

Chapter 7.08

DANGEROUS DOGS

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7.08.010 Created. The Chapter is created to provide for the regulation of Dangerous Dogs and Potentially Dangerous Dogs and provide policy, power and authority within the City of Snohomish as set out in this Chapter. (Ord. 1915, 1999)

7.08.020 Definitions. Terms used in this chapter are defined pursuant to SMC Section 7.04.020.

7.08.030 Potentially Dangerous Dog or Dangerous Dog Outside Enclosure. It is unlawful for an owner of a potentially dangerous dog or dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a 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. (Ord. 2100, 2005)

7.08.040 Dangerous Dogs and Potentially Dangerous Dogs – Certificate of Registration Required - Prerequisites.

A. It is unlawful for an owner to have a dangerous dog or a potentially dangerous dog in the City of Snohomish without a certificate of registration issued under this section. This section shall not apply to police dogs.

1. The owners of all dangerous dogs or potentially dangerous dogs shall obtain a certificate of registration from the City of Snohomish immediately on the next business day, upon the animal moving to the City. This includes dogs found to be dangerous or potentially dangerous in other jurisdictions that move to the City of Snohomish.

2. After paying the registration fee and registering a potentially dangerous dog with the City of Snohomish, the owners of potentially dangerous dogs labeled so by another jurisdiction based solely on breed classification alone without any aggressive acts, may request review by the Community Services Officer/Animal Control Officer to determine if that specific breed classified potentially dangerous dog will be considered a potentially dangerous dog for registration purposes in the City of Snohomish.

a. The owner of the potentially dangerous dog shall make their request in writing to the Community Services Officer/

Animal Control Officer and will have the responsibility to provide written documentation that the animal was determined to be a potentially dangerous dog based solely on breed, without any aggressive acts.

- b. The Community Services Officer/Animal Control Officer will make the determination of whether the dog will be considered a potentially dangerous dog for registration purposes. There is no appeal of that decision.
- c. The Community Services Officer/Animal Control Officer will make her decision based upon contact with the jurisdiction declaring the potentially dangerous dog to determine whether the dog was declared a potentially dangerous dog solely based upon breed or whether there is record of any aggressive behavior or acts. If the record shows no aggressive behavior or acts and that the declaration was based solely upon breed, then the dog will not be required to be registered as a potentially dangerous dog in the City of Snohomish. If there is any record of aggressive behavior or acts then the dog will be required to be registered as a potentially dangerous dog in the City of Snohomish.
- d. The Community Services Officer/Animal Control Officer will provide her decision in writing whether the potentially dangerous dog will be considered a potentially

dangerous dog for registration purposes in the City of Snohomish. If the Community Services Officer/Animal Control Officer's decision is that the dog will not be considered a potentially dangerous dog for registration purposes in the City of Snohomish then the fees will be refunded and the dog shall have regular licensing requirements.

- B. The City of Snohomish shall issue a certificate of registration to the owner of a dangerous dog or potentially dangerous dog upon payment of a one hundred dollar (\$100.00) registration fee if the owner presents to the City of Snohomish sufficient evidence of:
 1. A proper enclosure to confine a dangerous dog or potentially dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog or potentially dangerous dog; and
 2. Either:
 - a. A surety bond issued by a surety insurer qualified under RCW 48.28 in a form acceptable to the City of Snohomish and the City Attorney in the sum of at least two hundred fifty thousand dollars (\$250,000), payable to any person injured or owner of an animal injured by the dangerous dog; or

- b. 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 two hundred and fifty thousand dollars (\$250,000), insuring the owner for any personal injuries inflicted or injuries to an animal inflicted by the dangerous dog.

C. The term for a certificate of registration is one year from the date of issuance or until the dog is moved to another address outside the corporate limits of the City of Snohomish, whichever is less. The owner of a dangerous dog or potentially dangerous dog must renew the certificate of registration annually, unless the dog is moved to another address outside the corporate limits of the City of Snohomish. (Ord. 2100, 2005)

7.08.050 Dangerous Dogs Required to be Microchipped. Any dog which is declared to be a dangerous dog pursuant to this Chapter or RCW Chapter 16.08 shall be required to be microchipped by a veterinarian of the owner's choice, at the owner's expense. This shall be in addition to the normal requirements for licensing as defined within this title. This must be accomplished within thirty (30) days after receipt of the dangerous dog declaration issued by the Animal Control Officer or the Hearing Examiner, in the event of an appeal, pursuant to SMC 7.08.060.

7.08.060 Declaration of Potentially Dangerous or Dangerous Dog – Procedure and Notification Requirements.

A. The Animal Control Officer shall identify and classify potentially dangerous dogs and dangerous dogs.

The Animal Control Officer may find and declare a dog potentially dangerous or dangerous if the Animal Control Officer has probable cause to believe that the dog falls within the definitions set forth in SMC 7.04.020. Probable cause may be based upon:

1. The written complaint of a citizen who is willing to testify that he or she witnessed the dog acting in a manner which causes it to fall within the definition of potentially dangerous dog or dangerous dog.
2. Dog bite reports filed with the Animal Control Officer.
3. Actions of the dog witnessed by any Animal Control or Law Enforcement Officer.
4. Other substantial evidence.

B. Upon determining that probable cause exists to believe that a dog is potentially dangerous or dangerous, the Animal Control Officer may issue a written notice to the owner of the dog. The notice shall contain the following:

1. The name and address of the owner of the dog;
2. A brief description of the dog;
3. A brief statement of why the dog has been found to be a potentially dangerous dog or dangerous dog;
4. The specific provision or provisions of SMC 7.08.060(A) under which the Animal Control Officer has found the dog to be a potentially dangerous dog or dangerous dog;
5. The requirements for restraint of the

dog, if applicable, as determined by the Animal Control Officer, and when these requirements must be complied with;

Officer, including a statement that, if the requirements are not timely met, the Animal Control Officer shall have the authority of issue a criminal citation or report such noncompliance to the City Attorney's Office, which shall have the authority to initiate a criminal action, all as set out in 7.08.080 hereof; and

7. A statement advising:
 - a. That the notice may be appealed to the City of Snohomish Hearing Examiner.
 - b. That the failure to file a timely and complete notice of appeal will constitute a waiver of all rights to an appeal under this chapter.

C. The notice shall be served on the owner in one of the following methods:

1. First class mail to the owner's last known address; or
2. Personally. If the notice of hearing is personally served, proof of personal service of notice of hearing shall be made by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made.

D. If the owner cannot be located as provided in paragraph (C) (1) or (2) of this subsection, notification shall be attempted by publication in a newspaper of general circulation.

6. The criminal penalty for violation of the requirements for restraint imposed by the Animal Control

7.08.070 Appeal of Notice of Potentially Dangerous Dog or Dangerous Dog.

A. Any owner of a dog which has been declared potentially dangerous or dangerous by the Animal Control Agency may appeal the notice by filing a written notice of appeal at the City of Snohomish, within fourteen (14) days from the date of the notice. Said written notice of appeal shall be on a form provided for that purpose by the Animal Control Agency or other written notice, but must contain the following items:

1. A caption reading: "Appeal of _____," giving the name of the appellant.
2. A brief statement of the finding being appealed, together with any material facts claimed to support the contentions of the appellant.
3. A brief statement of the relief sought, and the reasons why the finding should be reversed, modified or otherwise set aside.
4. The current address of the appellant.
5. A verification, by declaration under penalty of perjury, made by the appellant as to the truth of the matters stated in the appeal.

B. Failure to file a timely and complete notice of appeal constitutes a waiver of all rights to an appeal under this chapter.

C. Upon receipt of a timely filed and completed notice of appeal, a notice of hearing shall be sent to the appellant, setting the date, time and place of the appeal hearing.

D. The hearing shall be set no less than 10 nor more than 30 business days following receipt of a timely filed and complete notice of appeal. The filing of a notice of appeal shall not stay the requirements for restraint of the dog provided to the owner pursuant to SMC Section 7.08.060 (B)(5).

E. The hearing shall be before the City of Snohomish Hearing Examiner who is authorized by this chapter and section to conduct such hearing.

F. At the hearing, the owner of the dog found to be a potentially dangerous dog or dangerous dog shall be permitted to present evidence in support of their position at the hearing. A representative or representatives of the City also shall be permitted to present evidence in support of declaring the dog a dangerous or potentially dangerous dog.

G. Hearing

1. Dogs shall be declared potentially dangerous or dangerous by the Hearing Examiner upon proof that they are animals as defined by Section 7.04.020. If a threat, injury, or damage sustained by a person forms part of the proof that the dog is dangerous, it shall be an affirmative defense to be proved by the owner that the dog's 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. Upon proof of such affirmative defense no declaration that the dog is dangerous shall be made.

2. At the hearing, the burden shall be on the owner of the dog, by a preponderance of the evidence, that one or more of the circumstances set forth in subsection (G)(1) of this section exist.

3. The affirmative defense set out in Subsection (G) (1) of this section shall not apply in actions to declare the dog to be potentially dangerous dog. (Ord. 1931, 1999)

H. Hearing Examiner/Official Decision:

1. At the conclusion of the hearing, the Hearing Examiner/Official shall issue written findings, conclusions and a decision.

2. At the conclusion of a hearing to determine whether a dog is to be declared dangerous, the decision of the Hearing Examiner/Official may be:

a. The dog in question is declared to be a dangerous dog;

b. The dog in question is declared to be a potentially dangerous dog;

c. The dog in question is declared to be a potentially dangerous dog, with additions, deletions

and/or modifications made to the restrictions initially proposed to be placed on the dog by the Animal Control Officer; or

- d. The dog in question is declared to be neither dangerous nor potentially dangerous.
- 3. At the conclusion of a hearing to determine whether a dog is to be declared potentially dangerous, the decision of the Hearing Examiner may be:
 - a. The dog in question is declared to be a potentially dangerous dog;
 - b. The dog in question is declared to be a potentially dangerous dog, with additions, deletions and/or modifications made to the restrictions initially proposed to be placed on the dog by the City of Snohomish Animal Control; or
 - c. The dog in question is declared to not be a potentially dangerous dog.
- 4. The decision of the Hearing Examiner/Official shall be final.
 - a. The Hearing Examiner's decision shall be final and conclusive with right of appeal to the Superior Court of Snohomish County.
 - b. Notice of the appeal and any other pleadings required to be filed with the court shall be served as required by law.
 - c. The cost of transcribing and preparing all records ordered certified by the court or desired

by the appellant for such appeal shall be borne by the appellant. The city, upon appeal to the Superior Court and payment by the appellant of the costs thereof, will prepare the record and transcribe the tape thereof and will deliver the same to the Court. Any appeal will be conducted on the record before the hearing examiner as if an appeal from a court of limited jurisdiction in accordance with the Rules of Appeal from Limited Jurisdictions (RALJ).

7.08.080 Dangerous Dogs/Potentially Dangerous Dogs – Confiscation - Offenses.

- A. Grounds for confiscation: Any dangerous dog or potentially dangerous dog shall be immediately confiscated by the Animal Control Officer if:
 - 1. The dog is not validly registered under this chapter or RCW 16.08.080;
 - 2. The owner does not secure the liability insurance coverage required under this Chapter or RCW 16.08.080;
 - 3. The dog is not maintained in the proper enclosure; or
 - 4. The dog is outside of the dwelling of the owner, or outside of the proper enclosure, and not under physical restraint of a responsible person.
- B. The owner of a dangerous dog or potentially dangerous dog shall be guilty of a gross misdemeanor in any of the following circumstances:

1. The owner does not validly register and/or maintain a valid registration for the dangerous dog or potentially dangerous dog;
 2. The owner does not secure and/or maintain liability insurance required by this Chapter or RCW 16.08.080;
 3. The owner does not maintain the dog in a proper enclosure; or
 4. The owner or a responsible person does not physically restrain the dangerous dog or potentially dangerous dog while the dog is outside the dwelling of the owner, or the dog is outside the proper enclosure required by this Chapter or RCW 16.08.
- C. If a dangerous dog of an owner with a prior conviction under this chapter or RCW 16.08.100, attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. The matter shall be referred to the County Prosecutor for prosecution. In addition, the dangerous dog shall be immediately confiscated by an Animal Control Authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- D. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a class C felony punishable in accordance with RCW 9A.20.021. The matter shall be referred to the County Prosecutor for prosecution. In addition, the dog shall be immediately confiscated by an

Animal Control Authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

- E. The owner of any dog that has been confiscated, quarantined, and/or destroyed shall be responsible for all of the associated costs. The same may be assessed as restitution in any misdemeanor or felony prosecution. The City in addition shall have the right to pursue an action in a court with jurisdiction to collect the associated costs. In any such action the City shall be entitled to recover its costs and reasonable attorneys fees. (Ord. 2100, 2005)

7.08.090 Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Snohomish hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

7.08.100 Third Party Liability. It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. (Ord. 1915, 1999)