

Ordinance 876

An ordinance amending Clallam County Code Chapter 17.03, Potentially Dangerous or Dangerous Dogs, to better define the reasons and process to declare a dog potentially dangerous or dangerous and create a process to inactivate a dog declared as potentially dangerous

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .010, Potentially dangerous dog – Reasons to declare, is amended to read as follows:

An Animal Control Officer may declare as potentially dangerous any dog that:

- (1) ~~When unprovoked i~~nflicts a bite on a human ~~or domestic animal or livestock (except poultry, rabbits and cats that are allowed to roam off the owner's property); or~~
- (2) Inflicts a bite on a privately owned animal when the dog is off of its owner's property.
- ~~(23) When unprovoked e~~Chases or threatens a person or another animal upon the streets, sidewalks, any public grounds or upon private property other than the dog owner's in a menacing fashion or apparent attitude of attack ~~;~~;~~or~~
- ~~(34) Has been declared potentially dangerous by any other governmental jurisdiction for similar violations of State statutes or local ordinances~~ that meet the standards set forth in this section;
- ~~(45) Chases, harries or harasses livestock or privately owned game animals while off the dog owner's property.~~

Except that dogs shall not be declared potentially 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 dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime and the dog was on the property of its owner or was under the control of a responsible person.

Section 2. Section .020, Dangerous dog – Reasons to declare, is amended to read as follows:

An Animal Control Officer may declare as dangerous any dog that:

- (1) Has inflicted severe injury on a human being ~~without provocation; or,~~
- ~~(2) Has killed or inflected severe injury to a domestic privately owned animal or livestock (except poultry, rabbits or cats that are allowed to roam off the owner's property); or while the dog is off of its owner's property.~~
- (3) Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again bites, attacks, or endangers the safety of humans or ~~domestic privately owned animals;~~;~~or,~~
- (4) Has been declared dangerous by any other governmental jurisdiction for ~~similar~~ violations of State statutes or local ordinances that meet the standards set forth in this section.

Except that dogs shall not be declared dangerous if the threat, injury, or damage was sustained by someone committing a willful trespass or other tort upon the premises occupied by the owner of the dog; was or has been observed tormenting, abusing, or assaulting the dog; or was committing or attempting to commit a crime.

Section 3. Section .030, Declaration of dangerous or potentially dangerous dog – Notice, hearing and appeal, is amended to read as follows:

(1) Whenever an Animal Control Officer finds any dog in violation and determines that said dog should be declared dangerous or potentially dangerous, the Officer shall prepare a notice declaring said dog to be a dangerous or potentially dangerous dog, and serve the notice as required for a summons on the owner of the dog; except that if the summons cannot be served it may be posted on the residence. The notice shall contain the following:

- (a) The name and address of the owner of the dog being declared potentially dangerous;
- (b) The breed, color, sex, and license number (if known) of said dog;
- (c) The facts upon which the determination of potentially dangerous dog is based;
- (d) That the dog shall immediately be restrained as required in CCC 17.03.060 or

17.03.070;

(e) That the dog shall be registered within ~~ten (10)~~ days of receiving the notice unless a hearing is requested as provided for in subsection (1)(g) of this section;

(f) In the case of a potentially dangerous dog, that if there are future similar problems with the dog, the dog could be declared a dangerous dog pursuant to CCC 17.03.020, and required to be registered as provided for in CCC 17.03.050;

(g) That the notice constitutes a final determination that the dog is dangerous or potentially dangerous, unless the owner of the dog requests a hearing in writing to an appropriate District Court of Clallam County within ~~ten (10)~~ days of service of the notice.

(2) In the event the owner of a dog requests a hearing as provided for in subsection (1)(g) of this section, a hearing shall be held within ~~thirty (30)~~ days of the receipt of the request for hearing, unless it is continued for good cause. The ~~responsible Animal Control Officer District Court~~ shall notify the owner of the date, time and place of the hearing, as well as the right to present evidence as to why the dog should not be declared dangerous or potentially dangerous. ~~The hearing shall be held before the District Court of Clallam County.~~ The hearing shall be informal and open to the public. At the hearing, the records of the responsible Animal Control Officer shall be admissible evidence as to whether the dog is a dangerous or potentially dangerous dog; the owner of the dog may require the officer compiling the record to be present at the hearing; the owner of the dog may present evidence and examine witnesses present; and the burden shall be on the Animal Control Officer/County to establish by a preponderance of the evidence that the dog is a dangerous or potentially dangerous dog.

(3) The District Court Judge shall notify, in writing, the owner of the dog of his/her decision within ~~ten (10)~~ days of the hearing. The District Court decision may be appealed as provided under the general laws of the State of Washington.

(4) If the potentially dangerous or dangerous dog declaration is upheld the owner has ~~ten (10)~~ days from the notification date to comply with the registration requirements.

(5) A finding that a dog is not a potentially dangerous or dangerous dog shall not prevent the Animal Control Officer from seeking to have the dog declared dangerous or potentially dangerous as the result of any subsequent action by the dog.

Section 4. Section .040, Potentially dangerous dog – Registration, requirements, annual fee, is amended to read as follows:

(1) The owner of a dog declared potentially dangerous shall register said dog and pay the initial registration fee as set forth in Chapter 5.100 CCC within ~~ten (10)~~ days of notification as provided for in CCC 17.03.030 as now or hereafter amended; ~~provided, that if~~ if the owner requests a

hearing to the District Court within the ~~ten (10)~~^{ten (1021)} day period the owner shall not be required to pay such registration fee until after the ~~hearing officer Court~~ makes a determination that said dog is potentially dangerous.

(2) The owner of a dog being declared potentially dangerous may be required by the Animal Control Authority to have the dog equipped with a microchip. ~~This can be done through a local veterinarian.~~ Proof of microchipping and the microchip number shall be presented when licensing the dog.

(3) The owner of a dog declared potentially dangerous shall renew the registration annually and pay the renewal fee for the calendar year as set forth in Chapter 5.100 CCC.

(4) A dog license fee already paid by the owner, as set forth in Chapter 5.100 CCC, shall not be applied toward the cost of the initial registration; however, on the second and subsequent calendar years, the cost of renewal shall include licensing.

~~— (5) Any person that brings a dog or animal into Clallam County that has been declared dangerous or potentially dangerous by another jurisdiction is required to register such dog or animal with the Animal Control Authority within twenty-four (24) hours or on the first business day following bringing the animal into the County limits and further to comply with all requirements as set forth by the Animal Control Authority and this chapter.~~

~~— (6) The owner of a dog declared potentially dangerous shall have the dog neutered or spayed within thirty (30) days post declaration or appeal of declaration of a potentially dangerous dog. The owner must notify County of intent to appeal the declaration of dangerous dog within thirty (30) days of declaration.~~

Section 5. Section .050, Dangerous dog – Certificate of registration, requirements, is amended to read as follows:

(1) The owner of a dangerous dog must obtain a certificate of registration for such animal from the Animal Control Authority within ~~ten (10)~~ days of final determination of dangerous dog as provided in CCC 17.03.040. The certificate of registration shall be issued only if the owner of the dangerous dog presents sufficient proof of the following:

(a) A proper enclosure to confine a dangerous dog and posting of the premises with a brightly colored and clearly visible sign that displays a warning symbol that informs children of the presence of a dangerous dog.

(b) The owner of a dog being declared dangerous shall have the dog equipped with a microchip. ~~This can be done through a local veterinarian.~~ Proof of microchipping and the microchip number shall be presented when licensing the dog.

(c) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the Animal Control Authority in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least \$250,000, insuring the owner or keeper for any personal injuries inflicted by the dangerous dog.

(2) The owner of a dangerous dog shall pay an initial registration fee as set forth in Chapter 5.100 CCC and thereafter pay an annual registration fee for the calendar year as set forth in Chapter 5.100 CCC. A dog license fee already paid by the owner shall not be applied toward the cost of the initial registration; however, on the second and subsequent calendar years, the cost of registration shall include licensing.

(3) Any dangerous dog for which a certificate of registration or renewal has not been obtained by its owner is subject to being impounded by the Animal Control Authority.

(4) This section shall not apply to police dogs as defined in RCW 4.24.410.

(5) The owner of a dog declared dangerous shall have the dog neutered or spayed within ~~thirty~~ (30) days post declaration or appeal of declaration of a dangerous dog. Owner must notify County of intent to appeal declaration of dangerous dog within ~~thirty~~ (30) days of declaration.

Section 6. Section .060, Potentially dangerous dog – Proper restraint and enclosure, is amended to read as follows:

(1) The owner of a potentially dangerous dog shall restrain his/her dog, as required herein, immediately upon being notified that said dog has been declared potentially dangerous by an Animal Control Officer, regardless of the owner's intent to request a hearing or file any appeal.

(2) A dog declared potentially dangerous shall be restrained as follows:

(a) While on the owner's property, a potentially dangerous dog shall be restrained by a fence, kennel or sufficiently strong chain, leash or other confinement suitable to prevent said dog from leaving the owner's property ~~(radio, electronic, or invisible fencing is not considered suitable and restrained in such a manner as to keep the dog at least twenty-five (25) feet from the normally used path of entrance to any occupied building, residence, or utility meter (water, electric, etc.); or~~

(b) The dog must be restrained in such a manner as to keep it clear of any area of implied or expressed consent.

~~(bc)~~ While off the owner's property, a potentially dangerous dog shall be under physical restraint of the owner or other responsible person ~~; or~~

~~(ed)~~ While restrained on the owner's property, a potentially dangerous dog shall be provided with food and water on a daily basis and a structure that provides protection from the elements.

Section 7. Section .080, Potentially dangerous or dangerous dog – Ownership, is amended to read as follows:

(1) The owner of a potentially dangerous or dangerous dog shall not transfer ownership or move said dog without first notifying the Animal Control Authority and obtaining authorization and approval to do so. No dangerous dog shall be given, sold, adopted, or transferred to another person or organization within Clallam County except that the dangerous dog may be surrendered to a shelter. Prior to destroying any potentially dangerous or dangerous dog, the owner shall give notification to the Animal Control Authority, or shall provide proof of destruction within ~~forty-eight~~ (48) hours of the death of the dog.

(2) Any person that brings a dog or animal into Clallam County that has been declared dangerous or potentially dangerous by another jurisdiction is required to register such dog or animal with the Animal Control Authority within ~~twenty-four~~ (24) hours or on the first business day following bringing the animal into the County and further to comply with all requirements as set forth by the Animal Control Authority and this chapter.

Section 8. Section .090, Potentially dangerous ~~or dangerous~~ dog – Violations and penalties, is amended to read as follows:

Violation of any section of this chapter shall be a misdemeanor.

(1) It shall be unlawful for the owner of a potentially dangerous dog to:

(a) Transfer ownership, move, or destroy said dog without ~~first~~ complying with the provisions of CCC 17.03.080 ~~; or~~

(b) Fail to provide proper restraint and/or enclosure for dogs declared potentially dangerous as defined in 17.03.060;

(c) Fail to maintain registration and license for potentially dangerous dogs.

~~— (2) It shall be unlawful for the owner of any dangerous dog to:~~

~~— (a) Fail to secure the liability insurance coverage or bond required hereunder;~~

~~— (b) Fail to post a clearly visible sign that displays a brightly colored and clearly visible warning symbol that informs children of the presence of a dangerous dog;~~

~~— (c) Fail to maintain the dog inside the dwelling of the owner or inside a proper enclosure;~~

~~— (d) Fail to keep dog under physical restraint of a responsible person and muzzled when outside the dwelling or enclosure;~~

~~— (e) Transfer ownership, move, or destroy said dog without first complying with the provisions of CCC 17.03.080;~~

~~— (f) If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.~~

~~— (3) Any dangerous dog will be immediately confiscated by the Animal Control Authority under the following conditions:~~

~~— (a) The dog is not validly registered under CCC 17.03.050;~~

~~— (b) The owner does not secure the liability insurance coverage required under CCC 17.03.050(1)(e);~~

~~— (c) The dog is not maintained in the proper enclosure;~~

~~— (d) The dog is outside the dwelling of the owner or outside the proper enclosure and not under physical restraint of the responsible person or not muzzled.~~

~~— (4) If a dangerous dog has been confiscated as a result of subsection (3) of this section, the owner must pay the costs of confinement and control.~~

~~— (5) The Animal Control Authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason(s) for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty (20) days.~~

~~— (6) The Animal Control Authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty (20) days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.~~

(2) Any potentially dangerous dog may be immediately confiscated by the Animal Control Authority under the following conditions:

(a) The dog is not validly registered under CCC 17.03.040.

(b) The owner fails to provide and maintain proper restraint.

(c) The owner transfers ownership, moves, or destroys the dog without complying with the provisions of CCC 17.03.080.

The Animal Control Authority must serve notice upon the dog owner in person or by certified mail, return receipt requested, specifying the reason(s) for the confiscation of the potentially dangerous dog and informing them that they are responsible for all costs of confinement and that the dog may be destroyed in a humane and expeditious manner if the deficiencies are not corrected within 20 days.

Section 9. Section .100 is added to read as follows and subsequent sections renumbered:

Section 17.03.100 Dangerous dog – Violations and penalties

Violation of any section of this Chapter shall be a misdemeanor.

(1) It is unlawful for the owner of any dangerous dog to:

(a) Fail to secure the liability insurance coverage or bond required hereunder.

(b) Fail to post a clearly visible sign that displays a brightly colored and clearly visible warning symbol that informs children of the presence of a dangerous dog.

(c) Fail to keep the dog inside the dwelling of the owner or inside a proper enclosure.

(d) Fail to keep dog under physical restraint of a responsible person and muzzled when outside the dwelling or enclosure.

(e) Transfer ownership, move, or destroy said dog without first complying with the provisions of CCC 17.03.080.

If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.

(2) Any dangerous dog will be immediately confiscated by the Animal Control Authority under the following conditions:

(a) The dog is not validly registered under CCC 17.03.050.

(b) The owner does not secure the liability insurance coverage required under CCC 17.03.050(1)(c).

(c) The dog is not maintained in the proper enclosure.

(d) The dog is outside the dwelling of the owner or outside the proper enclosure and not under physical restraint of the responsible person or not muzzled.

(3) If a dangerous dog has been confiscated as a result of subsection (2) of this section, the owner must pay the costs of confinement and control.

(4) The Animal Control Authority must serve notice upon the dog owner in person or by certified mail, return receipt requested, specifying the reason(s) for the confiscation of the dangerous dog and informing them that they are responsible for all costs of confinement and that the dog will be destroyed in a humane and expeditious manner if the deficiencies are not corrected within 20 days.

(5) The Animal Control Authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within 20 days of notification.

Section 10. Section .130, Inactive potentially dangerous dog is added to read as follows:

If after 24-months, no violations of Title 17 or the Clallam County Code have occurred, the owner of a potentially dangerous dog may request review of the designation. The request shall be made in writing and submitted to the County Animal Control Authority.

Review and notification to the owner of the outcome will be made within 30-days of the written request.

Reclassification of a potentially dangerous dog means that it will no longer have to be restrained as required in CCC 17.03.060 nor will it have to be licensed per CCC 17.03.040. The requirements of CCC 17.03.080 still apply.

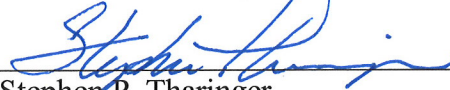
Any dog on the inactive potentially dangerous list that violates the reasons to declare a dog potentially dangerous will be immediately reclassified to potentially dangerous and may be reclassified to dangerous per CCC 17.03.020(3).

ADOPTED this twenty-fifth day of October 2011

BOARD OF CLALLAM COUNTY COMMISSIONERS

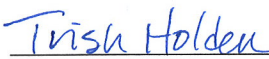


Howard V. Doherty, Jr., Chair

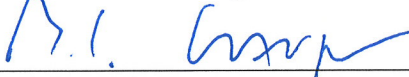


Stephen P. Tharinger

ATTEST:



Trish Holden, CMC, Clerk of the Board



Michael C. Chapman