

ORDINANCE NO. 4847

AN ORDINANCE CREATING ALBANY MUNICIPAL CODE CHAPTER 6.18, DANGEROUS DOGS, WHICH CLASSIFIES AND REGULATES DANGEROUS AND POTENTIALLY DANGEROUS DOGS AND DECLARING AN EMERGENCY.

WHEREAS, dog attacks in and around the City of Albany and throughout the State of Oregon demonstrate that current regulations pertaining to vicious dogs do not effectively protect the public from the hazards posed by these dogs, and

WHEREAS, waiting until that dog has proven itself to be vicious before subjecting that animal to restrictions exposes the public to potential safety hazards, and

WHEREAS, there have been serious attacks by dogs of many breeds. In determining the dangerousness of a dog, the dog's upbringing and control by the owner are at least as important as the dog's breed, and

WHEREAS, dogs that cause serious injury to humans have usually exhibited behavioral problems prior to causing such injuries. If these behavioral problems are reported to animal control authorities, precautions can be taken to limit opportunities for causing serious injury, and

WHEREAS, dogs should be restricted no more than is reasonably necessary to protect the public. Increasing the severity of restrictions according to the seriousness of the behavioral problems displayed by a dog serves two (2) 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 to less serious behavior, and

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 (1) 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 dangerousness than isolated minor incidents, dogs involved in inappropriate behaviors should be specially tagged 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,

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Albany Municipal Code Chapter 6.18, Dangerous Dogs is hereby created to read as follows:

Chapter 6.18

DANGEROUS DOGS

Sections:

- 6.18.010 Definitions.
- 6.18.020 Classification of levels of dangerousness.
- 6.18.030 Identification of dangerous and potentially dangerous dogs; appeals; restrictions pending appeal.
- 6.18.040 Regulation of potentially dangerous dogs.
- 6.18.050 Euthanasia for dangerous dogs.
- 6.18.060 Infraction.
- 6.18.070 Impoundment pending adjudication of infraction.

6.18.010 Definitions. As used in this ordinance, 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.
- (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.
- (7) "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.
- (8) "Person" means any natural person, association, partnership, firm or corporation.
- (9) "Potentially dangerous dog" means any dog that has been found to have engaged in any behaviors specified in AMC 6.18.020(1).
- (10) "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.
- (11) "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, the County Health Officer's designee, or any medical doctor to be of equal or greater severity.

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 (2) occasions within a single twenty-four 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.

(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.

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 of the dog's behavior by animal control officers or by other witnesses who personally observed the behavior. If the determination is based upon observations of witnesses other than animal control officers, the witnesses must first sign affidavits attesting to the observed behavior and must agree to provide testimony regarding the dog's behavior if called upon to do so.

(2) The Director shall give the dog's owner written notice by certified mail or personal service of the dog's specific behavior, of the dog's classification as a dangerous or potentially dangerous dog, and of the additional restrictions applicable to that dog by reason of its classification. Other forms of notification which result in actual notice of the information required above, shall be sufficient. If the owner denies that the behavior in question occurred, the owner may appeal the Director's decision to the Hearing's Officer by filing, with the Director, a written request for hearing. The request for hearing must be received, by the Director, within ten (10) days of the following, whichever occurs first:

- (a) The date of mailing of notice to the owner, by certified mail;
- (b) The date the notice is personally served upon the owner, or
- (c) The date when the owner acquired actual knowledge of the information required to be contained in the notice.

(3) The Hearing's 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. The Hearing's Officer shall determine whether the behavior specified in AMC 6.18.020 was exhibited by the dog in question. The Hearing's Officer shall issue an order containing his or her determination, which shall be final.

(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.

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 access to any public sidewalk, roadway, adjoining property, or any other portion of the property from which the public is not excluded.

(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 \$25.00 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 ten (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) The requirements of this section shall apply to any person to whom ownership of a potentially dangerous dog is transferred.

6.18.050 Euthanasia for Dangerous Dogs. 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.

6.18.060 Infraction. The violation of any provision of this ordinance shall constitute an infraction subject to the procedures set forth at AMC 1.05 and subject to the penalties set forth at 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.

6.18.070 Impoundment Pending Adjudication of Infraction. If the owner of any dog is cited for an infraction based upon the violation of any provision of this chapter, the Director may impound the dog pending adjudication of the infraction if, in the exercise of reasonable discretion, he or 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 which caused the impoundment, the dog's owner shall pay to the City all costs incurred in the dog's impoundment and unless such costs are paid within ten (10) days of the date when the owner is convicted of the infraction, the dog shall be euthanized. Euthanasia shall not relieve the owner of his or her responsibility to pay impoundment costs previously incurred.

Section 2: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health and safety of the city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by Council: January 25, 1989

Approved by Mayor: January 26, 1989

Effective Date: January 25, 1989



Mayor

ATTEST:



City Recorder