

ORDINANCE NO. 1034

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, RELATING TO ANIMAL CONTROL, DELEGATING CERTAIN IDENTIFIED RESPONSIBILITIES REGARDING ANIMAL CONTROL TO THE ANIMAL CONTROL AUTHORITY, DESIGNATING AN ANIMAL CONTROL ZONE, ADOPTING A REQUIREMENT FOR DOG LICENSING AS WELL AS A REQUIREMENT FOR LICENSING OF COMMERCIAL PET FACILITIES, GROOMING PARLORS AND ANIMAL WELFARE FACILITIES, PROVIDING FOR IMPOUNDMENT, REDEMPTION, QUARANTINE AND DISPOSITION OF PETS, ADOPTING A PROCEDURE TO DECLARE AN ANIMAL AS POTENTIALLY DANGEROUS, INCLUDING PROCEDURES FOR NOTICE, SERVICE, APPEALS AND AN ADMINISTRATIVE HEARING ON THE POTENTIALLY DANGEROUS DESIGNATION, ADOPTING PENALTIES FOR FAILURE TO CONTROL AN ANIMAL DECLARED POTENTIALLY DANGEROUS, ADOPTING A PROCEDURE TO DECLARE AN ANIMAL AS DANGEROUS, INCLUDING PROCEDURES FOR NOTICE, SERVICE, APPEALS AND AN ADMINISTRATIVE HEARING ON THE DANGEROUS DESIGNATION, ADOPTING PENALTIES FOR POSSESSION OF A DANGEROUS ANIMAL AND ADOPTING DEFINITIONS IMPLEMENTING THE CHAPTER; REPEALING CHAPTER 6.04 AND 6.06 AND ADOPTING NEW CHAPTERS 6.04, 6.08, 6.10 AND 6.12 OF THE GIG HARBOR MUNICIPAL CODE.

WHEREAS, the City has adopted regulations addressing dogs in chapters 6.04 and 6.06 of the Gig Harbor Municipal Code; and

WHEREAS, the regulations in chapters 6.04 and 6.06 GHMC are old, and State law has since been changed to address dogs, the licensing, impoundment, quarantine and designation of dangerous dogs, etc. (chapter 16.08 RCW) and

WHEREAS, the City desires to adopt regulations relating to dogs to follow the process described in State law, and for ease of administration; and

WHEREAS, in addition, the City desires to adopt regulations relating to dangerous animals, consistent with the new regulations for dogs; and

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt from SEPA under WAC 197-11-800(19); and

WHEREAS, the City Council considered this Ordinance during its regular City Council meeting on February 13, 2006 and February 27, 2006;
Now, Therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR,
WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 6.04 of the Gig Harbor Municipal Code is hereby repealed.

Section 2. Section 6.08.010 of the Gig Harbor Municipal Code is hereby repealed.

Section 3. Section 6.08.020 of the Gig Harbor Municipal Code, which is the definition of “kennel,” is hereby recodified at GHMC Section 6.04.020, “definitions.”

Section 4. Section 6.08.030 of the Gig Harbor Municipal Code is hereby repealed.

Section 5. Section 6.08.040 of the Gig Harbor Municipal Code is hereby repealed.

Section 6. A new chapter 6.04 is hereby added to the Gig Harbor Municipal Code, to read as follows:

CHAPTER 6.04 ANIMAL CONTROL

Sections:

- 6.04.010 PURPOSE
- 6.04.020 DEFINITIONS.
- 604.030 AUTHORITY TO ANIMAL CONTROL AUTHORITY.
- 6.04.040 ANIMAL CONTROL ZONE ESTABLISHED.
- 6.04.050 CONSTRUCTION.

6.04.010 Purpose.

The ordinance codified in this title is enacted to enhance the public health, safety, welfare and convenience through the regulation of animal behavior to the end that offensive animal behavior will be reduced or eliminated. Furthermore, this title contains standards for the use, care and treatment of animals to the end that cruelty to animals will be reduced or eliminated.

6.04.020 DEFINITIONS.

The terms defined below, when used in this chapter, shall have the meanings that follow unless the context in which they are used clearly indicates a different meaning:

- (a) "Adequate food and water" means food or feed appropriate to the species for which it is intended. Both food and water must be in sufficient quantity and quality to sustain the animal, and should be in containers designed and situated to allow the animal easy access.
- (b) "Adequate shelter" means a structure that is moisture- and wind-proof, allows the animal to turn around freely, sit, stand and lie without restriction, keeps the animal clean and dry, and by application does not cause the animal injury, disfigurement, or physical impairment.
- (c) "Adult cat" means a cat more than six months of age.
- (d) "Adult dog" means a dog more than six months of age.
- (e) "Animal control authority" means the Kitsap County Humane Society, Pierce County Humane Society, or other organization contracted by the Gig Harbor Police Department to enforce the City's animal control provisions.
- (f) "Animal welfare facility" means any indoor or outdoor facility where pets are routinely housed or maintained by or for an animal welfare organization.
- (g) "Animal welfare organization" means any public or private organization registered with the Washington Secretary of State's Office as a not-for-profit

organization, whether called a kennel, cattery, shelter, society, or rescue, and includes the organization's officers, agents, and representatives when acting in the name or on behalf of the organization that controls, rescues, shelters, cares for, or disposes of pets as all or part of the purpose of the organization.

(h) "At large" means an animal that is off the premises of the owner and not under physical restraint adequate for its size and nature or is not sufficiently near its owner to be under its owner's direct control and is not obedient to its owner's commands, except that all dogs must be leashed when off the premises of the owner.

(i) "Commercial pet facility" means any place or entity where pets are boarded or bred for the primary purpose of compensation, or where pets are housed for resale, such as pet shops, but not including a veterinary hospital where boarding is incidental to treatment

(j) "Dangerous Animal" means any pet or livestock that:

(1) Inflicts severe injury on a human being without provocation on public or private property;

(2) Kills a domestic animal without provocation while the attacking animal 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 Animal again aggressively bites, attacks, or endangers the safety of humans, pets, or livestock.

(k) "Feral cat" means any cat that has no apparent owner or identification and is apparently wild, untamed, unsocialized, unmanageable, and unable to be approached or handled.

(l) "Grooming parlor" means any place or entity, public or private, stationary or mobile, where pets are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and for which a fee is charged.

(m) "Hearing examiner" means the Municipal Hearings Examiner appointed by the City Council, which shall be the Gig Harbor Municipal Court Judge.

(n) "Hybrid(s)" means the offspring of two animals of different species, such as the offspring resulting from breeding a domesticated dog (*Canis familiaris*) with a wolf (*Canis lupus*).

(o) "Impoundment" means when an animal is placed under the control or custody of the animal control authority.

- (p) "Juvenile cat" means a cat seven weeks to six months of age.
- (q) "Juvenile dog" means a dog seven weeks to six months of age.
- (r) ~~"Kennel" means an operation of more than two dogs of mature age, kept on any premises within the City.~~ *Means a commercial establishment in which domesticated animals are housed, groomed, bred, boarded, trained or sold.*
- (s) "Livestock" means animals including, but not limited to, all equine (horse, mule), bovine (cattle), porcine (swine), caprine (goats), ovine (sheep), camelid (camel, llama, alpaca), ratitae (ostrich, emu, rhea), domesticated poultry, game birds and waterfowl (as authorized by the State of Washington), or federally-permitted fowl and other pen raised fowl, or other animals raised primarily for use as food or fiber for human utilization or consumption.
- (t) "Owner" means any person or entity which controls, maintains, possesses, has custody of, or otherwise provides care, shelter, protection, restraint, refuge, food, or nourishment in such a manner as to control an animal's activities.
- (u) "Pet" means any animal maintained by a person or entity for the primary purpose of personal enjoyment, exhibition, companionship or service including, but not limited to, domesticated animals, such as cats and dogs, and non-domesticated animals suitable to living in companionship with humans, such as some birds and mammals.
- (v) "Pet shop" means a commercial establishment that acquires pets for the purpose of resale.
- (w) "Potentially dangerous animal" means any animal that when unprovoked:
- (1) Inflicts a bite(s) on a human, pet, or livestock either on public or private property;
 - (2) Chases or approaches a person upon the streets, side-walks, or any other public grounds or private property in a menacing fashion or apparent attitude of attack; or
 - (3) any animal with a known propensity, tendency, or disposition to attack unprovoked, or to cause injury or otherwise threaten the safety of humans, pets, or livestock on any public or private property.
- (x) "Provoke" means to intentionally agitate, harass, or excite an animal.
- (y) "Service dogs" means any guide or signal dog individually trained to provide assistance to an individual with a disability or that serves public or

tribal law enforcement, as well as any dog enrolled in a recognized formal training program for those types of services.

(z) "Severe injury" means any physical injury that result in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(aa) "Wheeled vehicle" means any wheeled conveyance intended for use as a means of transport of persons or goods.

6.04.030 AUTHORITY TO ANIMAL CONTROL AUTHORITY.

A. The City grants to the animal control authority the authority within RCW Chapters 16.08, 16.10 and 16.52, and further vests in the animal control authority the primary responsibility for animal control and for securing compliance with this title.

B. Employees of the animal control authority over the age of twenty-one, who are commissioned as Washington Humane Officers by the Superior Court, may be commissioned as special officers by the Police Chief. When so commissioned, the officer shall thereby be charged with the enforcement of all ordinances, statutes and regulations relating to the care, treatment, control, impoundment, and licensing of animals. Such commissions may be issued and revoked in the discretion of the Police Chief.

6.04.040 ANIMAL CONTROL ZONE ESTABLISHED.

All of the area within the city limits of Gig Harbor is declared to be a single animal control zone.

6.04.050 DOGS RUNNING AT LARGE – UNLAWFUL. *It is unlawful for the owner or handler of any dog to allow the dog to run at large. "To run at large" shall mean to run free of a leash, cage, or other physical restraint; provided that dogs shall not be deemed to be "at large" as long as the dog is: (a) on the property of the dog's owner; (b) on the property of the dog's handler; (c) or the dog is in an area specifically identified or set aside as "off-leash" for exercise or training.*

6.04.060 DOGS RUNNING AT LARGE – NUISANCE – IMPOUNDMENT. *Any dog straying or running at large shall be deemed to be a nuisance and may be immediately seized and impounded.*

6.04.070 REMOVING FECAL MATTER. *It is unlawful for the owner or handler of any animal to fail to remove fecal matter deposited by their animal on public property, public street, off-leash area or private property of another, before the owner or handler leaves the immediate area where the fecal matter was deposited.*

6.04.080 OFF-LEASH OR SET-ASIDE AREAS. *The prohibition set forth in GHMC Sections 6.04.050 and 6.04.060 shall not extend to areas set-aside or designated by the City as “off-leash” areas where animals can be off-leash for exercise or training.*

6.04.090 VIOLATION – PENALTY. *Violation of any portion of this chapter 6.04 GHMC is a civil infraction and subject to a penalty of \$100.00 as provided in GHMC Section 1.16.010(D), together with any costs incurred by the City or the Animal Control Authority in impounding or confining the dog or animal.*

6.04.100 CONSTRUCTION. This title shall be liberally interpreted and construed to secure the public health, safety, morals and welfare and the rules of strict construction shall have no application.

Section 7. A new Chapter 6.08 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

Chapter 6.08 LICENSES AND LICENSING REQUIREMENTS

Sections:

- 6.08.010 DOG LICENSES.
- 6.08.020 DOG LICENSE PROCEDURE.
- 6.08.030 COMMERCIAL PET FACILITIES, GROOMING PARLORS AND ANIMAL WELFARE FACILITIES.

6.08.010 DOG LICENSES.

- A. Annual license. All dogs shall be licensed annually or within thirty calendar days from the date the owner acquires the animal or takes up residence in the City of Gig Harbor.
- B. License expiration. Dog licenses shall expire one calendar year from the date of issuance.
- C. Dog license fee. License fees are set pursuant to the following fee schedule:
 - (1) Altered dog license is \$7.00 per year
 - (2) Unaltered dog license is \$17.00 per year
 - (3) Senior citizens (65 years old or over) can purchase a dog license at a reduced rate of \$5.00 per year for an altered dog.

(4) Transfer fee for transfer of one license to the new owner is \$5 per year.

D. Additional license fee. Licenses not renewed by the designated renewal date shall be assessed an additional license fee of \$10.00; provided, there shall be no additional license fee where:

(1) The applicant has owned the dog for less than thirty calendar days;
or

(2) The applicant has resided in the city for less than thirty calendar days.

E. Dangerous animal registration fee. The fee for registering a dangerous animal with the City shall be \$100.00 in addition to the regular license fee.

D. Exemptions from license fees. The following are exempt from license fees:

(1) Dogs in the temporary custody of a veterinarian or animal welfare organization whose owners are unknown;

(2) Dogs owned, and available for retail sale, by the owner or operator of a licensed commercial pet facility; or

(3) Service dogs.

6.08.020 DOG LICENSE PROCEDURE.

A. Issuance of licenses. The City Cashier shall issue licenses pursuant to Sections 6.08.010, as specified in this section.

B. Contents of license. The license shall contain the following:

(1) Date of issuance and date of expiration;

(2) A serial number;

(3) Type of animal, its name, age, color(s), sex, breed/mix, distinguishing characteristics, and whether the animal is spayed or neutered;

(4) The name, address, and telephone number of the owner of the animal;

(5) Permanent identification number or marking, such as microchip implant, if applicable.

C. License tag.

(1) With each license, the owner shall receive a license tag that shall contain the serial number that corresponds to the serial number on the license and the date of license expiration.

(2) The license tag need not be worn by the licensed dog in a sanctioned dog show or while engaged in formal, recognized training. A microchip implant may replace a license tag, provided that the license is renewed annually and the annual license fee is paid.

D. Transferability of licenses. Licenses are not transferable from one dog to another, but may be transferred from an original owner to a new owner; provided, that the new owner records the transfer with the licensing agent within fourteen calendar days, pays a transfer charge as provided for in GHMC Section 6.08.010(C) and assumes responsibility for all future license fees while maintaining ownership of the dog.

E. Lost tags. Lost license tags may be replaced by a substitute license or tag one time a year without charge upon application to the City Cashier. Payment of the applicable license fee is required to replace a second lost license or tag within a year.

6.08.030 COMMERCIAL PET FACILITIES, GROOMING PARLORS AND ANIMAL WELFARE FACILITIES.

A. License required. Commercial pet facilities, grooming parlors, and animal welfare facilities shall be licensed pursuant to GHMC Chapter 5.01.

B. Operation requirements for commercial pet facilities and animal welfare facilities:

(1) Adequate food and water must be provided for each species, pursuant to GHMC Section 6.04.020(a), and proper habitat and medical attention, if needed, shall be provided during normal business hours and when the facilities are not open for business;

(2) Food shall be stored in a fashion that prevents contamination or infestation;

(3) The facilities shall be maintained and operated in a healthful and sanitary manner, free from disease, infestation, and foul odors;

(4) Sick animals shall be isolated from healthy ones in quarters adequately ventilated to prevent contamination of healthy animals;

(5) Sick or injured animals shall receive appropriate medical treatment by or under the auspices of a licensed veterinarian. Records shall be maintained reflecting treatment, care, dates of veterinary visits, and the name of the veterinarian and veterinary clinic providing treatment. Sick or injured animals shall not be sold, bartered, or otherwise transferred from a commercial pet facility or animal welfare facility to a new owner until the illness or injury is substantially healed, unless such transfer is to an animal welfare organization that assumed all responsibility for providing the appropriate medical treatment;

(6) Cats and dogs shall receive age-appropriate vaccines and anthelmintics. Records of such shall be maintained for each animal and made available to the designated animal control authority and/or the Pierce County Health District, including the name and address of the attending veterinarian, if applicable;

(7) A copy of all medical records including, but not limited to, the records described in subsections (5) and (6) shall be provided to new owners at the time the ownership of the animal is transferred, or to the designated animal control authority upon request.

C. Facility and individual housing and habitat requirements for commercial pet facilities and animal welfare facilities:

(1) Indoor and outdoor animal housing facilities shall be in good repair, protect the animals from injury, and shall provide sufficient security to contain the animals while preventing entry by unwanted animals. Also, the habitat shall provide species-specific requirements including, but not limited to, temperature, humidity, and light.

(2) Indoor facilities shall:

(i) Provide the animal with adequate space for movement and ability to sit, lie, stand, and stretch without touching the sides or top of housing;

(ii) Be heated or cooled to protect the animals from temperatures for which they are not acclimated;

(iii) Be adequately ventilated;

(iv) Have interior walls, ceilings, and floors that are sealed and are resistant to absorption of moisture or odors;

(v) Have flooring with a surface that can be sanitized and treated to minimize growth of harmful bacteria;

(vi) Have a waste collection and removal system that facilitates cleaning and permits maintaining the facility in a sanitary condition; and

(vii) Have available a washroom with sink for hot and cold running water.

(3) Outdoor facilities shall:

(i) Provide adequate shelter and protection from adverse weather;

(ii) Provide sufficient room for adequate exercise and movement; and

(iii) When no indoor facility is available, outdoor facilities shall also:

(iv) Have flooring with a surface that can be sanitized and treated to minimize growth of harmful bacteria;

(v) Have a waste collection and removal system that facilitates cleaning and permits maintaining the facility in a sanitary condition; and

(vi) Have available a washroom with sink for hot and cold running water.

D. Operation and facility requirements for grooming parlors. Grooming parlors shall:

(1) Not board animals;

(2) Provide restraining straps for animals to prevent injury while being groomed;

(3) Sterilize grooming equipment after each use;

(4) Not leave animals unattended when placed before a dryer;

(5) Not prescribe or administer treatment or medicine or otherwise engage in veterinary practice as defined in RCW 18.92.010;

(6) Not confine more than one animal in the same cage unless so requested by the owner of the animals;

(7) Be structurally sound and in good repair, designed to protect the animals from injury, and provide sufficient security to contain the animals while preventing entry by unwanted animals;

(8) Have grooming and animal containment areas with walls, ceilings and floors that are sealed and resistant to absorption of moisture and odors; and

(9) Be cleaned and sanitized on a regular basis.

E. Inspections. The animal control authority shall inspect existing or proposed commercial pet facilities, animal welfare facilities, and grooming parlors in connection with its licensing investigation and when inspections are necessary to ensure compliance with this title. Such inspections shall be made during regular business hours.

Section 8. A new chapter 6.10 is hereby added to the Gig Harbor Municipal Code, to read as follows:

Chapter 6.10 IMPOUNDMENT AND QUARANTINE

Sections:

6.10.010 IMPOUNDING, REDEMPTION, AND DISPOSITION OF PETS AND/OR LIVESTOCK.

6.10.020 QUARANTINE.

6.10.010 IMPOUNDING, REDEMPTION, AND DISPOSITION OF PETS AND/OR LIVESTOCK.

A. Impounding pets and/or livestock. Pets and/or livestock may be impounded by the animal control authority or the Gig Harbor Police Department in the following situations:

(1) When the animal is at large;

(2) When the animal has been subjected to cruel treatment as defined by RCW Chapter 16.52; or

(3) When the animal has injured or bitten a person or other animal, and/or where the animal poses a threat to people or other animals;

(4) When the animal is found in violation of any restrictions imposed by a court, animal control authority or municipal court hearing examiner,

relating to Potentially Dangerous Animals; or to GHMC Section 6.12.030 relating to Dangerous Animals;

(5) When the animal is found in violation of GHMC Section 9.34.020(7) pertaining to animal noise, after two written warnings to the owner within a calendar year;

(6) When the animal is found within the City limits and has previously been declared to be a dangerous animal by a court, animal control authority or hearing examiner.

B. Place and manner of impoundment. Pets and livestock shall be impounded in the place and manner designated by the animal control authority.

C. Authority to pursue. Animal control authority employees may pursue pets or livestock running at large onto City-owned property, vacant property and unenclosed private property to seize, remove, and impound such animals. This shall not restrict the animal control authority to pursue/impound an animal pursuant to RCW Chapter 16.52.

D. Notice to owner. Immediately following impoundment, the animal control authority shall notify the owner of the animal of its impoundment; provided, if the owner of the animal is unknown, the animal control authority shall make reasonable efforts, including but not limited to checking the animal for a microchip, to notify the owner of the impoundment.

E. Redemption of impounded animals.

(1) Pets may be redeemed upon payment of an impound fee, a boarding fee, and any appropriate license fees. All fees shall be charged per animal handled by the animal control authority.

(i) The impound fee is \$25.00, which amount shall double with each offense. For example: \$25.00, first offense; \$50.00, second offense; \$100.00, third offense.

(ii) The boarding fee shall be \$15.00 per day.

(2) Livestock may be redeemed upon payment of an impound fee, a boarding fee, and, if impounding requires special transportation, a special transportation fee. All fees shall be charged per animal handled by the animal control authority.

(i) The impound fee is \$50.00, which amount shall double with each offense. For example: \$50.00, first offense; \$100.00, second offense; \$200.00, third offense.

(ii) The boarding fee is \$20.00 per day.

(iii) The special transportation fee is \$75.00 per trip.

F. Disposition of impounded animals not redeemed.

(1) When a pet is not redeemed, no sooner than ninety-six hours following notice to the owner of the impoundment, or within the same time period after the authority has made reasonable but unsuccessful efforts to notify the owner, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or euthanize the animal.

(2) When livestock is not redeemed, no sooner than seventy-two hours following notice to the owner of the impoundment, or within the same time period after the authority has made reasonable but unsuccessful efforts to notify the owner, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or may commence to auction the animal to the highest bidder that can provide the animal with a suitable environment, or euthanize the animal. Notice of the auction and a description of the livestock to be auctioned shall be published at least seven calendar days prior to the sale in the official City newspaper. Such notice shall also be mailed to the owner of the livestock, if known.

(3) When a feral cat is not redeemed, no sooner than twenty-four hours after the authority has made reasonable but unsuccessful efforts to determine if the feral cat has an owner and to notify same, the animal control authority may give or adopt the animal to an animal welfare organization or qualified person, or euthanize the animal.

G. Disposition of sick or injured impounded animals. Sick or injured impounded animals may be euthanized in accordance with RCW 16.52.085.

6.10.020 QUARANTINE.

A pet or livestock that bites and breaks the skin of any person may be impounded by the animal control authority and, if impounded, shall be quarantined for ten calendar days to determine if the animal is infected with a disease. The place of quarantine shall be established by the animal control authority. The animal control authority may, in its discretion, allow the owner of the animal to maintain the quarantine. Any boarding fees incurred during

the quarantine shall be paid by the owner of the animal. During the quarantine, the animal shall not have contact or access to any person or any other pet or livestock other than with the owner of the animal or animal control authority employees.

Section 9. A new chapter 6.14 is hereby added to the Gig Harbor Municipal Code, which shall read as follows:

Chapter 6.12 DANGEROUS ANIMALS

Sections:

- 6.12.010 POTENTIALLY DANGEROUS ANIMALS.
 - 6.12.020 FAILURE TO CONTROL AN ANIMAL DECLARED POTENTIALLY DANGEROUS.
 - 6.12.030 DANGEROUS ANIMALS.
 - 6.12.040 POSSESSION OF AN ANIMAL DECLARED DANGEROUS.
-
- 6.12.010 POTENTIALLY DANGEROUS ANIMALS.

6.12.010. Potentially Dangerous Animals.

A. Potentially Dangerous Animals and Exclusions. The animal control authority shall have the authority to declare and restrict an animal potentially dangerous, if the animal control authority has probable cause to believe that the animal falls within the definitions set forth in GHMC 6.04.020(v). In order to declare an animal as potentially dangerous, the procedures set forth in this section must be followed.

B. Investigation. If the animal control authority receives a report of a potentially dangerous animal, it shall immediately initiate an investigation including, but not limited to, interviewing the complainant(s), interviewing the owner of the animal, if known, and observing the animal. The investigation and subsequent declaration of a potentially dangerous animal must be based upon:

- (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of GHMC 6.04.020(v);
- (2) Animal bite reports filed with the animal control authority;
- (3) Actions of the animal witnessed by any employee of the animal control authority or law enforcement officer; or

(4) Other substantial evidence.

Exclusions. An animal shall not be declared potentially dangerous if the animal control authority determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the animal was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or who was tormenting, abusing, or assaulting the animal, or who had been in the past observed or reported to have tormented, abused, or assaulted the animal, or who was committing or attempting to commit a crime.

C. Notice of Proposed Declaration of Potentially Dangerous Animal. The animal control authority shall send a notice to the owner of the authority's investigation and intent to issue a declaration that the animal is potentially dangerous. The notice shall be served upon the animal's owner in person or by regular and certified mail, return receipt requested. If the owner is unknown, the animal control authority shall make reasonable efforts to notify the owner, such as examining the animal for microchipping, which efforts shall be documented in the record. The notice shall state:

- (1) The statutory, code or ordinance basis for the proposed action;
- (2) The reasons the authority considers the animal potentially dangerous; a statement that the animal is subject to registration and controls required by this Title and chapter 16.08 RCW, including a recitation of the controls in subsection 16.12.010(E)(2) herein and an explanation of the owner's rights and of the proper procedure for appealing a decision finding that the animal is potentially dangerous.

D. Authority's meeting with Animal's Owner. Prior to the authority issuing its final determination, the authority shall notify the owner in writing that he or she is entitled to an opportunity to meet with the authority, at which meeting the owner may give, orally or in writing, any reasons or information as to why the animal should not be declared potentially dangerous. The notice shall state the date, time and location of the meeting, which must occur prior to expiration of fifteen calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the fifteen day time period set forth in this section.

E. Issuance of Written Order.

- (1) After such meeting with the owner, the authority must issue its final determination, in the form of a written order, within fifteen calendar days.

(2) In the written order, the animal control authority may impose any or all of the following restrictions on an animal to protect the public safety or other animals:

(a) Training. The animal control authority may require the owner of the potentially dangerous animal and the animal to attend, complete, and pay all costs associated with an accredited obedience/training class or seminar. The animal control authority shall pre-approve any choice of class by the owner of the animal, and proof of satisfactory completion of such training shall be provided to the animal control authority upon completion, even if such type of training has been completed by the animal in the past.

(b) Restraint. The animal control authority may require the owner of the potentially dangerous animal to muzzle, leash, collar, confine, lock, isolate, or remove the animal from the City, or any combination of the foregoing.

(c) Indemnification. The animal control authority may require the owner of the potentially dangerous animal to prove purchase of liability insurance or bond and renewals in the amount of one-hundred thousand dollars (\$100,000) or more, as set by the animal control authority. The insurer/bond issuer must be qualified under RCW Title 48 and must provide coverage/funds to offset any injuries inflicted by the potentially dangerous animal. All costs associated with the insurance/bond must be paid by the insured.

(d) Warning. The animal control authority may require the owner of a potentially dangerous animal to post all entrances to any property where such animal is located with such visible warning sign(s) as the animal control authority deems necessary.

(e) Financial Responsibility. The animal control authority may require the owner of a potentially dangerous animal to pay any costs associated with enforcement of this section including, but not limited to, those stated above.

(3) In the event the authority declares the animal to be potentially dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, a statement of any restrictions placed on the animal or owner as a consequence of the declaration, a statement of the penalties for further violations, notice of the right to appeal the declaration, and the signature of the person who made the determination. The order shall be sent by regular and certified mail,

return receipt requested, or delivered in person to the owner at the owner's last known address known to the authority.

F. Appeal to the Municipal Court Hearing Examiner.

The owner of an animal declared potentially dangerous shall have twenty (20) calendar days from receipt of the written declaration appeal the declaration to the municipal court judge, who shall act as a hearing examiner for appeals of such determinations.

Unless otherwise agreed to by the animal owner, the appeal hearing must be scheduled to be heard within twenty-one (21) calendar days from the City's receipt of the notice of appeal. The municipal court hearing examiner shall provide written notice of the hearing date and time to the owner of the potentially dangerous animal and to the animal control authority. Such notice must be provided at least seven (7) calendar days prior to the scheduled hearing.

G. Hearing before the Municipal Court Hearing Examiner. At the appeal hearing before the municipal court hearing examiner, the animal control authority shall have the burden of proving that the animal is potentially dangerous by a preponderance of the evidence. The owner of the animal may present evidence in defense of the animal. The municipal court hearing examiner shall weigh the evidence presented by both the animal control authority and the owner (if applicable), and shall issue a written decision to the appealing animal owner and animal control authority that either modifies, sustains or reverses the animal control authority's declaration.

6.12.020 FAILURE TO CONTROL AN ANIMAL DECLARED POTENTIALLY DANGEROUS.

A. Prohibited Ownership. No person(s) under the age(s) of eighteen (18) years old shall own a potentially dangerous animal, as defined in GHMC 6.04.020(v).

B. Change of Ownership, Custody, and/or Residence. Owners of an animal that has been declared potentially dangerous who sell, barter, or otherwise transfer the ownership, custody, or residence of the animal shall, within fourteen (14) calendar days of the change, inform the animal control authority in writing of the name, address, and telephone number of the new owner, and/or the address of the new residence where the animal is located. Such notice shall also include the name, description, and license number of the animal. In the event the ownership and/or custody of the animal changes, the owner shall notify the new owner in writing of the details of the animal's record relating to being declared potentially dangerous and the terms and conditions of the declaration. The owner shall also provide the animal control

authority with a copy of the written notification that shall contain a notarized statement by the new owner acknowledging receipt of the original notification.

C. Failure to Abide by Restraints. Failure on the part of the owner(s) of a potentially dangerous animal to abide by the restraints placed upon the owner(s) or their animal by the animal control authority, municipal court hearing examiner, district court, or superior court may result in impoundment of the potentially dangerous animal by the animal control authority as well as further punitive action pursuant to GHMC 6.12.020.

D. Misdemeanor. When an animal has been previously declared potentially dangerous, by a court, animal control authority or municipal court hearing examiner, the owner of the potentially dangerous animal shall be guilty of a misdemeanor if such animal is thereafter found:

(1) At large;

(2) To have, when unprovoked, inflicted a bite(s) upon a human, pet, or livestock either on public or private property;

(3) To have chased or approached a person upon the streets, sidewalks, or any other public grounds in such a manner as to significantly threaten the safety of humans, pets, or livestock; or

(4) To have caused injury to or otherwise threatened the safety of humans, pets, or livestock. This section shall not preclude immediate criminal prosecution under RCW 16.08.100 in a first bite situation causing severe injury or death of any human.

E. Impoundment of Potentially Dangerous Animals. In the event that a potentially dangerous animal is impounded due to the owner's failure to abide by the restraints imposed by the animal control authority, municipal court hearing examiner, district court, superior court or municipal court, the animal shall be forfeited to the animal control authority unless the owner of the animal makes a written request for a hearing before the municipal court hearing examiner in the same manner as an appeal pursuant to GHMC.

The animal control authority shall give written notice to the owner of the potentially dangerous animal immediately after impound that the animal has been impounded. Such notice shall either be delivered personally or by regular and certified mail, return receipt requested. The notice shall state that the owner of the animal may appeal the forfeiture in writing to the municipal court hearing examiner, as long as the appeal is submitted to the municipal court within twenty-one (21) days after the owner's receipt of the notice.

If an appeal hearing is requested, the hearing must be scheduled to be heard within twenty-one (21) calendar days from the City's receipt of the

request for a hearing, unless otherwise agreed to by the animal owner. The municipal court hearing examiner shall provide written notice of the hearing date and time to the owner of the animal and to the animal control authority. Such notice must be provided at least seven (7) calendar days prior to the scheduled hearing. The municipal court hearing examiner shall determine whether it is in the best interest of the community that the animal should be returned to the owner, or forfeited by the owner to the animal control authority.

6.12.030 DANGEROUS ANIMALS.

A. Dangerous Animals and Exclusions. The animal control authority shall have the authority to declare and restrict an animal dangerous, if the animal control authority has probable cause to believe that the animal falls within the definitions set forth in GHMC 6.04.020(j). In order to declare an animal as dangerous, the procedures set forth in this section must be followed.

B. Investigation. If the animal control authority receives a report of a dangerous animal, it shall immediately initiate an investigation including, but not limited to, interviewing the complainant(s), interviewing the owner of the animal, if known, and observing the animal. The investigation and subsequent declaration of a dangerous animal must be based upon:

- (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of GHMC 6.04.020(j);
- (2) Animal bite reports filed with the animal control authority;
- (3) Actions of the animal witnessed by any employee of the animal control authority or law enforcement officer; or
- (4) Other substantial evidence.

Exclusions. An animal shall not be declared dangerous if the animal control authority determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the animal was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or who was tormenting, abusing, or assaulting the animal, or who had been in the past observed or reported to have tormented, abused, or assaulted the animal, or who was committing or attempting to commit a crime.

C. Notice of Proposed Declaration of Dangerous Animal. The animal control authority shall send a notice to the owner of the authority's investigation and intent to issue a declaration that the animal is dangerous. The notice shall be served upon the animal's owner in person or by regular and certified mail,

return receipt requested. If the owner is unknown, the animal control authority shall make reasonable efforts to notify the owner, including but not limited to examining the animal for microchipping, which efforts shall be documented in the record. The notice shall state:

- (1) The statutory, code or ordinance basis for the proposed action;
- (2) The reasons the authority considers the animal dangerous; a statement that the animal is subject to registration and controls required by this Title and chapter 16.08 RCW, including a recitation of the controls in subsection 6.12.030(E)(2) herein and an explanation of the owner's rights and of the proper procedure for appealing a decision finding that the animal is dangerous.

D. Authority's meeting with Animal's Owner. Prior to the authority issuing its final determination, the authority shall notify the owner in writing that he or she is entitled to an opportunity to meet with the authority, at which meeting the owner may give, orally or in writing, any reasons or information as to why the animal should not be declared dangerous. The notice shall state the date, time and location of the meeting, which must occur prior to expiration of fifteen calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the fifteen day time period set forth in this section.

E. Issuance of Written Order.

- (1) After such meeting with the owner, the authority must issue its final determination, in the form of a written order, within fifteen calendar days.
- (2) In the written order, the animal control authority shall impose all of the following restrictions on a dangerous animal to protect the public safety or other animals:
 - (a) the owner shall apply to the City for a certificate of registration for a dangerous animal, which the City shall not issue unless the owner provides sufficient evidence of the following:
 - (i) a proper enclosure to confine a dangerous animal and the posting of the premises with a clearly visible warning sign that there is a dangerous animal 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 animal;
 - (ii) a surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a form acceptable to the animal control

authority in the sum of at least two hundred fifty thousand dollars, payable to any person injured by the dangerous animal;

(iii) a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW in the amount of at least two hundred fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous animal.

(3) In the event the authority declares the animal to be dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, a statement of any restrictions placed on the animal or owner as a consequence of the declaration, a statement of the penalties for further violations, notice of the right to appeal the declaration, and the signature of the person who made the determination. The order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last known address known to the authority.

F. Appeal to the Municipal Court Hearing Examiner.

The owner of an animal declared dangerous shall have twenty (20) calendar days from receipt of the written declaration appeal the declaration to the municipal court judge, who shall act as a hearing examiner for appeals of such determinations.

Unless otherwise agreed to by the animal owner, the appeal hearing must be scheduled to be heard within twenty-one (21) calendar days from the City's receipt of the notice of appeal. The municipal court hearing examiner shall provide written notice of the hearing date and time to the owner of the dangerous animal and to the animal control authority. Such notice must be provided at least seven (7) calendar days prior to the scheduled hearing.

G. Hearing before the Municipal Court Hearing Examiner. At the appeal hearing before the municipal court hearing examiner, the animal control authority shall have the burden of proving that the animal is dangerous by a preponderance of the evidence. The owner of the animal may present evidence in defense of the animal. The municipal court hearing examiner shall weigh the evidence presented by both the animal control authority and the owner (if applicable), and shall issue a written decision to the appealing animal owner and animal control authority that either modifies, sustains or reverses the animal control authority's declaration.

6.12.040 POSSESSION OF AN ANIMAL DECLARED DANGEROUS.

A. Any dangerous animal shall be immediately confiscated by an animal control authority if the: (1) animal is not validly registered under RCW 16.08.080 or GHMC Section 6.12.030; (2) the owner does not secure the liability insurance coverage required under RCW 16.08.080 and GHMC 6.12.030(E)(2)(a); (3) the animal is not maintained in the proper enclosure; or (4) the animal is outside the dwelling of the owner or outside the proper enclosure and not under the physical restraint of the responsible person.

B. The animal control authority shall serve notice upon the animal's owner in person or by regular and certified mail, return receipt requested, specifying the reason for confiscating the dangerous animal, that the owner is responsible for payment of the costs of confinement and control, and that the animal will be destroyed in an expeditious and humane manner if the deficiencies for which the animal was confiscated are not corrected within twenty days of notification. The notice shall also state the owner's right to an appeal hearing on the confiscation. In addition, the owner shall be guilty of a gross misdemeanor punishable as set forth below.

C. Gross Misdemeanor. When an animal has been previously declared dangerous, by a court, animal control authority or municipal court hearing examiner and the animal has been confiscated under GHMC 6.12.040(A) for the owner's failure to abide by any of the conditions that code section, the owner of the dangerous animal shall be guilty of a gross misdemeanor if such animal is thereafter found;

(1) In the owner's possession inside Gig Harbor City limits; or

(2) Inside City limits under circumstances evidencing that the animal was intentionally brought into the City by the owner or at the request or acquiescence of the owner.

D. If a hearing is requested, the hearing must be scheduled to be heard within twenty-one (21) calendar days from the day of the City's receipt of the request for a hearing before the municipal court hearing examiner in the same manner as an appeal unless otherwise agreed to by the animal owner. The municipal court hearing examiner shall provide written notice of the hearing date and time to the owner of the dangerous animal and to the animal control authority. Such notice must be provided at least seven (7) days prior to the scheduled hearing. The municipal court hearing examiner shall determine whether it is in the best interest of the community that the animal should be returned to the owner, forfeited by the owner to the animal control authority, or euthanized by the animal control authority.

Section 10. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 11. Effective Date. This ordinance shall take effect and be in full force five (5) days after publication of a summary, consisting of the title.

PASSED by the Gig Harbor City Council and the Mayor of the City of Gig Harbor this 27th day of February, 2006.

CITY OF GIG HARBOR

CHARLES L. HUNTER, MAYOR

ATTEST/AUTHENTICATED:

By: _____
MOLLY TOWSLEE, CITY CLERK

APPROVED AS TO FORM:

By: _____
CAROL A. MORRIS, CITY ATTORNEY

FIRST READING: 2/13/06
DATE PASSED: 2/27/06
DATE OF PUBLICATION: 3/1/06
EFFECTIVE DATE: 3/6/06