substantial evidence review and is a civil proceeding for the purpose of affirming or reversing the director's destruction order.

SEC. 7-5.6 SURRENDER OF A DANGEROUS DOG.

A person who owns or possesses a dog that has been ordered to be seized or impounded by the director under this article shall surrender the dog to the director immediately upon learning of the order.

SEC. 7-5.75. REQUIREMENTS FOR OWNER OF A DANGEROUS DOG.

(a) In addition to complying with the requirements of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, a person shall, not later than the 30th day after learning that he is the owner of a dangerous dog:

(1) have the dangerous dog spayed or neutered;

(2) register the dangerous dog with the director and pay to the director a dangerous dog registration fee of \$50;

(3) restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;

(4) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the director;

(25) place and maintain on the dangerous dog a collar or harness with a current dangerous dog registration tag securely attached to it;

(36) have the dangerous dog injected with a microchip implant and registered with a national registry for dogs; and

(47) post a sign at each entrance to the enclosure in which the dangerous dog is confined stating "BEWARE DANGEROUS DOG."

(b) The owner of a dangerous dog shall renew registration of the dangerous dog with the director annually and pay an annual dangerous dog registration fee to the director of \$50.

(c) A person, upon learning that he is the owner of a dangerous dog that has been ordered removed from the city shall not later than two weeks after learning of same:

(1) remove the dog from the city;

(2) advise the animal control authority within the area to which the dog has been moved that the dog has been declared a dangerous dog; and

(3) furnish the director the location where the dog has been moved and the person responsible for the care and confinement of the dog.

SEC. 7-5.8. NO BRINGING OF DANGEROUS DOGS INTO THE CITY.

No dog that has been determined to be a dangerous dog by any other jurisdiction shall be allowed in the city.

SEC. 7-5.96. DANGEROUS DOG OWNED OR HARBORED BY MINOR.

If the owner of a dangerous dog is a minor, the parent or guardian of the minor is liable for all injuries sustained by any person or another animal in an unprovoked attack by the dog.

SEC. 7-5.107. DEFENSES.

Any defense to prosecution under Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is a defense to prosecution for a violation under this article.