

Ordinance No. 567

An ordinance amending Sections 6-7A-5 and 6-7A-6 of the Akron Municipal Code governing dangerous dogs within the Town of Akron.

WHEREAS, the Colorado General Assembly has found dangerous dogs are a matter of state-wide concern; and

WHEREAS, the Colorado General Assembly has enacted C.R.S. § 18-9-204.5 establishing state-wide requirements regarding the regulation and control of dangerous dogs; and

WHEREAS, the Board of Trustees for the Town of Akron finds it necessary and proper to amend the Akron Municipal Code to adopt the requirements of C.R.S. § 18-9-204.5.

NOW, THEREFORE BE IT ORDAINED by the Board of Trustees of the Town of Akron that Sections 6-7A-5 and 6-7A-6 of the Akron Municipal Code are hereby amended as follows:

1. Section 6-7A-5 is hereby deleted in its entirety and replaced with the following:

6-7A-5: UNLAWFUL OWNERSHIP OF DANGEROUS DOG:

A. Violation of this section is subject to the penalties set forth in section 1-4-1 and as set forth in this section. As used in this section, unless the context otherwise requires:

1. “Bodily injury” means any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring professional medical treatment or any physical injury that requires corrective or cosmetic surgery.
2. “Dangerous dog” means any dog that:
 - a. Inflicts bodily or serious bodily injury upon or causes the death of a person or domestic animal;
 - b. Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily or serious bodily injury upon or cause the death of any person or domestic animal; or
 - c. Engages in or is trained for animal fighting as described and prohibited in C.R.S. 18-9-204.

3. "Dog" means any domesticated animal related to the fox, wolf, coyote, or jackal.
4. "Domestic animal" means any dog, cat, or livestock.
5. "Owner" or "owns" means any person, firm, corporation, or organization owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a domestic animal, as the term is defined in subsection (A)(4), including a dangerous dog as the term is defined in subsection (A)(2).
6. "Serious bodily injury" has the same meaning as such term is defined in C.R.S. 18-1-901(3)(p).

B. Violations:

1. A person commits ownership of a dangerous dog if such person owns, possesses, harbors, keeps, has a financial or property interest in, or has custody or control over a dangerous dog.
2. Any owner who violates subsection (B)(1) whose dog inflicts bodily injury upon any person commits an offense against this section.
3. Any owner who violates subsection (B)(1) whose dog inflicts serious bodily injury to a person commits an offense against this section.
4. Any owner who violates subsection (B)(1) whose dog causes the death of a person commits an offense against this section.
5. Any owner who violates subsection (B)(1) whose dog injures or destroys any domestic animal commits an offense against this section.
6. The court shall order any owner of a dangerous dog who has been convicted of a violation of this section to:
 - a. Confine the dangerous dog in a building or enclosure designed to be escape-proof and, whenever the dog is outside of the building or enclosure, keep the dog under the owner's control by use of a leash. The owner shall post a conspicuous warning sign on the building or enclosure notifying others that a dangerous dog is housed in the building or enclosure. The owner shall obtain an insurance policy with a minimum liability amount of one hundred thousand dollars (\$100,000.00) covering the dangerous dog. In addition, if the conviction is for a second or

subsequent offense, the dangerous dog shall also be muzzled whenever it is outside of the building or enclosure.

- b. Immediately report to an animal control officer in writing any material change in the dangerous dog's situation, including but not limited to a change, transfer, or termination of ownership, change of address, escape, or death.
 - c. At the owner's expense, permanently identify the dangerous dog through the implantation of a microchip by a licensed veterinarian or a licensed shelter. A veterinarian or licensed shelter that implants a microchip in a dangerous dog shall report the microchipping information to an animal control officer, in writing, within ten (10) days after implantation of the microchip.
 - d. Prior to the implantation of the microchip, pay a nonrefundable dangerous dog microchip license fee of fifty dollars (\$50.00) to the Town.
 - e. Prior to the dangerous dog receiving any service or treatment, disclose in writing to any provider of the service or treatment, including but not limited to a veterinary health care worker, dog groomer, humane agency staff person, pet animal care facility staff person, professional dog handler, or dog trainer, each acting in the performance of his or her respective duties, that the dangerous dog has been the subject of a conviction of a violation of this section.
 - f. Prior to a change, transfer, or termination of ownership of a dangerous dog, disclose in writing to the prospective owner that the dangerous dog has been the subject of a conviction of a violation of this section.
7. In addition to any other penalty, upon an owner's entry of a guilty plea or the return of a verdict of guilty by a judge or jury or a deferred judgment or deferred prosecution for a violation that results in serious bodily injury to a person or death to a person or domestic animal or for a second or subsequent violation of subsections (B)(2) or (B)(5) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of the same owner, the court shall order that the dangerous dog be immediately confiscated and placed in a public animal shelter and shall order that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (B), the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian.

8. In addition to any other penalty, for a second or subsequent violation of subsection (B)(2) or (B)(5) resulting in a conviction or a deferred judgment or a deferred prosecution involving the same dog of a different owner, the court may order that the dangerous dog be immediately confiscated and placed in a public animal shelter and that, upon exhaustion of any right an owner has to appeal a conviction based on a violation of this subsection (B), the owner's dangerous dog be destroyed by lethal injection administered by a licensed veterinarian.
9.
 - a. An affirmative defense to the violation of this subsection (B) shall be:
 1. That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, the domestic animal was at large, was an astray, and entered upon the property of the owner and the attack began, but did not necessarily end, upon such property.
 2. That, at the time of the attack by the dangerous dog which causes injury to or the death of a domestic animal, said animal was biting or otherwise attacking the dangerous dog or its owner.
 3. That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against the dog's owner, and the attack did not occur on the owner's property.
 4. That, at the time of the attack by the dangerous dog which causes injury to or the death of a person, the victim of the attack was committing or attempting to commit a criminal offense, other than a petty offense, against a person on the owner's property or the property itself and the attack began, but did not necessarily end, upon such property; or
 5. That the person who was the victim of the attack by the dangerous dog tormented, provoked, abused, or inflicted injury upon the dog in such an extreme manner which resulted in the attack.
 - b. The affirmative defenses set forth in subparagraph (9)(a). shall not apply to any dog that has engaged in or been trained for animal fighting as said term is described in C.R.S. 18-9-204.
 - c. Upon taking an owner into custody for an alleged violation of this section or the issuing of a summons and complaint to the owner, the owner's dangerous dog may be taken into custody and placed in a public animal shelter, at the owner's expense, pending final disposition of the charge against the owner. In addition, in the event the court sets bail for an owner's release from custody pending final disposition, the court may require, as a condition of bond, that the owner's dangerous dog be placed by an animal control officer, at the owner's expense, in a location selected by the animal control officer, including a public animal shelter, licensed boarding facility, or veterinarian's clinic, pending final disposition of the alleged violation of this section. The owner shall be liable for the total cost of board and care for a dog placed pursuant to this subsection (c).

- d. The provisions of this section shall not apply to the following:
 - 1. To any dog that is used by a peace officer while the officer is engaged in the performance of peace officer duties;
 - 2. To any dog that inflicts bodily or serious bodily injury to any veterinary health care worker, dog groomer, humane agency personnel, professional dog handler, or trainer each acting in the performance of his or her respective duties, unless the owner is subject to a court order issued pursuant to subsection (B)(6) of this section and the owner has failed to comply with the provisions of subsection (B)(6)e.; or
 - 3. To any dog that inflicts injury upon or causes the death of a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of the dog's owner and the injury or death was to a domestic animal naturally associated with the work of such dog.
 - e. If impoundment of a dangerous dog running at large cannot be made with safety to the animal control officer or other persons, the dog may be destroyed by authorized police officials without notice to the owner or harborer.
- 2. Section 6-7A-6 is hereby deleted in its entirety.
 - 3. Except as amended herein, all other provisions of the Akron Municipal Code shall remain in full force and effect.

The foregoing Ordinance #567 was presented a motion for its adoption was made by Trustee Derek Glosson. The motion was seconded by Trustee Andy Bowin and upon roll call vote of 6 yes and 0 no, the motion was passed.

Mayor Brittani Kusel

[S E A L]

ATTEST:

DENCIA RAISH, CMC
Town Clerk/Administrator

First Reading: May 4, 2020

Second Reading: June 1, 2020

Adopted this 1st day of June, 2020