



NOTICE OF PUBLIC MEETING

DANGEROUS DOG ORDINANCE WORK GROUP
City Hall, Municipal Court Room
Tuesday, October 11, 2011
5:30 p.m.

AGENDA

1. CALL TO ORDER
2. APPROVAL OF MINUTES
 - September 13, 2011. [Pages 1-4]
Action: _____
3. SCHEDULED BUSINESS
 - a. Review of public comment on draft revisions to AMC 6.18, Dangerous Dogs. [Pages 5-27]
Action: _____
4. BUSINESS FROM THE WORK GROUP
5. NEXT MEETING DATE: *To be determined.*
6. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

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.



APPROVED:

DANGEROUS DOG WORK GROUP
City Hall, Municipal Court Room
Tuesday, September 13, 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 Sharon Konopa called the meeting to order at 5:32 p.m.

Holverson distributed copies of the Humane Society of America's definition of provocation.

APPROVAL OF MINUTES

August 16, 2011, August 22, 2011, and August 29, 2011

Konopa asked for a correction in the August 29, 2011, minutes to reflect that Olsen had made a motion to approve both the August 16 and August 22 minutes of the work group. The motion did not come to a vote. Smith noted that Dorland's and Konopa's names had been misspelled, and those had since been corrected.

MOTION: Collins moved to adopt all three sets of minutes; Azevedo seconded. Minutes were approved.

Continued Review of AMC 6.18, Dangerous Dogs

Delapoer said that he had added a new section: 6.18.055 – Notice of location of potentially dangerous dog in city. He said some other cities may use the term "problem dog" or another term. Holverson asked what if the dog comes to the pound. Delapoer said that we could exempt the pound and he can make the language more clear to make it not apply if the dog is at a vet's office for care. The notice is simply a notice and does not say that the City would do anything as a result. Dorland asked if it should make distinctions for different types of dogs such as a nipping dog or a fighting dog. Delapoer said that we don't have access to prior owners in other states. This notice gives local officials information that they didn't have earlier; it could be useful in evaluating subsequent behavior of the dog in Albany. Dorland said the goal for the police is to protect the public, they never have all the information; they could ask owners to provide a dog history before we allow it to come to Albany. Delapoer said that he will write the ordinance to exempt veterinary offices and pounds.

Frederick described moving to Albany some years ago with two dogs. He asked if, under the new language, he would have needed to come to City Hall to register the dogs. Delapoer said no. Frederick said that his point is, will people know they need to do this? He's not sure that dog owners will volunteer that information. Dorland said that he can recall getting a couple of calls from someone who thought a neighbor might have a dangerous dog; the calls prompted police to go out to talk to somebody. Being notified may or may not be enough, depending on the circumstances. Delapoer said that a new person coming to town doesn't go online to go over the Municipal Code. Collins said that the ordinance does need this section. Delapoer asked if this ordinance would make someone tell if the person is not honest.

Holverson said that the ordinance that has been fine for 20-some years but times have changes and circumstances have changed. Collins said that he doesn't want the Police Department to be hamstrung. They could use information from other locations to help in determining a dog's dangerousness. Dorland said that the identification requirement is one tool and providing the dog's history helps with public protection.

AMC 6.18.040 (9) Method for relieving a dog of a potentially dangerous designation.

Dorland said that he would prefer a two-year period to elapse before an owner can apply to have the classification lifted. Delapoer said the burden of proof is clearly on the dog's owner. Collins said that if a dog has the classification lifted but reoffends, it should not be allowed to have classification removed a second time. Delapoer said that he would leave that determination to the judge. Collins asked what if it reoffends while exercising the alternative resolution. Konopa said if a dog bites once, that should not be wiped away and a new owner should know the dog's background. Delapoer said the record is never expunged, but the designation can be lifted so it doesn't have to wear the special collar and can go off the property.

Holverson said an owner won't go through this unless they're convinced the dog has been rehabilitated. Dorland noted that new police officers have an 18-month probationary period. He feels strongly that dogs should have a two-year track record of good behavior before their classification is reconsidered. Olsen asked how a dog can have a track record if it has to be totally confined for two years. He said he couldn't imagine that it would take two years to have a dog retrained not to be dangerous. The dog should be retrained; then the trainer should write a report that the dog is no longer dangerous. Dorland said if a dog returns to the same owner and the same environment as before the training, it's likely to default to what it was used to before.

Collins suggested saying 12 months following the training. That gives the opportunity to take a look at the dog's behavior. Holverson said that this kind of training is going to take six months to a year. Delapoer asked where the ordinance says that it's going to be formal training. We don't have any standards. Delapoer said that he believes the judge won't want to get sued again; so the chance of the judge being hard-nosed is very small. Holverson said the idea that we're going to overwhelmed with dogs falling into this category isn't right either. Most dogs that have been designated to be euthanized have been euthanized.

Olsen said if the dog is locked in the back yard for two years, he'll go stir crazy. How can you train it under those circumstances? Dorland described how he trained his police canine.

Konopa said how about saying to remove the classification, the owner needs to get a sign-off by a dog behavioral specialist. Delapoer said that he's not aware of who issues such a license. What would it cost to have such a person train your dog? Delapoer asked also where that language should be placed in the ordinance. Discussion followed regarding alternative housing and retraining. Collins recommended taking housing out of the language.

Olsen said he thinks one year is more than enough. Azevedo asked if that was one year at conclusion of the training. Would that be enough to say the circumstance is OK or not OK? The cost of retraining is substantial, and it shows that the owner is taking some responsibility for the outcome. Dorland said he is completely on board with the retraining but believes two years should elapse afterward before considering lifting the classification from the dog.

Discussion followed concerning Section 6.18.040. Delapoer said it is not written with the intent that the dog can't leave the premises of the owner. Dorland said it needs to say the person is in control of the dog. Delapoer asked how he would prove that. Sometimes dangerous dogs are going to hurt people. He said he doesn't know how to write terms of control. Konopa suggested stating that any time it's off the owner's premises it has to be muzzled and on a leash. Such language will be added and the new subsection (9) deleted. A person won't be able to take the potentially dangerous dog to a dog park and let it run loose.

Collins suggested an amendment to allow consideration of lifting the classification two years after the initial classification or 12 months after completion of rehabilitation/training. Delapoer recommended that .050(5) spell out that a dog that is classified as dangerous, undergoes training pursuant to an alternative order, then reoffends, shall be euthanized. The group agreed to that; it protects the public.

Frederick asked about the microchip requirement; if the animal is eventually paroled, can the chip be reprogrammed to remove the classification. Dorland said information on the chip is maintained in a computer database; it can be changed by data entry. Delapoer said the most valuable thing about the chip is that we can prove it's the same dog.

Konopa reviewed the group's parking lot list:

- Definition of "serious injury." Delapoer asked if there should be a different definition based on status of the victim. To him, it seems that a dog that bites a baby is worse than one that bites only adults. How do we determine to whom the dog poses a danger? Some victims can be more seriously injured than others. Holverso

said, in Blue's case, he was still technically in the puppy stage when this started. (Scrivener's note: The audio recording of the meeting stopped at this point.) He asked if the doctor who examined the victim shouldn't be the one to determine if the injury is serious. Delapoer said that would preclude the dog's owner from getting an opinion from another doctor as evidence. Realistically, Delapoer said, the police are never going to go out and hire a doctor, on the first instance, to tell them the injury was serious. He is providing a vehicle so the owner could get his own doctor for a differing opinion. The group agreed that the definition in .010(13) would move to another place in the ordinance.

- Azevedo said all his concerns had been satisfied.
- Frederick said his concerns were satisfied.
- Holverson said he remained concerned about documentation and timely appeals. His main concern is that when a person files a complaint, they don't have to put anything in writing. The police don't have any kind of written notes to testify. He said he was talking to a state trooper and he relies on his notes entirely when he goes to court. Dorland said police agencies have different policies and procedures. He encourages his officers to take an audio recording of the person they talk to. (Scrivener's note: Audio recording began again here.) Delapoer said the term "observation" in 6.18.030(1) should be changed to "documentation." That could be a police officer writing down what s/he was told by the witnesses; it can't simply be somebody's memory.

Delapoer is concerned that it's all going to be expensive. We've made it a little more cumbersome, but maybe it won't happen often enough to be a problem. Dorland said it won't be a problem. In most cases, the dog's owner recognizes the problem and takes responsibility. In the rare cases where they don't, it will be more cumbersome. Delapoer said it does give the judge more flexibility. Dorland said his biggest concern is public safety. The ordinance is workable, officers can investigate, and are not so hamstrung that they can't protect the public.

- Provocation: Collins suggested adding a sentence at .020(3) to include the following: "**upon generally accepted definitions of provocation**" as defined by a nationally recognized animal organization. Delapoer said he could go with the first part but leave out the "nationally recognized animal organization." The only reason they write those standards, he said, is to prove there are no bad animals or no bad animal owners. Referring to the list that Holverson had provided, Delapoer said, if you accept this laundry list, no dog will ever be classified dangerous; as long as the dog's behavior fits one of these pegs, it's OK. Fredericks said he really agrees with the broader language in the existing code. It covers a lot more, allows the judge to maybe consider these in a hearing. Delapoer said it is up to good lawyering to explain why it was provocation. Holverson said he is not looking at these as a way of excusing a dog; he looks at it as extenuating circumstances that might apply. Azevedo said narrowing it to a list is a mistake for both parties; it takes away the chance to make the argument that it wasn't provoked because it was dangerous. Holverson said he feels that provocation needs to be recognized in this document. Delapoer suggested moving it to something to be considered at time of sentencing. That's really where abuse, torment, or provocation should be considered. Dorland said the Director also considers that in determining classification.

With consensus on draft ordinance language, Konopa discussed what happens next. She recommended asking for written public comments on the draft, bringing those comments back for this group's discussion, then taking a final product to the City Council for review. She thinks it would delay the process to take it to Council first. She said she thinks the Council vote will be split vote anyway. Frederick asked how ordinances are adopted. Konopa and Delapoer explained.

Azevedo said the group was charged with reconsidering the ordinance and coming up with a product to present to Council. Part of that process is to get public input and that hasn't been done yet. He believes it would be best to allow that process to go to fruition for a finished product to take to Council. Collins said this won't satisfy some people in the people in the community to exonerate Blue, but that has never been this group's intent. Holverson said we haven't rewritten the ordinance by any means, maybe made it a little more up to date. He said it's difficult to see why other Council members would object to it because they like the existing ordinance. Azevedo asked what would be the advantage of releasing the draft to the Council at this point. Collins said nothing he has seen in the public process includes public input to a draft before having a final draft. Frederick said he doesn't know how much public comment there would be. Konopa said public input was solicited at committee level with the Transient Room Tax Task Force and the Water Tax Force. With the Room Tax Task Force, the information went to Council and they didn't accept it anyway. She said it would be more constructive for the work group to try to get as much input as they can, in written form, then work with the input, with Delapoer and the Police Department to create a final draft. If public input goes to the full Council, they will be rehashing it all again. Collins said the benefit to the Council is they don't have to sit through all the nitpicking. Konopa said the final draft should come to a work session, then be placed on the consent calendar at the next regular Council meeting. Collins and Olsen said the ordinance should go through the standard adoption process rather³

than the consent calendar. Collins said he wants input on the draft document, not a reconsideration of the Blue case. If the group gets input on the Blue case, they're going in the garbage. Holverson said every time he sits down with his group and tries to bring them up to date, he has to remind them that's a different issue. Collins said the ordinance is there to protect public safety and provide equity for the dog.

Konopa said we need to get draft ordinance up on the website, get a news release out, and take written comments only on the draft document. Comments will be accepted for two weeks. The group will review those comments at another meeting on October 11. If necessary, the committee will meet again on October 17. Smith will e-mail the latest ordinance draft to the work group. If it's okay, she will proceed with posting it on the web and issuing the news release. Comments on the draft are due to Smith by Friday, September 23.

Comments on the draft that are not relevant to the ordinance, such as those related to the Blue case, will be set aside. Frederick said he would not be able to attend the October 11 meeting. Collins said it is critical that the Council hears from the three citizen members of this group, both at the work session and the regular Council meeting. The draft will be discussed at the November 7 Council work session and will be on the regular agenda November 9.

(Frederick left the meeting at 7:15 p.m.)

Collins said he will be hunting October 21-31; so he will miss the October 26 Council meeting.

Delapoer asked the group to assume this ordinance goes through. The Council could then ask the judge to reconsider Blue's disposition only as it pertains to alternative resolution. He doesn't think anybody is recommending that Blue just be released; all have been asking that he be rehabilitated. The judge could allow the owner to ask for an alternative to euthanasia but not the classification of dangerous. The new ordinance does not affect the appeal. The reason we're going through all of this is Blue, Delapoer said, but it's to apply citywide. Collins said he thinks the attorney for Blue will drop the case if the Council allows an alternative order. Holverson said he thinks so, too. Collins said they need to propose it because they're the ones who brought the suit. Delapoer said everything he's received from the attorney is that he won't consider anything that results in Blue being euthanized.

Holverson asked, where did we end up with not allowing these dogs to leave the city. Delapoer said leaving the city alone is not enough; the owner has to come up with an alternative order.

The group can always get copies of the tapes of the work group's meetings.

Discussion followed regarding the Blue supporters' request for public information regarding payments to Gerald Warren. The request has been denied. Holverson said that group wants to know how much this has cost the City? Delapoer said their request was for how much Mr. Warren's attorney's fees are. Azevedo asked what is the value of that in the issue of trying to save the dog? What do you gain by that? The owner of the dog is why this is taking so long. He doesn't really understand what that's accomplishing. The City's just responding to the circumstance. Holverson said the Blue committee's legal counsel suggested it might be helpful to know that. Delapoer said if the committee has a lawyer, they should be corresponding with the City through their attorney.

Next meeting date: 5:30 p.m., Tuesday, October 11, 2011, Municipal Court Room.

Meeting adjourned at 7:26 p.m.

Respectfully submitted,

Marilyn Smith
Management Assistant /Public Information Officer



TO: Dangerous Dog Ordinance Work Group
FROM: Marilyn Smith, Management Assistant/Public Information Officer *mms*
DATE: October 7, 2011, for October 11, 2011, Meeting
SUBJECT: Public Comment on Proposed Revisions to Albany Municipal Code 6.18

City staff posted the work group's revisions to AMC 6.18, Dangerous Dogs, on the City's website on Wednesday, September 21, 2011, and called for written public comments to be received no later than 5:00 p.m., Friday, October 7, 2011.

For your convenience, the first attachment is a color copy of this work group's draft revisions.

The City received written comments from 11 persons with suggestions for several changes in the work group's draft. The individual suggestions and comments are incorporated into the attached document titled "*Public Comment on Draft Ordinance Revisions.*" Each suggested change is marked with the proposer's initials.

Eight more individuals endorsed a broader revision of the work group's draft. Their revisions are shown in the attached document titled "*Group Revisions.*"

An additional suggestion, from the editor of the *Albany Democrat-Herald*, is included. This packet includes the October 5, 2011, editorial and a copy of Oregon Revised Statute 609.015-.115, which includes the editorial reference of .093.

All of the public comment received during the comment period will be available at your October 11 meeting for your review.

MMS:ldh
Attachments 4
c: Jim Delapoer, City Attorney
Casey Dorland, Police Lieutenant

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Dangerous Dog Work Group's Draft

Draft Ordinance Revisions

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.**
- 6.18.055 Notice of location of potentially dangerous or dangerous dog in city.**
- 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 ten (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.**

(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 thirty (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 that is proposed for classification as dangerous or potentially dangerous.

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~~ **documentation** 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~~ **fifteen (15)** 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. **Information concerning medical condition rendered by a medical doctor may be presented as testimony at the hearing or in writing. Any written medical information offered at the hearing shall be made available to the Director, owner, and victim at least five (5) days prior to the hearing. 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 ninety (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 **off-leash** access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded. **A potentially dangerous dog shall not be allowed off the premises of the owner or keeper except while on a leash not to exceed __ feet in length and while wearing a muzzle of sufficient strength and construction to prevent the dog from biting a human or animal.**

(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).

(9) The owner of any dog classed as potentially dangerous may apply to the Director, after the expiration of at least two (2) years from the date of original classification or one (1) year following completion of training conducted by a licensed veterinarian board certified in the specialty of veterinary behavior, to have the classification as "potentially dangerous" removed as follows:

(a) If an application follows training by a board-certified veterinary behavioral specialist, the application must be accompanied by a written statement from the trainer describing the course of training and results thereof.

(b) If the application is based on any circumstance other than the training described in (a) above, the application must be accompanied by a written statement describing the grounds for the requested relief.

(c) The application must be accompanied by an application fee in an amount to be set by the City Council by separate resolution.

(d) The classification of "potentially dangerous" shall only be removed if the Director or Hearings Officer has received clear and convincing evidence that the dog is unlikely to ever again engage in behavior justifying a dangerous or potentially dangerous classification.

(e) The Director shall notify the owner of his/her decision in writing; and if the Director declines to remove the potentially dangerous classification, the owner may appeal the Director's decision to the Hearings Officer by filing, with the Director, a written request for a hearing. The request for a hearing must be received by the Director within fifteen (15) days following whichever first occurs:

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

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

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

(f) The Hearings Officer shall hold a public hearing on an appeal from the Director's decision not to lift the classification that a dog is potentially dangerous. The owner and any other person having relevant evidence concerning the dog's rehabilitation or other circumstances which make it unlikely that the dog will ever re-offend may 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 the recording. The Hearings Officer shall issue an order containing his/her determination which shall be final.

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 ten- (10) day opportunity to submit written comments to the Hearings Officer concerning the terms of the proposed alternative. In considering a proposed alternative, the Hearings Officer shall take into consideration the extent to which abuse, torment, or provocation, while not excusing the dog's behavior, may have been a factor in the behavior and the extent to which the proposed alternative mitigates against a reoccurrence of these factors. 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) 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. 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.

(5) A dog which, subsequent to adoption of an alternative order, again engages in behavior from which it could be classified as dangerous or potentially dangerous shall be euthanized.

6.18.055 Notice of location of potentially dangerous or dangerous dog in city.

(1) No person shall keep within the city any dog which has previously been classified as potentially dangerous or dangerous by any jurisdiction other than the City of Albany without providing notice to the City as required herein. This requirement shall also apply to any dog that has received any classification or designation by any jurisdiction other than the City of Albany as a result of the dog having cause injury to any person or animal. The notice required herein shall be given in writing to the Albany Police Department within five (5) days of the animal first being kept within the city and shall contain the following information:

- (a) **The name, address, and date of birth of the animal's owner or keeper; and**
- (b) **The address at which the animal will be kept; and**
- (c) **The jurisdiction which classified the dog; and**
- (d) **The behavior from which the classification resulted.**

(2) This section shall not apply to dogs brought into the city by any unit of government for purposes of impoundment or quarantine or by any person for veterinary care.

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 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, 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) 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.

**Public Comment on
Draft Ordinance Revisions
Chapter 6.18
DANGEROUS DOGS
October 7, 2011**

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.**
- 6.18.055 Notice of location of potentially dangerous or dangerous dog in city.**
- 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 the humane 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 ten (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.**

Comment [mms1]: EH --Obtuse. Could the meaning and differences be explained more clearly?

Comment [mms2]: EH -- director needs to have professional dog handling experience or must officially seek advice of dog experts with recorded documentation or court appearance. Professional dog handling experience mand a veterinarian, a dog rehabilitation expert, a Humane Society or PETA dog handler, or any other professional dog handler.

Comment [mms3]: EH -- Hearings Officer also needs professional dog handling experience or mus officially seek advice of dog experts with recorded documentation or court appearance.

Comment [mms4]: LF

Comment [mms5]: JA -- "Might want to add to the definition of quarantine as a requirement due to the dog biting and breaking the skin, per state requirement for "bite quarantine" 10 confinement of dog."

Comment [mms6]: JA -- "bite wound does not need a definition of size, minimal or maximum" Question: how does your definition of "serious injury" also pertain to another animal, As I read the definition, I can see how it pertains to a person but another animal might be questionable.

G:\Dangerous Dog Work Group (August 2011)\Public comment_Draft Ordinance Revisions - AMC 6.18, Dangerous Dogs.doc\U:\Administrative Services\City Manager's Office\Dangerous Dog Work Group (August 2011)\Draft Ordinance Revisions - AMC 6.18, Dangerous Dogs.doc

(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 thirty (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 that is proposed for classification as dangerous or potentially dangerous.**

Comment [mms7]: EH – 10 days. 30 days is too long with an animal in captivity.

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 documentation 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 fifteen (15) ten (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 **or concerned citizen or entity, such as animal welfare group,** having relevant evidence concerning the dog's behavior as specified in AMC 6.18.020 shall be allowed to present testimony. **Information concerning medical condition rendered by a medical doctor may must be presented as testimony at the hearing or in writing. Any written medical information offered at the hearing shall be made available to the Director, owner, and victim at least five (5) days prior to the hearing. 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**

Comment [mms8]: TC -- "The dog should be entitled to a medical opinion as part of the procedure, not on the Director's whim."

Comment [mms9]: WM – "Owner of the suspect dog should be required to show proof of liability insurance. Any truly dangerous animal will be dealt with by his owners when they get the bill from the insurance company that really assesses risk and charges accordingly."

Comment [mms10]: RK

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Comment [mms11]: EH – Delete. Mail service is too slow with animal in captivity.

Comment [mms12]: TAW

Comment [mms13]: TAW – should specify that this includes veterinarians and/or animal behavior specialists and that testimony can be presented in person or in writing.

Comment [mms14]: EH

Comment [mms15]: RK recommends deletion. "Our tax money could be better used elsewhere."

Comment [mms16]: EH – "This is simply not good business and can easily be misused, such as the City Council refusing to show a video at a Council meeting because supposedly the standard equipment needed wasn't furnished or available."

Comment [mms17]: EH – "only if the Hearings officer has professional dog handling experience or calls in that area."

Comment [mms18]: EH: " only if the Hearings Officer has first-hand professional dog handling experience."

~~request supplemental evidence or continue the hearing simply because a party to the proceeding does not present compelling evidence.~~

Comment [mms19]: EH

(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 ninety (90) days of the quarantine or impoundment of the dog in question.

Comment [mms20]: TC – should be 90 days maximum from designation to final hearing

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 **off-leash** access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded. **A potentially dangerous dog shall not be allowed off the premises of the owner or keeper except while on a leash not to exceed 6 feet in length and while wearing a muzzle of sufficient strength and construction to prevent the dog from biting a human or animal.**

Comment [mms21]: LF

(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 ~~1~~ **\$25** 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.

Comment [mms22]: LF

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(4) Notify the Director by certified mail where the dog is kept within 10 ~~14~~ days of any change.

Comment [mms23]: LF

(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.

Comment [mms24]: JA: Might want to also notify the victim and neighbors or the owner/keeper of the classified dog that said dog will be located in their area. I know that signage should be enough to notify neighbors but better safe than sorry. Ditto if dog is re-classified. May also think of informing the owner/keeper’s insurance company.

(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).

(9) The owner of any dog classed as potentially dangerous may apply to the Director, after the expiration of at least two (2) years from the date of original classification or one (1) year following completion of training conducted by a licensed veterinarian board certified in the specialty of veterinary behavior, to have the classification as “potentially dangerous” removed as follows:

Comment [mms25]: RK does not agree. “Owners of potentially dangerous dog breeds should keep a vigilant eye on dog and restrain dog from becoming at large.”

(a) If an application follows training by a board-certified ~~veterinary-animal~~ behavioral specialist, the application must be accompanied by a written statement from the trainer describing the course of training and results thereof.

Comment [mms26]: JA – consider changing to “animal” behavior

(b) If the application is based on any circumstance other than the training described in (a) above, the application must be accompanied by a written statement describing the grounds for the requested relief.

Comment [mms27]: JA

(c) The application must be accompanied by an application fee ~~in an amount not to exceed \$75 to as be set~~ by the City Council by separate resolution.

Comment [mms28]: JA – Question: what type of liability would fall upon the City if the said dog is re-classified by an unqualified trainer? Example: dog was retrained by neighbor not to be aggressive because he trains dogs to hunt.

(d) The classification of “potentially dangerous” shall only be removed if the Director or Hearings Officer has received clear and convincing evidence that the dog is unlikely to ever again engage in behavior justifying a dangerous or potentially dangerous classification.

Comment [mms29]: JA – the dog’s classification came about because the owner/keeper was negligent. Should the owner/keeper go through retraining with the dog and be confirmed by the same trainer as having done so?

(e) The Director shall notify the owner of his/her decision in writing; and if the Director declines to remove the potentially dangerous classification, the owner may appeal the Director’s decision to the Hearings Officer by filing, with the Director, a written request for a hearing. The request for a hearing must be received by the Director within fifteen (15) days following whichever first occurs:

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(i) ~~The date of mailing of the notice to the owner~~ receives notice by certified mail;

Comment [mms30]: LF

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

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

(f) The Hearings Officer shall hold a public hearing on an appeal from the Director's decision not to lift the classification that a dog is potentially dangerous. The owner and any other person having relevant evidence concerning the dog's rehabilitation or other circumstances which make it unlikely that the dog will ever re-offend may 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 the recording. The Hearings Officer shall issue an order containing his/her determination which shall be final.

Comment [mms31]: EH – "It is too easy to claim part of the recording damaged when it might be an integral part of the defense of the animal."

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).

Comment [mms32]: TAW – should include "by a veterinarian." Strike first clause of next sentence.

(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 ten- (10) day opportunity to submit written comments to the Hearings Officer concerning the terms of the proposed alternative. In considering a proposed alternative, the Hearings Officer shall take into consideration the extent to which abuse, torment, or provocation, ~~while not excusing the dog's behavior,~~ may have been a factor in the behavior and the extent to which the proposed alternative mitigates against a reoccurrence of these factors. 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:

Comment [mms33]: TAW – add "a concerned citizen or entity, such as animal welfare group" with means and ability to safely and effectively put the alternative into place

Comment [mms34]: LF
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(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) 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. 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.

(5) A dog which, subsequent to adoption of an alternative order, again engages in behavior from which it could be classified as dangerous or potentially dangerous shall be euthanized.

Comment [mms35]: EH

Comment [mms36]: EH – "unless the Hearings Officer is a professional dog handler or calls for professional opinion."

Comment [mms37]: RK disagrees with this section.

Comment [mms38]: JA – I have a problem with this because even after the dog has been classified as a dangerous dog by definition, the dog can still be given "one more chance" event though it has been proven that it is dangerous to the public or other animals. Usually a dog will not be classified as a dangerous dog unless there are prior issues with the dog.

Comment [mms39]: DG – "We should take care of our own problems and not transport for another community to take... Other communities would see us as needing to accept dangerous dogs because we sent problems to other areas."

Comment [mms40]: TAW – "It is impractical to expect a dog owner to know this is the law before they move to Albany and become a resident, presumably with their pet. What could possibly be a reasonable consequence to determining someone had moved here with a dog identified as dangerous by another jurisdiction?"

6.18.055 Notice of location of potentially dangerous or dangerous dog in city.

(1) No person shall keep within the city any dog which has previously been classified as potentially dangerous or dangerous by any jurisdiction other than the City of Albany without providing notice to the City as required herein. ~~This requirement shall also apply to any dog that has received any classification or designation by any jurisdiction other than the City of Albany as a result of the dog having cause injury to any person or animal. The notice required herein shall be given in writing to the Albany Police Department within five (5) days of the animal first being kept within the city and shall contain the following information:~~

- (a) The name, address, and date of birth of the animal's owner or keeper; and
- (b) The address at which the animal will be kept; and
- (c) The jurisdiction which classified the dog; and
- (d) The behavior from which the classification resulted.

(2) This section shall not apply to dogs brought into the city by any unit of government for purposes of impoundment or quarantine or by any person for veterinary care.

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** 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, the dog shall be euthanized. Euthanasia~~**The outcome of the senteing shall** shall not relieve the owner of his/her responsibility to pay **all quarantine or** impoundment costs previously incurred. (Ord. 4847 § 1, 1989)

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 Comment [mms42]: LF

(2) 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.

(3) If the Director or designee or the Hearings Officer finds that the owner's neglect or other action contributed to the dog's dangerous behavior, the owner shall be prohibited from owning other dogs for the duration of his or her residency in the city of Albany.

Comment [mms43]: JBCF

Additional requested addition:

- **Use qualified humane resource for boarding dog during litigation; contract it out, do not use county pound.**
- **Set a reasonable limit on time for litigation since a live animal is involved. (EH)**

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- JA: John Adair
- JBCF: John Byrne and Cheryl French
- TC: Terry L. Crook
- LF: Lloyd Fenwick
- EH: Ellen Hamill
- DG: Doug Grimmerius
- RK: Reema Khasawinah
- WM: Ward Mackey
- TAW: Troy and Andrea Wirth

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GROUP REVISIONS

1 Draft Ordinance Revisions Chapter 6.18 DANGEROUS DOGS

Sections:

10 Definitions.

20 Classification of levels of dangerousness.

30 Identification of dangerous and potentially dangerous dogs – Appeals – Restrictions pending appeal.

40 Regulation of potentially dangerous dogs.

50 **Consequence of a determination that a dog is dangerous.**

55 Notice of location of potentially dangerous or dangerous dog in city.

60 Penalty.

70 **Quarantine or** impoundment pending adjudication.

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 who is an experienced veterinarian, professional dog trainer or animal shelter operator familiar with dog behaviors, causes and amenability to behavior change.**

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

(5) (6) “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.

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

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

(8) “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.

(9) “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 a humane animal control facility or any other secure facility designated for such purpose. The Director shall have the authority to specify impoundment conditions reasonably necessary to protect the physical or mental health of the impounded dog while still protecting the public.

“Serious injury” means any physical injury that results in a broken bone or **impairment of any organ, limb, or digit reasonably anticipated to have a duration of more than ten (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.

(10) "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 a) abuse or torment of the dog, b) provocation **or c) intervention by the injured party in a fight between the dog and another animal.** "Provocation" includes an action that an experienced veterinarian would find reasonably foreseeable of eliciting the dog behavior in question. 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 \square 1, 1989).

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

(5) Any City police officer or animal control officer may quarantine or impound any dog that is proposed for classification as dangerous or potentially dangerous.

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

(6) 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 a police investigation that includes a sworn statement **documenting the dog's behavior by animal control officers or by other witnesses who personally observed the behavior and photographs and certified copies of medical records documenting injuries.**

(7) The city shall give the dog's owner written notice of the Director's determination 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 City Council by filing, with the city Director, a written request for hearing. The request for hearing must be received, by the City, within fifteen (15) 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 City Council 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 sworn testimony subject to cross examination by the other parties. Medical chart notes and treatment records of the victim regarding the injuries at issue may be presented **at the hearing in writing. Letters or statements of a medical officer seeking to address ordinance criteria shall not be presented at the hearing unless the medical officer is present and subject to cross examination. The hearing shall be audio recorded by the City Council and the entire hearing shall be conducted on the record..** The City Council shall determine whether the behavior specified in AMC 6.18.020 was exhibited by the dog in question. The **City Council** shall issue an order containing the City Council's determination, which shall be final. **The City Council may recess the hearing to a later date and request that either party provide additional evidence if City Council determines that such evidence would be helpful to the decision. Failure by a party to provide the requested evidence may be considered by the City Council. in making a decision, but the City Council 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 \square 1, 1989).

(6) The City Council shall be expected, absent unusual circumstances, to make the classification within ninety (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 **off-leash** access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded.

(2) A potentially dangerous dog shall not be allowed off the premises of the owner or keeper except while on a leash not to exceed __ feet in length and, if the Director finds warranted wearing a muzzle of sufficient strength and construction to prevent the dog from biting a human or animal.

(3) 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.

(4) 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.

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

(6) 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.

(7) 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.

(8) Keep the dog licensed by the applicable licensing authority.

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

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

(10) The owner of any dog classed as potentially dangerous may apply to the Director, after the expiration of at least two (2) years from the date of original classification or one (1) year following completion of training conducted by a licensed veterinarian board certified in the specialty of veterinary behavior or a police dog handler trainer, to have the classification as "potentially dangerous" removed as follows:

(a) If an application follows training by a board-certified veterinary behavioral specialist or a police dog handler trainer, the application must be accompanied by a written statement from the trainer describing the course of training and results thereof.

(b) If the application is based on any circumstance other than the training described in (a) above, the application must be accompanied by a written statement describing the grounds for the requested relief.

(c) The application must be accompanied by an application fee in an amount to be set by the City Council by separate resolution.

(d) The classification of "potentially dangerous" shall only be removed if the Director or City Council has received evidence from which it concludes that the dog is unlikely to ever again engage in behavior justifying a dangerous or potentially dangerous classification.

(e) The City shall notify the owner of the Director's decision in writing; and if the Director declines to remove the potentially dangerous classification, the owner may appeal the Director's decision to the City Council by filing, with the City, a written request for a hearing. The request for a hearing must be received by the City within fifteen (15) days following whichever first occurs:

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

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

(iii) The date when the owner acquired actual knowledge of the

information required to be contained in the notice.

(f) The City Council shall hold a public hearing on an appeal from the Director's decision not to lift the classification that a dog is potentially dangerous. The owner and any other person having relevant evidence concerning the dog's rehabilitation or other circumstances which make it unlikely that the dog will ever re-offend may present sworn testimony, subject to right of cross examination. The hearing shall be audio recorded by the City Council. The City Council shall issue an order containing the City Council's determination which shall be final.

6.18.055 Notice of location of potentially dangerous or dangerous dog in city.

(1) No person shall keep within the city any dog which has previously been classified as potentially dangerous or dangerous by any jurisdiction other than the City of Albany without providing notice to the City as required herein. This requirement shall also apply to any dog that has received any classification or designation by any jurisdiction other than the City of Albany as a result of the dog having cause injury to any person or animal. The notice required herein shall be given in writing to the Albany Police Department within five (5) days of the animal first being kept within the city and shall contain the

following information:

(g) The name, address, and date of birth of the animal's owner or keeper; and (b) The address at which the animal will be kept; and (c) The jurisdiction which classified the dog; and (d) The behavior from which the classification resulted.

(1) This section shall not apply to dogs brought into the city by any unit of government for purposes of impoundment or quarantine or by any person for veterinary care.

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.

6.18.070 Quarantine or impoundment pending adjudication of infraction.

(7) If the owner of any dog is cited for a violation of this chapter, the Director may **quarantine or** impound the dog pending adjudication of the **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 **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 the later of 10 days of the **sentencing order or conclusion of appeals**, the dog shall transferred to a private nonprofit shelter for adoption out subject to conditions determined by the Director, unless the affirmed decision requires that the dog 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)

(8) Any dog considered for classification as potentially dangerous or dangerous may be quarantined or impounded if the Director, 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. If the dog is found not to be potentially dangerous or dangerous, the City shall pay all costs incurred in the dog's quarantine or impoundment



Dogs in ORS

Albany Mayor Sharon Konopa has asked for public comment on a draft of changes in the city's dangerous-dog ordinance.

The work group was trying to find a way by which a dangerous dog could be given another chance. It proposed an array of conditions that make such an alternative very unlikely to be adopted in the case of any dog.

Instead, the panel might have copied the section of the state law which lists, in ORS 609.093, the factors a board or court should consider before deciding whether a dog that has bitten someone should be killed.

The main factors include, among others, the circumstances and severity of the bite, the impact of keeper actions on the behavior of the dog, whether the dog can be relocated to a secure facility, the effect a transfer of the dog to another keeper would have on public safety, and "behavior by the dog before and since the biting."

(The last one surely would give Blue a break.)

These factors sound reasonable and complete. If they are good enough for the state, the reason for Albany having a much more complicated and lawyerly dog law is hard to see. (hh)

Editorial in DH - October 5, 2011

DOG CONTROL

609.010 [Amended by 1959 c.618 §1; 1967 c.495 §1; 1975 c.749 §2; 1987 c.415 §1; 1993 c.252 §6; 1999 c.658 §4; 1999 c.756 §15; 2001 c.636 §6; repealed by 2005 c.840 §9]

609.015 Application of ORS 609.030 and 609.035 to 609.110. (1) ORS 609.030 and 609.035 to 609.110 apply in every county except as otherwise provided by county charter or ordinance. ORS 609.030 and 609.035 to 609.110 do not limit the powers of cities and counties to adopt ordinances and regulations relating to the control of dogs.

(2) A county dog licensing and control program shall not apply within the limits of a city that has its own dog licensing and control program. [1967 c.496 §3; 1977 c.237 §1; subsection (2) enacted as 1977 c.802 §2; 1999 c.756 §16]

609.020 Dogs as personal property. Dogs are hereby declared to be personal property.

609.030 Establishing dog control district; appointment of supervisors; enforcement; county governing body as supervisors; dog control officer. (1) The governing body of any county may declare the county a dog control district.

(2) Upon declaration of the dog control district the county governing body may appoint a board of supervisors, and provide for the terms, compensation and other aspects of service by board members, at least two of whom shall be connected directly or indirectly with the livestock industry.

(3) The board may issue licenses and enforce all of the county and state laws relating to the control of dogs within the county, including that of making arrests and shall perform such other duties as the county governing body may assign to it.

(4) The county governing body may elect to act as the board of supervisors of the dog control district.

(5) The county governing body may provide for appointment of a dog control officer and otherwise provide for administration and enforcement of a dog control program. [Amended by 1957 c.79 §1; 1963 c.398 §1; 1975 c.297 §1; 1977 c.189 §9]

609.035 Definitions for ORS 609.035 to 609.110 and 609.990. As used in ORS 609.035 to 609.110 and 609.990:

(1) "Dog control board" means a group of persons whose duties include, but need not be limited to, fulfilling the duties of a dog control district board of supervisors as described in ORS 609.030.

(2) "Dog control officer" means a person whose duties include, but need not be limited to, enforcing the dog control laws for a dog control district.

(3) "Keeper" means a person who owns, possesses, controls or otherwise has charge of a dog, other than:

(a) A licensed business primarily intended to obtain a profit from the kenneling of dogs;

(b) A humane society or other nonprofit animal shelter;

(c) A facility impounding dogs on behalf of a city or county; or

(d) A veterinary facility.

(4) "Menaces" means lunging, growling, snarling or other behavior by a dog that would cause a reasonable person to fear for the person's safety.

(5) "Potentially dangerous dog" means a dog that:

(a) Without provocation and while not on premises from which the keeper may lawfully exclude others, menaces a person;

(b) Without provocation, inflicts physical injury on a person that is less severe than a serious physical injury; or

(c) Without provocation and while not on premises from which the keeper may lawfully exclude others, inflicts physical injury on or kills a domestic animal as defined in ORS 167.310.

(6) "Running at large" means that a dog is off or outside of the premises from which the keeper of the dog may lawfully exclude others, or is not in the company of and under the control of its keeper, except if the dog is:

(a) Being used to legally hunt, chase or tree wildlife while under the supervision of the keeper;

(b) Being used to control or protect livestock or for other activities related to agriculture; or

(c) Within any part of a vehicle.

(7) "Serious physical injury" has the meaning given that term in ORS 161.015. [2005 c.840 §4]

609.040 Election to determine whether dogs may run at large. (1) When the petition of 100 or more electors of any county is filed with the county clerk 45 days before the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in the county.

(2) On the petition of 15 or more electors of an election precinct in any county being filed with the county clerk 45 days before the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in that precinct.

(3) On the petition of 20 or more electors of any incorporated city or precinct being filed with the county clerk before the time of giving notice of the general or special election in any year, the county clerk shall cause notice to be given that at the election a vote will be taken for and against permitting dogs to run at large in the city.

(4) The provisions of this section shall not apply to areas in the county inside a city that has an established dog licensing program. [Amended by 1977 c.802 §4]

609.050 [Amended by 1967 c.496 §1; repealed by 1977 c.802 §15]

609.060 Notice of election result; dogs running at large prohibited; deposit of fees and fines. (1) If a majority of all votes cast in the election provided for by ORS 609.040 is against permitting dogs to run at large, or if the governing body of the county by ordinance prohibits dogs from running at large, the county shall give notice, by publication in some newspaper having a general circulation in the county, and in the election precinct if the prohibition of dogs running at large affects any one precinct only, for three consecutive weeks.

(2) After 60 days from the date of the notice, every person keeping a dog shall prevent the dog from running at large in any county, city or precinct where prohibited. A person who is the keeper of a dog is guilty of a violation if the dog runs at large in a county, city or precinct where prohibited.

(3) County license fees and the penalty for violation of subsection (2) of this section or ORS 609.100, when collected, shall be paid into the county treasury, and kept in a special fund. [Amended by 1965 c.499 §1; 1977 c.802 §5; 1999 c.658 §5]

609.070 [Repealed by 1969 c.677 §5]

609.080 [Amended by 1959 c.618 §2; repealed by 1967 c.495 §4]

609.090 Impounding certain dogs; procedure for county disposition of impounded dogs; impoundment fees and costs; release of dog. (1) A law enforcement officer or dog control officer may cite a keeper, impound a dog, or both if:

(a) The dog is found running at large in violation of ORS 609.060;

(b) The dog is a public nuisance as described by ORS 609.095; or

(c) The officer has probable cause to believe that the dog is a dangerous dog as defined in ORS 609.098.

(2) All dogs impounded under this section and ORS 609.030 shall be held in an adequate and sanitary pound to be provided by the county governing body from the general fund or out of funds obtained from dog licenses and from the redemption of dogs so im-

pounded. However, in lieu of the establishment of a dog pound, the county governing body may contract for the care of the dogs. Unless claimed by its keeper, a dog shall be impounded for at least three days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the keeper of a dog before the dog is removed from impoundment.

(3) Unless the dog control board or county governing body provides otherwise, if the keeper appears and redeems the dog, the keeper shall pay a sum of not less than \$10 for the first impoundment and not less than \$20 for each subsequent impoundment and also pay the expense of keeping the dog during the time it was impounded. If the dog is unlicensed the keeper shall also purchase a license and pay the applicable penalty for failure to have a license. If the keeper is not the owner of the dog, the keeper may request that a license purchased by the keeper under this subsection be issued in the name of the dog owner.

(4) In addition to any payment required pursuant to subsection (3) of this section, a dog control board or county governing body may require as a condition for redeeming the dog that the keeper agree to reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization.

(5) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under subsection (4) of this section or if a keeper fails to provide acceptable proof of compliance to the dog control board or county governing body on or before the 10th day after issuance of the order imposing the restrictions. If the board or governing body finds the proof submitted by the keeper unacceptable, the board or governing body shall send notice of that finding to the keeper no later than five days after the proof is received.

(6) If no keeper appears to redeem a dog within the allotted time, the dog may be killed in a humane manner. The dog control board or county governing body may release the dog to a responsible person upon receiving assurance that the person will properly care for the dog and upon payment of a sum established by the county governing body plus cost of keep during its impounding, and purchase of a license if required. The person shall thereafter be the keeper of the dog for purposes of ORS 609.035 to 609.110.

(7) If the keeper of a dog is not charged with violating ORS 609.095 (2) or (3) or ORS 609.098, and the dog control board or county

governing body finds that the dog has menaced or chased a person when on premises other than the premises from which the keeper may lawfully exclude others or has bitten a person, the dog control board or county governing body may order that the dog be killed in a humane manner. Before ordering that the dog be killed, the board or governing body shall consider the factors described in ORS 609.093 and issue written findings on those factors. Notwithstanding ORS 34.030, if the disposition order issued by the board or governing body provides that the dog is to be killed, a petition by the keeper for a writ of review must be filed no later than the 10th day after the dog control board or county governing body sends notice of the order to the keeper. Notwithstanding ORS 19.270, 19.330 and 34.070, the order for the killing of the dog may not be carried out during the period that the order is subject to review or appeal. If the dog is not killed, the board or governing body may impose reasonable restrictions on the keeping of the dog. The keeper must pay the cost of complying with the reasonable restrictions.

(8) If the keeper of a dog is charged with violating ORS 609.095 (2) or (3) or 609.098, upon conviction of the keeper the court may determine the disposition of the dog as provided under ORS 609.990.

(9) Notwithstanding subsections (2), (3), (6), (7) and (8) of this section, any dog impounded for biting a person shall be held for at least 10 days before redemption or destruction to determine if the dog is rabid.

(10) Notwithstanding subsections (2) and (3) of this section, if the keeper is charged with violating ORS 609.098, the dog shall be kept in impoundment pending resolution of the charges. A court may order the keeper to post a deposit with the dog control board or county governing body to cover the cost of keeping the dog in impoundment. If the keeper is convicted of violating ORS 609.098, the court may order the deposit forfeited to the board or governing body.

(11) A dog control board or county governing body may impose lesser fees or penalties under subsections (3) and (6) of this section for certain senior citizens under certain circumstances. [Amended by 1953 c.571 §2; 1957 c.79 §2; 1963 c.237 §1; 1963 c.585 §1; 1967 c.495 §2; 1969 c.677 §4; 1973 c.655 §3; 1975 c.499 §1; 1977 c.802 §6; 1999 c.658 §§6,6a; 2001 c.636 §7; 2005 c.840 §5]

609.092 [1977 c.802 §14; repealed by 1999 c.1051 §299]

609.093 Considerations prior to disposing of chasing, menacing or biting dog. In determining whether a dog should be killed as provided under ORS 609.090 (7) or 609.990 (6), a dog control board, county governing body or court shall consider the following factors:

(1) If the dog has bitten a person, the circumstances and severity of the bite;

(2) Whether the keeper has a history of maintaining dogs that are a public nuisance;

(3) The impact of keeper actions on the behavior of the dog;

(4) The ability and inclination of the keeper to prevent the dog from chasing or menacing another person on premises other than the premises from which the keeper may lawfully exclude others or from biting another person;

(5) Whether the dog can be relocated to a secure facility;

(6) The effect that a transfer of the keeping of the dog to another person would have on ensuring the health and safety of the public;

(7) Behavior by the dog before or since the biting, chasing or menacing; and

(8) Any other factors that the board, governing body or court may deem relevant. [1999 c.658 §2; 2001 c.636 §8; 2005 c.840 §6]

609.095 Dog as public nuisance; public nuisance prohibited; complaint. (1) A dog is a public nuisance if it:

(a) Chases persons or vehicles on premises other than premises from which the keeper of the dog may lawfully exclude others;

(b) Damages or destroys property of persons other than the keeper of the dog;

(c) Scatters garbage on premises other than premises from which the keeper of the dog may lawfully exclude others;

(d) Trespasses on private property of persons other than the keeper of the dog;

(e) Disturbs any person by frequent or prolonged noises;

(f) Is a female in heat and running at large; or

(g) Is a potentially dangerous dog, but is not a dangerous dog as defined in ORS 609.098.

(2) The keeper of a dog in a county, precinct or city that is subject to ORS 609.030 and 609.035 to 609.110 maintains a public nuisance if the dog commits an act described under subsection (1) of this section. Maintaining a dog that is a public nuisance is a violation.

(3) A keeper of a dog maintains a public nuisance if the keeper fails to comply with reasonable restrictions imposed under ORS 609.990 or if a keeper fails to provide acceptable proof of compliance to the court on or before the 10th day after issuance of the order imposing the restrictions. If the court finds the proof submitted by the keeper un-

acceptable, the court shall send notice of that finding to the keeper no later than five days after the proof is received.

(4) Any person who has cause to believe a keeper is maintaining a dog that is a public nuisance may complain, either orally or in writing, to the county, precinct or city. The receipt of any complaint is sufficient cause for the county, precinct or city to investigate the matter and determine whether the keeper of the dog is in violation of subsection (2) or (3) of this section. [1973 c.655 §2; 1977 c.802 §7; 1999 c.658 §8; 1999 c.756 §18; 2001 c.636 §9; 2001 c.926 §15; 2005 c.840 §7]

609.097 [1975 c.499 §4; 1999 c.658 §9; 2001 c.636 §10; repealed by 2005 c.840 §9]

609.098 Maintaining dangerous dog. (1) As used in this section, "dangerous dog" means a dog that:

(a) Without provocation and in an aggressive manner inflicts serious physical injury, as defined in ORS 161.015, on a person or kills a person;

(b) Acts as a potentially dangerous dog, as defined in ORS 609.035, after having previously committed an act as a potentially dangerous dog that resulted in the keeper being found to have violated ORS 609.095; or

(c) Is used as a weapon in the commission of a crime.

(2) A person commits the crime of maintaining a dangerous dog if the person is the keeper of a dog and the person, with criminal negligence, fails to prevent the dog from engaging in an act described in subsection (1) of this section.

(3) Maintaining a dangerous dog is punishable as described in ORS 609.990. [2005 c.840 §2]

Note: 609.098 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 609 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

609.100 Dog licenses, tags and fees; exemptions. (1) In a county, precinct or city having a dog control program under ORS 609.030, 609.035 to 609.110 and 609.405, every person keeping a dog that has a set of permanent canine teeth or is six months old, whichever comes first, shall procure a license for the dog. The license must be procured by paying a license fee to the county in which the person resides not later than March 1 of each year or within 30 days after the person becomes keeper of the dog. However, the county governing body may provide for dates other than March 1 for annual payment of fees. The fee for the license shall be determined by the county governing body in such amount as it finds necessary to carry out ORS 609.035 to 609.110. A license fee shall not be less than \$25 for each dog,

except that the fee shall not be less than \$3 for each spayed female or neutered male dog for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the county. If the person fails to procure a license within the time provided by this section, the county governing body may prescribe a penalty in an additional sum to be set by the governing body.

(2) The county shall, at the time of issuing a license, supply the licensee, without charge, with a suitable identification tag, which shall be fastened by the licensee to a collar and kept on the dog at all times when not in the immediate possession of the licensee.

(3) The license fees in subsection (1) of this section do not apply to dogs that are kept primarily in kennels and are not permitted to run at large. The county governing body may establish a separate license for dogs that are kept primarily in kennels when the dogs cease to be considered inventory under ORS 307.400, the fee for which shall not exceed \$5 per dog.

(4) A license fee is not required to be paid for any dog kept by a person who is blind and who uses the dog as a guide. A license shall be issued for such dog upon the filing by the person who is blind of an affidavit with the county showing that the dog qualifies for exemption.

(5) The county shall keep a record of dog licenses.

(6) Notwithstanding any other provision of this section or ORS 609.015, when the keeper of a dog obtains a license for the dog, that license is valid and is in lieu of a license for the dog required by any other city or county within this state, for the remainder of the license period:

(a) If the keeper of the dog changes residence to a city or county other than the city or county in which the license was issued; or

(b) If the keeper of the dog transfers the keeping of the dog to a person who resides in a city or county other than the city or county in which the license was issued. [Amended by 1953 c.27 §2; 1959 c.374 §1; 1969 c.677 §1; 1973 c.655 §4; 1977 c.189 §10; 1977 c.802 §8; 1987 c.240 §1; 1999 c.658 §§10,10a; 2001 c.753 §13; 2007 c.70 §280]

609.105 Exemption for assistance animals. Notwithstanding ORS 609.015 or 609.100, a county or city shall not charge a fee to license a dog used as an assistance animal as defined in ORS 346.680. [1979 c.366 §1; 1991 c.67 §155; 1999 c.658 §11; 2001 c.104 §238]

609.110 Dog License Fund. All funds derived under ORS 433.340 to 433.385 and 609.035 to 609.110 shall be turned over to the county treasurer, who shall keep them in a

fund to be known as the Dog License Fund, to be expended as provided for by law. At the end of a fiscal year any amount of money in the fund determined by the county governing body to be in excess of the requirements of the Dog License Fund may be placed in the general fund of the county. [Amended by 1963 c.309 §1; 1969 c.677 §2; 1973 c.655 §5; 1977 c.189 §11]

LIABILITY OF DOG KEEPER

609.115 Liability for injury or property damage caused by potentially dangerous dog. (1) As used in this section, "keeper" and "potentially dangerous dog" have the meanings given those terms in ORS 609.035.

(2) Except as provided in subsection (3) of this section, if a court has determined under ORS 609.990 that a dog is a potentially dangerous dog, and subsequent to that determination the dog causes physical injury to a person or damage to real or personal property, the keeper of the dog is strictly liable to the injured person or property owner for any economic damages resulting from the injury or property damage.

(3) Subsection (2) of this section does not apply if a physical injury is to a person provoking the dog or assaulting the dog's keeper or to a person who trespasses upon premises from which the keeper may lawfully exclude others. [2005 c.840 §1]

609.120 [Amended by 1969 c.677 §3; repealed by 1977 c.802 §15]

DOGS HARMING LIVESTOCK

609.125 Definition of "livestock." As used in ORS 609.135 to 609.190, "livestock" means canines, psittacines, horses, mules, jackasses, cattle, llamas, alpacas, sheep, goats, swine, domesticated fowl and any fur-bearing animal bred and maintained commercially or otherwise, within pens, cages and hutches. [1999 c.756 §11]

609.130 [Repealed by 1977 c.802 §15]

609.135 Applicability of ORS 609.135, 609.162 and 609.168. (1) ORS 609.156, 609.162 and 609.168 apply in every county having a dog control program.

(2) Except as provided under subsections (1) and (3) of this section, ORS 609.135 to 609.190 apply in every county having a dog control program except as otherwise provided by county charter or ordinance. Except as provided under subsections (1) and (3) of this section, the provisions of ORS 609.135 to 609.190 do not limit the powers of cities or counties to adopt ordinances and regulations relating to the control of dogs.

(3) ORS 609.162 (2) does not eliminate or restrict the ability of a county to adopt a charter or ordinance that is contrary to ORS 609.163. Notwithstanding any county charter

or ordinance, a notice of determination sent under ORS 609.156 (2) or after a full and fair hearing shall be sent as provided under ORS 609.158 (2). [1999 c.756 §9a]

609.140 Right of action by owner of damaged livestock. (1) The owner of any livestock which has been damaged by being injured, chased, wounded or killed by any dog shall have a cause of action against the owner of such dog for the damages resulting therefrom, including double the value of any livestock killed and double the amount of any damage to the livestock.

(2) If one or more of several dogs owned by different persons participate in damaging any livestock, the owners of the respective dogs shall be jointly and severally liable under this section. The owners of dogs jointly or severally liable under this section have a right of contribution among themselves. The right exists only in favor of an owner who has paid more than the pro rata share of the owner, determined by dividing the total damage by the number of dogs involved, of the common liability, and the total recovery of the owner is limited to the amount paid by the owner in excess of the pro rata share of the owner.

(3) An action brought under this section may be tried as an action at law in any court of competent jurisdiction.

(4) As used in this section:

(a) "Owner" means the head of the family of the home where the dog is cared for at the time of the damage.

(b) "Head of the family" means any person who has charge or manages the affairs of a collective body of persons residing together, the relations between whom are of a permanent and domestic character. [Amended by 1973 c.655 §7; 1975 c.749 §1]

609.150 Right to kill dog that harms or chases livestock. (1) Except as provided in subsection (3) of this section, any dog, whether licensed or not, which, while off the premises owned or under control of its owner, kills, wounds, or injures any livestock not belonging to the master of such dog, is a public nuisance and may be killed immediately by any person. However, nothing in this section applies to any dog acting under the direction of its master, or the agents or employees of such master.

(2) If any dog, not under the control of its owner or keeper, is found chasing or feeding upon the warm carcass of livestock not the property of such owner or keeper it shall be deemed, prima facie, as engaged in killing, wounding or injuring livestock.

(3) No person shall kill any dog for killing, wounding, injuring or chasing chickens upon a public place, highway or within the