



NOTICE OF PUBLIC MEETING

DANGEROUS DOG ORDINANCE WORK GROUP

City Hall, Municipal Court Room

Tuesday, November 1, 2011

5:30 p.m.

AGENDA

1. CALL TO ORDER
2. APPROVAL OF MINUTES
 - October 17, 2011. [Pages 1-4]
Action: _____
3. SCHEDULED BUSINESS
 - a. Review of October 17 revisions to AMC 6.18, Dangerous Dogs. [Pages 5-10]
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.



NOTICE OF PUBLIC MEETING

DANGEROUS DOG ORDINANCE WORK GROUP
City Hall, Municipal Court Room
Monday, October 17, 2011

MINUTES

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

Members absent: Max Frederick (excused)

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

Others present: None

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 5:30 p.m.

APPROVAL OF MINUTES

October 11, 2011

MOTION: Floyd Collins made a motion to approve the October 11 minutes; Mark Azevedo seconded. Approved 5-0.

SCHEDULED BUSINESS

Review of Public Comment on Draft Revisions to AMC 6.18, Dangerous Dogs

Marilyn Smith said that the group will be reviewing suggestions submitted by others outside of the "Blue" group. She said that those suggestions were reviewed at the last meeting.

Smith said that Ellen Hamill had several comments regarding the definitions in the ordinance. Mark Azevedo said that he met with the "Blue" group Friday and Ellen Hamill was in attendance. He said that the group wanted a few changes and if those changes are included in the ordinance then they would accept the ordinance. Smith said that we will skip over the comments made by Ellen Hamill as those have been addressed.

Azevedo asked Larry Holverson if he could speak more to what changes the group wants included in the ordinance. Holverson said that the group doesn't feel like their opinions have been included in the ordinance. He said that the group feels strongly that provocation should be included. Floyd Collins said that if provocation is defined, then abuse and torment would also need to be defined. Azevedo asked what kind of language would the "Blue" group feel comfortable with. Holverson said that the group wants to use the list from the U.S. Humane Society. Smith said that the definition from *Merriam-Webster's Dictionary* is: the act of provoking; incitement; and something that provokes, arouses, or stimulates. She said that the definition from *Black's Law Dictionary* is something that incites or irritates. Jim Delapoer said that you don't need to define common English words; provocation is a common English word. He said that using the definition from *Black's Law Dictionary* wouldn't be an option as it is referencing actions taken by people.

6.18.020 (3) Holverson said that the group cares about the definition and how it pertains to animals. Holverson suggested changing it from abuse or torment to "abuse, torment, or other provocation of the dog." Azevedo asked if this will satisfy the group. Holverson said that he thinks that it is the best the group is going to be able to get. Konopa asked Holverson if he thought the group would be okay with this language. Holverson said that he would go with it.

6.18.010(12) Delapoer asked if the ordinance should continue to allow dangerous dogs to be housed at other facilities besides the county animal control facility. Azevedo asked if there is a way to receive assurance that a private facility is secure. Delapoer said that his concern is that private facilities may become advocates for a dangerous dog and may facilitate the dog being allowed to be freed.

Azevedo said that there is no need for an alternative facility as the cases would be heard in a more timely matter after this ordinance is finalized. He said that the updated ordinance has a built-in timeframe. Delapoer said that the "Blue" case was lengthened because of the prolonged litigation. Max Frederick asked who makes the decision of where the dog will be housed. Delapoer said that the Director makes that decision. He said that the decision would be made very quickly. Frederick asked how a secure facility is defined. Holverson said that if someone wants to get an animal out of any facility, they could do it. Frederick asked, "what if the facility is contracted?" Delapoer said that the Pet Hotel was contracted in the "Blue" case. Konopa asked if we could require a contracted facility to have an audible alarm.

Konopa asked how staff will be able to verify that a facility is secure. Collins said that if we are going to leave the language as it is, then the wording "by the Director or the Hearings Officer" should be added. Azevedo said that he thinks that they will likely stay with the county for a facility. Delapoer said that he suggests removing "or any other secure facility designated for such purpose." Collins said that he is okay leaving that language in.

The new language will read: Quarantine may also include impoundment at the county animal control facility or any other secure facility designated by the Director or Hearings Officer for such purpose.

Holverson said that the definition for provocation as by the U.S. Humane Society is: provocation that includes an action that an experienced vet would find reasonably foreseeable. Delapoer said that such a change in language would severely weaken the ordinance. He said that it would be putting a loophole in the ordinance. Holverson said that he disagrees and he thinks that this type of situation has occurred twice in twenty years. He said that for the most part, owners have chosen to have their dogs euthanized. Collins said that the owner or handler of the dog has the responsibility to make their case to the Hearings Officer.

Comment #8 - Azevedo asked who would bear the cost of the medical expenses and how would it be administered. He asked if an animal is checked by animal control when they are sent to the pound. Dorland said that if a dog is injured, APD will have the dog checked by a vet.

Azevedo asked if a dog would be checked by a vet if the dog was housed for a long time. Delapoer said that when there was a concern about a dog needing its vaccinations, a vet was allowed. He said that if an owner wants his or her vet to check on the dog it is allowed and the owner is responsible for payment.

Konopa asked if the group was okay with not doing anything with Comment #8. The group agreed.

Comment #9 - Delapoer said that he would rather not have the ordinance address Comment #9 as it can be included by a Hearings Officer's order.

Comment #10 - The group will leave the current language as it is.

Comment #11 - Delapoer said that we have to use the mail service for certified mail. The group will leave the current language as it is.

Comment #12 - Collins said that he opposes this change as the burden lies with the owner. The group will leave the current language as it is.

Comment #13 – Smith said that this change would allow veterinarians or animal handlers to provide testimony. Delapoer said that it would be poor drafting to include this language in the ordinance. The group will leave the current language as it is.

Comment #15, 16, 17, 18, 19, and 20 – The group will leave the current language as it is.

Comment #21 – The group agreed that the leash on a dog may not exceed ten feet which is consistent with the leash law.

Comment #22 – The group will leave the current language as it is.

Comment #23 – Delapoer said that this is the owner's responsibility and adding this change would give the owner more time. Collins said that he would keep it at ten days. Olsen asked what the consequences are if a person doesn't comply. Delapoer said that the owner could be ticketed.

Comment #24 – Dorland said that John Adair wants to make it clear that his comments are as a resident of the city of Albany. He said that Adair has specific concerns about this ordinance. Collins said that he wouldn't include this because the signage is already addressed in the ordinance. Frederick said that the victim should be notified where the animal is being housed. Konopa said that it could include notifying adjoining property owners that there is a potentially dangerous dog. Delapoer said that the burden would be put on the City to do the notification.

Frederick asked if the victim would be notified that the dog has been classified as potentially dangerous. Delapoer said that in a potentially dangerous case, the police report goes to the Director and the Director makes a decision. It then goes to a Hearings Officer if requested by the owner. There are no required notices for the victim to receive as written in the ordinance. Frederick said that he thinks it would be appropriate to send an official notification to the victim. Collins said that notification should be included in all three classifications; potentially dangerous, dangerous, and either of those classification being removed.

Delapoer said that the language could be included in 6.18.30(2). He cautioned the group that the victim doesn't have a say either way and it will place a requirement on the City and Director to complete this step. Frederick said that the victim is involved and his concern is that the victim understands what is going on. The group agreed on the following language: "The Director is encouraged to share this information with the victim(s) as well."

Comment #25 – The group will leave the current language as it is.

Comment #26, 27, 28, and 29 deals with language about licensed vet or dog trainer's certification. Smith said that there are an assortment of different certifications in regards to dog handling and dog trainers. Delapoer said that the Hearings Officer is not in a position to do a cross-examination of the certification. Delapoer said that it would be better to just say "trainer" and have the person submit a statement describing their qualifications.

6.18.040 (9) – Delapoer and Smith will work on this language. Smith said that she will send the revised language to the group e-mail.

Comment #30, 31, 33, 34, 35, 38, 39, 40, 41 – The group will leave the current language as it is.

Comment #42, 43 – The group agreed that this change is appropriate. The new language will remove "...and unless such costs are paid within ten 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."

Comment #44 – Delapoer said that including this wording could have a lot of unattended consequences. Azevedo said that it is personal property. Olsen said that the language should come out, all agreed.

Holverson said that the “Blue” group is a very committed and passionate group that is supporting a cause that is near and dear to their hearts but none have worked with the process of changing the law before. He said that he feels that his group has been very successful. He said that he doubts in the last twenty years there has been an issue so represented. He said that the group has done some things that they shouldn’t have done, but they did manage to stay in the forefront and receive the support of the media. Delapoer said that it is very unfortunate that in this process someone was emboldened to commit burglary. Azevedo said that is the worst outcome. Collins said that there are a lot of things that the “Blue” group asked for that have been included.

Konopa asked if there is anything else that needs to be addressed.

Holverson doesn’t feel comfortable making a motion tonight. He said he would like to have one more review of the final proposed ordinance. Collins said that he will be back on the 30th from vacation. Konopa set the final meeting date for Tuesday, November 1 at 5:30 p.m. The group will review the final draft ordinance and make a recommendation for City Council. The final ordinance will go to the City Council on Wednesday, November 9.

BUSINESS FROM THE WORK GROUP

NEXT MEETING DATE: *November 1, 2011, 5:30 p.m.*

ADJOURNMENT

The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Diana Eilers
Administrative Assistant



TO: Dangerous Dog Ordinance Work Group
FROM: Marilyn Smith, Management Assistant/Public Information Officer *MS*
DATE: October 19, 2011, for November 1, 2011, Meeting
SUBJECT: Revised Draft Ordinance

Your packet contains the latest revised draft of the dangerous-dog ordinance, including changes made by the group at the October 17, 2011, meeting, and some additional language suggested after review by Police Department command staff.

Work group changes are shown in red lettering, with one exception. The group asked City Attorney Jim Delapoer to come up with language in 6.18.040(9) to describe a dog trainer's qualifications, the course of training, and its results. As staff made the group's recommended changes, we discovered that language was already included in (9)(a):

"If an application follows training, the application must be accompanied by a written statement from the trainer describing the trainer's qualifications, the course of training, and results thereof."

In 6.18.055, Notice of location of potentially dangerous or dangerous dog in city, Police questioned the terms under which Albany would allow someone to move here with a dog that had been found to be dangerous elsewhere. The issue had also been raised in public comment on the draft. Mr. Delapoer has added the following language to address this:

(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 caused injury to any person or animal. If such classification resulted from serious injury to a human being or the death of an animal, the dog may not be relocated to the city of Albany. Thereafter, all provisions of this ordinance shall apply to any dog lawfully relocated to the city of Albany as if the classification had been made by the City.

MMS:ldh
Attachment

Draft Ordinance Revisions

Chapter 6.18

DANGEROUS DOGS

Updated October 19, 2011 (changes shown in bold red color)

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 by the Director or Hearings Officer 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 **of the dog 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. **The Director is encouraged to share this information with victims as well.** 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 ten (10) feet in length and, if the Director finds warranted, 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 dog trainer certified by the Association of Pet Dog Trainers licensed veterinarian board certified in the specialty of veterinary behavior, design and conducted to address the behavior upon which the original classification was based 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 trainer's qualifications, 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 caused injury to any person or animal. If such classification resulted from serious injury to a human being or the death of an animal, the dog may not be relocated to the city of Albany. Thereafter, all provisions of this ordinance shall apply to any dog lawfully relocated to the city of Albany as if the classification had been made by the City. 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.