

**CHAPTER 6.10
DANGEROUS DOG AND POTENTIALLY DANGEROUS DOG**

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6.10.010 Title: The ordinance codified in this chapter shall be referred to as the dangerous dog and potentially dangerous dog ordinance. (Ord. 2757, 3/24/15)

6.10.020 Applicability: The provisions of this chapter shall apply to adult dogs only, which means any dog over the age of six (6) months. The declaration of dangerous dog or potentially dangerous dog follows the dog, regardless of ownership or change of ownership. (Ord. 2757, 3/24/15)

6.10.030 Definitions: The following definitions shall apply throughout this chapter:

- A. "Animal control authority" means the department of the City charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the City and/or with the shelter and welfare of animals.
- B. "Animal control officer" means any person or agency designated by the City as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- C. "Dangerous dog" means any dog that:
 - 1. Inflicts severe injury on a human being without provocation on public or private property; or
 - 2. Kills a domestic animal, without provocation, while the dog is off the owner's property; or
 - 3. Has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- D. "Owner" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal.

- E. "Potentially dangerous dog" means:
1. Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or to otherwise endanger the safety of humans or other domestic animals; or
 2. Any dog which unprovoked inflicts bites on a human or domestic animal either on public or private property; or
 3. Any dog which unprovoked chases or approaches a person upon the streets, sidewalks, or other public grounds in a menacing fashion or apparent attitude of attack.
- F. "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's property, a dangerous dog shall either be:
1. Securely confined indoors; or
 2. In a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of ten (10) years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and provide protection from the elements for the dog. If such pen or structure does not have a bottom that is secured to the sides, the sides must be embedded at least one foot (1') into the ground.
- G. "Running at large" means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle; except that, for purposes of this definition, the "premises of the owner" shall not include common areas of a condominium complex, town houses, duplexes, and apartment buildings, and any animal not in the effective control of its owner upon the common area of a condominium complex, town house, duplex, or apartment building, or the grounds thereof, shall be deemed to be running at large.
- H. "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery. (Ord. 2757, 3/24/15)

6.10.040 Defense: Dogs shall not be declared dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person who, at the time:

- A. Was committing a willful trespass or other tort upon the property or vehicle occupied or owned by the owner of the dog; or
- B. Was tormenting, abusing, or assaulting the dog; or
- C. Has, in the past, tormented, abused, or assaulted the dog; or
- D. Was committing or attempting to commit a crime. (Ord. 2757, 3/24/15)

6.10.050 Declaration of Dangerous Dog or Potentially Dangerous Dog - Procedure:

- A. The Community Services Officer shall issue a notice of potential declaration to the owner of the dog following the guidelines of service found at MLMC 6.10.090. Said notice will include an opportunity for the owner to discuss the action in writing or orally with the Community Services Officer within fourteen (14) calendar days of receipt of the notice.
- B. After the discussion or the fourteen (14) day period, whichever comes first, the Community Services Officer shall issue a final decision in the form of either a final declaration or a letter of no finding.

- C. If the dog has been impounded due to its actions, such impoundment shall continue during the pendency of the above procedure. The owner shall be responsible for the cost of impoundment regardless of the outcome of the action.
- D. The Hearing Examiner in an appeal pursuant to this Chapter can take note of and consider the owner's failure to discuss the action with the Community Services Officer or failure to raise any and all defenses at the discussion with the Community Services Officer. (Ord. 2757, 3/24/15)

6.10.060 Notice of Potential Declaration: Notice in the form of a declaration given to an owner in the manner described below or in MLMC 6.10.080 shall be prima facie evidence that the owner acted knowingly, although notice is not the only way to prove the owner's knowledge of the animal's propensity. Any notice of potential declaration must be in writing and include the following:

- A. A description of the animal;
- B. The name and address of the owner, if known;
- C. The whereabouts of the animal if it is not in the custody of the owner;
- D. A brief statement of why the dog is being considered a dangerous or potentially dangerous dog;
- E. The specific provision or provisions of MLMC 6.10.030(3) or (5) which the Community Services Officer has found applicable;
- F. The restrictions that could be placed on the dog as a result of a final declaration;
- G. The penalties for violation of the restrictions of a final declaration, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
- H. The date, time and location to meet with the Community Services Officer to discuss the action. (Ord. 2757, 3/24/15)

6.10.070 Evidence: Based on an investigation, the Community Services Officer may find and declare a dog dangerous or potentially dangerous if he has a reasonable belief that the dog falls within the definitions set forth in MLMC 6.10.030(3) or (5). For the purposes of this chapter, a reasonable belief may be supported by any of the following:

- A. The written complaint of a citizen who has witnessed the animal acting in a manner which causes it to fall within the definitions in MLMC 6.10.030(3) or (5) and is willing to so testify in a court of law; or
- B. Dog bite reports filed with the Community Services Officer; or
- C. Actions of the dog witnessed by the Community Services Officer or any law enforcement officer; or
- D. A verified report that the animal previously has been found to be either potentially dangerous or dangerous by the Community Services Officer; or
- E. Other substantial evidence admissible in a court of law. (Ord. 2757, 3/24/15)

6.10.080 Final Decision: The final decision shall consist of either a final declaration or a letter of no finding issued to the owner.

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- A. In the event the Community Services Officer finds reason to issue a final declaration, it shall contain the following:
1. A description of the animal;
 2. The name and address of the owner, if known;
 3. The date and time of the meeting with the owner, if any;
 4. A brief statement of why the dog has been found to be a dangerous or potentially dangerous dog;
 5. The specific provision or provisions of MLMC 6.10.030(3) or (5) which the Community Services Officer found applicable;
 6. The restrictions placed on the dog as a result of the declaration;
 7. The penalties for violation of the restrictions, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
 8. A statement that the declaration can be appealed to the Hearing Examiner pursuant to Section 6.10.100 within fourteen (14) calendar days; and
 9. A statement that failure to file a timely and complete notice of appeal will constitute a waiver of all rights to appeal said declaration.
- B. A letter of no finding shall include:
1. A description of the animal;
 2. The name and address of the owner;
 3. The date and time of the meeting with the owner;
 4. A brief summary of testimony and evidence presented at such discussion;
 5. A brief summary of why the animal is not being found dangerous or potentially dangerous. (Ord. 2757, 3/24/15)

6.10.090 Service: Service of the notice of potential declaration, final declaration or letter of no finding shall be in writing, and shall be served on the owner in one of the following methods:

- A. Certified mail, return receipt requested or delivery confirmation requested, to the owner's last known address; or
- B. Personally delivered with proof of personal service made by written declaration under penalty of perjury by the person effecting service declaring the time, date and manner in which service was made; or
- C. Posting the declaration on the front door of the living unit of the owner, or person with right to control the animal if said owner is not home; or
- D. Publication in a newspaper of general circulation, if the owner cannot be located by one of the above methods. (Ord. 2757, 3/24/15)

6.10.100 Appeal of Potentially Dangerous or Dangerous Dog Determination:

- A. Any owner of a dog which has been declared potentially dangerous or dangerous by the Community Services Officer, pursuant to this section may appeal the notice by filing with the Finance Director within fourteen (14) calendar days from the date of the notice, a written notice of appeal. Said written notice of appeal shall be on a form provided for that purpose by the Finance Director and must contain the following items:
1. A caption reading: "Appeal of Potentially Dangerous Dog or Dangerous Dog Determination" 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 including but not limited to the following written information and/or documents:
 - a. Specific basis on which the owner contests the determination of potentially dangerous or dangerous dog;
 - b. Any breed identification or registration paperwork, certificates, pedigrees, or the like regarding the dog in question;
 - c. Any expert testimony supporting or corroborating the owner's assertion that the dog is not a potentially dangerous or dangerous dog;
 - d. Any certifications or other evidence establishing training courses completed by the dog and its owner, such as obedience training or canine good citizen training.
 3. A brief statement of the relief sought, and the reasons why the finding should be reversed, modified, or otherwise set aside.
 4. A statement acknowledging that if the Hearing Examiner finds there is sufficient evidence to support the potentially dangerous or dangerous dog determination, all costs of the appeal process, including attorney's fees, shall be assessed against the owner.
 5. The current address of the appellant.
 6. A verification, by declaration under penalty of perjury, made by the appellant as to the truth of the matters stated in the appeal, pursuant to RCW 9A.72.085.
- B. Failure to file a timely and complete notice of appeal constitutes a waiver of all rights to an appeal under this chapter. Failure to appear for an appeal hearing shall result in a denial of the appeal and upholding of the declaration of potentially dangerous or dangerous dog.
- 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 Examiner shall set a date and time for hearing the appeal 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 this chapter.
- E. The appeal shall be heard before the Hearing Examiner for the City. At the hearing, the dog shall be declared potentially dangerous or dangerous upon proof that the dog is as defined in MLMC 6.10.030(3) or (5), as established by the probable cause standard required for the declaration of the Community Services Officer.
- F. The burden shall be upon the owner of the dog to prove one or more of the affirmative defenses set forth in 6.10.040 by a preponderance of the evidence. The affirmative defenses

set forth in 6.10.040 shall not apply in actions to declare the dog to be potentially dangerous.

- G. At the hearing, the owner of the dog found to be a potentially dangerous or dangerous dog shall be permitted to present evidence in support of the owner's position at the hearing.
- H. At the conclusion of the hearing, the Hearing Examiner shall issue a written decision.
 - 1. If the Hearing Examiner finds there is insufficient evidence to support the potentially dangerous or dangerous dog determination, it shall be rescinded and the restrictions imposed thereby annulled. No Hearing Examiner costs shall be assessed and any potentially dangerous or dangerous dog registration fee paid shall be refunded.
 - 2. If the Hearing Examiner finds there is sufficient evidence to support the potentially dangerous or dangerous dog determination, all costs of the appeal process, including attorney's fees, shall be assessed against the owner.
- I. The decision of the Hearing Examiner shall be final and shall be mailed to the owner. Proceedings to review the decision must be instituted within fifteen (15) calendar days of the date the written decision was mailed.
- J. All impound fees are the responsibility of the owner of the dog, no dog impound expense and fee(s) shall be assessed against the City of Moses Lake or the animal control authority or officer. (Ord. 2757, 3/24/15)

6.10.110 Registration of Potentially Dangerous Dog Required: All potentially dangerous dogs residing within the City of Moses Lake must be registered to the current owner. The fee for registration of a potentially dangerous dog is one hundred dollars (\$100). Registration must be renewed annually.

- A. A potentially dangerous dog certificate of registration shall be issued by the Community Services Officer to the owner of a potentially dangerous dog if the owner presents to the Community Services Officer sufficient evidence of:
 - 1. A proper enclosure as defined in MLMC 6.10.030(F) in which to confine the potentially dangerous dog;
 - 2. Proof of payment of the annual registration fee;
 - 3. Proof that the dog has been micro-chipped, including providing the microchip serial number or proof that the dog has been tattooed, including providing the tattoo number;
 - 4. Written acknowledgment of receipt of a copy of this chapter that includes a statement that the person acknowledging has read and understood what is required to keep a potentially dangerous dog within the City and what actions may lead to a dangerous dog declaration.
- B. Exemption to certificate of registration of potentially dangerous dog. A dog that is classified as a potentially dangerous dog under the provisions of this chapter may be exempted from the Certificate of Registration requirements of this section, provided such dog has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC) as administered by an AKC approved evaluator and has received the appropriate certificate from the AKC. Such dog shall be retested and shall pass such CGC test at least once every two (2) years in order to maintain this exemption. The burden of maintaining such certification is the sole responsibility of the owner and the owner shall bear all costs of obtaining and maintaining such certification. (Ord. 2757, 3/24/15)

6.10.120 Prohibited Acts: It shall be unlawful for any person to:

- A. Keep a dangerous dog within the City limits;

- B. Fail to register a potentially dangerous dog under MLMC 6.10.110(A) within thirty (30) calendar days of bringing the dog into the City limits or after it has been declared a potentially dangerous dog;
- C. Fail to keep a potentially dangerous dog in a proper enclosure as defined in MLMC 6.10.030(F);
- D. Allow a potentially dangerous dog outside of a proper enclosure, unless the dog is muzzled, restrained by a substantial chain or leash and under the physical control of a person over the age of eighteen (18) years who is of sufficient size and stature to control the animal. 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. 2757, 3/24/15)

6.10.130 Penalties:

- A. Violations of any of the prohibited acts under MLMC 6.10.120 may result in the following penalties:
 - 1. Immediate confiscation of the dog:
 - a. The Community Services Officer shall immediately confiscate and impound any dangerous dog found within the city limits in violation of this Chapter and the animal control authority shall hold the same until such time as the prohibited act is abated.
 - b. The Community Services Officer shall immediately impound any dangerous dog or potentially dangerous dog found running at large as defined in MLMC 6.10.030(G).
 - c. Civil infraction subject to a C-1 penalty.
- B. If a dangerous dog of an owner with a prior conviction under this chapter or Chapter 16.08 RCW 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. In addition, the dangerous dog shall be immediately confiscated by an Community Services Officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- C. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether 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. In addition, the dangerous dog shall be immediately confiscated by an Community Services Officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
- D. Any person violating this Chapter shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding and veterinary expenses necessitated by the seizure of the dog for the protection of the public, and such other expenses as may be required for the destruction of any such dog. (Ord. 2757, 3/24/15)

6.10.140 Destruction: Whenever the animal control authority comes into possession of a dangerous dog or potentially dangerous dog they shall destroy the same if the dog is not reclaimed by the owner within thirty (30) calendar days. Under no circumstances shall a dangerous dog be sold or given to another as a pet. (Ord. 2757, 3/24/15)

6.10.150 Costs:

- A. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all actual service costs expended under MLMC 6.10.090.

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- B. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of confinement for any dog impounded pursuant to a violation of MLMC 6.10.120.
- C. The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of destruction expended for any dog impounded and not reclaimed under MLMC Chapter 6.08. (Ord. 2757, 3/24/15)

6.10.160 Failure to Reclaim: Whenever a dog is seized and impounded under this chapter, the failure to either reclaim the dog or to give a written surrender of the dog to the animal control authority shall result in the owner being prohibited from registering any new dogs in the City for a period of one (1) year. This prohibition shall not apply to the renewal of any existing dog license. (Ord. 2757, 3/24/15)

6.10.170 Nuisance: The harboring, keeping, and maintaining of a potentially dangerous dog or dangerous dog contrary to this chapter is a public nuisance and is subject to abatement by judicial procedure or by a summary abatement in an emergency or life-threatening situation. If summary removal of a dog occurs, the dog shall not be destroyed before a hearing can be held concerning the removal and destruction unless public health and safety requires otherwise. (Ord. 2757, 3/24/15)

6.10.180 Notification of Status of Potentially Dangerous Dog: The owner of a dog that has been classified as a potentially dangerous dog shall immediately notify the animal control authority when such dog:

- Is loose or unconfined; or
- Has bitten or otherwise injured a human being or attached another animal; or
- Is sold or given away or dies;
- Is moved to another address.
- Is removed from the City of Moses Lake.

Prior to a potentially dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to the animal control authority. The new owner shall comply with all of the requirements of this Chapter. (Ord. 2757, 3/24/15)

6.10.190 Dog Declared Dangerous or Potentially Dangerous by Another Jurisdiction:

- A. Any person desiring to bring a dog to live in the City which has been previously declared to be potentially dangerous, dangerous, vicious, or similar designation in another jurisdiction, under the provisions of chapter 16.08 RCW or comparable local ordinance, must notify the animal control authority prior to moving the dog to the City. The person must provide all information requested by the animal control authority and must comply with all restrictions imposed by the animal control authority. There is no right to bring into the City a dog that has been the subject of a declaration or similar process in another jurisdiction and the animal control authority will determine whether such a dog will be licensed and permitted to reside in the City.
- B. Except to the extent inconsistent with this Section, an appeal from the decision of the animal control authority under this Section may be appealed in the manner set forth in MLMC 6.10.100. At the hearing, the presumption shall be that the previous jurisdiction's determination is correct and the burden shall be upon the appellant to demonstrate the invalidity of the prior declaration or similar process. (Ord. 2757, 3/24/15)