

POULSBO DISTRIBUTION SCHEDULE

ORDINANCE NO. 2012-02

SUBJECT: Amending PMC 6.05.020 – Dangerous Dogs

CONFORM AS TO DATES & SIGNATURES

- (X) Filed with the City Clerk: 01/25/2012
- (X) Passed by the City Council: 02/01/2012
- (X) Signature of Mayor
- (X) Signature of City Clerk
- (X) Publication: 02/10/2012
- (X) Effective: 02/15/2012
- () Recorded: N/A

DISTRIBUTED COPIES AS FOLLOWS:

- (X) NK Herald: Emailed by jb
- (X) Code Publishing - via email if in electronic format
- () City Attorney
- () Civil Service Commission and/or Sec/Chief Examiner
- () Clerk's Department:
- () City Council
- () Finance:
- (X) Posted to Library Drive and Website

Jill A. Boltz
City Clerk

February 6, 2012
Date

ORDINANCE NO. 2012-02

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING PMC 6.05.020 REGARDING THE PROCEDURE FOR DECLARING DOGS POTENTIALLY DANGEROUS OR DANGEROUS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, PMC 6.05.020 establishes the procedures for declaring dogs to be dangerous or potentially dangerous; and

WHEREAS, the City Council desires to amend PMC 6.05.020 to ensure that due process is properly afforded to owners appealing the issuance of a dangerous dog or potentially dangerous dog declaration; NOW, THEREFORE,

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

Section 1. Amended. PMC 6.05.020 is hereby amended to 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 definition of potentially dangerous set forth in Section 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 Section 6.05.010; or
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.

B. 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.

C. 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 one hundred thousand dollars or more, as set by the animal control authority. The insurer/bond issuer must be qualified under RCW Title 48 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 or the animal control authority to register the dog within seven 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. Dog Park. It will be unlawful for any person to permit a potentially dangerous dog in a "dog park" in the city of Poulsbo.

7. 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.

8. 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.

D. Prohibited Ownership. No person(s) under the age(s) of eighteen years old shall own a potentially dangerous dog, as defined in Section 6.05.010.

E. 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.

F. 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.

G. Appeal to Poulsbo Municipal Court. The owner of a dog declared potentially dangerous shall have fourteen calendar days from receipt of the written declaration to file a written appeal with the Poulsbo municipal court ~~and pay a~~

~~filing fee equal to that established by RCW 3.62.060 for civil actions commenced in the district courts, as the statute now exists or as it may hereafter be amended or superseded. No fee shall be charged for this appeal. Within fourteen calendar days of receiving the written notice of appeal, the municipal court clerk shall schedule an appeal hearing before the Poulsbo municipal court and provide written notice of the hearing to the owner of the potentially dangerous dog and the animal control authority.~~

H. ~~Hearing before Municipal Court. At the appeal hearing before the Poulsbo municipal court, the appellant shall have the burden of proving that the determination by the animal control authority was arbitrary and capricious~~ 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 and against the declaration. The court 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 reversed and an appeal is not timely filed by the animal control authority, any restrictions on the dog previously imposed shall be annulled. No court costs or attorney fees shall be assessed against the city of Poulsbo, Kitsap County, or the animal control authority in such an instance. ~~If the court finds that the decision by the animal control authority 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. Appeal of Municipal Court'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 Poulsbo municipal court to the Kitsap County superior court. Any such appeal shall be filed within thirty days as provided in the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ) and shall be governed by and subject to such rules.

J. 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 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.

K. 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 or municipal court may result in

impoundment of the potentially dangerous dog by the animal control authority,
pursuant to Section 6.05.030(C).

Section 2. 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 of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of the attached summary, which is hereby approved.

APPROVED:



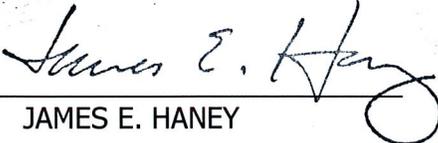
MAYOR REBECCA ERICKSON

ATTEST/AUTHENTICATED:



CITY CLERK JILL A. BOLTZ, CMC

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

JAMES E. HANEY

FILED WITH THE CITY CLERK: 01/25/2012
PASSED BY THE CITY COUNCIL: 02/01/2012
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SUMMARY OF ORDINANCE NO. 2012-02

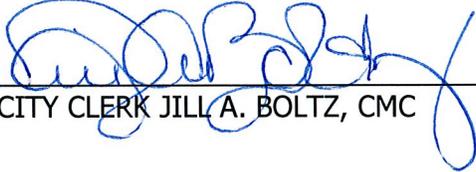
of the City of Poulsbo, Washington

On the 1st day of February, 2012, the City Council of the City of Poulsbo, passed Ordinance No. 2012-02. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF POULSBO, WASHINGTON, AMENDING PMC 6.05.020 REGARDING THE PROCEDURE FOR DECLARING DOGS POTENTIALLY DANGEROUS OR DANGEROUS; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

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

DATED this 2nd day of February, 2012.


CITY CLERK JILL A. BOLTZ, CMC