

AN ORDINANCE AMENDING CITY OF TROUTDALE PUBLIC SAFETY  
CODE SECTIONS 7.20.015 TO 7.20.120 RELATING TO VICIOUS  
ANIMALS, AND POTENTIALLY DANGEROUS DOGS

**WHEREAS**, dog attacks in and around Multnomah County in recent months demonstrate that current regulations pertaining to vicious animals have not effectively protected the public from the hazards posed by certain dogs; and

**WHEREAS**, current regulations apply only to animals that have been found to be "vicious" as that term is defined by P.S.C. 7.20.015. These regulations are not adequate because:

1. The term "vicious" does not provide an administratively effective basis for enforcement of the animal control regulations; and
2. Waiting until a dog has proven itself to be vicious before subjecting that animal to restrictions exposes the public to potential safety hazards.

**WHEREAS**, dogs are responsible for almost all serious animal attacks in Multnomah County. There have been serious attacks by dogs of many breeds. In determining the potential dangerousness of a dog, the dog's upbringing and control by the owner are at least as important as the dog's breed.

**WHEREAS**, dogs that cause serious injury to humans have usually exhibited behavioral problems prior to causing serious injuries. If these behavioral problems are reported to animal control authorities, precautions can be taken to limit a potentially dangerous dog's opportunity for causing serious injury.

**WHEREAS**, dogs should be restricted no more than is reasonably necessary to protect the public. Gradually increasing the severity of restrictions according to the seriousness of the behavioral problems displayed by a dog serves two purposes:

1. Owners of dogs with relatively minor behavioral problems are not burdened with unnecessary restrictions; and
2. Members of the public, especially neighbors, will be more likely to report inappropriate animal behavior if the public knows that relatively minor restrictions will be imposed for less serious behavior.

**WHEREAS**, to monitor effectively an individual dog's potential dangerousness, an animal should be clearly identified over a period of time. Problems have been encountered because dog owners often own more than one dog of the same breed. In these cases, animal control authorities have been unable to determine whether a dog involved in inappropriate behavior is the same dog that was involved in previous incidents. Since a series of minor incidents indicates a higher level of potential danger than an isolated minor incident, dogs involved in inappropriate behaviors should be physically marked to assure positive identification. Also, marking of the animal is necessary to verify that the correct dog is being subjected to restrictions that have been imposed.

**WHEREAS**, Multnomah County has enacted an identical ordinance relating to the regulation of potentially dangerous dogs, and

**WHEREAS**, Multnomah County is willing and ready to exercise its jurisdiction and facilities with the City of Troutdale upon the City's adoption of a similar ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:**

(1) Section 7.20 of the Public Safety Code is amended by the renumbering of 7.20.080 to 7.20.086 and the addition of new sections 7.20.077 through 7.20.083 as follows:

7.20.077 Purpose. The purpose of 7.20.077 through 7.20.083 is to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, other animals or property are identified and subjected to precautionary restrictions before any such serious injury has occurred.

7.20.078 Classification of Levels of Dangerousness. A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of P.S.C.7.20.077 through 7.20.083, behavior establishing various levels of potential danger are as follows:

(A) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal.

(B) Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

(C) Level 3 behavior is established if a dog, while confined, is found to bite or cause physical injury to any person.

(D) Level 4 behavior is established if a dog, while at large, is found to bite or cause physical injury to any person or domestic animal.

(E) Level 5 behavior is established if a dog, whether or not confined and whether or not provoked, is found to cause the serious injury or death of any person or kills any domestic animal. Any dog that has been classified as a Level 4 potentially dangerous dog, and after the owner has received notice of the Level 4 classification, repeats the behavior described in Subsection (D) above shall be reclassified as a Level 5 potentially dangerous dog.

(F) Notwithstanding subsections (A) through (E) above, the director shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog has engaged in the behaviors specified in subsections (A) through (E) above, if the director determines that the behavior was caused by abuse or torment of the dog or other extenuating circumstances. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser over the age of twelve inside any fully-enclosed building on private property.

7.20.079 Identification of Potentially Dangerous Dogs; Appeals; Restrictions Pending Appeal.

(A) The director shall have authority to determine whether any dog has engaged in the behavior specified in P.S.C. 7.20.078. This determination shall be based upon an investigation that includes observation of the dog's behavior by Multnomah County animal control officers or by other witnesses who personally observed the behavior, sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(B) 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 potentially dangerous dog and of the additional restrictions applicable to that dog by reason of its classification. If the owners denies that the behavior in question occurred, the owner may appeal the director's decision to the Hearings Officer by filing a written request for a hearing with the director within ten days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

(C) The Hearings Officer shall hold a public hearing on any appeal from the director's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in P.S.C. 7.20.078 shall be allowed to present testimony. The Hearings Officer shall determine whether behavior specified in P.S.C. 7.20.078 was exhibited by the dog in question. The Hearings Officer shall issue an order containing his or her determination, which shall be final unless the owner files a written request for a hearing before the Board with the director within ten days of the date the Hearings Officer's order was issued.

(D) When the Hearings Officer's order is appealed to the Board, the board shall hold a public hearing and shall review the director's determination that a dog has engaged in any of the behaviors specified in P.S.C. 7.20.078. The Board shall consider all written material that was available to the director and the Hearings Officer, the Hearings Officer's order and any information offered by the owner or other persons having evidence concerning the issue of whether the dog engaged in any of the behaviors specified in P.S.C. 7.20.078. The Board shall issue an ordering containing its decision, which shall be final.

(E) Once the owner has received notice of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog pursuant to Subsection (B) above, the owner shall comply with the restrictions specified in the notice until such time as the director's decision is reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this chapter for which a fine can be imposed. Additionally,

the director shall have authority to impound the dog pending completion of all appeals.

(F) If the director finds that a dog has engaged in Level 5 behavior, 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 be liable for the cost of the dog's impoundment.

7.20.080 Regulation of Potentially Dangerous Dogs. In addition to the other requirements of P.S.C. 7.20, the owner of a potentially dangerous dog shall comply with the following additional regulations:

(A) If the dog has engaged in Level 1 behavior, the dog shall be restrained by a physical device or structure that prevents the dogs from reaching any public sidewalk or adjoining property whenever that dog is outside the owner's home and not on a leash. The director shall adopt administrative rules establishing specifications for the required device or structure.

(B) If the dog has engaged in Level 2 behavior, the owner shall confine the dog within a secure enclosure whenever the dog is not on a leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property.

(C) If the dog has engaged in Level 3 behavior, the owner shall meet the requirements of Section (B) above and shall also post warning signs on the property where the dog is kept, in conformance with administrative rules to be adopted by the director.

(D) If the dog has engaged in Level 4 behavior, the owner shall meet the requirements of Sections (B) and (C) above and shall, additionally, not permit the dog to be off the owner's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.

(E) Any dog that has been found to have engaged in Level 5 behavior as described in P.S.C. 7.20.078 shall be euthanized.

(F) To insure correct identification, all dogs that have been classified as potentially dangerous shall be marked with a permanent identifying mark. The director shall adopt rules specifying the character, location and manner of this marking.

7.20.081 Reporting of Potentially Dangerous Dogs. Any person who observes or has evidence of behavior as described in P.S.C. 7.20.078 shall forthwith notify the director.

(2) Section 7.20.015 is amended to read as follows:

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

(A) "Animal" means any dog, exotic, wild or dangerous animal, or livestock.

(B) "Animal at large" means any animal, excluding cats, that:

(1) is not physically restrained on private property (including motorized vehicles) with the permission of the property owner, in a manner that physically prevents the animal from leaving that property or reaching any public areas or, when not in compliance with subsection (1);

(2) is not restrained by a leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a capable person.

(C) "Board" means the Multnomah County Board of County Commissioners.

(D) "Dog facility" means any site, as identified by a mailing address, where more than three dogs of licensable age are kept, whether the animals are the property of the site owner or of other persons.

(E) "Director" means the Director of the Department of Environmental Services of Multnomah County or the Director's designee.

(F) "Euthanasia" means putting an animal to death (an animal) in a humane manner.

(G) "Exotic, wild or dangerous animal" means any animal which is not commonly domesticated, or which is not native to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal, which because of its size, vicious nature or other characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or confined in a safe and secure manner.

(H) "Exotic, wild or dangerous animal facility" means any site for the keeping of exotic, wild or dangerous animals.

(I) "Hearings Officer" means a person appointed by the Board to review the director's determination that a dog has engaged in any behaviors specified in P.S.C. 7.20.078.

(J) "Livestock" means animals kept for husbandry, including but not limited to horses, mules, burros, asses, cattle, sheep, goats, swine and other hooved, domesticated animals.

(K) "Livestock facility" means any facility for keeping of livestock.

(L) "Muzzle" means a device constructed of strong, soft material or a metal muzzle that complies with specifications to be adopted as administrative rules by the director. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal.

(M) "Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over or knowingly permits any animal to remain on premises occupied by that person.

(N) "Person" means any natural person, association, partnership, firm or corporation.

(O) "Pet License" means a license for any owned dog or cat that is of licensable age.

(P) "Potentially dangerous dog" means any animal that is a member of the canine family and has been found to have engaged in any of the behaviors specified in P.S.C. 7.20.078.

(Q) "Secure enclosure" means a structure in which an animal is confined such that the animal does not have access to humans or to other animals. The director shall adopt administrative rules establishing specifications for secure enclosures.

(R) "Serious injury" means any physical injury that results in a broken bone or the need for stitches, or any other medical condition determined by the director, in consultation with the County Health Officer or the County Health Officer's designee, to be of equal or greater severity.

(S) "Sexually unproductive" means being incapable of reproduction by reason of age or physical condition, or incapable of being subjected to a medical procedure to be rendered unproductive and certified by a licensed veterinarian as such.

(T) "Vicious animal" means any animal, excluding dogs or cats, which bites any human being or other domestic animal or which demonstrates menacing behavior toward human beings or domestic animals. "Vicious animal" does not include an animal which bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

P.S.C. 7.20.075 is amended to read as follows:

7.20.075 Animal Owner Regulation.

(A) For the purposes of this section, unless otherwise limited, the term "permit" shall include human conduct that is intentional, deliberate, careless, inadvertent or negligent in relation to an owned animal.

(B) It is unlawful for any person to:

- (1) Permit an animal to become at large.
- (2) Permit an animal to trespass upon property of another.



(3) Keep a vicious animal or a dog that has been found to have engaged in Level 5 behavior as described in P.S.C. 7.20.078.

(4) Fail to comply with requirements of this chapter which apply to the keeping of an animal or any facility where animals are kept.

(5) Permit a dog in season (estrus) to be accessible to a male dog not in the person's ownership except for intentional breeding purposes.

(6) Permit any animal unreasonably to cause annoyance, alarm or noise disturbance at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's property.

(7) Leave an animal unattended for more than 24 consecutive hours without adequate care.

(8) Deprive an animal of proper facilities or care, including but not limited to the items prescribed in paragraphs (1), (2), (3), (4), (6) and (7) of subsection (M) of P.S.C. 7.20.078. Proper shelter shall include a structure that does not leak, will provide protection from the weather and is maintained in a condition to protect the animals from injury.

(9) Physically mistreat any animal either by deliberate abuse or neglect to furnish adequate care, including medical attention.

(10) Permit any animal to leave the confines of any officially prescribed quarantine area.

(11) Fail to comply with the regulations applicable to potentially dangerous dogs.

(12) Permit any dog to engage in any of the behaviors described in P.S.C. 7.20.078.

(4) Section 7.20.120 is amended to read as follows:

7.20.120 Animal Owner Regulations Violations. Any person convicted of violation of P.S.C. 7.20.075 shall be subject to a fine not to exceed \$500, and the court in its discretion may also order destruction of the animals involved, subject to subsection (D)

of P.S.C. 7.20.025 or surgical sterilization of any animal or appropriate procedure to render an animal mute. Additionally, the court in its discretion may suspend, for a period of time specified by the court, that person's right to keep in Multnomah County any dog, including dogs currently owned by that person.

PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 26th DAY OF AUGUST, 1986.

YEAS: 5 \_\_\_\_\_  
NAYS: 0 \_\_\_\_\_  
ABSTAINED: 0 \_\_\_\_\_

*Sam K Cox*  
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SAM K. COX, MAYOR  
DATED: AUGUST 27, 1986  
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ATTEST:  
*Valerie J. Ragione*  
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Valerie J. Ragione  
City Recorder

