

Man's Best Friend

I have always had at least one dog. I grew up with parents who always had dogs. First, I had a basset hound, added a poodle after a couple of years (well, that was really Mom's lap dog), then a couple of labs, one black, one yellow. Currently, my parents have five dogs running around their homestead, and my family and I have one "yapper," a rescued Chihuahua-terrier mutt. Needless to say, I like dogs.

While dogs make great pets, their actions are still dominated by the less refined characteristics of their wolf ancestors. They are protective of their "pack," (which in a modern sense is the owner and family) and they are territorial. These characteristics came into play on one occasion with our black Labrador when I was a youngster.

A new neighbor came over to introduce himself to my father and me as we worked in the front yard. Our Lab was in the backyard behind a chain link fence hoping for the opportunity to get out and play. The neighbor had never met our dog and we warned him not to stick his hand over the fence or try to pet him as he doesn't like strangers in "his" yard. Well, the neighbor ignored our warnings and tried to pet him, and sure enough, he received a nip on the hand in return. Fortunately, it wasn't serious and the neighbor was fine, although shaken up a bit.

Our lab was also an escape artist. He had figured out how to open the gate with his nose and was found roaming the neighborhood on a couple of occasions. In order to keep him in the backyard, we had to put a lock on the gate. He was a good natured dog when not in the backyard and never attacked or scared anyone when on one of his tours of the neighborhood.

Had our Lab possessed a more aggressive nature, then the consequences of his excursions and the biting incident could have been far worse. Believe it or not, the Texas Health and Safety Code covers dogs in particular on the subject of aggressive behavior.

Chapter 822, Subchapter D defines a "dangerous dog" as a dog which makes an unprovoked attack on a person that causes bodily injury OR commits unprovoked "acts" that cause a person to reasonably believe that the dog will attack and cause bodily injury while the dog is outside of an enclosure.

So, who determines a dog is "dangerous?" Once the local animal authority receives notice that someone has been attacked (or a dog commits an "unprovoked act" as defined by the statute) they conduct an investigation. Depending upon the results of the investigation, the local animal control authority can determine the dog to be "dangerous" and has to notify the owner. This determination can be appealed by the owner to a court within 15 days after receiving notification.

What do you have to do if your dog is considered "dangerous?" The law spells out some requirements you're going to have to meet. First, then you have thirty (30) days from the

unprovoked attack or act to register the dog with the local animal control authority as a “dangerous dog.”

Second, you must keep the dog on a leash under control of a person or in a “secure” enclosure at all times. A “secure enclosure” is one that is locked, capable of preventing the entry of the general public, prevents the escape of the dog and clearly marked as containing a dangerous dog.

Third, you must obtain liability insurance coverage or show financial responsibility in the amount of at least \$100,000 to cover any potential damages the dog might cause in an attack, and show proof of such coverage to the local animal control authority.

Finally, if there are any local regulations pertaining to “dangerous dogs” you must comply with those as well.

If you fail to meet the four requirements above, then you have to turn over the dog to the local animal control authority within 30 days. If you don’t turn over the dog or meet the four requirements of the law, then a court can order the local animal control authority to seize and impound the dog at your expense. You have eleven (11) days after seizure to register the dog, obtain liability insurance and meet any other local regulations on dangerous dogs, to get the dog returned. Additionally, you may be prosecuted on a Class C misdemeanor charge. A repeat offender gets a Class B misdemeanor charge.

If you have a “dangerous dog” and they make an unprovoked attack on another person outside of their enclosure and cause bodily injury, then you are guilty of a Class C misdemeanor. However, if the dog causes serious bodily injury or death, then it is a Class A misdemeanor. In both cases, a court can order the dog destroyed. In addition to the criminal penalties, the owner can be held liable for a civil penalty not to exceed \$10,000 with the payment going to the county or municipality.

I believe that a dog’s temperament is often determined by the care and attention it receives from the owner. Bad owners create bad dogs. With the onerous requirements and liability for owning a “dangerous dog”, it is in the owner’s best interest to own a well-manner pet.

This information is intended as general legal advice and may not apply to your particular situation. If you have any legal questions you would like answered in this column or ideas, please forward them to me at Edward@erbarrettlawoffice.com, fax number (214) 722-0025 or by mail at the Law Office of Edward R. Barrett, 4451 FM 2181, Ste. 100, PMB 125, Corinth, Texas 76210.