



## NOTICE OF PUBLIC MEETING

DANGEROUS DOG ORDINANCE WORK GROUP  
City Hall, Municipal Court Room  
Monday, August 29, 2011  
5:30 p.m.

### AGENDA

1. CALL TO ORDER
2. APPROVAL OF MINUTES
  - August 16, 2011. [Pages 1-5]  
Action: \_\_\_\_\_
  - August 22, 2011. [Pages 6-8]  
Action: \_\_\_\_\_
3. SCHEDULED BUSINESS
  - a. Continued review of AMC 6.18 Dangerous Dogs. [Pages 9-12]  
Action: \_\_\_\_\_
4. BUSINESS FROM THE WORK GROUP
5. NEXT MEETING DATE: *To be determined.*
6. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)

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*The location of the meeting/hearing is accessible to the disabled. If you have a disability that requires accommodation, please notify the Human Resources Department in advance by calling (541) 917-7500.*

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APPROVED:

**DANGEROUS DOG WORK GROUP**  
**City Hall, Santiam Room**  
**Tuesday, August 16, 2011**

**MINUTES**

Members present: Mayor Sharon Konopa, Councilor Floyd Collins, Councilor Dick Olsen, Mark Azevedo, Max Frederick, Larry Holverson

Staff present: Casey Dorland, Police Lieutenant; Jim Delapoer, City Attorney; Marilyn Smith, Management Assistant/Public Information Officer

Others present: None.

Mayor Konopa called the meeting to order at 5:00 p.m. Members introduced themselves.

Konopa explained how the group came together. Collins and Olsen had worked with Delapoer earlier on possible revisions to the dangerous-dog ordinance and suggested involving some citizens to review and possibly revise the ordinance. Only the dangerous-dog portion (AMC 6.18) is up for review. The review will not deal with Blue. Committee members are asked to keep in mind there are still dangerous dogs out there and to consider the safety of the citizen.

Holverson said that people who have been supporting Blue feel that, for a true dangerous dog, the only option is euthanizing. It's just this particular situation. We have an ordinance that has worked pretty well for 20 years, but things change over time. The basic ordinance is sound; but a little tweaking, and we'll be fine with it.

Konopa said no public input will be taken until the group has recommendations for the Council. If individuals contact members of the committee before they are finished, it's fine to bring that input to the group. She said she had contacted the School of Veterinary Medicine at Oregon State University asking if any vets are willing to work with the group on a definition of "dangerous dog." Her request has been forwarded to a dean. Mike Huber said a veterinarian behavioral specialist would be the one to contact. She proposed OSU because a local vet might be in an uncomfortable position on the committee; their involvement could affect their business.

Konopa said she has also considered inviting a doctor to be a part of the group to get the definition of serious physical injury. Smith contacted Dr. David Haffner, emergency room physician at Albany General Hospital for 40 years and former head of emergency medicine there. Haffner said he would define a serious physical injury as one that requires calling in a surgeon or one that leaves a scar or deformity. As an example, he said a "young girl with a bite on the face that leaves a scar." Haffner is unavailable to meet with the group; he recommended surgeon Bob Gaekwad or ER Dr. Tom Vanasche as alternates.

Konopa asked if individual members had specific concerns to address.

Azevedo said he doesn't see anything that addresses how the dog is housed during the process of appeal. The Linn County facility lacks an outside exercise area and limits human contact. He believes the ordinance should show that the intent is to house the animal humanely pending appeal.

Frederick said he had concerns about definitions of section 11. He doesn't know how to assess emotional or psychological injury (akin to PTSD). Holverson asked if that would be better addressed in a suit than in the ordinance.

Holverson said his main concern is that the process that is developed is completely documented and a process of appeals works in a timely manner.

Olsen said he has some reservations about psychological injury. For example, neighbors who are chronic complainers could easily walk by a house with a dog behind a fence and claim they had psychological injuries from that dog. His concern from the outset has been that the judge has two decisions. When there is a potentially dangerous determination, the owner should probably go to the judge see if they can get it reversed. The two decisions are send the dog back home or put it down. There should be some middle ground where the dog can go for training or to a different environment, other than kill the dog.

Collins said he and Olsen talked earlier about psychological and emotional injury. He thinks it can be clarified and maybe expand it so that it has to be something related to an attack. He said he was traumatized by the dogs he met while campaigning. His intent is to protect the victim.

Holverson said he would guess the little yapper dogs do more biting than big dogs do.

Konopa asked if Delapoer and Dorland see any issues. Delapoer asked how much money will be spent on this process. If there are extensive hearings on subjective issues, it will cost the City tens of thousands of dollars. He encourages the committee to create an objective system that is not overly burdensome and gives the judge an alternative to one remedy.

Blue, in the Raymond household at least, was dangerous, Delapoer said. He sees a dog that bites the face of a three-year-old child as dangerous. The code should allow the judge to temper justice with a thoughtful analysis in an individual case and should be efficiently and evenly administered.

Delapoer said he would be more comfortable without some of the changes at the beginning of the ordinance as currently proposed. He doesn't think there's anything wrong with the process of determining a dog is dangerous, but he doesn't like any ordinance that doesn't grant the judge discretion. With a wise judge or wise hearings officer, it offers flexibility.

Azevedo said what's missing is medical expertise. You have the enforcement side and the political side, but you don't have the medical expertise regarding provocation. Delapoer said he believes that expertise doesn't exist. Dog owners now can present any testimony they wish; they are free to do that.

Collins said the place to make the determination is at the hearing before the hearings officer. You get your day in court. If you have a bad attorney, that's not the community's fault.

Delapoer said the proposed changes go a little further than he would like.

Olsen said he would like to comment about Blue and the wound that was inflicted on the baby. His dog inflicted the same injury on his baby over a food dish. It's typical dog-dish behavior, not an attack on the kid. There needs to be a middle ground, not you've got a stitch in your face, we kill the dog.

Dorland said the Police Community Resource Unit staffed some of these changes with Chief Boyd and Captain Hinrichs and CRU is willing to live with them, overall. Public safety is ultimately the role of the police. He said it's important for him that this is not about Blue. Between January and July 2011, his staff addressed 56 animal complaints that were bite-related. He said he appreciates that Blue is the hot topic; but for him, the topic is public safety. We're not the only ones looking at this. Communities all over are looking at this: In Pierce County, Washington, a jury required a city to pay half of a \$2.2 million award for law enforcement not taking action for a mauling. Community members like us are being held accountable for taking action. He emphasized that these decisions at the Police Department are not made in a vacuum; they are staffed before they even get presented to the Chief. He related his experience and training with dogs. He said it is important that public safety be the focus.

Azevedo asked how many dogs of the 56 were deemed dangerous. Dorland said Police considered one; but based on actions of family members, they chose not to. In a lot of cases, the owner of the animal agrees with Police findings and they do something with the dog. He said he expects less than half were put down. Police evaluate each case based on provocation and totality of the circumstances, and there are times that they have no alternative but to declare a dog dangerous.

Konopa asked if Police had any major concerns or if the proposed code would be cumbersome to enforce. Dorland said it needs to be simple to enforce. The built-in 10-day time limits normally keep it timely. Since Albany doesn't have its own dog pound, the facility we use is at the discretion of Linn County Dog Control. We are guests there. We don't have a facility for other housing.

Azevedo said housing at the county pound was something that concerned him. If he was in prison, he said, he would hope there would be some accommodation for some kind of an upgrade over time. A dog needs some humane treatment over a long time, and the financial burden should lay with the owner. What happened with Blue was appropriate and was forced by the community. It allows better opportunity for evaluation of the animal and for socialization.

Delapoer said a dog is only incarcerated on appeal and the only decision on appeal is whether the judge made a correct decision. Post-decision behavior of the dog is not considered.

Possible problems are created by putting the dog in a facility outside the City's control, Delapoer said. With the current situation at the Pet Hotel, he said, we're hanging out a mile. Indemnity agreements that were supposed to be signed were never signed. We have no control over who sees the dog.

Azevedo said he was concerned about the well-being of the animal long-term. Delapoer said the pound was never intended for long-term animal housing.

Holverson said he has a copy of the four pages of the Blue situation, and it looks like the police did everything they could to work with the owner. It's too bad we can't write something into the agreement that we can euthanize the owner if they don't follow through with the requirements. This really documents the need to come out with a policy that's fair to the dog, the owner, and the citizens of the community and that happens in a reasonable period of time. It has to include real clear documentation of every step.

Delapoer said all of the delay we're seeing in Blue's case is post-hearing; there's nothing we can do to shorten the judicial review. We can't hasten the court proceeding. Even if the Council heard it, we could have an appeal on a writ of review.

Collins asked who chooses where the dog goes. Delapoer said under the ordinance, the dog goes to Linn County Dog Control; but you could give the Court authority to designate another site. That sets up a situation for a wealthy dog owner to get one facility while another person might not have that option. It will be hard to come up with criteria to make the dog secure and protect the public. What happened in Blue's case is not a perfect solution.

Delapoer asked the group to work on a definition of "serious physical injury" and to come up with an objective standard, not something squishy. The group moved on reviewing the draft ordinance.

6.18.010(4) was suggested by Collins; Delapoer thinks it's surplus and unnecessary. Collins said sometimes the art of communication is stating the obvious. He wants to make sure it's clear that whoever the Council ultimately appoints as Director has some experience. Konopa asked if the Council should make that appointment. Delapoer said they already do that. He said his job is to maximize the discretion of the City Council.

Frederick asked if there is the potential for the Council to appoint someone else Director. If so, a job description is needed. Delapoer said a good Council would make sure they engage an appropriate person to do that. Dorland said he didn't know if the additional language would solve anything. Holverson said if it satisfies a group that would otherwise oppose it, then it serves the purpose. Delapoer agreed.

(6) Collins said this is an ownership opportunity; leave it in.

(11) Serious injury – The group reviewed language presented by the Blue supporters. Konopa said it would be nice to show it to the emergency room doctors. Delapoer said the language doesn't define serious injury. The state of Oregon's definition is a much higher bar (get language from Jim) and comes out of the criminal code. For our purposes, Delapoer said it is a community standard: What level of injury is sufficient to justify euthanizing an animal? Dorland said the state standard is what is applied to human-to-human encounter; it would have to be an incredibly violent encounter with an animal of considerable size and weight. If that's the one adopted, we would not have very many dangerous dogs.

Delapoer said the language shouldn't distinguish between genders. Currently it says "stitches" but could say suturing a certain area. The provocation defense was mentioned. Delapoer said the judge already has the discretion to consider food as a provocation. He believes the code does not need to enumerate that. He said you evaluate a dog's future behavior based on past behavior. He is not comfortable trying to psychoanalyze a dog. The code needs to keep "serious injury" objective. The group could create a list of things to make explicit.

Holverson asked who's better to determine serious injury than a doctor or a vet. Delapoer said any such determination would be subjective, depending upon the doctor's experience, interest, or expertise.

Konopa suggested tabling the serious-injury discussion to talk about emotional or psychological injury. Delapoer could write it to be considered in conjunction with serious injury or attack. Collins mentioned his granddaughter who had been bit on the ear and three years later will not approach a dog.

Azevedo asked "What is a serious injury to an animal?" Olsen said that's the judge's discretion again. Dorland said in the past, we've looked at five stitches as the standard of serious injury. Holverson said one stitch or two is cosmetic. Delapoer recommended dispensing with discussion of stitches and going to the length of the wound. It might be more objective to state "injury of more than x length requiring stitches or staples." Holverson asked the difference between a puncture wound and a tear.

Delapoer suggested that talk about injury should focus on whether the aggression was of a type, if it reoccurred, that could cause debilitating injury. With Blue, it was the doctor who called the police. By calling us, he determined it was a serious injury. Frederick said OSHA and OR-OSHA have definitions of serious injury. Staff will come back with proposals.

(12) New language is there to prevent third-party interference in the process, Collins said. It limits standing. Leave it in.

6.18.020(3) Definition of provocation. General discussion followed. Holverson said food aggression is one of the three main provocations for a bite. Delapoer asked if we need to expand that list to include it. Dorland said it's not the food aggression that worries him; it's the behavior that goes along with the food aggression. It's the violence imposed on the person that's the concern. It means one thing to one person, but something totally different to another. Frederick said you can say the same thing about torment or abuse.

Delapoer suggested adding "or other condition unlikely to reoccur." That would give the Director the authority to not declare the dog dangerous because of the circumstances. If it was truly aberrant behavior, the Director is not going to order it euthanized.

6.18.030(1) Police no longer require witnesses to sign affidavits. Relevant and probative evidence is the way all police decisions are made. This language is intended to reflect current practice.

Holverson asked if it could say "the investigating officer's notes." Dorland said those notes are often cryptic; some officers don't retain notes in a way that you can review them. A lot record their notes but don't keep a notebook. It creates an evidentiary situation. Holverson said it seems that it's pretty important to have a track there to follow for those that do end up in court. The investigation is a public record and can be requested as such to evaluate the findings.

(2) Request for a hearing "**within 10 days..**" Dorland said police don't always hear about a dog bite within 10 days. Holverson said our concern was it was 63 days in Blue's situation from occurrence of the bite. Delapoer said the whole reason for this is to protect the public from a dog. Do you want to not go ahead and investigate? Workload and other priority calls can take time away from that. Azevedo brought up the issue of housing in the interim. Public can be reassured that the animal is being cared for in the meantime.

Delapoer asked, what if we said we would get determination by Director in x amount of days from the time the dog is seized. What if we get the wrong dog? We don't want that one seized if it's not the right one. He said he doesn't know of any circumstances where we couldn't get that determination within 30 days. Dorland said police don't always seize the dog if it bites a human. Delapoer said when we seize a dog, we ought to get the determination of the Director. Dorland said police don't just seize an animal unless there's a real reason to. The money clock starts ticking when they do. Staff will come back with timeline language.

Delapoer said even the Hearings Officer's decision should be made in a timely manner – if the dog remains housed, 60-90 days. He proposes 30 days for Director's determination and 90 days for Hearings Officer from when you seize the dog. If it says 30 and 90 days, the City would want to do it faster than that. Time is money. Delapoer said he hasn't come up with a solution for alternative housing for dogs. We don't have that many community alternatives.

(3) There is no reason not to have an audio recording; and if the recording fails, it shouldn't invalidate the hearing. Holverson asked if that's the testimony the decision was based on, how do you come back and prove that was the right decision. Delapoer said the appeal is not whether the decision was improper but if the procedure was followed. The dog owner always has the right to bring his own tape recorder.

Next meeting date: 5:30 p.m., Monday, August 22, 2011, after the City Council work session in the Municipal Court Room. The group will discuss the next two pages, the new language, and outstanding citizen concerns.

Collins wants to get it back to Council as close to or before the Labor Day weekend as possible. Holverson said we need to do it right rather than meet a deadline.

Discussing language related to the role of the Hearings Officer, Azevedo said the language needs to reassure the public that it's a fair process. Delapoer said the rest gives the judge (Hearings Officer) discretion to come up with an alternate disposition. Discussion followed about prosecutions on television programs, circumstantial evidence, and Cesar Milan's success with aggressive dogs.

Meeting adjourned at 7:00 p.m.

Respectfully submitted,

Marilyn Smith  
Management Assistant/Public Information Officer



**DANGEROUS DOG WORK GROUP**  
**City Hall, Municipal Court Room**  
**Monday, August 22, 2011**

**MINUTES**

Members present: Mayor Sharon Konopa, Councilor Floyd Collins, Councilor Dick Olsen, Mark Azevedo, Max Frederick, Larry Holverson

Staff present: Casey Dorland, Police Lieutenant; Jim Delapoer, City Attorney; Marilyn Smith, Management Assistant/Public Information Officer

Others present: None.

Mayor Konopa called the meeting to order at 5:31 p.m.

Delapoer announced that staff is guilty of making some changes that the group didn't ask them to make:

- Impoundment, quarantine – Staff added the term “quarantine” to create flexibility and reflect actual practice. Not all dogs are impounded. Group accepted with the change.
- Definition of “serious injury”: Delapoer noted several problems with using stitches to determine the seriousness of an injury. Stitches are not the only method of closing a wound; doctors also use staples and glue. Doctors also may use more or fewer stitches, depending on the circumstances – a combat surgeon in a MASH unit with a war wound v. a plastic surgeon suturing a facial injury on a young lady. Delapoer is trying language to make it more objective, such as days of impairment. Staff recommends 10 days. A person could have a puncture wound that cut a tendon or a wound of more than \_\_ inches. Staff disagrees with language recommended in the draft ordinance regarding “other medical condition” determined by a doctor. Delapoer said this is too subjective. The question of whether a wound is serious or not should be an objective standard. Police want the discretion for a doctor to justify the classification or choose not to.
- Psychological injury: Measures what you do with the dog based on injury to the victim. The reason we are doing the classification is to prevent injury to someone else. You would euthanize a dangerous dog because you are concerned it would hurt someone else. Particularities of the victim have nothing to do with that.

What is “impairment”? Delapoer said the bite has to cause actual damage; language proposes that damage be to an organ, limb, or digit so that the use of the damaged body part is inhibited for a specified period of time. Collins asked about a bite on the butt, head, or face. Delapoer said the current code is more than two stitches. Konopa said she feels if a dog bites and breaks the skin and causes the person to seek medical help, that's a serious injury. Delapoer said seeking medical help could be affected by a number of factors, such as religious beliefs, large co-pay, lack of insurance, or when the bite happened. A doctor won't suture a wound that's infected. Olsen said the issue is the malicious intent of the dog.

Delapoer said the question is: Was the dog's action of such a serious nature that, if it is not impounded or put down, it presents a serious risk to the community of doing so again. Collins related a story from his brother, a police chief, and his experience in dealing with a Bouvier des Flandres. Delapoer said he is not prepared to base our ordinance on the intent of the dog. Dorland pointed to the language in bold face in this section of the code. He said most dog bites occur on the face, neck, genitalia, or extremities that are typically exposed (hands and arms). A serious injury needs to be something a civil investigator can identify without six years of medical school and apply to the rest of the circumstances. Dorland said that medical consultations can be valuable when evaluating a wound to determine if the bite was an offensive attack versus a defensive or warning bite. Community Service Officers, who investigate dog bites, are not criminal investigators; a doctor's opinion can be of value in evaluating a child's wound when the child is not able to communicate well. If medical consultation is allowed, definitions need to be carefully worded to avoid conflicting medical opinion.

Azevedo said this has both, what some people like and what some people don't like. He likes the ability to give the Director discretion so that he or she is not backed into a corner to make one decision. He likes having a fairly clear definition of what is a serious injury, like listing organ, limb, or digit or broken bone. That says that is a serious physical injury regardless of how old you are or how aggressive the dog may have been. Delapoer said this is a move to loosen the current code. He said he doesn't know how long the Blue bite was; current code is based on number of stitches.

Frederick asked if the designation is based on one serious injury. No, you go through the series of actions. You have to have the other factors in there – does this dog do this kind of thing all the time? Delapoer asked if the group would prefer to have the bold language that the police prefer? Frederick said he wants both; they give an objective look at wound but allow input from medical field. Holverson said he thinks we all agree that a dog that's a dangerous dog needs to be euthanized. For that one in a thousand cases, the Director should have some options to euthanizing the dog. Collins said the Blue supporters wanted to have the medical community involved; this does that. Police win.

Duration of impairment: Konopa asked if it could say "physical impairment" instead of "organ, limb, or digit." Citing Councilor Collins' example of being bit on the backside, she said, you would be impaired if you have a job where you're sitting down for long periods. Delapoer said anyone who gets bit by a dog can say they're impaired. He recommends relying only on the wound. That's what we have now. Azevedo wants the impairment section to stay. Dorland said he had researched ordinance language in surrounding cities and counties and the changes being proposed here are substantially more specific than anyone around us. He said there's probably a reason they didn't get too specific; you have to consider the totality of the circumstances. This is here to placate those who want more. Our existing ordinance is as good as any of them. Delapoer said the City of Albany is giving this more serious consideration than any of the jurisdictions just mentioned.

Size of wound: Staff recommends half an inch plus medical procedure being warranted. It has to be more than something you would treat with a Band-Aid or a butterfly. Olsen said he thinks half an inch is kind of short, but OK if it takes stitches to close it. Konopa said any kind of wound on the face should qualify or a wound that might require more surgery. Delapoer said the Director has discretion to go either way. Consensus: half inch, 10 days, leave in impairment.

6.18.020(5) time limit if animal is quarantined or impounded. OK.

(6) City officer or employee has the authority to impound or quarantine. OK.

6.18.030(3) Audio recording added. The dog owner is welcome to tape it as well. Such recordings could be used as evidence. Holverson wants to make sure that we have some language that says the recording could be used in the event that the original record isn't available. Delapoer said that pertains to the appeal to the state; our ordinance doesn't have anything to do with the state appeals process. The Circuit judge makes a decision whether proper procedures were followed. Holverson asked what if this was a case involving people instead of a dog? Azevedo outlined the procedure for an appeal of a land use decision. Holverson said it seems like if you go through the process and the evidence goes away, should have to do it over. Delapoer said this rule says there shall be a recording. The courts will not throw out a decision if parts of a recording are not audible. Delapoer said this is a substantial advance for more due process. He said he is trying to make City decisions stick so we don't have to keep litigating them again and again. He recommends audio recording only; video interjects a whole bunch of variables. Holverson asked is it really important to have the last sentence in there about failure to produce an audible recording. Delapoer said he could predict that it would happen in every hearing. Collins is comfortable with all the language up to the red line.

Azevedo said he knows Holverson is concerned because the Blue case isn't settled, but this gives a chance to challenge at the next level. A record produced at this level is reviewed at the next level.

Delapoer said it would help to make the language more clear regarding failure to produce an audio recording. He will work on new language.

(6) 90-day requirement to get the hearing done. This is a requirement on the Municipal Court. Delapoer said he thinks it will be shorter than that. This addition is responsive to the Blue supporters.

6.18.040 Potentially-dangerous dog section:

- Added language requiring a microchip section, recognizing new technology from the time of original ordinance. Holverson asked who has to pay for this. Delapoer said the owner of the potentially dangerous dog pays.
- Requires that dog be licensed, which in itself requires current rabies vaccination.

6.18.050(1) Alternative disposition: This is all pretty much new, Delapoer said. It is intended to provide flexibility to the Hearings Officer to come up with an alternative to euthanasia. A relocation plan, for example, must be proposed by the dog owner, put in writing, and notice sent to the victim and the receiving jurisdiction. A requirement for new owners to tell subsequent owners that the dog has been classified dangerous is unenforceable. Simply moving it to another county can't be the sole solution. Delapoer said the owner has burden to come up with an alternative to euthanasia, one that provides that the dog is not likely to repeat the behavior that got it here.

Holverson asked how many similar cases have occurred in the last 10 years in Albany. Delapoer said until now, we have never had the owner of a dog seek a writ of review. This is also the first case involving an attorney. Dorland said challenges to dangerous-dog classifications are very infrequent, which is actually a testament to the decisions the City staff has made; the proposed ordinance is very new to law enforcement in this area.

Discussion followed, dealing with the ethics of allowing a dangerous dog to be given to somebody else. Dorland said he has fought for the receiving jurisdiction or people who receive the dog to be notified. Without that requirement, if the City of Albany allows a dangerous dog to move in next door to you, you won't have any say in it. He said he is a dog lover but, personally, he doesn't want a dangerous dog living next door. Konopa said that's been her one concern, taking a dangerous dog from our community because she wouldn't want another community doing that to us. Azevedo said this lets the Hearings Officer make that decision, and the victim has input. Dorland is trying to ensure we don't victimize somebody else in another community. Holverson used the analogy of a sex offender who has to be listed on a state registry. Delapoer said in the Blue situation, we don't know where the dog goes, and we have no control over that.

Frederick said you've given people an out if they want to be responsible. You've shown you're willing to work with people, and it's not always black and white. You've exhibited a whole lot of liberalism in this ordinance. Dorland said there was an attempt to get Blue out of the community, and the dog reoffended on two occasions after that. Responsibility comes with the decision to let the dog out of our jurisdiction.

Holverson asked for the latest ordinance revisions to be sent out before the next meeting. Konopa asked for all the changes in the ordinance to be printed in red. (Note: Staff chose royal blue to accommodate Councilor Olsen.) Brief discussion followed about next steps, such as a committee report, recommendation for changes, and public comment.

Next meeting                    5:30 p.m., Monday, August 29, in the Municipal Court Room.

Meeting adjourned at 7:10 p.m.

Respectfully submitted,

Marilyn Smith  
Management Assistant/Public Information Officer

Chapter 6.18  
DANGEROUS DOGS

Sections:

- 6.18.010 Definitions.
- 6.18.020 Classification of levels of dangerousness.
- 6.18.030 Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.
- 6.18.040 Regulation of potentially dangerous dogs.
- 6.18.050 ~~Euthanasia for dangerous dogs~~ **Consequence of a determination that a dog is dangerous.**
- 6.18.060 Penalty.
- 6.18.070 **Quarantine or** ~~Impoundment pending adjudication of infraction.~~

**6.18.010 Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) “Dog at large” means any dog:

(a) On private property without the permission of the owner or person entitled to possession and not restrained by a physical control device and under the control of a person capable of physically restraining the dog; or

(b) On public property and not restrained by a physical control device and under the control of a person capable of physically restraining the dog.

(2) “Council” means the City Council of the City of Albany.

(3) “Dangerous dog” means any dog that has been found to have engaged in any of the behaviors specified in AMC 6.18.020(2).

(4) “Director” means the person appointed by the Council to act under this chapter. **The person appointed will be someone deemed by the Council to be generally experienced in reviewing investigatory reports and generally accepted judicial processes.**

(5) “Euthanized” means put to death in a humane manner by a licensed veterinarian or animal control officer.

(6) “Hearings Officer” means the City Council or a person appointed by the City Council to review the correctness of the Director’s determination that a dog has engaged in any of the behaviors specified in AMC 6.18.020. Any person appointed as the Hearings Officer will be an individual deemed by the Council to be generally experienced in judicial processes.

**(7) “Impoundment” means City custody of a dog at a county animal control shelter or other secure facility designated by the Director or designee for such purpose.**

(8) “Owner” means the person having a possessory property right in a dog or who harbors, cares for, exercises control over or knowingly permits a dog to remain on premises occupied by that person.

(9) “Person” means any natural person, association, partnership, firm or corporation.

(10) “Potentially dangerous dog” means any dog that has been found to have engaged in any behaviors specified in AMC 6.18.020(1).

(11) “Physical control device” means a sufficiently strong collar connected to a leash or tether made of chain links, or other material as strong, so as to prevent the escape of a dog.

**(12) “Quarantine” means an order directing isolation of the dog or other instructions designed to protect the public pending a determination of a dog’s classification. Quarantine may also include impoundment at the county animal control facility or any other secure facility designated for such purpose.**

(13) “Serious injury” means any physical injury that results in a broken bone ~~or the need for stitches, or any other medical condition, including emotional or psychological injury determined by the Director, in consultation with a health care worker, the County Health Officer, the County Health Officer’s designee, or any medical doctor to be of equal or greater severity.~~ (Ord. 4847 § 1, 1989) **impairment of any organ, limb, or digit reasonably anticipated to have a duration of more than 10 days or a wound of more than half an inch, measured in all directions, requiring or justifying medical closure through stitches, staples, or any other similar medical procedure, or any other medical condition determined by the Director, in consultation with any medical doctor, to be of equal or greater**

severity. The Director may also refrain from classifying an injury as serious which would otherwise meet the definition above based upon information from a medical doctor justifying such decision. Opinions concerning medical condition rendered by any of the persons above at any hearing shall either be personally presented at the hearing and subject to cross examination or shall be in writing ~~and sworn under oath~~ or certified as a true copy.

(14) "Victim" means the owner of the domestic animal(s) injured by the dog in question or the human being bitten or seriously injured, whichever forms the basis for the classification. In the case of a minor child, the victim is the parent or legal guardian of the minor child.

#### **6.18.020 Classification of levels of dangerousness.**

(1) A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog as follows:

(a) While at large, on more than two occasions within a single 24-month period, it bites any domestic animal, or

(b) While at large, it bites a human being or seriously injures any domestic animal.

(2) A dog shall be classified as dangerous if it causes the serious injury or death of any person or kills any domestic animal. A dog classified as a potentially dangerous dog shall thereafter be reclassified as a dangerous dog if, after the owner has received notice of the potentially dangerous classification, the dog again engages in conduct which would classify it as a potentially dangerous dog.

(3) The Director shall have the authority to refrain from classifying a dog as dangerous or potentially dangerous, even if the dog has engaged in the behaviors specified in subsections (1) or (2) above, if the Director determines that the behavior was caused by abuse or torment of the dog or other provocation **or if the injury was the result of intervention by the injured party in a fight between the dog and another animal.**

(4) No dog shall be found to be dangerous or potentially dangerous if it is a dog trained for law enforcement purposes and is on duty under the control of a law enforcement officer at the time it exhibits behavior under subsection (1) or (2) above. (Ord. 4847 § 1, 1989).

**(5) The Director shall be expected, absent unusual circumstances, to make the classification within 30 days of the quarantine or impoundment of the dog in question.**

**(6) Any City officer or employee authorized by the Director may quarantine or impound any dog pending classification.**

#### **6.18.030 Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.**

(1) The Director shall have authority to determine whether any dog has engaged in the behaviors specified in AMC 6.18.020. The determination shall be based upon an investigation that includes observation of the dog's behavior by animal control officers or by other witnesses who personally observed the behavior **or are otherwise qualified to provide relevant and probative evidence.** ~~If the determination is based upon observations of witnesses other than animal control officers, the witnesses must first sign affidavits attesting to their observations or evidence behavior and must agree to provide testimony regarding the dog's behavior if called upon to do so.~~

(2) The Director shall give the dog's owner written notice by certified mail or personal service of the dog's specific behavior, of the dog's classification as a dangerous or potentially dangerous dog, and of the additional restrictions applicable to that dog by reason of its classification. Other forms of notification which result in actual notice of the information required above, shall be sufficient. If the owner denies that the behavior in question occurred, the owner may appeal the Director's decision to the Hearings Officer by filing, with the Director, a written request for hearing. The request for hearing must be received, by the Director, within 10 days of the following, whichever occurs first:

(a) The date of mailing of notice to the owner, by certified mail;

(b) The date the notice is personally served upon the owner; or

(c) The date when the owner acquired actual knowledge of the information required to be contained in the notice.

(3) The Hearings Officer shall hold a public hearing on any appeal from the Director's decision to classify a dog as a dangerous or potentially dangerous dog. The owner and any other person having relevant evidence concerning the dog's behavior as specified in AMC 6.18.020 shall be allowed to present testimony. **The hearing shall be audio-recorded by the Hearings Officer. Any party to the**

hearing may also audio-record the hearing but the audio recording prepared by the Hearings Officer shall be the official recording which shall be part of the record of the proceeding. The hearing procedure shall not be deemed flawed nor the outcome invalidated due to technical failures or other good-faith errors which impair the audibility or completeness of recording. The Hearings Officer shall determine whether the behavior specified in AMC 6.18.020 was exhibited by the dog in question. The Hearings Officer shall issue an order containing his/her determination, which shall be final. **The Hearings Officer may recess the hearing to a later date and request that either party provide additional evidence if the Hearings Officer determines that such evidence would be helpful to the decision. Failure by a party to provide the requested evidence may be considered by the Hearings Officer in making a decision but the Hearings Officer shall have no obligation to request supplemental evidence or continue the hearing simply because a party to the proceeding does not present compelling evidence.**

(4) Once the owner has received notice of the dog's classification pursuant to subsection (2) above, the owner shall comply with the restrictions specified in the notice until such time as the Director's decision is reversed on appeal. Additionally, the Director shall have authority to impound the dog pending completion of all appeals if the Director has reasonable grounds to believe that the owner of the dog has failed to comply with any of the restrictions specified in the notice of classification. If the Director's decision concerning the classification of the dog is upheld on appeal, the dog's owner shall pay to the City all costs incurred in the dog's impoundment.

(5) If the Director finds that a dog is a dangerous dog, the dog shall be impounded pending the completion of all appeals. If the Director's decision is upheld on appeal, the dog's owner shall pay to the City all costs incurred in the dog's impoundment. (Ord. 4847 § 1, 1989).

**(6) The Hearings Officer shall be expected, absent unusual circumstances, to make the classification within 90 days of the quarantine or impoundment of the dog in question.**

#### **6.18.040 Regulation of potentially dangerous dogs.**

In addition to complying with all other requirements of this chapter, the owner of a potentially dangerous dog shall:

(1) Physically restrain the dog to prevent it from having access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded.

(2) Fasten to a collar and keep on the dog at all times such tag as may be issued by the City of Albany, identifying the dog as a potentially dangerous dog.

(3) Pay an annual fee of [\_\_\_\_\_] at the time the tag described in subsection (2) above is issued and a like fee each year thereafter so long as the dog remains within the corporate limits of the City of Albany. This fee shall be in addition to any other license fee.

(4) Notify the Director by certified mail where the dog is kept within 10 days of any change.

(5) Post a warning sign, supplied by the Director, at the location the dog is kept, in a conspicuous place visible from the public sidewalk or road adjoining the property or, if no such public sidewalk or road adjoins the property, then at the boundary line of the property where access is provided to the property.

**(6) Have a microchip implanted in the dog which includes its classification status and the applicable Albany Police Department case number and provide the microchip identification information number to the Director.**

**(7) Keep the dog licensed by the applicable licensing authority.**

**(NOTE: Rabies vaccination will be required in order to maintain license status)**

(8) The requirements of this section shall apply to any person to whom ownership of a potentially dangerous dog is transferred. (Ord. 5026 § 1, 1993; Ord. 4847 § 1, 1989).

#### **6.18.050 ~~Euthanasia for dangerous dogs~~ Consequence of a determination that a dog is dangerous.**

**(1) Unless an alternative disposition is adopted pursuant to the provisions of Section 2 below, any dog that has been found to be a dangerous dog shall be euthanized. If a dog is euthanized by a licensed veterinarian, the veterinarian shall certify to the City of Albany that the dog has been euthanized. (Ord. 4847 § 1, 1989).**

**(2) Following the hearing called for in AMC 6.18.030(3) to review the Director's decision to classify a dog as dangerous, the owner or person in control of the dog may propose an alternative to euthanasia ("alternative" or "alternative order") in the event that the Hearings Officer affirms the Director's classification of the dog as dangerous. Before determining the acceptability of any**

alternative, the terms of the alternative must be provided to the Director in writing and the Director will thereafter provide written notice of the terms of the proposed alternative to the victim. If the alternative is relocation, the Director shall also provide written notice to the law enforcement agency with jurisdiction in the location where relocation is proposed. The Hearings Officer shall not consider any proposed alternative until and unless such notice has been provided to all listed parties and they have been given a 10-day opportunity to submit written comments to the Hearings Officer concerning the terms of the proposed alternative. The alternative may only be accepted by the Hearings Officer as an alternative to euthanasia in the event that the Hearings Officer determines, based upon substantial evidence in the record, that all of the following conditions have been met:

(a) All costs associated with the quarantine and impoundment of the dog pending adjudication as provided at 6.18.070 have been paid, and;

(b) The alternative will have no additional costs to the City, and;

(c) ~~The~~ A relocation alternative shall include specific conditions concerning the future care, control, and supervision of the dog which satisfies the Hearings Officer that the dog is unlikely to repeat the behavior upon which a classification is based, including disclosure to subsequent owners of the dog's classification and the behavior which resulted in the classification. ~~as potentially dangerous or dangerous was or could have been based.~~ Removal from the city limits, without more, shall not satisfy this criteria. Examples of appropriate conditions, depending upon the behavior which resulted in the classification, may include prohibitions against ownership transfers to households containing minor children or other vulnerable parties, prohibitions on relocation to urban areas, or any other condition deemed by the Hearings Officer to be reasonably necessary to reduce the likelihood of reoffense.

(3) In the course of presenting an alternative as called for in Section 2 above, the burden of proof shall rest with the owner or person in control of the dog. In deciding upon an appropriate alternative, the Hearings Officer may, but is not required to, solicit the opinion of third parties who, in the exclusive discretion of the Hearings Officer, have special knowledge or expertise that may be helpful in fashioning an appropriate alternative.

(4) If an alternative is adopted for a dangerous dog, all of the terms thereof shall be incorporated into a written order.

#### **6.18.060 Penalty.**

The violation of any provision of this chapter shall be punishable subject to the penalties set forth in AMC 1.04.010. In addition to these penalties, the Municipal Court Judge may order the dog in question euthanized if the Judge finds that the owner of the dog has failed to comply with any of the requirements of this chapter after having received notification that the dog in question has been classified as a dangerous or potentially dangerous dog. (Ord. 4927 § 1, 1990; Ord. 4847 § 1, 1989).

#### **6.18.070 Quarantine or impoundment pending adjudication of infraction.**

(1) If the owner of any dog is cited for ~~an infraction based upon the~~ a violation of any provision of this chapter, the Director may **quarantine** or impound the dog pending adjudication of the ~~infraction violation~~ **violation** if, in the exercise of reasonable discretion he/she believes that the dog constitutes a threat to public safety and/or private property. If the dog's owner is ~~convicted of the infraction~~ **adjudged to have committed the violation** which caused the impoundment, the dog's owner shall pay to the City all costs incurred in the dog's **quarantine or** impoundment, and unless such costs are paid within 10 days of the ~~sentencing order, date when the owner is convicted of the infraction,~~ **sentencing order**, the dog shall be euthanized. Euthanasia shall not relieve the owner of his/her responsibility to pay **all quarantine or** impoundment costs previously incurred. (Ord. 4847 § 1, 1989)

(2) ~~If a~~ Any dog, considered for classification as potentially dangerous or dangerous may be **quarantined or impounded** if the Director or designee, in the exercise of reasonable discretion, believes that the dog constitutes a threat to public safety and/or private property. If the dog is ultimately classified as potentially dangerous or dangerous, the dog owner shall pay to the City all costs incurred in the dog's quarantine or impoundment and unless such costs are paid within 10 days of the final classification decision, the dog shall be euthanized. Euthanasia shall not relieve the owner of his/her responsibility to pay quarantine or impoundment costs previously incurred.