

AN ORDINANCE AMENDING THE TROUTDALE MUNICIPAL CODE, CHAPTER 6 SECTIONS 04, 20, 28 RELATING TO THE REGULATION OF POTENTIALLY DANGEROUS DOGS -- AS AMENDED BY CHAPTER 8.10 OF THE MULTNOMAH COUNTY CODE.

The City of Troutdale ordains as follows:

TMC 6.04.040 is amended to read:

6.04.040 Definitions. As used in this title, unless the context requires otherwise:

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

1. Is not physically restrained, on private property 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 on public property, or any public area, and

Strick 6.04.040 (G) and renumber accordingly.

TMC 6.04.040 is amended to add:

(Q) A "Secure enclosure" shall be:

1. A fully fenced pen, kennel or structure that shall remain locked with a padlock or combination lock. Such pen, kennel or structure must have secure sides, minimum of five feet high, and the director may require a secure top attached to the sides, and a secure bottom or floor attached to the sides of the structure or the sides must be embedded in the ground no less than one foot. The structure must be in compliance with the jurisdiction's building code; or

2. A house or garage. When dogs are kept inside a house or garage as a secure enclosure, the house or garage shall have latched doors kept in good repair to prevent the accidental escape of the dog. A house, garage, patio, porch or any part of the house or structure is not a secure enclosure if the structure would allow the dog to exit the structure on its own volition.

(R) "Physical injury" means impairment of physical condition or substantial pain which is accompanied with scrapes, cuts, punctures or other evidence of physical injury.

TMC 6.04.040 is amended to read:

(S) "Serious physical injury" means any physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.

Renumber all sections accordingly.

TMC 6.04.040 is amended to add:

(V) "Aggressively bites" means any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits overt behavior that includes any combination of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging, multiple attacks, multiple lunges, or multiple bites.

(W) "Physical device or structure" means a tether, trolley system, other physical control device or any structure made of materials sufficiently strong to adequately and humanely confine the dog in a manner that would prevent it from escaping the premises.

(X) "Liability insurance" means public liability insurance in a single incident amount of not less than \$50,000 for bodily injury to or death of any person or persons. The owner shall be required to provide the director with certification of insurance within 10 days of receiving notification of classification. Such policy shall provide that no cancellation of the policy will be made unless 10 days written notice is given to the Director by certified mail.

TMC Chapter 6.28.020 is amended to read:

6.28.020 Levels of dangerousness -- Classifications. A dog may be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of this chapter, 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 person or domestic animal.

(B) Level 2 behavior is established if a dog while at large, causes physical injury to any domestic animal.

(C) Level 3 behavior is established if a dog, while confined aggressively bites or causes physical injury to any person.

(D) Level 4 behavior is established if a dog, while at large, aggressively bites or causes physical injury to any person; or a dog, while at large, kills a domestic animal.

(E) Level 5 behavior is established if:

(1) a dog, whether or not confined, causes the serious physical injury or death of any person; or

(2) a dog is used as a weapon in the commission of a crime;  
or

Strike 6.28.020 (3) and add:

(3) a dog classified as a Level 4 potentially dangerous dog that repeats the behavior described in subsection (D) of this section after the owner receives notice of the Level 4 classification.

(F) Notwithstanding subsections (A) through (E) of this section, 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) of this section, if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser or other extenuating circumstances.

TMC Chapter 6.28 is amended to read:

6.28.040 Director determination -- Investigation.

The director shall have authority to determine whether any dog has engaged in the behavior specific in Section 6.28.020 of this chapter. This determination may be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's control of the dog, and other relevant evidence as determined by the director. These observations and testimony can be provided by Multnomah County animal control officers or by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

6.28.050 Director determination -- Notice.

The director shall have the discretion to increase or decrease a classified dog's restrictions based upon relevant circumstances.

The director shall give the dog's owner written notice by certified mail or personal service of the dog's specified behavior, of the dog's classification as a potentially dangerous dog and of the restrictions applicable to that dog by reason of its classification. If the owner 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 (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served. Level 1 classifications are not appealable. The director shall establish a non-refundable appeal fee of not less than \$25.00 that must accompany the written request for appeal. Failure to meet all appeal requirements within ten (10) days shall result in the classification being final.

6.28.060 Appeal from classification.

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 shall be mailed written notice of the appeal hearing no less than seven (7) days prior to the hearing. The owner and

any other persons having relevant evidence concerning the dog's behavior in Section 6.28.020 of this chapter shall be allowed to present testimony and documentary evidence at the hearing. The Hearings Officer shall determine whether behavior specified in Section 6.28.020 of this chapter was exhibited by the dog in question. The Hearings Officer may reduce or increase the classification level. The Hearings Officer shall issue a written order containing findings of fact addressing the elements in Section 6.28.020. In addition, the Hearings Officer shall have discretion ordering restrictions. The order shall state what, if any, level of classification has been applied and shall impose the applicable restriction under this code. The order shall be signed and dated by the Hearings Officer and shall be mailed to the last known address of the owner and any person who gave testimony at the appeal hearing. The order shall be final on the date of mailing.

#### 6.28.080 Duty to restrain dog -- Violations.

Upon receipt of notice of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog pursuant to Section 6.28.050 of this section, the owner shall comply with the restrictions specified in the notice unless the director's decision is reversed on appeal. Failure to comply with the specific restrictions 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.

#### 6.28.090 Impoundment conditions.

If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending the completion of any appeals. In addition to the appeal fee set forth in 6.28.050, the owner shall be required to post a deposit with the director in the amount of \$100.00, at the time an appeal is requested to apply towards the expenses of sheltering the dog during the appeal process. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment, and the owner shall pay all fees incurred for the sheltering of the dog or forfeit the deposit. If the director's decision to classify the dog as a potentially dangerous dog is reversed, the deposit shall be refunded.

#### 6.28.100 Restraint specification -- Identification of dogs.

A. In addition to the other requirements of this title, the owner of a potentially dangerous dog shall comply with the following:

1. Dogs classified as Level 1 dogs shall be restrained in accordance with 6.04.040 (B) by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's property, whenever that dog is outside the owner's home and not on a leash.

2. Dogs classified as Level 2 dogs shall be confined 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. In addition, the director may require the owner to obtain and maintain proof of public liability insurance. In addition, the owner may be required to pass a responsible pet ownership test administered by the director.

3. Dogs classified as Level 3 or Level 4 dogs shall be confined 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 as as not to interfere with the public's legal access to the owner's property, and the owner shall post warning signg, which are provided by the director, on the property where the dog is kept, in conformance with rules to be adopted by the director. In addition, the director may require the owner to obtain and maintain proof of public liability insurance. The owner shall 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. In addition, the director may require the owner to satisfactorily complete a pet ownership program.

TMC Chapter 6.28.100 (4) and (5) are amended to read:

4. Dogs classified as Level 5 dogs as described in TMC 6.28.020 shall be euthanized. In addition, the director may suspend, for a period of time specified by the director, that dog owner's right to be the owner of any dog in Multnomah County, including dogs currently owned by that person.

5. All dogs classified as Level 5 potentially dangerous dogs shall be euthanized at any time not less than ten (10) days after the date of classification by the director. Notification to the director of any appeal to the Hearings Officer as provided for in 6.28.050 or to any court of competent jurisdiction shall delay destruction of the dog until a date not less than ten (10) days after a final decision by the Hearing Officer or court.

TMC Chaper 6.28.100 (B) is amended to read:

B. To insure correct identification, all dogs that have been classified as potentially dangerous may be marked with a permanent identifying mark, photographed, or fitted with a special tag or collar provided by the director. Th director shall adopt rules specifying the type of required identification.

TMC Chapter 6.28.100 is amended to add:

C. In addition to the normal licensing fees established in TMC Chapter 6.24.010 (a)(1) and (2), there shall be an annual fee of \$15.00 for dogs that have been classified as potentially dangerous. This additionl fee shall be imposed at the time of classification of the potentially dangerous dog, and shall be payable within 30 days of notification by the director. Annual payment of this additional fee shall be payable within 30 days of notification by the director.

D. The owner of a potentially dangerous dog shall not permit the warning sign to be removed from the secure enclosure, and shall not permit the special tag or collar from being removed from the classified dog. The owner of a potentially dangerous dog shall not permit the dog to be moved to a new address or change owners without providing the director with ten (10) days prior written notification.

E. Declassification of potentially dangerous dogs. Any owner of a classified potentially dangerous dog may apply to the director, in writing, to have the restrictions reduced or removed.

1. The following conditions must be met:

a. Level 1 or Level 2 dog has been classified for two years without further incident, or five years for Level 3 or Level 4 dogs; and

b. The owner provides the director with written certification of satisfactory completion of obedience training for the dog classified; and

c. There have been no violations of the specified regulations; and

d. In addition, the director may require the dog owner to provide written verification that the classified dog has been spayed or neutered.

2. When the owner of a potentially dangerous dog meets all of the conditions in this subsection, the restrictions for Level 1 and Level 2 classified dogs may be removed. Restrictions for Level 3 and Level 4 dogs may be removed, with the exception of the secure enclosure.

TMC Chapter 6.20.040 is amended to read:

Any impounded animal shall be released to the owner or the owner's authorized representative upon payment of impoundment, care, rabies, vaccination deposits, license fees, and all fees and deposits related to potentially dangerous dog regulations with the addition of the following conditions:

1. Any animal restrained by court order shall be released to the owner or the owner's authorized representative upon payment of all fees required in 6.20.040, and upon receipt of a written order of release from the court of competent jurisdiction.

2. Any classified potentially dangerous dog shall be released to the owner or the owner's authorized representative upon payment of all fees required in subsection 6.20.040 and upon verification of satisfactory compliance with the regulations required in 6.28.020 to 6.28.090. Failure to be in satisfactory compliance with the potentially dangerous dog regulations within ten (10) days of impoundment shall

result in the owner forfeiting all rights of ownership of the dog to the County.

TMS Chapter 6.32.090 is amended to read:

6.32.090 Violation -- Penalty.

Offenses committed in violation of the provisions of this title may be prosecuted in the municipal court of the city or in the district court of the state. Conviction of a violation of any provisions of this title shall be subject to a minimum fine of one hundred dollars for the first offense; and a minimum fine of five hundred dollars for any subsequent offense. Minimum fines shall not be suspendable by the court.

PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 13 DAY OF DECEMBER, 1988.

YEAS: 6  
NAYS: 0  
ABSTAINED: 0

Sam K Cox  
Sam K. Cox, Mayor

Dated: December 16, 1988

ATTEST:

Valerie J. Raglione  
City Recorder

EX[5:7]

