

CITY OF PALMER, ALASKA

ORDINANCE NO. 406

AN ORDINANCE AMENDING TITLE 6, ANIMALS, OF THE PALMER MUNICIPAL CODE, PRIMARILY BY ADDING CHAPTER 6.14, "DOG BITE AND ATTACK INCIDENTS", ESTABLISHING AN ANIMAL CONTROL BOARD AND INCREASING THE PENALTY FOR OWNING A DANGEROUS OR VICIOUS DOG RUNNING AT LARGE.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be of a permanent nature and shall become a part of the City of Palmer Code of Ordinances.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Chapter 6.04 is amended to read as follows:

Chapter 6.04

DEFINITIONS

Sections:

- 6.04.010 Generally.
- 6.04.020 Animal.
- 6.04.030 Animal shelter.
- 6.04.040 At large.
- 6.04.050 Board
- 6.04.060 Chief of Police
- 6.04.070 Dog.
- 6.04.080 Kennel.
- 6.04.090 Own
- 6.04.100 Owner.
- 6.04.110 Restraint.

6.04.010 Generally. In this Title, the following terms have the following meanings.

6.04.020 Animal. "Animal" means all domestic or domesticated members of the Animalia Kingdom. (Ord. 277 §4 (part), 1983).

6.04.030 Animal shelter. "Animal shelter" means any premises designated by the City Manager for the purpose of impounding or caring for animal found at large or otherwise existing in violation of this chapter. (Ord. 277 §4 (part), 1983).

6.04.040 At large. "At large" means not under restraint.

6.04.050 Board. "Board" means the Animal Control Board.

6.04.060 Chief of Police. "Chief of Police" or "Chief" means the Chief of the Palmer Police Department or designee.

6.04.070 Dog. "Dog" means any domestic or domesticated member of the family canidae.

6.04.080 Kennel. "Kennel" means the place where an owner breeds, buys, sells, keeps or boards three or more dogs over the age of six months, whether for profit or not. (Ord. 277 §4 (part), 1983).

6.04.090 Own. "Own" means to own, possess, keep or harbor.

6.04.100 Owner. "Owner" means any person, group of persons or corporation owning, possessing, keeping or harboring an animal

or animals. In the event that the owner of any animal is a minor, each parent or guardian of such minor shall be responsible to ensure that all provisions of this ordinance are complied with.

6.04.110 Restraint. "Restraint" means

A. Physical confinement, as by secure leash, chain, cable, fence or building; provided, if the confinement is by leash, chain or cable held by a person, the person must be physically able to control the dog by such means.

B. Under voice control by a competent person when the dog is engaged in a recognized dog activity, e.g., dog show, or form of training put on by an organized group where the training requires that the dog not be physically confined.

C. Under competent voice control of a person who is physically present with an animal when that animal is on the property of the owner.

Section 4. Chapter 6.14 is enacted to read as follows:

Chapter 6.14

DOG BITE AND ATTACK INCIDENTS

Sections:

- 6.14.010 Dog bite and attack incidents.
- 6.14.020 Redemption conditions
- 6.14.030 Scope of hearings before the Animal Control Board
- 6.14.040 Hearing procedure.
- 6.14.050 Animal Control Board

6.14.010 Dog bite and attack incidents. A. The Chief of Police shall investigate each dog bite or attack incident which is reported. The Chief will make a determination classifying each dog involved a vicious, dangerous or neither.

B. If the dog meets these criteria and its actions are not excused under subsection C below, it shall be classified as follows:

1. Dangerous, meaning the dog has, without provocation, approached, in a threatening or terrorizing manner, any person in an apparent attitude of attack, where such approach was not made upon the premises to which the owner had the legal right of possession.

2. Vicious, meaning the dog has

- a. bitten, inflicted injury, assaulted or otherwise attacked or endangered the safety of a human being; or
- b. without provocation, bitten, inflicted injury, assaulted or otherwise attacked or endangered the safety of a domestic animal; or

c. has been found dangerous or vicious on a prior occasion by the Chief of Police or the Board; or

d. is in violation of previous conditions of release as a dangerous or vicious dog.

C. Notwithstanding the criteria set out in subsections B 1 and 2 above, no dog is considered dangerous or vicious if the approach, injury or damage caused by the dog was sustained by a person of sufficient age and understanding who,

1. at the time, was committing a willful trespass or other tort upon the premises to which the owner had the legal right of possession, or

2. was tormenting, abusing or assaulting the dog, or has in the past tormented, abused or assaulted the dog, or

3. was committing or attempting to commit a crime.

D. If the Chief classifies the dog as dangerous or vicious, the Chief will refer the matter to the Board to determine whether to impose any or all of the conditions set out in PMC 6.14.020.

E. If the Chief determines that the owner has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning, the Chief will refer the matter to the Board even if the owner does not attempt to redeem the dog.

6.14.020 Redemption conditions. A. If the Chief of Police determines a dog is dangerous or vicious and has referred the matter to the Animal Control Board concerning conditions of release of the dog, the Board shall hold a hearing to determine whether to impose conditions and, if so, what condition or conditions to impose. The Board may impose conditions of release and redemption including, but not limited to, one or more of the following:

1. Registration. The Board may order the owner of a dangerous or vicious dog to register such dog with the Palmer Police Department. The application for such registration shall contain the name and address of the owner, the breed, age, sex, color, and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner and such other information that the Chief may require. The application for registration pursuant to this paragraph shall be accompanied by a registration fee of twenty-five dollars and two color photographs, three inch by five inch, clearly showing the color and approximate size of the dog. Each dog registered pursuant hereto shall be assigned an official registration number by the department. A certificate of registration shall be of such form and design and shall contain such information as the Chief shall prescribe and shall be issued to the owner upon payment of the registration fee and presentment of sufficient evidence that the owner has complied with all of the orders of the Chief as prescribed.

2. Confinement. The Board may order the owner of a dangerous or vicious dog to confine the dog, at all times, either indoors or if outdoors, in a proper enclosure for a dangerous or vicious dog up to and including one consisting of a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, or any part of their bodies or other foreign objects, and designed to prevent the animal from escaping. Such pen or structure shall have secure sides, prevent the dog from digging his way out through the bottom or escaping over the top. The pen or structure shall also provide the dog with protection from the elements. All pens and enclosures must comply with all zoning and building regulations of the City. The owner shall also display in a conspicuous manner a sign using the words "Beware of Dog" on the pen or structure or near the entrances to the residence where the dog is kept. At any time that the dog is not confined as required herein, the dog shall be muzzled in such a manner as to prevent it from escaping, biting or injuring any person, and kept on a leash no longer than four feet with the adult owner or some other responsible adult attending such dog.

3. Liability insurance. The Board may order the owner of a dangerous or vicious dog which has caused a injury to any person or severe injury to an animal to maintain, in full force and effect, a liability insurance policy issued by an insurance company authorized to sell insurance in Alaska or by an "eligible surplus line insurer," as defined in AS 21.34.900(3), in the amount of at least one hundred thousand dollars for coverage against any damage or injury that may be caused by the dog during the period for which licensing is sought, which shall contain a provision requiring the City be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the policy.

4. Spaying or neutering. The Board may order the owner of a dangerous or vicious dog to arrange for the alteration of such reproductive capacity through spaying or neutering of the dog. Such alteration shall be at the owner's expense.

5. Obedience class. The Board may order that the dog be enrolled in and complete obedience classes.

6. Humane destruction. The Board may order the humane destruction of any dog that has been found to be vicious.

B. If the owner consents to the conditions as set by the Board, the dog, unless destroyed, shall be released to the owner upon compliance with the conditions of release, and payment of required fees. If the owner does not consent to the conditions, the Board may order the dog euthanized no sooner than ninety-six hours (Saturdays, Sundays and holidays excluded) after service upon the owner of the Board's decision. Oral notice to the owner at the hearing shall constitute one means of service.

C. If the Board determines that the owner has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning, the Board may require that the owner comply with any or all of the subsections contained in Subsection A above (other than A 6) as a condition to owning in the City any other dog. Such requirements may not extend beyond three years commencing with a determination and classification of the owner's dog as vicious.

6.14.030 Scope of hearings before the Animal Control Board.

A. The Board may hear and decide whether the dog is vicious, dangerous or neither. This is a redetermination of the decision previously made by the Chief of Police. The Chief must persuade the Board that it is more likely than not that the actions of the dog fit the one of the definitions set forth in PMC 6.14.010 B. If the Chief does so, it is then up to the owner to persuade the Board that the conditions in PMC 6.14.010 C existed.

B. If the Board determines that the dog is dangerous or vicious, then the Board is to determine whether to impose conditions of release, and if so, what condition or conditions to impose. In making these decisions, the Board will consider the following:

1. the observed and reported past and present behavior of the dog;
2. the circumstances of the incident and the extent of the injury to the attacked person or animal;
3. the reasonably foreseeable harm that could occur if no conditions are imposed;
4. the owner's past history of compliance with this title, including compliance with redemption conditions which the Board has previously imposed on the owner; and
5. the nature and location of any restraint or confinement system which the owner actually has in place at the time the Board makes the decision.

C. If the Chief of Police has referred the matter to the Board under PMC 6.14.010 F, the Board will determine whether the owner has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning. If the Board is so persuaded, it shall place such conditions as are appropriate upon the owner's owning in the City another dog.

6.14.040 Hearing procedure. A. The Board shall set a hearing date to be held within ten (10) days of referral of the matter by the Chief of Police and notice thereof to the owner.

B. A quorum shall consist of two members of the Board. If only two members of the Board are present, it will take a unanimous vote to uphold the decision of the Chief of Police.

C. The Board shall review the written decision of the Chief, hear statements from the victim, owner and the Chief, and review any pertinent materials. Additional witnesses who observed the event shall also be heard, and the owner may present witnesses to testify to the general character or demeanor of the dog, subject to the Board's discretion to limit cumulative, redundant or irrelevant testimony. The Board, the Chief and the owner shall have the opportunity to question witnesses.

D. An owner aggrieved by the decision of the Board may appeal to the superior court. Written notice of intent to appeal shall be delivered personally to the Chief within seventy-two (72) hours (Saturdays, Sundays and holidays excluded) of service upon the owner of the Board's decision. The Chief shall demand advance payment for one month of room and board expense should the owner file a notice of intent to appeal to the superior court.

6.14.050 Animal Control Board. A. The Animal Control Board shall be composed of three members and one alternate, all appointed by the Mayor and subject to the confirmation by the Council. Except for the initial Board member, the terms shall be for three years with one member's term to expire each year. There shall be one member selected from each of the following groups to the extent practicable:

1. the general public, provided the person is not an employee or contractor of the City (initial term one year);

- 2. licensed veterinarians (initial term two years);
 - 3. organized dog interest groups (initial term three years).
- B. The members shall appoint annually a chairman and vice chairman.
- C. The Board shall hear appeals as set out in 6.14.030 and 040.
- D. The Board may establish rules of procedure; provided, however, Board meetings shall be open to the public and taped, and minutes shall be kept.

Section 5. Subsection 6.16.020 (C) is amended to read as follows:
 No dog which is impounded shall be redeemed if the Animal Control Board has determined that it should be euthanized, unless so ordered by the Superior Court.

Section 6. Chapter 6.28 is added to read as follows:

Chapter 6.28

Sections:

6.28.010 Penalty

6.28.010 Penalty. A. The minimum penalty for owning a vicious dog at large shall be one hundred dollars for the first offense, two hundred dollars for the second offense and three hundred dollars for every offense thereafter, where such offenses occur within one year of one another.

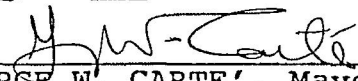
B. The minimum penalty for owning a dangerous dog at large shall be fifty dollars for the first offense, one hundred dollars for the second offense and one hundred fifty dollars for the third offense, where such offenses occur within one year of one another.

Section 7. Publication and Effective Date. This ordinance shall become effective immediately upon its adoption. Publication shall be by posting a copy hereof on the City Hall bulletin board for a period of ten (10) days following its adoption, and further it shall be published by being printed and included in the Palmer Municipal Code at its next regular supplementation and printing. A notice of public hearing shall be given by such posting at least five (5) days before final passage.

First Reading: October 10, 1989

Public Hearing & Second Reading Continued: October 24, 1989
November 14, 1989
November 28, 1989

Adopted by the City Council of the City of Palmer, Alaska, this 28th day of November, 1989.



 GEORGE W. CARTE, Mayor

 DAVID L. SOULAK, City Clerk