

ORDINANCE NO. 2007-46

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO ANIMALS, CHAPTER 6.04 IS HEREBY REPEALED; AND ADDING A NEW CHAPTER 6.05 POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG; AND ADDING NEW SECTIONS 6.05.010 DEFINITIONS, 6.05.020 POTENTIALLY DANGEROUS AND DANGEROUS DOG, 6.05.030 PENALTY AND IMPOUNDMENT, 6.05.040 DANGEROUS DOGS – ADDITIONAL REQUIREMENTS, 6.05.050 REGISTRATION OF POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS, 6.05.060 PENALTY FOR VIOLATION; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Poulsbo Police Department has recommended that the City update its animal control regulations in order to provide for the regulation of the potentially dangerous dogs and dangerous dogs, as hereafter defined, and

WHEREAS, the Poulsbo City Council is concerned for the safety and welfare of its citizens and concurs that regulating such dogs is an important step in providing for such safety and welfare; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO DO ORDAIN AS FOLLOWS:

Section 1. Chapter 6.04 of the Poulsbo Municipal Code is hereby repealed.

Section 2. Adding a new Chapter 6.05 to the Poulsbo Municipal Code to be known as: Chapter 6.05 Potentially Dangerous Dog and Dangerous Dog

Section 3. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to be known as:

6.05.010 Definitions

For the purpose of this Chapter, the following words shall have the following meanings unless the context indicates otherwise:

“Dangerous” means an animal that according to the records of the animal control or other appropriate authority:

- (a) Has inflicted severe injury on a human without provocation while on public or private property;
- (b) Has killed a domestic animal without provocation while on public or private property;
- (c) Has been previously found to be potentially dangerous, the owner has received notice of such potential and the animal subsequently bites, attacks or endangers the safety of humans or domestic animals.
- (d) RCW 16.08.070(2), containing the definition of “dangerous dog” as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

(e) However, that the animal shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, abusing or assaulting the animal or has, in the past, been observed or reported to have tormented, abused or assaulted the animal or was committing or attempting to commit a crime.

“Potentially dangerous” means an animal that when unprovoked:

(a) chases or approaches a person upon the streets, sidewalks, or any other public grounds in a menacing fashion or apparent attitude of attack;

(b) causes injury to or otherwise threatens the safety of a human or domestic animal; or (c) inflicts a bite upon a human or domestic animal either on public or private property; (d) any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.

(e) RCW 16.08.070(1), containing the definition of “potentially dangerous dog,” as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

“Proper enclosure of a dangerous animal/dog” means, while on the owner’s property, a Potentially Dangerous Animal/Dog or Dangerous Animal/Dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the animal.

“Severe injury” means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery. RCW 16.08.070(3), containing the definition of “severe injury,” as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

Section 3. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to be read as follows:

6.05.020 Potentially Dangerous Dog and Dangerous Dog

(A) Declaration of a Dog as Potentially Dangerous. The animal control authority shall have the authority to declare and restrict a dog Potentially Dangerous if the animal control authority has probable cause to believe that the dog falls within the definitions of Potentially Dangerous set forth in PMC 6.05.010. The declaration must be based upon:

1. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of Potentially Dangerous in PMC 6.05.010.
2. Dog bite reports filed with the animal control authority; or
3. Actions of the dog witnessed by any employee of the animal control authority or law enforcement officer; or
4. Other substantial evidence.

(A) Exclusions. A dog shall not be declared Potentially Dangerous if the animal control authority determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the dog was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or who was tormenting, abusing, or assaulting the dog, or who had been in the past observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

(B) Restrictions. The animal control authority may impose any or all of the following restrictions on the owners of a dog to protect the public safety.

1. Training. The animal control authority may require the owner of the Potentially Dangerous dog and the dog to attend, complete, and pay all costs associated with an accredited obedience/training class or seminar. The animal control authority shall pre-approve any choice of class by the owner of the dog, and proof of satisfactory completion of such training shall be provided to the animal control authority upon completion, even if such type of training has been completed by the dog in the past.

2. Restraint. The animal control authority may require the owner of the Potentially Dangerous dog to muzzle, leash, collar, confine, lock, isolate, or remove the dog from the City of Poulsbo. Residential fencing of the property will be required if necessary to restrain the dog.

3. Insurance. The animal control authority may require the owner of the Potentially Dangerous dog to prove purchase of liability insurance or bond and renewals in the amount of \$50,000.00 or more, as set by the animal control authority. The insurer/bond issuer must be qualified under Title 48, RCW and must provide coverage/funds to offset any injuries inflicted by the Potentially Dangerous dog. All costs associated with the insurance/bond must be paid by the insured.

4. Registration Required. The animal control authority will require the owner of a dog declared Potentially Dangerous by a court of law, the hearing examiner, or the animal control authority to register the dog within seven (7) calendar days of the date the dog is declared Potentially Dangerous. Thereafter, the Potentially Dangerous dog will be registered annually.

5. Warning. The animal control authority will require the owner of a Potentially Dangerous dog to post all entrances to any property where such dog is located with such visible warning sign(s) as the animal control authority deems necessary.

6. Limitations. It will be unlawful for any person under the age of eighteen (18) years to own a Potentially Dangerous Dog within the City of Poulsbo.

7. Dog Park. It will be unlawful for any person to permit a Potentially Dangerous Dog in a "dog park" in the City of Poulsbo.

8. Tether. It will be unlawful for any person to tie or otherwise tether a Potentially Dangerous Dog to any inanimate object, such as trees, mailboxes, vending machines, and the like.

9. Financial Responsibility. The animal control authority may require the owner of a Potentially Dangerous Dog to pay any costs associated with enforcement of this section including, but not limited to, those stated above.

(C) Prohibited Ownership. No person(s) under the age(s) of eighteen (18) years old shall own a Potentially Dangerous dog, as defined in PMC 6.05.010.

(D) Notice of Animal Control Authority Declaration. If the animal control authority receives a report of a Potentially Dangerous Dog, it shall immediately initiate an investigation including, but not limited to, interviewing the complainant(s), interviewing the owner of the dog, if known and observing the dog. Upon completion of its investigation, if the dog is declared Potentially Dangerous, the animal control authority shall prepare a written declaration. The declaration shall include, but is not limited to, a description of the dog, the name and address of the owner of the dog, if known, a brief summary of the facts upon which the declaration is based, a statement of any restrictions placed on the dog or owner as a consequence of the declaration, a statement of the penalties for further violations, and notice of the right to appeal the declaration.

(E) Service of Notice of Declaration. The animal control authority shall personally serve or send by certified mail its declaration to the owner of the dog. If the owner is unknown, the animal control authority shall make reasonable efforts to notify the owner of its written declaration.

(F) Appeal to Hearing Examiner. The owner of a dog declared Potentially Dangerous shall have fourteen (14) calendar days from receipt of the written declaration to appeal the declaration to the Clerk of the Board of County Commissioners. Within fourteen calendar days of receiving the written notice of appeal, the Clerk of the Board of County Commissioners shall schedule an appeal hearing before the hearing examiner and provide written notice of the hearing to the owner of the Potentially Dangerous Dog, the animal control authority, and the hearing examiner.

(G) Hearing before Hearing Examiner. At the appeal hearing before the hearing examiner, the animal control authority shall have the burden of proving that the dog is Potentially Dangerous by a preponderance of the evidence. The owner of the dog may present evidence in defense of the dog. The hearing examiner shall weigh the evidence presented by both the animal control authority and the owner (if applicable), and shall issue a written decision to the appealing dog owner and animal control authority that either sustains or reverses the animal control authority's declaration. If the declaration is sustained or reversed by the hearing examiner, the appealing dog owner or the animal control authority shall be notified of the right to appeal. If the declaration is reversed and an appeal is not timely filed by the animal control authority, any restrictions on the dog previously imposed shall be annulled.

(H) Appeal of Hearing Examiner's Decision. Either the owner of a dog declared Potentially Dangerous by the authority or the animal control authority itself may appeal the decision of the hearing examiner. A written appeal shall be filed with the clerk of the district court within fourteen (14) calendar days after the date of the hearing examiner's written decision.

a) District Court Hearing. Upon receiving a written appeal from an owner of a dog declared Potentially Dangerous from the animal control authority, the clerk of the district court shall promptly set a date for a hearing of the appeal. Written notice of the time, date, and place of the appeal hearing shall be delivered or mailed to both the appellant owner of the dog

b)Burden of Proof and Standard of Review. On appeal to the district court, it shall be the appellant's burden to prove that the decision by the hearing examiner that a dog is/is not Potentially Dangerous is arbitrary and capricious.

1. Court Decision.

(a) If the district court finds that the hearing examiner's decision was arbitrary and capricious, the declaration shall be rescinded and any restrictions imposed shall be annulled. No court costs or attorney fees shall be assessed against the City of Poulsbo, Kitsap County, the animal control authority or the hearing examiner in such an instance.

(b) If the district court finds that the decision by the hearing examiner was not arbitrary and capricious, the court may impose court costs, but not attorney fees, against the appellant, and may impose additional restrictions on the Potentially Dangerous dog.

(I) Change of Ownership, Custody, and/or Residence. Owners of a dog that has been declared Potentially Dangerous who sell, barter, or otherwise transfer the ownership, custody, or residence of the dog shall, within fourteen (14) calendar days of the change, inform the animal control authority in writing of the name, address, and telephone number of the new owner, and/or the address of the new residence where the dog is located. Such notice shall also include the name, description, and license number of the dog. In the event the ownership and/or custody of the dog changes, the owner shall notify the new owner in writing of the details of the dog's record relating to being declared Potentially Dangerous and the terms and conditions of the declaration. The owner shall also provide the animal control authority with a copy of the written notification that shall contain a notarized statement by the new owner acknowledging receipt of the original notification.

(J) Failure to Abide by Restraints. Failure on the part of the owner(s) of a Potentially Dangerous Dog to abide by the restraints placed upon the owner(s) or their dog by the animal control authority, hearing examiner, or district court may result in impoundment of the Potentially Dangerous Dog by the animal control authority, pursuant to PMC 6.05.030 (C).

Section 4. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to read as follows:

6.05.030 Penalty and Impoundment

(A) Misdemeanor. When a dog has been declared Potentially Dangerous pursuant to PMC 6.05.020, the owner of the Potentially Dangerous dog shall be guilty of a misdemeanor if such dog is thereafter found:

1. At large;
2. To have, when unprovoked, inflicted a bite(s) upon a human, pet, or livestock either on public or private property;
3. To have chased or approached a person upon the streets, side-walks, or any other public grounds in such a manner as to significantly threaten the safety of humans, pets, or livestock; or

4. To have caused injury to or otherwise threatened the safety of humans, pets, or livestock. This section shall not preclude immediate criminal prosecution under RCW 16.08.100 in a first bite situation causing severe injury or death of any human.

(B) Declaration of a Dog as Dangerous. If the owner of a Potentially Dangerous Dog is found guilty of violating subsection (A) of this section, the animal authority shall make a further determination as to whether the dog should be declared dangerous.

(C) Impoundment of Dangerous and Potentially Dangerous Dogs. In the event that a Dangerous Dog or Potentially Dangerous Dog is impounded due to the owner's failure to abide by the restraints imposed by the animal control authority, hearing examiner or district court, a hearing shall be held within seven (7) calendar days by the hearing examiner to determine whether the dog should be returned to the owner, forfeited by the owner, or euthanized by the animal control authority. Notice of the hearing shall be as provided in Section [7.12.010\(f\)](#) of the Kitsap County Code. In the event that the hearing examiner determines that the dog should not be returned to the owner, the animal control authority may adopt or give the dog to a dog welfare organization or qualified individual, or euthanize the dog. An owner may prevent the dog's destruction or adoption by taking the following steps within seven (7) calendar days of the hearing examiner's decision:

1. Petitioning the district court for the dog's immediate return subject to court-imposed conditions; and

2. Posting a bond or security in an amount sufficient to provide for the dog's care for a minimum of thirty (30) calendar days from the seizure date.

3. If the animal control authority still has custody of the dog when the bond or security expires, the dog shall become the animal control authority's property unless the court orders an alternative disposition. If a court order prevents the animal control authority from assuming ownership and it continues to care for the dog, the court shall order the owner to renew a bond or security for the continuing costs for the dog's care.

Section 4. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to read as follows:

6.05.040 Dangerous dogs – additional requirements

(A) License Requirements. If a dog has been classified as a Dangerous Dog by the animal control authority or court, additional restrictions to ownership will apply. The animal authority may issue a license to keep the dog in the City of Poulsbo only if the owner presents to the animal authority proof of compliance with all aspects of PMC 6.05.020 as well as:

1. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog; and

2. A surety bond issued by a surety insurer qualified under Chapter 48, RCW in a form acceptable to the animal control department in the sum of at least one hundred thousand dollars (\$100,000), payable to any person injured by the Dangerous Dog; or

3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Chapter 48, RCW in the amount of at least one hundred thousand dollars (\$100,000), insuring the owner for any personal injuries inflicted by the dangerous dog.

(B) Restrictions. The owner of a dangerous dog shall not permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. 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 person or animal.

Section 5. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to read as follows:

6.05.050 Registration of potentially dangerous dogs and dangerous dogs

(A) Registration Required. The owner of a dog declared to be Potentially Dangerous or Dangerous by a court of law, the hearing examiner, or the animal control authority, shall register the Potentially Dangerous Dog or Dangerous Dog with the animal control authority pursuant to RCW 16.08.080 within seven (7) calendar days of the date the dog is declared Potentially Dangerous or Dangerous. Thereafter, the Potentially Dangerous Dog or Dangerous Dog shall be registered annually.

(B) Registration Expiration. Certificates of registration for Potentially Dangerous Dogs shall expire on the anniversary date of the dog's initial registration.

(C) Registration Fee for Potentially Dangerous dog. The annual registration fee for Potentially Dangerous dogs shall be \$250. This registration fee is in addition to regular dog licensing fees.

(D) Registration Fee for Dangerous Dog. The annual registration fee for a dangerous dog shall be \$500. This registration fee is in addition to regular dog licensing fees.

(E) Certificate of Registration Application. An application to obtain a certificate of registration of a Potentially Dangerous Dog or a Dangerous Dog shall contain the following:

1. Name, address, and telephone number of the applicant owner;
2. Type, name, age, color, sex, and distinguishing characteristics of the dog;
3. A diagram to approximate scale showing the proper enclosure to confine the dog;
4. A surety bond issued by a surety insurer qualified under RCW Chapter 48.28 in a form acceptable to the animal control authority in a sum equal to at least the minimum required by PMC 6.05.020 (B)3 or PMC 6.05.040 (A)3
5. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW, in an amount equal to at least the minimum required by PMC 6.05.020 (B)3 or PMC 6.05.040(A)3 insuring the applicant owner for personal injuries inflicted by the dog;
6. A recent clear color photo of the dog;
7. Proof of permanent identification upon the dog by the procedure known as micro chipping, if applicable;
8. Evidence of the posting of the premises with a clearly visible warning sign that there is a Potentially Dangerous Dog or Dangerous Dog on the property. In addition, the owner shall

conspicuously display a sign with a warning symbol that informs children of the presence of a Potentially Dangerous Dog or Dangerous Dog.

(E) Pre-certificate On-site Inspection. An employee of the animal control authority shall make an on-site inspection of the applicant's site for keeping the animal to ensure that the site is properly enclosed and posted, pursuant to RCW 16.08.080(2)(a). Such inspection shall occur within thirty (30) calendar days of the dog being declared Potentially Dangerous or Dangerous.

(F) Non-compliance. In the event the owner of a dangerous dog fails to comply with the requirements of this section and/or RCW 16.08.080, the animal control authority can take immediate action pursuant to RCW 16.08.100. Rules and regulations for notifying owners of the confiscation of registered dangerous dogs shall be formulated by the animal control authority. PMC 6.05.030 (C) shall govern the procedures for impoundment.

(G) Certificate of Registration Issuance. On behalf of the City of Poulsbo, the animal control authority shall issue the certificate of registration if the registration fee is paid and the application and site inspection show that the applicant meets the requirements of this section and applicable state law. The certificate of registration shall contain its date of expiration and also a statement of the applicable state criminal penalties for failing to comply. The certificate of registration shall be prominently displayed by the owner of the dangerous dog in a conspicuous location.

(H) Annual Inspections. Within thirty (30) calendar days prior to the renewal of a certificate of registration, the animal control authority shall inspect the premises where the dangerous dog is kept at a time mutually convenient to both the animal control authority and the owner of the dog. The purpose of this annual inspection shall be to ascertain whether the site remains in compliance with this section. Such inspection shall occur on or before the expiration of the certificate of registration. Failure of the owner of the dog to cooperate in this inspection can result in further action pursuant to RCW 16.08.100 and subsection (F) of this section.

1. Change of Ownership Prohibited. An owner of a dog declared dangerous shall not sell, barter, or otherwise transfer the ownership, custody, or residence of the dog without first obtaining written court approval. Any owner seeking such court approval shall notify the animal control authority of its intent.

(I) Prohibited Ownership. No person(s) under the age(s) of eighteen (18) years old shall own a dangerous dog, as defined in PMC 6.04.010.

Section 6. A new section is added to Chapter 6.05 of the Poulsbo Municipal Code to read as follows:

6.05.060 Penalty for violation

A. Unless specifically designated in this title as a gross misdemeanor or misdemeanor or is specified to be enforced pursuant to other law, including, but not limited to, other chapters or titles of this Code, any violation of this chapter is a misdemeanor. Such penalty is in

addition to any other remedies or penalties specifically provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

B. Such penalty is in addition to any other remedies or penalties specifically provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

C Any person who fails to respond or appear on any violation of any provision of the Poulsbo Municipal Code set forth in this title shall be assessed a failure to respond or appear fee in the amount set forth in RCW 46.63.110(3), as the same now exists or as may be hereafter amended, which statute is incorporated herein by this reference as if fully set forth.

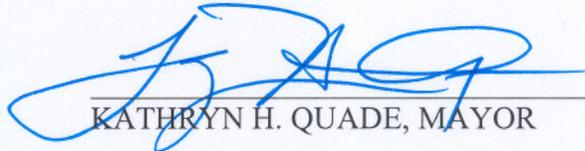
D. If a time pay agreement is requested a fee of not to exceed \$10 per charge or \$25 per payment plan may be imposed.

Section 7. Severability

If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date: This ordinance shall take effect and be in full force five (5) days after the publication of the attached summary, which is hereby approved.

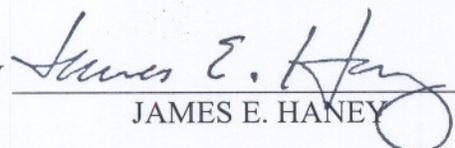
APPROVED:


KATHRYN H. QUADE, MAYOR

ATTEST/AUTHENTICATED:


CITY CLERK KAROL JONES, CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JAMES E. HANEY

FILED WITH THE CITY CLERK: 9/24/2007
PASSED BY THE CITY COUNCIL: 10/3/2007
PUBLISHED: 10/20/2007
EFFECTIVE DATE: 10/25/2007
ORDINANCE NO. 2007-46

SUMMARY OF ORDINANCE NO. 2007-46

of the City of Poulsbo, Washington

On the 3rd day of October, 2007, the City Council of the City of Poulsbo, passed Ordinance No. 2007-46. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, RELATING TO ANIMALS, CHAPTER 6.04 IS HEREBY REPEALED; AND ADDING A NEW CHAPTER 6.05 POTENTIALLY DANGEROUS DOG AND DANGEROUS DOG; AND ADDING NEW SECTIONS 6.05.010 DEFINITIONS, 6.05.020 POTENTIALLY DANGEROUS AND DANGEROUS DOG, 6.05.030 PENALTY AND IMPOUNDMENT, 6.05.040 DANGEROUS DOGS – ADDITIONAL REQUIREMENTS, 6.05.050 REGISTRATION OF POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS, 6.05.060 PENALTY FOR VIOLATION; AND PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 5th day of October, 2007.

Karol Jones
CITY CLERK KAROL JONES, CMC