

# The Humane Society of the United States

## Model Dangerous Dog Legislation

### § 1. Definitions

For purposes of this section, the term:

- (a) "Dangerous dog" means any dog that:
  - (1) Causes a serious injury to a person or domestic animal; or
  - (2) Has been designated as a potentially dangerous dog and engages in behavior that poses a threat to public safety as described in paragraph (f) of this section.
- (b) "Serious injury" means any physical injury that results in broken bones or lacerations that require multiple sutures or cosmetic surgery.
- (c) "Proper enclosure" means secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property.
- (d) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog.
- (e) "Impound" means taken into the custody of the Animal Control Authority or the organization authorized to enforce the dangerous dog law of this jurisdiction.
- (f) "Potentially dangerous dog" means a dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
  - (1) Causing an injury to a person or domestic animal that is less severe than a serious injury;
  - (2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner;
  - (3) Running at large and impounded or owners cited by the Animal Control Authority two (2) or more times within any 12-month period.
  - (4) Acts in a highly aggressively manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
- (g) "Responsible person" means a person at least 18 years old who is familiar with the dog and has the size and experience to be able to keep the dog under complete control at all times.

## **§ 2. Determination of a potentially dangerous dog**

- (a) After an investigation, which must be initiated within [xx number] days after the situation becomes known to the Animal Control Authority, the Animal Control Director or his/her designee is authorized to make a determination whether a dog is potentially dangerous based on the factors listed in § 1(f) and shall notify the owner of the dog in writing by certified mail or hand delivery with signature of that status within five (5) days after the completion of the investigation.
- (b) Following notice to the owner, if the Animal Control Director or his/her designee has probable cause to believe that a dog is a potentially dangerous dog and may pose a threat to public safety, the Animal Control Director or his/her designee may obtain a search warrant pursuant to this jurisdiction's Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of § 6. The owner of the dog may be liable to this jurisdiction for the costs and expenses of keeping the dog.
- (c) Upon notice, the owner may, within [xx number] business days after a determination that a dog is a potentially dangerous dog, bring a petition in this jurisdiction seeking review of the determination. A decision by this jurisdiction overturning the Animal Control Director or his/her designee's determination shall not affect the Animal Control Director or his/her designee's right to later declare a dog to be a potentially dangerous dog or a dangerous dog, or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

## **§ 3. Determination of a dangerous dog**

- (a) After an investigation, which must be initiated within [xx number] days after the situation becomes known to the Animal Control Authority, the Animal Control Director or his/her designee is authorized to make a determination whether a dog is dangerous based on the factors listed in § 1(a) and shall notify the owner of the dog in writing by certified mail or hand delivery with signature of that status within five (5) days after completing the investigation.
- (b) Following notice to the owner and prior to the hearing, if the Animal Control Director or his/her designee has probable cause and believes the dog to be a dangerous dog and that the animal poses an imminent threat to public safety, the Animal Control Director or his/her designee may obtain a search warrant pursuant to this jurisdiction's Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of § 6. The owner of the dog shall be liable to this jurisdiction for the costs and expenses of keeping the dog if the dog is determined to be a dangerous dog.
- (c) The owner may, within [xx number] business days after a determination that a dog is a dangerous dog, bring a petition in this jurisdiction seeking review of the determination. A decision by this jurisdiction overturning the Animal Control Director or his/her designee's determination shall not affect the Animal Control Director or his/her designee's right to later declare a dog to be a dangerous dog or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

#### **§ 4. Exceptions**

No dog shall be declared a dangerous or potentially dangerous dog if:

- (a) The dog was used by a law enforcement official for legitimate law enforcement purposes;
- (b) The threat, injury, or damage was sustained by a person:
  - (1) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;
  - (2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
  - (3) Who was committing or attempting to commit a crime; or
- (c) The dog was:
  - (1) Responding to pain or injury, or was protecting itself, its offspring; or
  - (2) Protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

#### **§ 5. Consequences of a dangerous or potentially dangerous dog determination**

- (a) If the Animal Control Director or his/her designee determines that a dog is a potentially dangerous dog under § 2, the owner shall comply with the provisions of §§ 5 and 6(a)(d) and any other special security or care requirements the Animal Control Director or his/her designee may establish.
- (b) If the Animal Control Director or his/her designee determines that a dog is a dangerous dog under § 3, the owner shall comply with the provisions of §§ 5 and 6(b)(c) and any other special security or care requirements the Animal Control Director or his/her designee may establish.
- (c) The Animal Control Director or his/her designee may require impoundment of the dog until the owner of the dog has satisfied all the requirements of the certificate of registration holding permit. The requirements must be met within thirty (30) days. If, after thirty (30) days, the owner has not satisfied all the requirements of the holding permit, the animal may be humanely euthanized on the thirty-first (31) day.

#### **§ 6. Dangerous dog and potentially dangerous dog registration and handling requirements**

- (a) The Animal Control Director or his/her designee shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes to the satisfaction of the Animal Control Authority that:
  - (1) The owner of the potentially dangerous dog is 21 years of age or older;
  - (2) A valid license has been issued for the potentially dangerous dog pursuant to jurisdiction;
  - (3) The potentially dangerous dog has a current rabies vaccination;

- (4) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said potentially dangerous dog as described in § 1;
  - (5) The owner has paid an annual fee in an amount to be determined by the Animal Control Director or his/her designee, in addition to regular dog licensing fees, to register the potentially dangerous dog;
  - (6) The potentially dangerous dog has been spayed or neutered;
  - (7) The potentially dangerous dog has been implanted with a microchip containing owner identification information. The microchip information must be registered with the animal control authority of the jurisdiction; and
  - (8) The potentially dangerous dog owner shall enter the dog in a socialization and/or behavior program approved or offered by the jurisdiction.
- (b) The Animal Control Director or his/her designee shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration of a potentially dangerous dog pursuant to paragraph (a) of this section, establishes to the satisfaction of the Animal Control Authority that:
- (1) The owner of the dangerous dog has written permission of the property owner or homeowner's association where the dangerous dog will be kept if applicable;
  - (2) The owner will maintain the dangerous dog exclusively on the owner's property except for medical treatment or examination; and
  - (3) The owner of the dangerous dog has posted on the premises a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog. The sign shall be very visible from the public roadway or 50 feet, whichever is less.
- (c) The Animal Control Director or his/her designee may order the immediate impoundment or humane euthanasia of a dangerous dog if the owner fails to abide by the conditions for registration or confinement or handling of a dangerous dog.
- (d) If any dog previously determined to be a potentially dangerous dog has not exhibited any of the behaviors specified in § 1(f) within the thirty-six (36) months since the date of the potentially dangerous dog determination, then that dog is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, then that same dog may again be declared a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors.

#### **§ 7. Dangerous or potentially dangerous dog owner responsibility**

It shall be unlawful to:

- (a) Keep a dog determined to be dangerous or potentially dangerous without a valid certificate of registration issued under § 6;

- (b) Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is under the control of a responsible person as defined in § 1, muzzled, and restrained by a lead not exceeding four (4) feet in length; The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human being or animal;
- (c) Fail to maintain a dangerous dog exclusively on the owner's property as required except for medical treatment or examination. When removed from the owner's property for medical treatment of examination, the dangerous dog shall be caged or under the control of a responsible person as defined in § 1, muzzled and restrained with a lead not exceeding four (4) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human being or animal;
- (d) Fail to notify the Animal Control Authority immediately upon escape if a dangerous or potentially dangerous dog is on the loose, is unconfined, has attacked another domestic animal, has attacked a human being; within five (5) business days if the dog has died; and within twenty-four (24) hours if the dog has been sold or has been given away. If the dangerous or potentially dangerous dog has been sold or given away, the owner shall also provide the Animal Control Director or his/her designee with the name, address, and telephone number of the new owner of the dangerous or potentially dangerous dog;
- (e) Fail to surrender a dangerous or potentially dangerous dog to the Animal Control Director or his/her designee for safe confinement pending a disposition of the case when there is a reason to believe that the dangerous or potentially dangerous dog poses an imminent threat to public safety; or
- (f) Fail to comply with any special security or care requirements for a dangerous or potentially dangerous dog the Animal Control Director or his/her designee may have established pursuant to the finding that the dog was potentially dangerous or dangerous.

## **§ 8. Penalties**

- (a) An owner of a dangerous or potentially dangerous dog who violates the provisions of § 6 and § 7 shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 90 days, or both, for a first offense and not more than \$1,000 or imprisonment not to exceed 90 days, or both, for a second offense.
- (b) An owner of a dangerous or potentially dangerous dog that causes serious injury to or kills a human being or a domestic animal without provocation shall be fined up to \$10,000.
- (c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this act, or the rules issued under authority of this act.

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