

CITY OF GRANITE FALLS

ORDINANCE NO. 858-2013

AN ORDINANCE OF THE CITY OF GRANITE FALLS, AMENDING THE GRANITE FALLS MUNICIPAL CODE CH 8.04 SECTION 8.04.020 DEFINITIONS OF "DANGEROUS DOG" AND "POTENTIALLY DANGEROUS DOG" ; AMENDING SUBSECTION 8.04.420 (E) AND NEW SUBSECTION 8.04.420 (I) IS ADDED - PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANITE FALLS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. GFMC Chapter 8.04. Subsection 8.04.020 Definitions of "Dangerous dog" and "Potentially Dangerous dog" are amended to adopt RCW 16.08.070, all other provisions of 8.04.020 remain in effect and unchanged.

~~"Dangerous dog" RCW 16.08.070 is adopted by reference (see also GMC Chapter 8.04.400 adopting RCW 16.08.070 definitions) means any dog that, according to the records of the appropriate authority:~~

- ~~(1) Has inflicted severe injury on a human being without provocation; or
(2) Has inflicted severe injury on an 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.~~

~~"Potentially dangerous dog" RCW 16.08.070 is adopted by reference (see also GFMC Chapter 8.04.400 adopting RCW 16.08.070 definitions) means any dog that when unprovoked:~~

- ~~(1) Inflicts bites on a human or a domestic animal either on public or private property; or
(2) Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.~~

Section 2. GFMC Chapter 8.04 Subsection 8.04.420(E) is amended and new Subsection (I) is added, all other provisions of 8.04.420 remain in effect and unchanged.

~~(E) The owner may appeal the authority's final determination that the dog is dangerous to the Cascade district court. The owner must make such an appeal within 20 days of receiving final determination. While the appeal is pending, the authority may order the dog be confined or controlled in compliance with GFMC 8.04.400. If the dog is determined to be dangerous, the owner must pay for all costs of confinement and control.~~

(E) Appeal – Confinement - Costs

(1) **Filing.**

- (a) The owner may appeal the authority's final determination that the dog is dangerous or potentially dangerous to the Cascade District Court. The owner must make such an appeal within 20 days of receiving final determination. Failure to timely file a notice of appeal shall constitute a waiver of the right to appeal the potentially dangerous dog declaration or declaration of dangerous dog.
- (b) The owner will file the request for appeal in the form as in (2) below with the City Clerk.
- (c) The City Attorney will file the appeal with Cascade District Court, request and calendar note for appeal hearing within 10 business days. The City will pay the filing fee if any.
- (d) If the dog is determined to be dangerous or potentially dangerous, the owner must pay for all costs including the filing fee and costs of confinement and control.

(2) **Form.** An appeal pursuant to this chapter shall be written and shall conform substantially to the following requirements:

- (a) A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;
- (b) A brief statement setting forth the legal interest of each of the appellants involved in the notice and order;
- (c) A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;
- (d) A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;
- (e) Signatures of all parties named as appellants, and their official mailing addresses; and
- (f) Certification (by signature of the appellant(s)) that the appellant(s) has read the appeal, and that to the best of the appellant's knowledge, information, and belief, the appeal is well grounded in fact.

(3) **Scheduling of Hearing.** Upon receipt of a timely filed notice of appeal, a hearing shall be scheduled not more than 40 days from the date of filing of the notice of appeal with the city. The Clerk of the court shall send written notice of the date and time of the hearing to the appellant(s) at least 10 days prior to the scheduled hearing date. It shall be the responsibility of the parties to notify witnesses of the hearing date and time. The failure of the appellant to appear at the hearing shall result in a denial of the appeal and upholding of potentially dangerous dog declaration, or declaration of dangerous dog.

(4) **Enforcement Stayed During Pendency of Appeal.** Unless otherwise determined by the Court, enforcement of the declaration of potentially dangerous dog or dangerous dog shall be stayed during the pendency of the appeal. While the appeal is pending the Court may order the dog be confined or controlled in compliance with GFMC 8.04.400.

(5) Appointment of the Hearing Examiner. Cascade District court is appointed as the hearing examiner. The Court may uphold, dismiss, or modify the potentially dangerous dog declaration, or declaration of dangerous dog. A written order shall be prepared and signed by the Court.

(6) Presentation of Evidence. At the appeal hearing, the Court shall take evidence and testimony relevant to the potentially dangerous dog declaration or dangerous dog declaration. Testimony and evidence will be taken pursuant to the Court Rules, case law and rules of evidence. Parties are responsible for subpoenaing any witnesses they deem necessary to testify.

(7) Burden of Proof and Standard of Review. At the appeal hearing before the Court/hearing examiner, the declaring agency/police department shall have the burden of providing that the dog is potentially dangerous or dangerous by a preponderance of the evidence.

(8) Hearing Before Court /Hearing Examiner. The owner of the animal may present evidence in defense of the animal. The Court/hearing examiner shall weigh the evidence presented by both the police department and the owner (if applicable), and shall issue a written decision that upholds, dismisses, or modifies the declaration of potentially dangerous or dangerous dog.

(a). If the declaration is upheld or dismisses by the Court, the appealing owner or the police department shall be notified of the right to appeal.

(b). If the declaration is dismissed and an appeal is not timely filed by the police department, any restrictions on the animal previously imposed shall be annulled.

(9) Decision of the Court. The decision of the judge of the Cascade District Court shall be a final administrative decision appealable to the Snohomish County Superior Court within 30 days of the date of final written order.

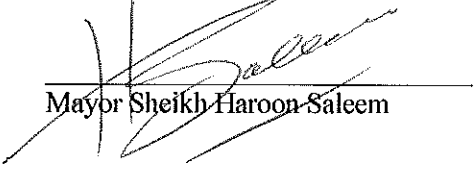
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(I) Exclusions. A dog shall not be declared dangerous if the police department or Court/Hearing Examiner determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the dog was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or who was tormenting, abusing, or assaulting the dog, or who had been in the past observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 4. Effective Date. This ordinance shall take effect five days after the date of its publication by summary.

ADOPTED by the City Council and APPROVED by the Mayor this 4th day of Dec., 2013.



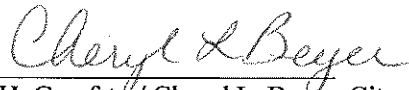
Mayor Sheikh Haroon Saleem

ATTEST/AUTHENTICATED:



Darla Reese, City Clerk

APPROVED AS TO FORM:



Thom H. Graafstra/ Cheryl L. Beyer, City Attorney

Date of First and Final Reading: 12/4/13
Date of Publication: 12/12/13
Effective Date: 12/12/13