

TITLE 20
ANIMAL PROTECTION

Chapter 20.55—Dangerous Animals

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20.55.005. Definitions.

- (a) For purposes of this title, a "potentially dangerous animal" is any animal that:
- (1) Without provocation, threatens to attack, or bites causing minor physical injury to, a human being or domestic animal;
 - (2) Without provocation, chases or approaches a person upon the streets, highways, sidewalks, or other areas open to the public in a menacing fashion;
 - (3) Has a known propensity, tendency, or disposition to attack without provocation, or cause physical injury or otherwise threaten the safety of human beings or domestic animals;
 - (4) Is owned or harbored primarily or in part for the purpose of fighting or is trained for fighting;
 - (5) Has inflicted minor physical injury to a human being or domestic animal without provocation on public or private property; or
 - (6) Has engaged in conduct which results in a conviction for violation of KGB Code section 20.80.005(e) or 20.80.010(a) on more than on occasion in a two (2) year period.
- (b) For purposes of this title, a "dangerous animal" is any animal that:
- (1) Has inflicted serious physical injury to a human being without provocation on public or private property;
 - (2) Has, while off the premises of its owner or responsible person, killed a domestic animal without provocation;

- (3) Has been previously classified as potentially dangerous and is found in violation of the provisions of this chapter, or whose owner or person responsible for that animal has, in relation to that animal, violated any provisions of this chapter; or
 - (4) Has engaged in conduct which results in a conviction for violation of KGB Code section 20.80.005(e) or 20.80.010(a) and which has previously engaged in conduct which result in a conviction for violation of KGB Code section 20.80.005(e) or 20.80.010(a) on more than two (2) occasions in a five (5) year period.
- (c) No animal shall be classified as potentially dangerous or dangerous when it is:
- (1) Acting to defend an attack upon a human being by a person or other animal;
 - (2) Owned by any police department or other law enforcement agency and which is used in the performance of law enforcement work;
 - (3) Acting against a trespasser who has illegally entered the residence of the animal's owner or responsible person; or
 - (4) Acting against a trespasser who had illegally entered upon or into any fenced or enclosed business premises, when those premises have posted signs conspicuous to the public and warning of a potentially dangerous animal on the premises.
- (d) "Minor physical injury" means an injury causing a break in the skin but without loss of blood, and not requiring stitches or other surgical treatment or scarring or disfigurement.
- (e) "Serious physical injury" means an injury that results in long term or permanent physical disability, impairment or disfigurement or an injury which requires stitches or other surgical treatment.
(Ord. No. 923, §1, 12-20-93; Ord. No. 1221, §6, 6-17-02)

20.55.010. Classification of animals, appeals, restrictions pending appeals.

- (a) An animal may be classified as potentially dangerous or dangerous by either of the two methods described in subsections (b) and (c) of this section.
- (b) The director of animal protection may determine, based on probable cause, that an animal is potentially dangerous or dangerous and issue a notice of the determination. The notice must comply with this subsection. The determination may be contested following the procedures of this subsection.
 - (1) Written notice of an animal's classification under this subsection shall be served on the owner of the animal or responsible person at that owner's or responsible person's last known address. The notice shall describe the animal, state the grounds for its classification, and state the restrictions applicable to such animal by reason of its classification. The notice shall also state that, if a written request for a hearing is filed with the director of animal protection within ten (10) days after receipt of the notice, a hearing will be conducted to review the classification of the animal. The right to a hearing shall be deemed waived if not timely requested as set forth in this subsection.
 - (2) The notice referred to in subsection (1) of this section shall be given either by personal delivery to the owner or responsible person or by registered or certified mail, return receipt requested, addressed to the owner or responsible person at the person's last

known address. Notice by personal delivery shall be complete upon delivery and notice by mail shall be deemed complete upon return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed.

- (3) Any hearing held under this section shall be heard by the borough manager or a hearing officer designated by the borough manager within fourteen (14) days of receipt of request for hearing. The hearing shall be informal, and technical rules of evidence shall not apply. The classification shall be determined based upon the preponderance of the evidence. The hearing officer shall not be required to file a full opinion or make formal findings of fact or conclusions of law, but the hearing officer must state the reasons for the determination, and indicate the evidence relied upon. Such determination shall be made no later than seventy-two (72) regular business hours after the close of the hearing unless the parties agree to a postponement. The proceedings at the hearing shall be recorded and retained for a reasonable period of time.
- (4) When an animal has been classified as dangerous, the hearing officer shall first determine if that classification is proper. If the hearing officer determines that the animal was improperly classified as dangerous, the hearing officer shall then determine if the animal is potentially dangerous. Should the hearing officer determine that the animal is potentially dangerous, the owner or person responsible shall comply with the requirements of this chapter applicable to potentially dangerous animals.

(c) Animals which are declared potentially dangerous under KGB Code section 29.55.005(a)(6) or dangerous under KGB Code section 20.55.005(b)(4) shall be considered to have that status upon entry of the judgment of conviction.

(d) During the pendency of any hearing and any appeal therefrom on the classification of a potentially dangerous animal, the director of animal protection may require that the animal be kept securely confined on the premises of the owner or responsible person, or other location acceptable to the director of animal protection.

(e) During the pendency of any hearing and any appeal therefrom on the classification of an animal as dangerous or appeal from a conviction resulting in declaration of an animal as dangerous under subsection (c) of this section, the animal shall be quarantined at the borough animal shelter at the owner's or responsible person's expense.

(f) Should (1) the hearing officer determine that the animal is neither dangerous nor potentially dangerous; or (2) the conviction is reversed on appeal resulting in cancellation of the declaration under subsection (c) of this section; no costs shall be charged for quarantine of the animal during pendency of the hearing.

(Ord. No. 923, §1, 12-20-93; Ord. No. 1221, §6, 6-17-02)

20.55.015. On-premises confinement. While on the owner's or responsible person's property, a potentially dangerous animal must immediately be securely confined indoors or in a securely enclosed and locked pen or structure suitable for preventing the entry of young children and designed to prevent the animal from escaping by climbing, burrowing, or otherwise. An elevated porch or deck will not qualify as an enclosure unless there is no stairway or ramp to the ground and the porch or deck is greater than seven (7) feet high. The potentially dangerous animal must be securely confined indoors at all times until such enclosure is available. Such enclosure must have minimum dimensions of four (4) feet by eight (8) feet and must have secure sides and a secure top. If the enclosure has no bottom

secured to the sides, the sides must be embedded into the ground to a depth of not less than one (1) foot. The enclosure must also provide adequate protection from the elements and be kept in a clean and sanitary condition. (Ord. No. 923, §1, 12-20-93; Ord. No. 1168, §1, 2-5-01)

20.55.020. Off-premises restraint. A potentially dangerous animal may be off the owner's or responsible person's premises only if it is humanely muzzled and restrained by a substantial leash not exceeding four (4) feet in length or in a transport kennel. The leash and animal shall be under the actual physical control of a person suitable for controlling the animal at all times. Such animals shall not be leashed to inanimate objects such as trees, posts, buildings, etc. The muzzle must be made in a manner that will not cause injury to the animal or interfere with the animal's vision or respiration, but must prevent the animal from biting any person or animal. (Ord. No. 923, §1, 12-20-93; Ord. No. 1168, §2, 2-5-01)

20.55.025. Notification of change of status. The owner or responsible person shall immediately notify the department of animal protection if a potentially dangerous animal is loose, unconfined, has attacked another animal, or a human being, or has died, been sold, been given away, or is otherwise no longer in the possession of the owner or responsible person. If the animal has been given away, the owner or responsible person shall provide the department of animal protection with the name, address, and telephone number of the new owner or responsible person, who, if located in the borough, shall comply with the requirements previously applied to such animal and the requirements of this chapter. If the potentially dangerous animal is to be transported outside of the borough, it shall:

- (1) First be spayed or neutered as provided in section 20.55.041 of this Code;
- (2) Have an identification chip implanted;
- (3) The department of animal protection shall be provided with the name, address and telephone number of the new owner or responsible person; and
- (4) The owner shall sign an agreement acknowledging that if the animal returns to the borough it will still be subject to the potentially dangerous animal restrictions.

(Ord. No. 923, §1, 12-20-93; Ord. No. 1168, §3, 2-5-01)

20.55.035. Signs.

(a) *Display required.* The owner or responsible person shall display a sign or signs in such form as required by the borough on their premises warning that there is a potentially dangerous animal on the premises. Such a sign or signs shall be visible and capable of being read from any public right-of-way abutting the premises. Such a sign shall also be posted on the enclosure for the potentially dangerous animal.

(b) *Cost; additional signs.* The borough shall provide one (1) sign required by this section at no cost to the owner. Additional or duplicate signs shall be purchased from the borough for an amount equal to the borough's cost for providing the signs.

(Ord. No. 923, §1, 12-20-93)

20.55.040. Special license and tag.

(a) The owner or person responsible for any potentially dangerous animal shall obtain an annual special license for such animal, which license shall expire on December 31 of the year for which the license is issued.

(b) An application for a special license shall be made to the director of animal protection which shall include the information required by section 20.30.010 hereof.

(c) All potentially dangerous animals shall be issued a special license identification tag which shall be worn by the animal at all times.

(d) The annual fee for a special license issued under this section shall be established by resolution of the assembly.

(Ord. No. 923, §1, 12-20-93)

20.55.041. Identification; spay or neuter requirement for potentially dangerous animals.

Within fourteen (14) calendar days after its classification as a potentially dangerous animal, the owner or person responsible for a potentially dangerous animal shall have the animal implanted with an identification chip and shall have the animal spayed or neutered and present proof of such actions to the director of animal protection. (Ord. No. 923, §1, 12-20-93; Ord. No. 1168, §4, 2-5-01)

20.55.045. Destruction of dangerous animal. Any animal that is classified as dangerous shall be humanely euthanized after being quarantined for the period provided by law. Animals which have been classified as dangerous may not be released live from borough custody or transported live outside of the borough. (Ord. No. 923, §1, 12-20-93; Ord. No. 1168, §5, 2-5-01)

20.55.050 Reclassification of potentially dangerous dogs.

(a) The keeper of any dog classified as potentially dangerous may apply for reclassification of the dog removing the potentially dangerous classification and reverting to non-dangerous status. Dogs which have been classified as dangerous are not eligible for reclassification. In order to qualify for reclassification the dog must meet the following standards:

- (1) The basis for the classification as potentially dangerous must not have been the killing of another animal or a bite to a human which broke the skin;
- (2) The dog must have been in potentially dangerous status for at least eighteen (18) months without any further violations of Title 20 of the KGB Code;
- (3) The dog must have successfully completed a obedience training class from a licensed or certified animal obedience trainer and obtained a certificate of canine good citizenship or its equivalent within six (6) months of the application.

(b) Applications for reclassification with respect to dogs classified as potentially dangerous will be reviewed and acted upon by the director of animal protection. In deciding whether to approve the reclassification of a dog, in addition to the requirements in subsection (a) of this section, the following criteria shall be considered:

- (1) The nature and circumstances of prior occurrences with the dog that resulted in its classification as potentially dangerous; and
- (2) Whether the keeper has been in compliance with all requirements concerning the dog since its classification as potentially dangerous.

(c) A second classification of a dog as potentially dangerous after removal of the classification pursuant to subsection (a) of this section, shall result in the dog being permanently ineligible for removal of the classification under this section.

(d) If an applicant disputes the treatment of an application under this section, the applicant may request a hearing to review a decision of the director on an application for reclassification by filing a request for a appeal with the borough clerk within ten days of the date of distribution of the notice of the director's decision. Any appeal shall be heard by the Manager or designee as an appeal from an administrative action under Section 5.110.060.

(Ord. No. 1380, §1, 1-3-06)