

ORDINANCE NO. 787

AN ORDINANCE adding a new chapter to the Oak Harbor Municipal Code defining potentially dangerous dogs and dangerous dogs, declaring pit bull terriers to be a potentially dangerous dog, declaring certain control measures be maintained, specifying penalties and declaring failure to abide by regulations to be a public nuisance.

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Contents and Title.

(a) This Ordinance shall be referred to as the Dangerous and Potentially Dangerous Dog Ordinance.

(b) Contents.

Section One.	Contents and Title.
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Section Two. Findings. The potential for harm from mishandling of potentially dangerous dogs such as pit bull terriers far outweighs the burden of added requirements imposed on owners for the keeping of such dogs.

Section Three. Definitions. The following definitions shall apply throughout this Chapter:

(a) **Dangerous dog** means any dog that, according to the records of the appropriate authority, (1) has inflicted severe injury on a human being without provocation on public or private property, (2) has killed a domestic animal without provocation while off the owner's property, or

(3) has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) **Proper enclosure** of a dangerous dog or a potentially dangerous dog means that while on the owner's or possessor's property, a dangerous dog shall be securely confined indoor or in a securely enclosed and locked pen on a structure suitable to prevent the entry of children under the age of ten (10) years of age and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and if the structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot.

(c) **Owner** means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.

(d) **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.
- (2) Any dog which attacks a human being or other domestic animal without provocation.
- (3) **Pit Bull Terrier.** A pit bull terrier means American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier or American Staffordshire Terrier.
- (4) Any dog used or trained for dog fighting.

Section Four. Keeping of Dangerous and Potentially Dangerous Dogs.

(a) It is unlawful for any person to knowingly keep, maintain or possess a potentially dangerous dog or a dangerous dog within the City limits of Oak Harbor except in an enclosure as defined in Section ~~Two~~ ^{two (b) or three} above.

(b) It is unlawful for anyone to allow a potentially dangerous dog or dangerous dog outside of a proper enclosure unless it is on a leash, muzzled and under physical control of a person over the age of eighteen (18) years of age.

(c) The penalty for violating this section shall be a fine not exceeding five hundred (\$500.00) dollars plus a jail sentence not exceeding thirty (30) days in jail or both such fine and jail sentence.

(d) Each day of violation shall be a separate offense.

Section Five. Defense. It is a defense to the crimes established in Section Four above that the pit bull terrier is less than six (6) months of age. The burden of proof and presentation of evidence is on the person claiming this defense.

Section Six. Notice. The Animal Control Officer shall give notice to the owner or possessor of dogs which he or she has determined to be a potentially dangerous dog or a dangerous dog as defined in Section Three (a) and (d) above.

Section Seven. Information. The Animal Control Officer, Police Department and Clerk's Office shall maintain and provide information to the public concerning this Ordinance.

(a) Notice is not a prerequisite to proving knowledge but notice given to an owner shall be prima facia evidence that the owner had acted knowingly.

(b) Notice shall be served by personal service, by certified mail, return receipt requested, to the last known address of the owner, or by posting of the premises where the dog is being harbored, kept or maintained.

Section Eight. Dangerous Dogs. In addition to the regulations imposed with regard to both potentially dangerous dogs and dangerous dogs, the following additional provisions shall apply to dangerous dogs:

(a) It is unlawful for an owner to have a dangerous dog in the City without a certificate of registration issued under this Section. This section shall not apply to dogs used by law enforcement officials for police work.

(b) The Animal Control Officer shall issue a certificate of registration to the owner of such dangerous dog if the owner presents to the animal control unit sufficient evidence of:

- (1) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property.
- (2) 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 fifty thousand (\$50,000.00) dollars, payable to any person injured by the vicious dog; or

- (3) 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 fifty thousand (\$50,000.00) dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.
- (4) The annual fee for registration shall be twenty-five (\$25.00) dollars.
- (5) Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful 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, tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
- (6) Any dangerous dog shall be immediately confiscated by an animal control authority if the: (a) Dog is not validly registered under Section Eight(a) of this Chapter; (B) owner does not secure the liability insurance coverage required under Section Eight(b)(3) of this act within thirty (30) days of bringing the dog into the City limits or after it being declared a dangerous dog; (c) dog is not maintained in the proper enclosure; (d) dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. In addition, the owner shall be guilty of a gross misdemeanor punishable by a fine of up to one thousand (\$1,000.00) dollars or a jail sentence of one year or both such fine and jail time.

Section Nine. Destruction of Dangerous Dogs and Potentially Dangerous Dogs. Whenever the Animal Control Officer comes into the possession of a potentially dangerous dog or dangerous dog he or she shall destroy it if not reclaimed by the owner and not sell or give it to another as a pet.

Section Ten. Civil Damages.

(a) In addition to criminal penalties, the following civil damages shall be incurred by the owner of a potentially dangerous dog or dangerous dog:

- (1) If a potentially dangerous dog or dangerous dog enters onto the property of another without permission, the owner of the potentially dangerous dog or dangerous dog shall be liable for all direct damages incurred as a result of such intrusion and for general damages, even if no special damages are proved, of a minimum of two hundred fifty (\$250.00) dollars.
- (2) If a potentially dangerous dog or dangerous dog menaces a person, the owner shall be liable for damages not to be less than two hundred fifty (\$250.00) dollars.
- (3) If a potentially dangerous dog or dangerous dog injures a person, the owner of the potentially dangerous dog or dangerous dog shall be liable for damages of three times all the medical expenses in addition to any other damages or relief the person injured is entitled to under law.

(b) The damage enumerated under Subsection (a) above may be imposed as restitution requirements for criminal violations of this chapter; provided, that in no event may damages awarded as restitution exceed five thousand (\$5,000.00) dollars.

Section Eleven. 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.

Section Twelve. Construction.

(a) This Ordinance shall be construed liberally to effectuate the purpose for which it was intended.

(b) This chapter should not be construed so as to limit the power and authority granted under State Law to police officers and animal control officers in the City of Oak Harbor.

(c) This Ordinance shall be codified as a new chapter under Title 7 of the Oak Harbor Municipal Code.

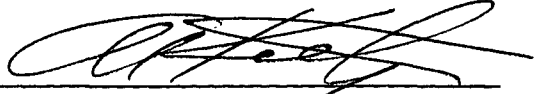
Section Thirteen. Appeal. A decision of the Animal Control Officer may be appealed to the City Supervisor under Oak Harbor Municipal Code Chapter 1.24 as now in effect or hereafter amended.

Section Fourteen. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Fifteen. Effective Date. This Ordinance shall be in full force and effect five (5) days after its passage and publication as required by law.

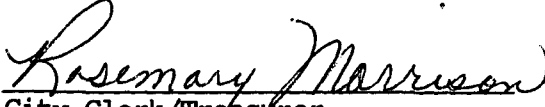
PASSED by the City Council and approved by its Mayor this 8th day of SEPTEMBER, 1987.

THE CITY OF OAK HARBOR




Mayor

Attest:



City Clerk/~~Treasurer~~

Approved as to form:



City Attorney

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