

**CITY OF FIRCREST
ORDINANCE NO. 1399**

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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIRCREST, WASHINGTON ADDING A NEW CHAPTER 7.07 TO THE FIRCREST MUNICIPAL CODE TO INCLUDE POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL WITHIN THE CITY LIMITS, AND PROVIDING FOR ENFORCEMENT AUTHORITY AND PENALTIES.

WHEREAS, the City Council of the City of Fircrest is concerned about the control of potentially dangerous and dangerous animals as well as the safety of all its citizens; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF FIRCREST DO ORDAIN AS FOLLOWS:

Section 1. A new chapter is added to Title 7 of the Fircrest Municipal Code to be known as **POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL**.

Section 2. A new section is added to chapter 7.07 of the Fircrest Municipal Code to read as follows:

7.07.010 Declaring an animal as potentially dangerous

A. Declaration of an animal as potentially dangerous. The animal control authority has the authority to declare an animal potentially dangerous in any of the levels described as follows:

- 1. Level 1. An animal is level 1 potentially dangerous when without provocation it chases or approaches a person upon the streets, sidewalks or other public property in a menacing fashion or apparent attitude of attack.
- 2. Level 2. An animal is level 2 potentially dangerous when it causes injury to or otherwise threatens the safety of a human or domestic animal.
- 3. Level 3. An animal is level 3 potentially dangerous when it bites a human or domestic animal, either on public or private property.

An animal shall not be declared level 2 or level 3 potentially dangerous if the threat, injury or bite is sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was tormenting, abusing, or assaulting the animal or has, in the past, been observed or reported to have tormented, abused or assaulted the animal or was committing or attempting to commit a crime, pursuant to RCW 16.08.090(3) as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

B. Restraint of potentially dangerous animal: Potentially dangerous animals shall be restrained in the following manner:

- 1. A level 1 potentially dangerous animal, whenever outside the owner's residence and not on a leash, shall be restrained by a physical device or structure that prevents the animal from reaching a public sidewalk, easement, right-of—

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1 way, road or adjoining property and must be located where the animal does not
interfere with legal access to the owner's property.

2 2. A level 2 potentially dangerous animal must comply with the restrictions on a
3 level 1 potentially dangerous animal, and in addition the animal control authority
4 may require the owner to obtain and maintain proof of public liability insurance.
5 The owner may be required to complete a responsible pet ownership program
administered or recommended by the animal control authority. All costs
associated with the program shall be paid by the owner.

6 3. A level 3 potentially dangerous animal shall be confined within a secure
7 enclosure whenever the animal is not inside the owner's residence. The secure
8 enclosure must be located where it does not interfere with the public's legal access
9 to the owner's property. In addition, the animal control authority may require the
10 owner to obtain and maintain proof of public liability insurance of at least
11 \$250,000. The owner shall not permit the animal to be outside the secure
enclosure or off the owner's property unless the animal is humanely muzzled and
restrained by an adequate leash and under the control of a capable person. In
addition, the owner must complete a responsible pet ownership program
administered or referred by the animal control authority, if such program is
available. All costs associated with the program shall be paid by the owner.

12 C. Declaration of dogs as potentially dangerous – procedure.

13 1. The animal control agency shall classify potentially dangerous dogs. The
14 animal control agency shall notify the Fircrest City Police Chief when an animal
15 is declared potentially dangerous. The agency may declare an animal potentially
dangerous if an animal control officer has probable cause to believe that the
animal falls within the definitions set forth in this Title. The finding must be
based upon:

- 16 a.) The written complaint of a citizen;
- 17 b.) Dog bite report filed with the animal control agency; or
- 18 c.) Actions of the dog witnessed by any animal control officer or law
enforcement officer; or
- 19 d.) Other substantial evidence.

20 2. The declaration of potentially dangerous dog shall be in writing and shall be
served on the owner in one of the following methods:

- 21 a.) Certified and regular mail to the owner's last know address; or
- 22 b.) Personally; or
- 23 c.) If the owner cannot be located by one of the first two methods, by
publication in a newspaper of general circulation for three successive
days.

24 3. The declaration shall state at least:

- 25 a.) The description of the animal.
- 26 b.) The name and address of the owner of the animal, if known.
- 27 c.) The whereabouts of the animal if it is not in the custody of the owner.
- 28 d.) A summary of the facts upon which the declaration of potentially
29 dangerous dog is based.
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e.) The availability of a hearing in case the person objects to the declaration, if a request is made within 10 days of the date of personal service or mailing or first publication.

f.) A summary of the restrictions placed on the animal as a result of the declaration of potentially dangerous dog.

g.) A summary of the potential penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner.

4. If the owner of the animal wishes to object to the declaration of potentially dangerous dog:

a.) The owner may request a hearing before the director of the animal control agency, or the director's designee, by submitting a written request and payment of a \$25 administrative review fee to said director, or the director's designee, within ten (10) days of personal service or mailing or first publication of the declaration pursuant to this Title.

b.) If the director or the director's designee finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.

c.) Appeal of Decision of Director of Animal Control. If the director, or the director's designee, finds sufficient evidence to support the declaration, the owner may appeal such decision to the Hearing Examiner of the City of Tacoma by filing a request for hearing along with payment of a fee of \$75 to the office of the Hearing Examiner within ten (10) days of service of the director's, or director's designee's, decision. Furthermore, if the Hearing Examiner finds sufficient evidence to support the declaration, potentially dangerous dog which attacks a human being or domestic animal may be ordered destroyed if no appeal is timely filed when, in the Hearing Examiner's judgment, such dog represents a continuing threat or serious harm to human beings or domestic animals

d.) Appeals of the Hearing Examiner's decision must be taken in the Superior Court of Pierce County within 21 days of the written decision. Furthermore, if the court finds sufficient evidence to support the declaration, any potentially dangerous dog which attacks a human being or domestic animal may be ordered destroyed when, in the court's judgment, such potentially dangerous dog represents a continuing threat or serious harm to human beings or domestic animals.

D. From the date of the initial declaration by the Agency director, or his designee, and through the entire appeal process, unless and until said declaration shall be rescinded and the restrictions imposed thereby annulled, it shall be unlawful for the owner appealing the declaration of potentially dangerous dogs to allow or permit such dog to:

- 1. Be unconfined on the premises of the owner; or
- 2. Go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.

E. Following a declaration of potentially dangerous dog and the exhaustion of the appeal therefrom, potentially dangerous dog(s) must be tattooed or have a microchip

1 implanted for identification. Identification must be on record at animal control
2 authority.

3 F. The owner of a dog that has been classified as a potentially dangerous dog shall
4 immediately notify the animal control agency when such dog:

- 5 1. Is loose or unconfined;
- 6 2. Has bitten or otherwise injured a human being or attacked another animal or
7 livestock; or
- 8 3. Is sold or given away or dies; or
- 9 4. Is moved to another address.

10 G. Prior to a change of ownership, custody or residence; the owners of an animal that
11 has been declared potentially dangerous who sells or otherwise transfers the ownership,
12 custody or residence of the animal, shall within ten working days of the change, inform
13 the animal control authority in writing of the name, address and telephone number of
14 the new owner, the new address where the animal is located and the name, description
15 and license number of the animal. The owner shall notify the new owner in writing of
16 the details of the animal's record relating to the declaration that the animal is
17 potentially dangerous, and the terms and conditions of the declaration. The owner shall
18 also provide the animal control authority with a copy of the written notification which
19 shall contain a notarized statement by the new owner acknowledging receipt of the
20 notice.

21 H. Should the owner of a potentially dangerous dog fail to provide such notification,
22 the agency is authorized to seize and impound any such dog and destroy such dog
23 pursuant to the procedures set for in this Title. The owner is subject to boarding
24 charges as set forth in this Title in addition to all penalties set forth in this chapter.

25 **Section 3.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
26 read as follows:

27 7.07.020 Declaration of an animal as dangerous

28 A. Declaration of an animal as dangerous. The animal control authority has the
29 authority to declare an animal dangerous if:

- 30 1.) An animal inflicts severe injury on a human being without provocation on
public or private property;
- 1.) Kills a domestic animal without provocation while the dog is off the owner's
property; or
- 3.) After an animal is declared potentially dangerous pursuant to this chapter, the
owner of the potentially dangerous animal shall be guilty of a violation to this
chapter if the animal runs at large, chases or approaches a person upon the streets,
sidewalks or other public grounds in a menacing fashion or apparent attitude of
attack, causes injury to or otherwise threatens the safety of a human or domestic
animal, or bites a human or domestic animal. This section shall not preclude
criminal prosecution under RCW 16.08.100(3) as now enacted or hereinafter
amended, is hereby adopted by reference as if fully set forth herein, in a first-bite
situation causing severe injury or death to a human.

B. Declaration of an Animal as Dangerous. The animal control authority has the
authority to declare an animal dangerous. Pursuant to RCW 16.08.090(3) as now

1 enacted or hereinafter amended, is hereby adopted by reference as if fully set forth
2 herein, animals shall not be declared dangerous if the threat, injury, or damage was
3 sustained by a person who, at the time, was committing a willful trespass or other tort
4 upon the premises occupied by the owner of the animal, or was tormenting, abusing or
5 assaulting the animal or has, in the past, been observed or reported to have tormented,
6 abused, or assaulted the dog or was committing or attempting to commit a crime. The
7 animal control authority shall notify the Fircrest City Police Department when an
8 animal is declared dangerous.

9 C. Declaration of dogs as dangerous – procedure.

10 1. The animal control agency shall classify potentially dangerous dogs. The
11 agency may declare an animal potentially dangerous if an animal control officer
12 has probable cause to believe that the animal falls within the definitions set forth
13 in this Title. The finding must be based upon:

- 14 a.) The written complaint of a citizen; or
- 15 b.) Dog bite reports filed with the animal control agency; or
- 16 c.) Actions of the dog witnessed by any animal control officer or law
17 enforcement officer; or
- 18 d.) Other substantial evidence.

19 2. The declaration of potentially dangerous dog shall be in writing and shall be
20 served on the owner in one of the following methods:

- 21 a.) Certified mail to the owner's last know address; or
- 22 b.) Personally; or
- 23 c.) If the owner cannot be located by one of the first methods, by
24 publication in a newspaper of general circulation for three successive
25 days.

26 3. The declaration shall state at least:

- 27 a.) The description of the animal.
- 28 b.) The name and address of the owner of the animal, if known.
- 29 c.) The whereabouts of the animal if it is not in the custody of the owner.
- 30 d.) A summary of the facts upon which the declaration of potentially
dangerous dog is based.
- e.) The availability of a hearing in case the person objects to the
declaration, if a request is made within 10 days of the date of personal
service or mailing or first publication.
- f.) The restrictions placed on the animal as a result of the declaration of
dangerous dog.
- g.) A summary of the potential penalties for violation of the restrictions,
including the possibility of destruction of the animal, and imprisonment or
fining of the owner.

4. If the owner of the animal wishes to object to the declaration of dangerous
dog:

- a.) The owner may request a hearing before the director of the animal
control agency, or the director's designee, by submitting a written request
and payment of a \$25 administrative review fee to said director, or the
director's designee, within ten (10) days of personal service or mailing or
first publication of the declaration.

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b.) If the director or the director's designee finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.

c.) Appeal of Decision of Director of Animal Control. If the director, or the director's designee, finds sufficient evidence to support the declaration, the owner may appeal such decision to the Hearing Examiner of the City of Tacoma by filing a quest for hearing along with payment of a fee of \$75 to the office of the Hearing Examiner within ten (10) days of service of the director's, or director's designee's, decision. Furthermore, if the Hearing Examiner finds sufficient evidence to support the declaration, any dangerous dog which attacks a human being or domestic animal may be ordered destroyed if no appeal is timely filed when, in the Hearing Examiner's judgment, such dog represents a continuing threat or serious harm to human beings or domestic animals

d.) Appeals of the Hearing Examiner's decision must be taken in the Superior Court of Pierce County within 21 days of the written decision. Furthermore, if the court finds sufficient evidence to support the declaration, any dangerous dog which attacks a human being or domestic animal may be ordered destroyed when, in the court's judgment, such dangerous dog represents a continuing threat or serous harm to human beings or domestic animals.

D. From the date of the initial declaration by the Agency director, or his designee, and through the entire appeal process, unless and until said declaration shall be rescinded and the restrictions imposed thereby annulled, it shall be unlawful for the owner appealing the declaration of dangerous dogs to allow or permit such dog to:

- 1. Be unconfined on the premises of the owner; or
- 2. Go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.

E. Following a declaration of dangerous dog and the exhaustion of the appeal thereform, dangerous dog(s) must be tattooed or have a microchip implanted for identification. Identification must be on record at The Humane Society for Tacoma and Pierce County.

F. The owner of a dog that has been classified as a dangerous dog shall immediately notify the animal control agency when such dog:

- 1. Is loose or unconfined;
- 2. Has bitten or otherwise injured a human being or attacked another animal or livestock; or
- 3. Is sold or given away or dies; or
- 4. Is moved to another address.

G. Prior to a change of ownership, custody or residence; the owners of an animal that has been declared potentially dangerous who sells or otherwise transfers the ownership, custody or residence of the animal, shall within ten working days of the change, inform the animal control authority in writing of the name, address and telephone number of the new owner, the new address where the animal is located and the name, description and license number of the animal. The owner shall notify the new owner in writing of the details of the animal's record relating to the declaration that the animal is

1 potentially dangerous or dangerous, and the terms and conditions of the declaration.
2 The owner shall also provide the animal control authority with a copy of the written
3 notification which shall contain a notarized statement by the new owner acknowledging
4 receipt of the notice.

5 H. Should the owner of a dangerous dog fail to provide such notification, the agency is
6 authorized to seize and impound any such dog and destroy such dog pursuant to the
7 procedures set for in this Title. The owner is subject to boarding charges as set forth in
8 this Title in addition to all penalties set forth in this chapter.

9 **Section 4.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
10 read as follows:

11 7.07.030 Registration of a dangerous animal

12 RCW 16.08.070 through RCW 16.08.100, as now enacted or hereinafter amended, is
13 hereby adopted by reference as fully set forth herein, including penalties; except as
14 otherwise specifically set forth in this chapter, and except that conduct constituting a
15 felony, as determined by the prosecutor, is excluded

16 A. Registration Required. The owner of an animal declared to be dangerous by the
17 animal control authority or by a court shall register the dangerous animal with the
18 animal control authority pursuant to RCW 16.08.080, as now enacted or hereinafter
19 amended, is hereby adopted by reference as if fully set forth herein, within 10 days of
20 the date the animal is declared dangerous. The animal control authority shall notify the
21 Fircrest Chief of Police within 5 days. Thereafter, the owner of the dangerous or
22 potentially dangerous animal shall register the animal annually.

23 B. Registration Expiration. Certificates of registration for dangerous animals shall
24 expire one year from the date of issuance.

25 C. Registration Fee. The registration fee for a dangerous animal \$250.00 the first year.
26 The owner shall pay an annual renewal fee in the amount of \$50.00 per year there after.
27 The fee shall be collected by animal control authority

28 Should the owner of a dangerous dog fail to obtain a permit for such dog from the
29 animal control agency or to appeal the declaration of dangerous dog, the animal control
30 agency is authorized to seize and impound such dog, and after notification to the owner,
hold the dog for a period of no more than five days before destruction of such dog by
the animal control agency.

D. Certificate of Registration Application. An application to obtain a certificate of
registration of a dangerous animal shall contain the following information:

1. Name, address and telephone number of the applicant owner;
2. Type, name, age, color, sex and distinguishing characteristics of the animal;
3. A diagram to approximate scale, showing the secure enclosure proposed to
confine the dangerous animal;
4. Evidence of the posting of the owner's premises with a clearly visible warning
sign that there is a dangerous dog on the property, and a conspicuously displayed
sign with a warning symbol that informs children of the presence of a dangerous
dog;
5. Pursuant to RCW 16.08.080, as now enacted or hereinafter amended, is hereby
adopted by reference as if fully set forth herein, sufficient proof of a surety bond

1 issued by a surety qualified under Chapter 48.28 RCW as now enacted or
2 hereinafter amended, is hereby adopted by reference as if fully set forth herein, in
the amount of at least \$250,000 and;

3 6. Sufficient proof of a liability insurance policy in the amount of at least
4 \$250,000 insuring the applicant owner for personal injuries inflicted by the
dangerous animal.

5 E. Pre-Certificate On-Site Inspection. An employee of the animal control authority
shall make an on-site inspection of the applicant's site for keeping the dangerous
6 animal to ensure that the site is properly enclosed and posted. The inspection shall
occur within 30 days of the animal being declared dangerous.

7 F. Non-Compliance. In the event of the owner of a dangerous animal fails to comply
8 with the requirements of this section or RCW 16.08.080 as now enacted or hereinafter
amended, is hereby adopted by reference as if fully set forth herein, the animal control
9 authority may take immediate action pursuant to RCW 16.08.100 as now enacted or
hereinafter amended, is hereby adopted by reference as if fully set forth herein. Rules
10 and regulations for notifying owners of the confiscation of a registered dangerous
animal shall be formulated by the animal control authority.

11 G. Issuance of Certificate of Registration. The animal control authority shall issue a
certificate of registration, if the registration fee is paid and the applicant meets the
12 requirements of this section and applicable state law. The certificate of registration
shall contain its expiration date, and a statement of the applicable state criminal
13 penalties. The certificate of registration shall be prominently displayed by the owner of
the dangerous animal in an appropriate location.

14 H. Failure of the owner of the dangerous animal to cooperate with any inspections to
15 ascertain that the site remains in compliance with this section that the animal control
agency deems necessary may result in further action pursuant to RCW 16.08.100 as
16 now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth
17 herein and subsection F of this section.

18 **Section 5.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
19 read as follows:

20 7.07.040 Confiscation and destruction of dangerous animal

Any dangerous dog shall be immediately confiscated by the animal control agency if:

21 A. The dog is not validly registered under this chapter or RCW 16.08 as now enacted
or hereinafter amended, is hereby adopted by reference as if fully set forth herein;

22 B. The owner does not maintain liability insurance coverage as required for dangerous
23 dogs in RCW 16.08.080 as now enacted or hereinafter amended, is hereby adopted by
reference as if fully set forth herein;

24 C. The dog is unconfined;

25 D. The dog is outside of the dwelling of the owner and not under adequate physical
restraint of a responsible person; or

26 E. The owner fails to comply with any of the provision of this chapter.

27 Any dangerous dog or potentially dangerous dog confiscated pursuant to this chapter
shall be returned to the owner upon the owner's compliance with this chapter.
28 However, if the owner does not comply with the provisions of this chapter within 72
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1 hours following confiscation of said dog, said dog shall be destroyed in an expeditious
2 and humane manner, except as otherwise specifically provided in this chapter. The
3 time period set forth herein shall take precedence over the time period set forth in RCW
4 16.08.100 as now enacted or hereinafter amended, is hereby adopted by reference as if
fully set forth herein. The owner is subject to boarding charges as set forth in this Title,
in addition to all penalties set forth in this chapter.

5 **Section 6.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
6 read as follows:

7 7.07.050 Exception to potentially dangerous and dangerous animal

8 Police dogs, as defined by RCW 4.24.410 as now enacted or hereinafter amended, is
9 hereby adopted by reference as if fully set forth herein, shall not be considered to be
either a potentially dangerous dog or a dangerous dog.

10 **Section 7.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
11 read as follows:

12 7.07.060 Penalty for violation as to potentially dangerous animal

13 Any violation of this chapter as to a potentially dangerous dog is a misdemeanor. A
14 monetary penalty of fifty two dollars (\$52) shall also be imposed to failure to respond
to or pay citation.

15 **Section 8.** A new section is added to chapter 7.07 of the Fircrest Municipal Code to
16 read as follows:

17 7.07.070 Penalty for violation as to dangerous animal

18 RCW 16.08.070 through RCW 16.08.100, as now enacted or hereinafter amended, is
19 hereby adopted by reference as if fully set forth herein, including penalties. Pursuant to
20 RCW 16.08.080, any violation of this chapter is a gross misdemeanor, except that
conduct constituting a felony, as determined by the prosecutor, is excluded. A
monetary penalty of fifty two dollars (\$52) shall also be imposed to failure to respond
to or pay citation.

21 **Section 9.** A new section is added to Chapter 7.07 of the Fircrest Municipal Code to
22 read as follows:

23 7.07.080 Severability

24 Should any part of this title be adjudged invalid for any reason, such adjudication shall
not affect the validity of this title as a whole or any part thereof.

25 **Section 10.** Effective Date: This ordinance shall take effect and be in full force on the
26 1st of January 2006.

27 **PASSED BY THE CITY COUNCIL OF THE CITY OF FIRCREST,**
28 **WASHINGTON,** at a regular meeting thereof this 13th day of December 2005.

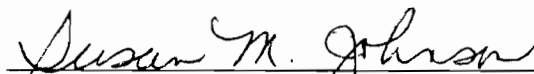
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APPROVED:



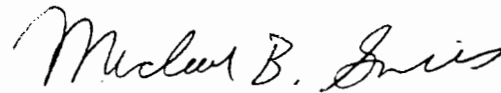
David M. Viafore, Mayor

ATTEST:



Susan M. Johnson, Acting City Clerk

APPROVED AS TO FORM:



Michael B. Smith, City Attorney

Publication Date: December 17, 2005

Effective Date: January 1, 2006