

§ 3-1-1 DEFINITIONS.

In this title:

(1) ANIMAL CONTROL AUTHORITY means an animal control office owned, operated, leased or contracted by the city with authority over the area in which the dog is kept.

(2) ANIMAL SHELTER means an impound facility owned, operated, leased or contracted for by the City.

(3) BODILY INJURY means physical pain, illness, or any impairment of physical condition.

(4) DANGEROUS ANIMAL means, regardless of the individual animal's age or health:

(a) An animal of a species defined as a "dangerous wild animal" in Subchapter E (Dangerous Wild Animals), Chapter 822 (Regulation of Animals), of the Texas Health and Safety Code; or

(b) an animal of any other species of wild or feral mammal or reptile that by its nature or breeding is capable of inflicting serious bodily injury to a human.

(5) DANGEROUS DOG means a dog that:

(a) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(b) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

(6) DOG means a domesticated animal that is a member of the canine family.

(7) FINAL DECISION shall mean the last decision by either the animal control authority or a court, after which the time to appeal has passed.

(8) ENCLOSURE means a pen, cage, coop, loft, stable, shed, structure or enclosure used to house a bird, fowl, livestock, or other animal.

(9) FOWL includes a chicken, turkey, goose, guinea hen, or duck.

(10) HANDLER means a person who has charge, care, custody, or control of an animal.

(11) LIVESTOCK means a horse, mule, jack, jennet, cow, bull steer, hog, pig, swine, sheep, or goat, other than a miniature breed.

(12) MINIATURE LIVESTOCK means livestock that meet the published breed definition for registration by a nationally recognized breeding association.

(13) OWNER means a person who owns, feeds, keeps, maintains, or harbors an animal or who knowingly allows an animal to remain on the person's property.

(14) PROVOCATION means any overt(s) by a person which would reasonably be expected to irritate, harass or aggravate a dog (such as teasing, taunting, etc.), but does not include any act by a person reasonably seen by that person as necessary to intervene to protect another person or livestock, domestic animal or fowl. Entrance, in any manner, into a "secure enclosure" or another area where a dog is properly under restraint in compliance with the provisions of this ordinance shall be considered provocation regardless of the reason for such entrance.

(15) REGISTRATION FEE means the annual fee charged by the City for the registration of a dog or cat.

(16) RESTRAINT used with respect to a dog or cat means:

(a) kept in a secure enclosure;

(b) kept on the owner's or handler's property by means of a chain or tether; or

(c) kept under the direct physical control of the animal's owner or handler by a leash, cord, chain, or similar direct physical control.

(17) RUNNING AT LARGE means an animal not:

(a) under the direct physical control of its owner or handler; or

(b) physically restrained within the premises of its owner or handler.

(18) SECURE ENCLOSURE means a fenced area or structure that is:

(a) locked;

(b) capable of preventing the entry of the general public, including children;

(c) capable of preventing the escape or release of a dog;

(d) clearly marked as containing a dangerous dog; and

(e) in conformance with the requirements for enclosures established by the local animal control authority.

(19) SERIOUS BODILY INJURY means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

(20) SMALL ANIMAL means a small animal kept domestically, including a rabbit, guinea pig, rat, mouse, hamster, or gerbil.

(21) VICIOUS DOG means a dog that:

(a) makes an unprovoked attack on an animal or livestock that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(b) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause an owner of an animal or livestock to reasonably believe that the dog will attack and cause bodily injury to that owner's animal or livestock.

3-4-8 “Dogs that are a danger to persons”

Definitions:

(A) SEIZURE OF A DOG CAUSING DEATH OF OR SERIOUS BODILY INJURY TO A PERSON.

(1) A municipal court shall order the animal control authority to seize a dog and shall issue a warrant authorizing the seizure:

(a) on the sworn complaint of any person, including the county attorney, the city attorney, 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

(b) 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.

(2) The animal control authority 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 orders the disposition of the dog.

(B) HEARING.

(1) 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 10th day after the date on which the warrant is issued.

(a) The court shall give written notice of the time and place of the hearing to:

(i) the owner of the dog or the person from whom the dog was seized;

(ii) the person who made the complaint;

(iii) the animal control authority; and

(iv) the city attorney’s office.

(b) The court shall render its decision in writing within 10 days of the date of the hearing. Copies of the decision shall be forwarded to the owner, complainant, animal control authority, and the city attorney's office.

(2) Any interested person may present competent evidence to the court to rebut the presumption of the dog's status.

(3) The court shall order the dog destroyed if the court finds that the dog caused the death of a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:

(a) its owner;

(b) the person from whom the dog was seized; or

(c) any other person authorized to take possession of the dog.

(4) The court may order the dog destroyed if the court finds that the dog caused serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:

(a) its owner;

(b) the person from whom the dog was seized; or

(c) any other person authorized to take possession of the dog.

(5) If the court finds that the dog did cause serious bodily injury, and does not order the destruction of the dog, the court shall order the owner of the dog to adhere to Section 3-4-9 below.

(6) 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:

(a) 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:

(i) 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

(ii) the injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(b) 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 years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(c) 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;

(d) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or

(e) the injured person was younger than eight 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 years of age from entering.

3-4-9 DANGEROUS AND VICIOUS DOGS.

(A) If a person reports an incident describing a “dangerous dog” or “vicious dog”, the animal control authority may investigate the incident.

(1) The animal control authority shall have the authority to impound the dog pending investigation of the report. In the event the animal control authority decides not to seize the dog, the owner shall ensure the dog is in a secure enclosure pending the investigation, hearing, and all appeals, if any.

(2) If, after an investigation, the animal control authority determines the dog is a dangerous or vicious dog, it shall notify the owner of that fact, along with all penalties, in writing, within 10 days of that determination.

(B) An owner, not later than the 10th day after the date the owner is notified that a dog owned by the owner is a dangerous or vicious dog, may appeal the determination of the animal control authority to a municipal court of competent jurisdiction.

(1) The written notice of appeal to the municipal court must plainly state the grounds of the appeal of the determination and have attached a true and correct copy of the written notice issued by the animal control authority which is appealed. A written notice of determination as a dangerous or vicious dog issued by the animal control authority and not timely appealed as provided in this subsection shall be considered, in all respects, a final decision upon the 11th day following its issuance.

(C) If, after an investigation, the animal control authority finds a previously declared a dangerous or vicious dog made an unprovoked attack on a person, animal, or livestock that caused bodily injury and occurred in a place other than a secure enclosure in which the dog was being kept, the animal control authority may euthanize the dog.

(D) Not later than the 10th day after a final decision in which a person learns that the person is the owner of a dangerous or vicious dog, the person shall:

(1) register the dog with the animal control authority;

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

(3) 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 dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority.

(4) comply with all county and state requirements on dangerous dogs.

(5) the animal authority may also require any and or all of the following:

a. Muzzle on the dog at all times when outside of its secure enclosure,

b. Double fence in which the dog is kept,

c. Kennel for restraint inside the secure enclosure when the dog is not supervised,

d. Specific leash length,

e. a prohibition against a retractable leash, or

f. Implementation microchip

(E) Non Compliance

1. The owner of a dangerous or vicious dog who does not comply with Subsection (a) shall immediately deliver the dog to the animal control authority.

2. If the animal control authority has seized the dog under Section 3-4-9(a)(1)(a), it shall not release the dog to the owner until the owner has complied with the requirements set out above.

3. If the owner has not complied with the requirements of Section 3-4-9(d) within 11 days of the final decision, the animal control authority may euthanize the dog. The animal control authority shall return the dog to the owner if the owner complies with Subsection (a) before the 11th day after the final decision.

4. If an owner has previously been found to be in noncompliance with the requirements of Section 3-4-9(d), the animal control authority may euthanize the dog upon proof that the owner has been in noncompliance again.

(F) If an owner of a dangerous or vicious dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the dog's prior registration tag and payment of a fee of \$25, the animal control authority shall issue a new registration tag to be placed on the dog's collar.

(G) An owner of a registered dangerous or vicious dog shall notify the office in which the dog was registered of any attacks the dog makes on people.

(H) If, on application of any person, a municipal court finds, after notice and hearing as provided by Section 3-4-10, that the owner of a dangerous or vicious dog has failed to comply with Section 3-4-9(d) or 3-4-9(a)(1)(a), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The animal control authority shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions.

(I) For purposes of this section, a person learns that the person is the owner of a dangerous or vicious dog when:

(1) the owner knows of an attack described in the definition of "dangerous dog" or "vicious dog";

(2) the owner receives notice that a municipal court has found that the dog is a dangerous or vicious dog under Section 3-4-10; or

(3) the owner is informed by the animal control authority that the dog is a dangerous or vicious dog under Section 3-4-9(a)(2).

3-4-10 HEARINGS

(A) The municipal court, upon receiving the appeal listed in Section 3-4-9 (b)(1) or 3-4-9(h), shall set a time for a hearing to determine whether the dog is a dangerous or vicious dog or whether the owner of the dog has complied with Section 3-4-9(d). The hearing must be held not later than the 10th day after the date on which the appeal was filed.

(B) The municipal 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;

(2) the person who made the complaint;

(3) the animal control authority; and

(4) the city attorney's office.

(C) The written determination of the animal control authority that the dog is a dangerous or vicious dog shall give rise to a rebuttable presumption that the dog is a dangerous or vicious dog. Any interested person may present competent evidence to the court to rebut the presumption of the dog's status. The municipal court shall render its decision in writing within ten days of the date of the hearing.

(D) An owner or person filing the action may appeal the decision of the municipal court in the manner provided for the appeal of cases from the municipal court.