

5.387 Dangerous Dogs.

(1) Definitions: For purposes of this section, the following mean:

Business day. A day the Dallas City Hall is open for business.

Chief. The Chief of the Dallas Police Department, or the Chief's designee.

City. City of Dallas, Oregon.

Keeper. The person in actual or constructive charge of a dog at the time an alleged dangerous act occurs.

Menaces or menacing. Lunging, growling, snarling or other behavior by a dog that would cause a reasonable person to fear for the person's safety.

Notice. A dangerous dog notice.

Officer. A police officer, the City of Dallas Dog Control Officer, and the Polk County Dog Control Officer.

Order. A dangerous dog order.

Owner. The person(s) named on the dog's license as the owner, and if a dog is not licensed, the person(s) who claim ownership of the dog.

Provoking. Acting in a manner which a reasonable person would believe would cause the dog to act as a dangerous dog.

(2) A dog is a dangerous dog if it:

- (a) Attacks, bites or otherwise injures any person or other domestic animal; or
- (b) Menaces any person.

(3) Exception to dog as a dangerous dog. A dog is not a dangerous dog if it commits an act described in subsection (2) herein against a person:

- (a) Wrongfully assaulting the dog, the dog's owner, or another person;
- (b) Provoking the dog;
- (c) Trespassing upon premises occupied by the dog's owner, or upon other premises where the dog is present with the consent of the person(s) in charge of that premises; and
 - (i) Provoking the dog;
 - (ii) Intending to commit an additional crime; or
 - (iii) After climbing over a fence or other enclosure with knowledge that the dog is enclosed.

(4) Reasonable restrictions. Upon a finding that a dog is a dangerous dog, the owner of the dog can be ordered to impose reasonable restrictions on the dog, including, but not limited to the following:

(a) Posting signs with "Beware!! Dangerous Dog!!" in letters not less than three inches high, which clearly contrast with the background color of the sign, on each portion of a fence or other enclosure that faces a sidewalk, street, or alley and encloses the dog, and one sign in any unenclosed area accessible to the dog when not under the direct control of the owner;

(b) Confining the dog in an outdoor kennel constructed of not less than nine gauge chain link with each side panel and roof panel reinforced on all four sides with a tension bar. The kennel shall be kept locked at all times the dog is in the kennel;

(c) Requiring the dog to be restrained by an adequate leash and muzzle and be under the direct control of the owner at all times when off the owner's property;

(d) Requiring any area to which the dog has access when not under the direct control of the owner to be enclosed by fencing not less than six feet high or such other height as is allowed by the Dallas Development Code, and constructed of materials and in a manner adequate to prevent escape;

(e) Impounding the dog, at the owner's expense, until other imposed reasonable restrictions are in place;

(f) Prohibiting the dog from remaining in and/ or returning to the city;

(g) Implantation of an identifying microchip in accordance with the rules of the State Department of Agriculture. Implantation shall be made prior to any adoption or relocation of the dog. The microchip information and the record of the dog shall be forwarded to the Department of Agriculture. City and the Department of Agriculture may charge reasonable fees to the dog owner to cover the cost of conducting and administering the microchip implantation program.

(h) Requiring the dog to be euthanized in a humane manner. In determining whether a dangerous dog should be euthanized, the Chief shall consider the following factors:

(i) The circumstances of the bite, including whether the dog was provoked by the person bitten or any other person;

(ii) Whether the owner has a history of owning or keeping dangerous dogs, or a history of allowing dog(s) to run at large, within the city or at any other location;

(iii) The impact of owner's actions on the behavior of the dog;

(iv) The severity of the bite;

(v) The ability and inclination of the owner to prevent the dog from behaving as a dangerous dog;

(vi) Whether the dog can be relocated to a secure facility;

(vii) The effect that a transfer of ownership would have on ensuring public safety;

(viii) Whether the dog acted as a dangerous dog prior to or after the notice and/or order;
and

(ix) Any other factors the decision maker may deem relevant.

(i) Any other restrictions which, under the circumstances presented, are reasonably necessary to prevent the dog from committing further dangerous acts as defined herein.

(5) Bite of persons. In addition to the provisions of this chapter, a dog which bites a person shall be dealt with under rules of the Oregon Health Division Acute and Communicable Diseases Program.

(6) Dangerous dog notice. Any officer with reasonable grounds to believe a dog is a dangerous dog may issue the dog's owner written notice which includes the following:

(a) That the dog is considered dangerous;

(b) A description of the alleged dangerous act, including the date, time, and approximate location where the dangerous act occurred;

(c) Temporary restrictions which are immediately effective;

(d) The penalties for failures to institute and/or maintain temporary and/or permanent restrictions;

(e) The name, address, and telephone number of the owner;

(f) That the owner may request a hearing on the notice by submitting a request to the Chief within ten business days of the date the notice was issued and if a hearing is not requested, that the notice shall, without further action, constitute a dangerous dog order.

(g) Owner to be served. If not initially served, the person named as the dog's owner on the dog's license shall be served the notice. If the dog is not licensed, or the owner cannot be determined or found, the dog may be impounded and notice of the impoundment shall be served personally or by mail upon the owner at the owner's last known address. The dog shall remain impounded until the owner redeems the dog, complies with all regulations for the redemption of impounded dogs, and the owner is served the notice, if not previously served. If the owner fails to redeem the dog within 15 business days from the date of impoundment or within 15 business days of the date the final dangerous dog order was issued, the dog may be euthanized in a humane manner or adopted if the Chief is of the opinion that public safety will not be jeopardized by the adoption. Failure to serve the owner shall not preclude a dangerous dog proceeding.

(7) Emergency temporary restrictions. If an officer issuing a notice has reasonable grounds to believe the dog alleged to be dangerous will, before an order can be entered, commit another act described in subsection (2) herein, the officer, at any time prior to the entry of an order, may, in the original notice or in an amended notice, impose temporary reasonable restrictions, except euthanasia, to keep the dog from committing another such act. The temporary restrictions shall be effective upon service of such notice.

(8) Conduct of hearing. The hearing before the Chief shall be held within ten business days of the date the notice was issued, and shall be informal, with such rules of evidence and procedure as the Chief believes are necessary for the reliability and expediency of the hearing, subject to the following:

(a) Proof of payment required. Before a hearing is scheduled, the owner must present written proof that all kennel, licensing, and veterinary costs of the dog have been paid in full. Additionally, if the dog will be impounded until the hearing takes place, kennel costs must be pre-paid for a period of time which ends 14 calendar days after the date of the hearing;

(b) The officer who issued the notice may appear by report only. The person requesting the hearing, and any witnesses, may appear personally, by telephone, or by written statement;

(c) The Chief shall cause notice of the date of the hearing to be mailed to the owner on the same day the Chief sets the hearing. The owner shall be entitled to one rescheduling by submitting a written request to the Chief which includes acknowledgment that any temporary restrictions will continue until the Chief's decision is issued;

(d) The Chief shall issue a written decision which affirms, modifies, or dismisses the notice and, unless dismissed, which sets forth any modifications to the reasonable restrictions set forth in the notice, within five business days of the hearing. The notice and the Chief's decision shall constitute an order;

(e) The Chief may only recommend euthanasia as a reasonable restriction. There shall be automatic review by the Municipal Court pursuant to subsection (10) herein, without a filing fee, of each case where the Chief recommends euthanasia.

(f) The order shall be mailed to the owner within five business days after the hearing. The decision shall include a statement that the recipient of the Chief's decision is entitled to appeal the Chief's decision to the Municipal Court by filing a notice of appeal and a \$150 non-refundable filing fee with the Municipal Court within ten business days after the date the decision and dangerous dog order is mailed; and

(g) Failure to serve the owner shall not preclude the availability of a hearing nor the effectiveness of the order.

(9) Proof of compliance. The owner shall provide acceptable proof of compliance with the emergency temporary restrictions, and/or the terms of an order to the Chief on or before the tenth business day after service of the notice or order.

(a) If proof of compliance is not provided within said ten days, there is a rebuttable presumption of a failure to comply. If the Chief finds the proof which was submitted is unacceptable, the Chief shall send notice of that finding to the owner within five business days after the proof was submitted and the owner shall have ten business days from the date the finding was mailed to provide acceptable proof of compliance and upon a failure to do so, there is a rebuttable presumption of a failure to comply and the owner may then be cited into the Dallas Municipal Court under subsection (11)(a) herein.

(b) A dog which is subject to emergency temporary restrictions and/ or an order may be seized and impounded by an officer until proof of compliance under subparagraph (a) above is received.

(10) Appeal. The owner may appeal the Chief's decision to the Municipal Court by filing a written request, with the owner's name, address, telephone number, and the address where the dog is kept, if different, and except when euthanasia is recommended, a \$150 fee with the court within ten business days after the Chief's order was mailed. The appeal to the Municipal Court shall be de novo. The filing of an appeal does not stay the order.

(a) The Municipal Court shall schedule the hearing on the appeal for a date which is not more than ten business days after the Municipal Court receives the record, if the dog is impounded, or otherwise within 30 calendar days, and shall immediately provide written notice to the appellant, the Chief, and to the officer who issued the notice, of the hearing date.

(b) The Municipal Court's decision shall be issued and mailed to owner and the Chief within five business days of the date of the hearing, if the dog is impounded, or otherwise within 30 calendar days, and shall be effective when personally served upon the owner, or three business days after it is mailed to the owner at the address in the appeal request, whichever first occurs.

(11) Violations.

(a) An owner who is served a notice and/or order, or who otherwise is aware of the restrictions in the notice and/or order, and fails to immediately institute and maintain such restrictions shall be guilty of a violation punishable by a fine of not to exceed \$1,000 and an additional fine of not to exceed \$250 for each day the failure to institute continues.

(b) The owner of a dog subject to reasonable restrictions who has knowledge of the restrictions and transfers possession and/or ownership of that dog to a keeper and/or new owner without notifying the new owner/keeper of the restrictions shall be guilty of a violation, punishable by a fine of not to exceed \$1,000.

(c) Any owner and/or keeper knowingly hiding or harboring a dog with the intent to hinder an investigation into whether the dog is a dangerous dog or into whether reasonable restrictions have been implemented and/or maintained shall be guilty of a violation, punishable by a fine of not to exceed \$1,000 and an additional fine of not to exceed \$250 per day for each day the dog is hid or harbored.

(d) An order of the Polk County Dog Board regarding a dangerous dog shall be considered an order subject to the provisions of this subsection (11) if the dog is within the city regardless of whether the restrictions in that order are set forth in subsection (4) herein. Such violations are enforceable and punishable in the Dallas Municipal Court in the same manner as if the order had been issued by the city, including the enhanced penalty under subsection (11)(e) herein.

(e) If a dog subject to a notice and/or order bites a person while the owner is in violation of the provisions of subsection (11)(a), (b), or (c) herein, the owner shall be guilty of a Class C misdemeanor.

(f) If a dog subject to a notice and/or order bites a person while a keeper of the dog is aware of non-compliance with the restrictions and exposes the dog to the person who was bitten, that keeper shall be guilty of a Class C misdemeanor.

(12) Nothing herein shall prevent or prohibit an officer from referring an alleged dangerous dog to Polk County.

(13) Concurrent jurisdiction to enforce the terms of this section is granted to Polk County.

[Section added by Ordinance No. 1644, passed June 21, 2004; amended by Ordinance No. 1704, passed August 3, 2009; amended by Ordinance No. 1729, passed September 7, 2010]