

Steve's suggested changes
Ordinance _____

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

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

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

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

- (1) ~~When unprovoked inflicts~~ Inflicts a bite on a human. Redefine bite in the general provisions as "... the act of the animal's teeth penetrating or otherwise damaging human or animal skin, or damaging clothing in an attempt to injure a human."
- (2) ~~Inflicts a bite on another or domestic domestic animal (except poultry, rabbits, and cats that are allowed to roam off the owner's property) or livestock (except poultry, rabbits and cats that are allowed to roam off the owner's property) when the dog is off of its owner's property;~~ Inflicts a bite on another domestic animal (except poultry, rabbits, and cats that are allowed to roam off the owner's property) or livestock (except poultry, rabbits and cats that are allowed to roam off the owner's property) when the dog is off of its owner's property; I suggest leaving this in; to remove it suggests that people aren't responsible for keeping their own animals safe. This still provides recourse when a dog attacks an animal on the property where that animal lives.
- (23) ~~When unprovoked chases~~ Chases or threatens a person or another animal upon the streets, sidewalks, any public grounds or upon private property other than the dog owner's in a menacing fashion or apparent attitude of attack, as evidenced by snarling, baring of teeth, snapping, or attempting to bite; or
- (34) ~~Has been declared potentially dangerous by any other governmental jurisdiction for similar violations of State statutes or local ordinances within the United States of America for similar violations of State statutes or local ordinances, provided that the incident(s) for which the dog was declared meet(s) Clallam County's reasons to declare, and that upon a review of the written declaration from the other jurisdiction and any available evidence, the Animal Control Officer reasonably believes that the declaration was justified and did not violate due process of law. The Animal Control Officer may not overturn a potentially dangerous dog declaration made under RCW Chapter 16.08;~~ Has been declared potentially dangerous by any other governmental jurisdiction for similar violations of State statutes or local ordinances, provided that the incident(s) for which the dog was declared meet(s) Clallam County's reasons to declare, and that upon a review of the written declaration from the other jurisdiction and any available evidence, the Animal Control Officer reasonably believes that the declaration was justified and did not violate due process of law. The Animal Control Officer may not overturn a potentially dangerous dog declaration made under RCW Chapter 16.08;
- (45) ~~Chases, harries or harasses livestock or game animals while off the dog owner's property.~~ Chases, harries or harasses livestock or game animals while off the dog owner's property.
- Except that dogs shall not be declared potentially dangerous if the threat, injury, or damage was sustained by a person who, at the time, was ~~committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime and the dog was on the property of its owner or was under the control of a responsible person.:~~ committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime and the dog was on the property of its owner or was under the control of a responsible person.:
- (a) Committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or
- (b) Tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog; or
- (c) Committing or attempting to commit a crime; or
- (d) Conducting a veterinary procedure on the dog or grooming the dog; or
- (e) Injured or inflicted pain upon the dog unintentionally; or

(f) Was the owner of the dog, a resident of the owner's household, or a person charged with the care of the dog in the owner's absence; or

(g) An employee or volunteer of any boarding kennel, animal shelter, animal rescue group, or similar entity which had custody of the dog at the time of the incident.

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

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

- (1) Has inflicted severe injury on a human being ~~without provocation~~; or
- (2) Has killed ~~or inflicted severe injury to~~ a domestic animal (except poultry, rabbits, or cats that are allowed to roam off the owner's property) when the dog is off of its owner's property; or livestock (except poultry, rabbits or cats that are allowed to roam off the owner's property); or
- (3) Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again bites, attacks, or endangers the safety of humans or domestic animals; or
- (4) Has been declared dangerous by any other governmental jurisdiction ~~for similar violations of State statutes or local ordinances within the United States of America~~ for similar violations of State statutes or local ordinances, provided that the incident(s) for which the dog was declared meet(s) Clallam County's reasons to declare, and that upon a review of the written declaration from the other jurisdiction and any available evidence, the Animal Control Officer reasonably believes that the declaration was justified and did not violate due process of law. The Animal Control Officer may not overturn a dangerous dog declaration made under RCW Chapter 16.08;

Except that dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.:

(a) Committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or

(b) Tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog; or

(c) Committing or attempting to commit a crime; or

(d) Conducting a veterinary procedure on the dog or grooming the dog; or

(e) Injured or inflicted pain upon the dog unintentionally; or

(f) Was the owner of the dog, a resident of the owner's household, or a person charged with the care of the dog in the owner's absence; or

(g) An employee or volunteer of any boarding kennel, animal shelter, animal rescue group, or similar entity which had custody of the dog at the time of the incident.

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

(1) Whenever an Animal Control Officer finds any dog in violation and determines that said dog should be declared dangerous or potentially dangerous, the Officer shall prepare a notice declaring said dog to be a dangerous or potentially dangerous dog, and serve the notice as required for a summons on the owner of the dog; except that if the summons cannot be served it may be posted on the residence. In the event that the notice cannot be served and is posted on the residence, the Animal Control Officer shall make a minimum of 2 additional attempts to serve the notice to the owner of the dog in person. The notice shall be considered served at the time and date that the

notice was served in person, unless these additional attempts were not successful, in which case the notice shall be considered served at the time and date that it is posted on the residence. The notice shall contain the following:

- (a) The name and address of the owner of the dog being declared potentially dangerous;
- (b) The breed, color, sex, and license number (if known) of said dog;
- (c) The facts upon which the determination of potentially dangerous dog is based;
- (d) That the dog shall immediately be restrained as required in CCC 17.03.060 or 17.03.070;
- (e) That the dog shall be registered within ~~ten (10)~~ days of receiving the notice unless a hearing is requested as provided for in subsection (1)(g) of this section;
- (f) In the case of a potentially dangerous dog, that if there are future similar problems with the dog, the dog could be declared a dangerous dog pursuant to CCC 17.03.020, and required to be registered as provided for in CCC 17.03.050;

(g) That the owner of the dog is entitled to a hearing in an appropriate District Court of Clallam County and that the notice constitutes a final determination that the dog is dangerous or potentially dangerous, unless the owner of the dog requests a hearing in writing to an appropriate District Court of Clallam County within ~~21~~~~ten (10)~~ days of service of the notice.

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

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

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

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

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

(1) The owner of a dog declared potentially dangerous shall register said dog and pay the initial registration fee as set forth in Chapter 5.100 CCC within ~~ten (10)~~ days of notification as provided for in CCC 17.03.030; ~~provided, that~~but if the owner requests a hearing to the District Court within the ~~ten (10)~~21 day period the owner shall not be required to pay such registration fee until after the ~~hearing officer~~Court makes a determination that said dog is potentially dangerous.

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

I remove this because it is a statement intended to educate, not a requirement that the dog be microchipped by a vet. Animal shelters and individuals can microchip.

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

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

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

(a) The registration shall be temporary pending the Animal Control Officer's review of the dangerous or potentially dangerous dog declaration and evidence from the other jurisdiction. The Animal Control Officer shall have 30 days to review the declaration.

(b) Should the Animal Control Officer find that the dog was improperly or illegally declared dangerous or potentially dangerous or that the circumstances leading to the declaration did not meet the the Reasons to Declare set forth in this chapter, the owner of the dog shall be refunded the full amount of the registration fee, minus a \$50 processing fee.

(c) The Animal Control Officer may, after review of a written dangerous dog declaration, opt not to declare the dog dangerous, but to declare the dog potentially dangerous, provided that the circumstances leading to the dangerous dog declaration in the other jurisdiction meet the Reasons to Declare a dog potentially dangerous set forth in this chapter. The owner of the dog shall be refunded the full amount of the dangerous dog registration fee, minus the amount of the potentially dangerous dog registration fee.

(d) Should the Animal Control Officer conclude that the dangerous or potentially dangerous dog declaration from the other jurisdiction was proper, legal, and met the Reasons to Declare set forth in this chapter, the registration shall be valid for the full term.

(e)The dog owner may alternatively pay a \$50 processing fee to have the dangerous or potentially dangerous dog declaration reviewed by the Animal Control Officer prior to bringing the dog into the County limits and thereby shall not be required to comply with the requirements set forth by the Animal Control Authority and this chapter so long as the dog is not brought into Clallam County.

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

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

(1) The owner of a dangerous dog must obtain a certificate of registration for such animal from the Animal Control Authority within ~~ten (10)~~ days of final determination of dangerous dog as

provided in CCC 17.03.040. The certificate of registration shall be issued only if the owner of the dangerous dog presents sufficient proof of the following:

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

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

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

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

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

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

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

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

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

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

(a) _____
_____ (a)

While on the owner's property, a potentially dangerous dog shall be restrained by a fence, kennel or ~~sufficiently strong chain, leash or~~ other confinement suitable to prevent said dog from leaving the owner's property (radio, electronic, vertical, or invisible fencing, chaining, or tethering are-is not considered suitable); and

(b) ~~Further, the dog must be -and~~ restrained in such a manner as to keep the dog at least ~~twenty-five (25)~~ feet from the normally used path of entrance to any occupied building, residence, or utility meter (water, electric, etc.); or

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

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

Section 7. Section .070, Dangerous dogs – Requirements for restraint and enclosure, is amended to read as follows:

(1) While on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides, a secure top, a secure floor, and shall also provide protection from the elements for a dog.

(2) While outside the enclosure, a dangerous dog shall be muzzled and restrained by a substantial chain or leash and under physical restraint of the owner or other responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

(3) The owner shall post the premises with a clearly visible warning sign that displays a brightly-colored and clearly visible warning symbol that informs children of the presence of a dangerous dog.

Section 8. Section .080, Potentially dangerous or dangerous dog – Ownership, is amended to read as follows:

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

Shelter is not defined. Add to definitions: "Shelter" means a nonprofit organization as defined by section 501(c)(3) of the federal Internal Revenue Code or any subsequent, applicable code, having the tax-exempt purpose of the prevention of cruelty to animals, which operates a facility that provides care for impounded and surrendered animals.

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

Redundant

Section 9. Section .090, Potentially dangerous or dangerous dog – Violations and penalties, is amended to read as follows:

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

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

(a) Transfer ownership, move, or destroy said dog without first complying with the provisions of CCC 17.03.080, unless the dog is being surrendered to a shelter;

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

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

People who cannot afford to comply with the requirements need a way to save the dog's life.

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

- (a) The dog is not validly registered under CCC17.03.040;
- (b) Failure to provide and maintain proper restraint;
- (c) Transfer ownership, move, or destroy the dog without first complying with the provisions of CCC17.03.080 unless the transfer of ownership is to a shelter.

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

- (2) It shall be unlawful for the owner of any dangerous dog to:
- (a) Fail to secure the liability insurance coverage or bond required hereunder;
 - (b) Fail to post a clearly visible sign that displays a brightly colored and clearly visible warning symbol that informs children of the presence of a dangerous dog;
 - (c) Fail to maintain the dog inside the dwelling of the owner or inside a proper enclosure;
 - (d) Fail to keep dog under physical restraint of a responsible person and muzzled when outside the dwelling or enclosure;
 - (e) Transfer ownership, move, or destroy said dog without first complying with the provisions of CCC 17.03.080 unless the dog is being surrendered to a shelter;
 - (f) If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.

This gives animal control a way to keep the dog from being killed when the owner doesn't cooperate.

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

- (a) The dog is not validly registered under CCC 17.03.050;
- (b) The owner does not secure the liability insurance coverage required under CCC 17.03.050(1)(c);
- (c) The dog is not maintained in the proper enclosure;
- (d) The dog is outside the dwelling of the owner or outside the proper enclosure and not under physical restraint of the responsible person or not muzzled.

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

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

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

Section 10. Section .100, Provocation as a defense, is amended to read as follows:

Proof that the injured person provoked the attack may be a complete defense to an action for damages.

Section 11. Section .110, List of potentially dangerous and dangerous dogs, is amended to read as follows:

A list of potentially dangerous and dangerous dogs shall be maintained by the Animal Control Authority. The list shall be made available to the public for normal copying costs or shall be provided free of charge in an electronic format. The list shall include the general description of the dog and the address at which the dog is normally kept.

Section 12. Section .120, Inactive Potentially Dangerous Dog, is amended to read as follows:

After 24 months with no violations of Title 17 of the Clallam County Ordinance, the owner of a Potentially Dangerous Dog may request a review of the dog's active Potentially Dangerous designation. This request must be made in writing to the County Animal Control Authority. The review and notification to the owner of the outcome will be made within 30 days of the written request. A reclassification of Inactive on a Potentially Dangerous dog means that the dog will no longer have to be restrained as required in CCC 17.03.060, nor will it have to be licensed as required in CCC 17.03.040 but will still have to adhere to the requirements of CCC 17.03.080. Any dog on the Inactive Potentially Dangerous list that again violates the reasons to declare a dog Potentially Dangerous in CCC 17.03.010 will immediately be reclassified to Potentially Dangerous and may be reclassified to Dangerous as provided in CCC 17.03.020(3).

ADOPTED this _____ day of _____ 2011

BOARD OF CLALLAM COUNTY COMMISSIONERS

Howard V. Doherty, Jr., Chair

ATTEST:

Stephen P. Tharinger

Trish Holden, CMC, Clerk of the Board

Michael C. Chapman