

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	DD	5/18/09	RECEIVED JUN 16 2009 WHATCOM COUNTY COUNCIL	6/23/09	Intro
Division Head:				7/7/09	Finance/Council
Dept. Head:	<i>DAW</i>	6/10/09			
Prosecutor:	<i>ROW</i>	2/15/09			
Purchasing/Budget:					
Executive:	<i>DAW</i>	6-16-09			

TITLE OF DOCUMENT:

Ordinance amending Whatcom county Code section 6.04, Animal Control including a new process for contested hearings.

ATTACHMENTS: Memo and Ordinance

SEPA review required? () Yes (x) NO Should Clerk schedule a hearing? () Yes (x) NO
 SEPA review completed? () Yes (x) NO Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance amending Whatcom County Code section 6.04, Animal Control

COMMITTEE ACTION:

7/07/2009: Forwarded to Council for approval

COUNCIL ACTION:

6/23/2009: Introduced
 7/07/2009: Council Adopted 7-0
 Ord. 2009-053

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:
 Ord. 2009-053

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.

SPONSORED BY: Consent
PROPOSED BY: County Executive
INTRODUCTION DATE: 6/23/2009

ORDINANCE NO. 2009- 053

AMENDING WHATCOM COUNTY CODE
SECTION 6.04, ANIMAL CONTROL

WHEREAS, Section 6.04 of the Whatcom County Code provides regulations within the unincorporated areas of Whatcom County and specific controls within designated urban areas of Whatcom County to control animal conduct; and


WHEREAS, Section 6.04.100 of the Whatcom County Code states that animal owners must request a hearing in front of the animal control agency that issued the declaration which could be perceived as a conflict of interest in the pursuit of the legal recourse guaranteed to residents that have a desire to request a hearing to contest a declaration of dangerous or potentially dangerous dog.; and

WHEREAS, in order to provide a more democratic process for animal owners to request a hearing to contest a declaration of dangerous or potentially dangerous dog, Section 6.04.100 should be repealed and Section 6.04.232 "Contested Hearing" should be added to the Whatcom County Code to reflect that these contested hearings will be heard by the District Court of Whatcom County.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Section 6.04.100 of the Whatcom County Code be repealed as indicated in Exhibit A to this ordinance; and that Section 6.04.232 be added to the Whatcom County Code as indicated in Exhibit C to this ordinance.

ADOPTED THIS 7th DAY OF July, 2009.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

A circular seal for the Whatcom County Council. The outer ring contains the text "WHATCOM COUNTY COUNCIL" at the top and "WHATCOM COUNTY, WASHINGTON" at the bottom. Inside the ring, there is a smaller circle with "COUNTY OF WHATCOM" and "STATE OF PENNSYLVANIA". The center of the seal features a star and some illegible text. A signature is written across the seal.

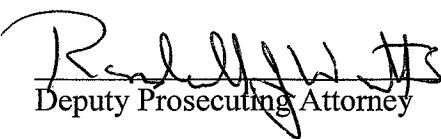
Dana Branch Davis, Clerk of the Council

A handwritten signature in black ink, appearing to read "Seth Fleetwood".

Seth Fleetwood, Council Chair

APPROVED AS TO FORM

APPROVED () DENIED ()

A handwritten signature in black ink, appearing to read "Randall W. Hts".

Deputy Prosecuting Attorney

A handwritten signature in black ink, appearing to read "Pete Kremen".

Pete Kremen, County Executive

Date: 7-9-09

Exhibit A

6.04.100 Dangerous or potentially dangerous dogs — Declaration — Appeal.

~~Following service of a declaration of dangerous or potentially dangerous dog, the owner or keeper may, within five business days of receipt of the declaration, or within five days of the publication of the declaration pursuant to WCC 6.04.090 (B)(3), request in writing a hearing before the director of animal control.~~

~~A. Such request shall contain:~~

~~1. A brief statement that protests the action and stating reasons it should be reversed or modified; and~~

~~2. The names, phone numbers and addresses of any witnesses who will appear on the dog owner's behalf; and~~

~~3. Current day phone number where the owner, keeper or his representative can be contacted; and~~

~~4. An address where notice may be sent; and~~

~~5. If any of the above information changes during the process, it is incumbent upon the appellant to give written notification of the change to the director of animal control authority.~~

~~B. Within seven business days of receiving the notice of appeal the director of animal control authority shall notify the appellant and any complainants of the hearing date. The hearing must take place within 30 days of receipt of the appeal, with an effort to reasonably accommodate all parties involved. All witnesses will be notified by phone or letter of the hearing date.~~

~~If appellant or appellant's representative fails to appear for the hearing, excepting verifiable emergency, the original determination stands.~~

~~C. At the hearing, the animal control officer will give a full report of the actions and reasons leading to the declaration. Any witnesses who were a part of the determination and declaration shall be present and asked for their testimony. The burden is on the animal control department to show by a preponderance of the evidence that the dog is dangerous or potentially dangerous as defined in WCC 6.04.020(H) or (Q). The dog owner, keeper or his representative and any witnesses on behalf of the dog or its owner will then be asked for their testimony and be given an opportunity to present any other pertinent evidence. The dog owner may be represented by counsel. The hearing will not be open to the public, and witnesses may be excluded until their testimony is taken if requested by the dog's owner. The rules of evidence do not apply at this hearing and the director is free to consider anything the director feels is relevant.~~

~~D. The director of animal control, having heard from both sides, will render either an immediate decision or a decision within 48 hours if new information is presented that may have a bearing on the decision.~~

~~E. The decision will:~~

~~1. Uphold the original declaration and terms imposed; or~~

~~2. Reverse the entire decision; or~~

~~3. Uphold the original declaration but modify the terms and restrictions; or~~

~~4. Downgrade a declaration of dangerous to potentially dangerous with appropriate terms and restrictions.~~

~~_____ F. _____ If the decision is reversed, written recommendations and/or warnings concerning the dog's actions may be issued by the director which will become a permanent part of the history of the case.~~

~~_____ G. _____ Within seven days of the hearing, the director shall prepare a final written decision including his/her findings and conclusions. A copy shall immediately be sent to the owner or keeper at the address provided to the animal control authority. Upon receipt of said written decision, the owner may appeal to the superior court by filing written notice thereof within 30 days. Such appeals shall be governed by the provisions of the Administrative Procedure Act (Chapter 34.04 RCW). (Ord. 2004-039; Ord. 98-022; Ord. 90-53 (part)).~~

Exhibit C

6.04.232 Contested Hearing.

Following service of a declaration of dangerous or potentially dangerous dog, the owner or keeper may, within five business days of receipt of the declaration, or within five business days of publication of the declaration pursuant to WCC 6.04.090(B)(3), request a hearing contesting such actions through the District Court of Whatcom County.

If owner or keeper wishes to request a hearing, they must do so in person at the District Court of Whatcom County Offices, Whatcom County Courthouse, 311 Grand Avenue, Suite 401, Bellingham, Washington 98225. Animal owner or keeper shall:

A. Pay the currently established District Court filing fee for civil actions; and

B. File with the District Court Clerk a petition which shall contain the following information:

(1) Date of declaration with a copy attached;

(2) Statements giving basis as to why petitioner believes the decision should be reversed;

(3) Names, addresses and phone numbers of any witnesses who will appear on petitioner's behalf; and

(4) Current address and daytime phone number where petitioner can be contacted.

C. If an animal(s) has been impounded, petitioner shall seek an expedited hearing.

D. It is the petitioner's responsibility to notify the animal control authority within 48 hours of the filing. If the last day for notification falls on a day that the animal control authority is closed for business, the petitioner has until the next business day to provide notice.