

Ordinance No. O-06-04

An ordinance providing for the control of dangerous dogs within the City of Arkadelphia and providing for procedures for the control of such dangerous dogs:

BE IT ORDAINED BY THE CITY BOARD OF DIRECTORS OF THE CITY OF ARKADELPHIA, ARKANSAS:

Section 1.

A. Actions allowed by authorized persons prior to hearing

1. If any dog shall attack a person or domestic animal who was peaceably conducting himself in any place where he may lawfully be, any person, for the purpose preventing imminent injury or further injury, may use such force as is required to stop the attack.
2. A police officer acting pursuant to his statutory duties may, where the threat of serious injury to a person or domestic animal is imminent and unjustified, use such force as is required to prevent such injury.

Section 2.

B. Definitions

1.

- a. "Dangerous dog" means any dog which without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more persons or domestic animals. A dog's breed shall not be considered in determining whether or not it is "dangerous." Further,
- b. No dog may be declared "dangerous"
 - i. If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
 - ii. If at the time the person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
 - iii. If the person was teasing, tormenting, abusing or assaulting the dog, or in the past had teased, tormented, abused or assaulted the dog;
 - iv. If the dog was attacked or menaced by the domestic animal, or the domestic animal was on the property of the owner, or custodian, of the dog;
 - v. If the dog was responding to pain or injury, or protecting itself, its kennels or its offspring;
 - vi. If the person or domestic animal was disturbing the dog's natural functions such as sleeping or eating.

- vii. Neither growling nor barking, nor both, shall alone constitute grounds upon which to find a dog to be “dangerous.”
2. “Attack” means aggressive physical contact initiated by the dog.
3. “Serious injury” means any physical injury consisting of a permanently disfiguring laceration requiring either stitches or cosmetic surgery.
4. “Domestic animal” means any animal commonly kept as a pet in family households in the United States, including, but not limited to dogs, cats, guinea pigs, rabbits and hamsters; and any animals commonly kept for companion or commercial purposes.

Section 3.

C. Hearing procedure

1. Any person may make a complaint of an alleged “dangerous” dog as that term is defined herein to a police officer or animal control officer of the City of Arkadelphia. Such officers shall immediately inform the complainant of his right to commence a proceeding provided for in Paragraph 2, immediately below, and, if there is reason to believe the dog is a “dangerous” dog, the officer shall forthwith commence such proceeding himself.
2. Any person may, and any police officer, or animal control officer acting within the scope of his statutory duties, shall make a complaint under oath or affirmation of an alleged “dangerous” dog as that term is defined herein to any district judge. Thereupon, the district judge shall immediately determine if there is probable cause to believe the dog is a “dangerous” dog and, if so, shall issue an order to any police officer or animal control officer pursuant to his statutory duties directing such officer to immediately seize such dog and hold same pending judicial determination as herein provided. Whether or not the judge finds there is probable cause for such seizure, he shall, within seven (7) days and upon written notice of not less than three (3) days to the owner of the dog, hold a hearing on the complaint.

D. Where a dog is determined pursuant to clear and convincing evidence at a duly constituted hearing to be “dangerous,” the district judge shall require the owner of said animal to register such animal (with the Arkadelphia Police Department), and to provide prompt notification to (the Arkadelphia Police Department) of any changes in the ownership of the animal; names, addresses and telephone numbers of new owners; any change in the health status of the animal; any further instances of attack; any claims made or lawsuits brought as a result of further instances of attack; the death of the animal. In addition, the district judge may require any or all of the following, but items 5, 6 and 11, or any one of them, may only be imposed where there has been serious injury to a person.

1. Indoors, when not alone, the dog be under the control of a person eighteen (18) years or older. (Provisions for the dog to be outdoors must also be made.)

2. Outdoors and unattended, the dog be kept within a locked fenced area from which it cannot escape.
3. When outdoors the dog must be attended and kept within a fenced area from which it cannot escape.
4. When outdoors the dog must be attended and kept on a leash no longer than six (6) feet and under the control of a person eighteen (18) years of age or older.
5. When outdoors the dog must be attended and muzzled. Such muzzle shall not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.
6. Outdoors and unattended, the dog must be confined to an escape-proof kennel of the following description:
 - a. Such kennel shall allow the dog to stand normally and without restriction, and shall be at least two and one half (2.5) times the length of the dog, and shall protect the dog from the elements.
 - b. Fencing materials shall not have openings with a diameter of more than two (2) inches, and in the case of wooden fences, the gaps shall not be more than two (2) inches.
 - c. Any gates within such kennel or structure shall be lockable and of such design as to prevent the entry of children or the escape of the animal, and when the dog is confined to such kennel and unattended such locks shall be kept locked.
 - d. The kennel may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.
7. Placement of a sign or signs of a description and in places directed by the district judge, advising the public of the presence and tendencies of said animal.
8. Attendance by the dog and its owner/custodian at training sessions conducted by a certified applied animal behaviorist, board certified veterinary behaviorist or other recognized expert in the field and completion of training or any other treatment as deemed appropriate by such expert. The owners of the dog shall be responsible for all costs associated with the evaluation and training ordered under this section.
9. Neutering or spaying of the dog at the owner's expense, unless medically contraindicated.
10. That the dog be permanently identified by tattooing or by injecting an identification microchip, using standard veterinary procedures and practices, identification number and the identification of the person performing the procedure to be registered with the (Arkadelphia Police Department) as indicated above.
11. The procurement of liability insurance in an amount to be determined by the district judge, but in no case in an amount of less than fifty thousand dollars (\$50,000), covering the medical and or veterinary costs resulting from future actions of the dog.

12. If the dangerous dog escapes its enclosure, the owner or keeper shall immediately notify the animal control authority and begin a search for the dog.
13. If a further incident of attack occurs under such circumstances that the dog, after a hearing as described above, is determined to be a "dangerous" dog, the district judge may impose or re-impose any applicable directives listed above; additionally, humane destruction of the dog may be ordered, but only where the further incident involves serious injury to a person.
14. If any of the above conditions ordered by the District Judge are not complied with the owners shall be subject to the maximum fine of \$500.00, or the maximum allowed by State law for a misdemeanor, per day.

Section 4.

Severability – If any section of this ordinance shall be declared unconstitutional or unlawful, only that section of the ordinance shall be affected and all other provisions of the ordinance shall remain in full force and effect.

Section 5.

Any ordinance and parts of ordinances in conflict herewith are hereby repealed.

Passed this _____ day of _____, 2006

APPROVED: _____
C.T. Hollingshead, Mayor

ATTEST: _____
Rendi Currey, City Clerk