



LEGAL SERVICES DEPARTMENT

Office of the City Attorney


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TO: Members of the Board of Health

FROM: Darrin M. Glad, Assistant City Attorney 

DATE: August 8, 2022

RE: Dangerous Animal Declaration Process

This memo is to clarify the role that the Board of Health plays when there has been a Dangerous Animal Declaration.

Once an animal has been declared to be a dangerous animal by either the Humane Officer or a Law Enforcement Officer, the owner (or caretaker) of the animal may contest the order. Once a written objection to the order is duly received, the matter comes under the jurisdiction of the Board of Health. The Board of Health shall allow the owner an opportunity to present evidence as to why the animal should not be declared dangerous at the next regular meeting. As a practical matter, an opportunity for evidence supporting the declaration is also allowed. Separate members from Legal Services staff will be present to advise the Board and present evidence supporting the declaration, respectively.

Our Code defines a **Dangerous Animal** as any of the following:

- (1) Any animal which, when unprovoked, inflicts bodily harm on a person, domestic pet, or animal on public or private property.
- (2) Any animal which repeatedly chases or approaches persons in a menacing fashion or apparent attitude of attack, without provocation, upon the streets, sidewalks, or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property.
- (3) Any animal with a known propensity, tendency, or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals.

After the hearing concludes, the Board must notify the owner in writing of the Board's determination. Legal Services staff will assist the Board with drafting the written notification. **The Board has 3 options regarding the Dangerous Animal declaration:**

Christopher R. Behrens
City Attorney

Amanda K. Abshire
Deputy City Attorney

Darrin M. Glad
Assistant City Attorney

Nicholas J. Vande Castle
Assistant City Attorney

- (1) Uphold the Dangerous Animal determination;
- (2) Uphold the Dangerous Animal determination and waive certain requirements; or
- (3) Rescind the Dangerous Animal determination.

If the dangerous animal declaration is upheld, the requirements that an owner must comply with, unless waived by the Board, are:

(a) ***Dangerous animals regulated.***

- (1) No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under this division shall not be kept or harbored in the city.
- (2) The issuance of a citation for a violation of this section need not be predicated on a determination that an animal is a dangerous animal.

(b) ***Registration.*** The owner of any animal declared dangerous, shall register it with the Police Department upon disposition, and annually thereafter on or before April 1 of each year, by providing a current color photograph of the animal and payment of a seventy-five dollar (\$75.00) registration fee.

(c) ***Leash and muzzle.***

- (1) The animal must be kept within the fenced area of the owner's yard or on a leash no longer than four feet when outside of the owner's fenced yard.
- (2) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its dwelling, kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal, is in physical control of the leash.
- (3) A dangerous animal may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the animal at all times when it is so leashed or chained.
- (4) A dangerous animal outside of the animal's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(d) ***Confinement.***

- (1) Except when leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.
- (2) When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be childproof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least two (2) feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (3) *Indoor Confinement.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(e) ***Signs.*** The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(f) ***Spay and neuter requirement.*** Within thirty (30) days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(g) ***Liability insurance.*** The owner or caretaker of a dangerous animal shall present to the Health Officer or Humane Officer a certificate of insurance that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such policy is cancelled or not renewed, the insurer and animal's owner or caretaker shall notify the Health Officer or Humane Officer of such cancellation or non renewal in writing by certified mail.