

Oak Harbor Municipal Code

**Title 7
ANIMALS**

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**Chapter 7.04
DEFINITIONS**

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7.04.010 **Generally.**

As used in this title, the following terms shall have the meaning set out in this chapter. (Ord. 401 § 1, 1974).

7.04.015 **Abandoned.**

"Abandoned" means placing an animal in the custody of a veterinarian, boarding kennel owners, or any person for treatment, board, or care, either for an unspecified time and failing to remove the animal after 15 days' notice, or for a specified time and failing to remove the animal at the end of the specified period. (Ord. 1478 § 1, 2006).

7.04.020 **Animal.**

"Animal" includes, but is not limited to, any live, vertebrate creature, domestic or wild. (Ord. 401 § 1, 1974).

7.04.030 **Animal control officer.**

"Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer, who is authorized to implement the provisions of this title. (Ord. 1478 § 2, 2006; Ord. 401 § 1, 1974).

7.04.040 **Animal control authority.**

"Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals. (Ord. 1478 § 3, 2006; Ord. 401 § 1, 1974).

7.04.045 **Necessary food.**

"Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the

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animal's age and species and sufficient to provide a reasonable level of nutrition for the animal. (Ord. 1478 § 4, 2006).

7.04.050 Owner.

"Owner" means any person, partnership, or corporation owning, keeping, or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more. (Ord. 401 § 1, 1974).

7.04.060 Pet.

"Pet" means any animal kept for pleasure rather than utility. (Ord. 401 § 1, 1974).

7.04.070 Public nuisance.

"Public nuisance" means any animal or animals which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Is repeatedly running at large;
- (4) Damages private or public property;
- (5) Barks, whines or howls in an excessive, continuous or untimely fashion;
- (6) Any dog depositing fecal matter upon any private or public property without the same being removed immediately by the owner or persons having control of the dog;
- (7) The harboring, keeping and maintaining of a potentially dangerous dog or dangerous dog contrary to Chapter 7.32 OHMC. (Ord. 1478 § 5, 2006; Ord. 639 § 1, 1983; Ord. 401 § 1, 1974).

7.04.080 Restraint.

"Restraint" means any animal secured by a leash or lead, or under the control of a responsible person and obedient to the person's command, or located on the real property limits of its owner or keeper. All dogs who are within the limits of the city parks property, other than the tidelands area, must be secured by a leash or lead at all times. (Ord. 918 § 1, 1992; Ord. 401 § 1, 1974).

7.04.085 Running at large.

"Running at large" means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle. (Ord. 1478 § 6, 2006).

7.04.090 Veterinarian.

"Veterinarian" means a duly licensed person who medically treats domestic animals and pets. (Ord. 401 § 1, 1974).

7.04.110 Wild animal.

"Wild animal" means any warmblooded animal which can normally be found in the wild state. (Ord. 401 § 1, 1974).

Chapter 7.08
CARE AND CONTROL GENERALLY

Sections:

- 7.08.010 Care required.**
- 7.08.020 Restraint required.**
- 7.08.030 Public nuisance prevention.**
- 7.08.050 Prohibition of the sale or give-away of animals in front of local businesses or stores.**
- 7.08.060 Transporting or confining in unsafe manner – Penalty.**
- 7.08.070 Disposition of abandoned animal by person having custody.**

7.08.010 Care required.

The owner, as defined in OHMC 7.04.050, shall provide his animal with necessary food and adequate water and proper shelter. (Ord. 1478 § 8, 2006; Ord. 401 § 3, 1974).

7.08.020 Restraint required.

All animals shall be kept under restraint. (Ord. 401 § 5, 1974).

7.08.030 Public nuisance prevention.

An owner shall at all times exercise proper care and control of his animals so that they do not become a public nuisance as defined in OHMC 7.04.070. (Ord. 401 § 5, 1974).

7.08.050 Prohibition of the sale or give-away of animals in front of local businesses or stores.

It is unlawful for any business or store to allow any person(s) to sell or give away any animals in front of any business or store within the city or Oak Harbor. It shall be unlawful for any person(s) to give away or sell any animals in front of any business, store, or on the side of any public roadway within the city of Oak Harbor. (Ord. 918 § 3, 1992).

7.08.060 Transporting or confining in unsafe manner – Penalty.

Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor punishable by a maximum of 90 days in jail and/or a \$1,000 fine. (Ord. 1478 § 10, 2006).

7.08.070 Disposition of abandoned animal by person having custody.

Any person having in his care, custody or control any abandoned animal as defined in OHMC 7.04.015 and within the city of Oak Harbor may deliver such animal to the animal control authority following proper notification of the owner as provided in RCW 16.52.010. (Ord. 1478 § 11, 2006).

**Chapter 7.12
DOG AND CAT LICENSES**

Sections:

- 7.12.010 Required.**
- 7.12.020 Application requirements and exceptions.**
- 7.12.030 Fees – Schedule.**
- 7.12.035 Fees – Procedure for senior citizens.**
- 7.12.040 When purchased – Late fee – Term.**
- 7.12.050 Tag issuance.**
- 7.12.060 Failure to obtain license – Penalty.**
- 7.12.070 Record of licenses issued.**
- 7.12.080 Duplicate tag – Fee – License not transferable.**

7.12.010 Required.

Any person owning, keeping, harboring or having custody of any cat or dog over four months of age within the city limits of Oak Harbor must obtain a license as provided in this chapter. Nonresidents bringing to the city his/her dog or cat for less than 60 days are not required to obtain a license. Nor shall it be required to obtain a license for seeing-eye dogs or governmental police dogs. (Ord. 639 § 2, 1983; Ord. 401 § 2, 1974).

7.12.020 Application requirements and exceptions.

Applications for licenses shall be made to the city clerk which shall include the following requirements:

- (1) Name, address of applicant and description of animal;
- (2) A current rabies certificate issued by a licensed veterinarian shall be shown for dogs or cats over the age of six months;
- (3) A certificate of spay or neuter by a licensed veterinarian shall be shown (if applicable). (Ord. 639 § 3, 1983; Ord. 401 § 2, 1974).

7.12.030 Fees – Schedule.

- (1) Dog and cat licenses may be purchased from the city or authorized designee upon the payment of a license fee as follows:
 - (a) For each unneutered male dog, \$35.00;
 - (b) For each unneutered male cat, \$35.00;
 - (c) For each unspayed female dog, \$35.00;
 - (d) For each unspayed female cat, \$35.00;
 - (e) For each neutered male dog, \$10.00;
 - (f) For each neutered male cat, \$10.00;
 - (g) For each spayed female dog, \$10.00;
 - (h) For each spayed female cat, \$10.00. (Ord. 1410 § 1, 2005; Ord. 1065 § 1, 1996; Ord. 918 § 4, 1992; Ord. 639 § 4, 1983; Ord. 401 § 2, 1974).

7.12.035 Fees – Procedure for senior citizens.

If a person is 65 years of age or over and certifies to the clerk of the city under oath that he or she is over this age and is the owner of the cat or dog to be licensed, his/her license fee will be 50 percent of the fees stated in OHMC 7.12.030. This provision shall be effective as to those licenses issued subsequent to

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January 1, 1976. (Ord. 428 § 1, 1976; Ord. 401 § 2(a), 1974).

7.12.040 When purchased – Late fee – Term.

All cat and dog owners shall purchase licenses from January 1st through February 28th after which date a \$5.00 late charge fee will be assessed. The licensing period will be from January 1st through December 31st of each year. (Ord. 401 § 2, 1974).

7.12.050 Tag issuance.

The city clerk and/or participating veterinarians shall issue a durable tag or identification, stamped or printed with an identifying number and year of issuance, designed so that the tag may be fastened to the animal's collar or harness. The tag shall be worn by the animal at all times when off the premises of the owner. (Ord. 918 § 5, 1992; Ord. 401 § 2, 1974).

7.12.060 Failure to obtain license – Penalty.

Owners who fail to obtain a license for their animal as required within the time period specified in OHMC 7.12.040 will be violating the provisions of this title and will be guilty of a misdemeanor punishable by a maximum of 90 days in jail and/or a \$1,000 fine. (Ord. 1478 § 12, 2006; Ord. 401 § 2, 1974).

7.12.070 Record of licenses issued.

The licensing authority and animal control officer shall maintain a record of all animal licenses issued and shall make this record available to the public during normal office hours. (Ord. 401 § 2, 1974).

7.12.080 Duplicate tag – Fee – License not transferable.

A duplicate license tag may be obtained upon payment of a \$3.00 replacement fee from the city clerk. No person or owner may use any license for any animal other than the animal for which it was issued. (Ord. 1065 § 2, 1996; Ord. 401 § 2, 1974).

**Chapter 7.16
RABIES CONTROL**

Sections:

- 7.16.010 Vaccination required.**
- 7.16.020 Bringing dogs into city – Rabies certificate required.**
- 7.16.030 Issuance of certificate of rabies immunization.**
- 7.16.040 Animals biting person – Confinement or quarantine.**
- 7.16.050 Animal suspected of being rabid – Confinement.**
- 7.16.060 Releasing animal before expiration of quarantine period prohibited.**

7.16.010 Vaccination required.

It is unlawful for any person to own or harbor a dog or cat over the age of six months without a valid rabies vaccination. (Ord. 918 § 6, 1992; Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

7.16.020 Bringing dogs into city – Rabies certificate required.

Persons bringing dogs or cats into the city shall have readily available, as proof of vaccination, a current valid rabies certificate issued by a licensed veterinarian. Animals which do not have proof of current rabies shot shall be vaccinated immediately at the expense of the owner. (Ord. 639 § 5, 1983; Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

7.16.030 Issuance of certificate of rabies immunization.

Any veterinarian administering rabies vaccinations shall issue the owner a certificate of rabies immunization on all animals immunized. (Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

7.16.040 Animals biting person – Confinement or quarantine.

Any animal which bites a person shall be confined or quarantined on the premises of its owner as directed by the animal control officer, police officer or by a veterinarian. (Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

7.16.050 Animal suspected of being rabid – Confinement.

If an animal is suspected of being rabid, the animal control officer, a police officer or a veterinarian may order the animal surrendered to the pound or placed in a veterinary hospital and such confinement shall be at the owner's expense. It is unlawful to violate the orders of the persons designated in this section to so confine an animal. (Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

7.16.060 Releasing animal before expiration of quarantine period prohibited.

No owner or any person shall knowingly allow any animal confined as set forth in OHMC 7.16.040 or 7.16.050 to escape, nor shall he sell, nor give the animal or otherwise dispose of the animal before the expiration of the quarantine period. (Ord. 437 § 1, 1976; Ord. 401 § 4, 1974).

**Chapter 7.20
IMPOUNDMENT**

Sections:

- 7.20.010 Animals subject to impoundment.**
- 7.20.015 Inked ledger of all impounded animals.**
- 7.20.020 Dogs and cats – Minimum impoundment period.**
- 7.20.030 Notification of owner – Redemption fee.**
- 7.20.040 Unclaimed animals – Sale or destruction.**
- 7.20.045 Altering of all sold or given-away animals.**
- 7.20.050 Violation – Notice to owner.**
- 7.20.060 Hindering officers unlawful.**
- 7.20.070 Dead animal collection and disposal – Fee.**
- 7.20.090 Immobilizing gun use authorized.**
- 7.20.100 Maximum dogs and cats per residence.**

7.20.010 Animals subject to impoundment.

If any animal is not licensed or is not restrained, or is a public nuisance as defined in OHMC 7.04.070, such animal may be taken by the animal control officer or by a police officer and impounded in the animal shelter and there be confined. (Ord. 639 § 6, 1983; Ord. 401 § 6, 1974).

7.20.015 Inked ledger of all impounded animals.

An inked, bound ledger of all impounded animals shall be kept by the animal control officer. All impounded animals shall be sequentially numbered, described by animal type, sex, breed, altered or unaltered, and any distinguishing features of the animal. They shall be entered into this ledger immediately upon their impoundment. Final disposition of the impounded animal and all spaying and neutering through the Voluntary Veterinary Program shall also be recorded in this ledger. This ledger shall be available for inspection at any time during the hours the pound is open. (Ord. 918 § 7, 1992).

7.20.020 Dogs and cats – Minimum impoundment period.

Impounded dogs and cats shall be kept in the pound for not more than six calendar working days. (Ord. 639 § 7, 1983; Ord. 401 § 6, 1974).

7.20.030 Notification of owner – Redemption fee.

If by a license tag, the owner of an impounded animal can be identified, the animal control officer shall attempt to notify the owner by telephone within 48 hours. It shall, however, be the entire responsibility of the animal owner to ascertain his/her animal has been impounded. An owner before reclaiming an impounded cat shall pay a fee of \$15.00, plus \$5.00 board fee for each calendar day the animal has been impounded; and an owner before reclaiming an impounded dog shall pay a fee of \$15.00 for the first offense, and \$25.00 for the second and subsequent offenses. Impound fees for dogs shall cover a period of 24 hours, after said time period an additional fee of \$5.00 for each calendar day shall be added. If the impounded animal is unlicensed and its owner has been a resident for over 60 days, the owner shall pay a fine of \$25.00 over and above the impoundment fees. The owner shall be required to license the animal at time of reclaiming his/her animal. (Ord. 1065 § 3, 1996; Ord. 918 § 8, 1992; Ord. 639 § 8, 1983; Ord. 401 § 6, 1974).

7.20.040 Unclaimed animals – Sale or destruction.

Any animal not reclaimed by its owner within six calendar working days may be sold for a fixed fee or destroyed after this elapsed time period. The animal may be destroyed prior to the six days if the animal is deemed sick or hurt. The opinion of a veterinarian should determine the condition of the animal. (Ord. 918 § 9, 1992; Ord. 639 § 9, 1983; Ord. 401 § 6, 1974).

7.20.045 Altering of all sold or given-away animals.

All animals sold or given away shall be spayed/ neutered prior to leaving the control of the pound, provided there is a practicing, licensed veterinarian willing to perform voluntary spaying/neutering prior to adoption or give-away of the animal. Should no voluntary veterinary services be available to perform spaying/neutering, pound animals shall be exempt from this requirement until such time such services are available. (Ord. 918 § 10, 1992).

7.20.050 Violation – Notice to owner.

In addition to, or in lieu of, impounding an animal found at large, the animal control officer or police officer may issue the owner of such animal a notice of violation of this title. (Ord. 639 § 10, 1983; Ord. 401 § 6, 1974).

7.20.060 Hindering officers unlawful.

It is unlawful for any person or persons to prevent or hinder the animal control officer or police officer engaged in performing his duties pursuant to this title. (Ord. 401 § 6, 1974).

7.20.070 Dead animal collection and disposal – Fee.

The animal control officer shall collect and dispose of all dead animals found in the limits of the city of Oak Harbor and if the owner is known a fee of \$5.00 shall be collected for such service. (Ord. 401 § 6, 1974).

7.20.090 Immobilizing gun use authorized.

The animal control officer or police officer may have in his possession an immobilizing gun to be used at his discretion for restraining any animal that cannot be taken in the usual manner. (Ord. 401 § 6, 1974).

7.20.100 Maximum dogs and cats per residence.

No person shall permit more than three dogs or cats over the age of four months in or on any residence in the city of Oak Harbor. (Ord. 639 § 12, 1983).

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Chapter 7.24
PIGEONS

Sections:

7.24.010 Housing and confinement required.

7.24.020 Pigeon associations exempt.

7.24.010 Housing and confinement required.

It is unlawful for any person, firm or corporation to keep or maintain pigeons within the limits of the city of Oak Harbor unless the same are housed and confined in such a manner as to prevent their escape at any time from said confinement. (Ord. 401 § 7, 1974).

7.24.020 Pigeon associations exempt.

It is lawful for any member of a recognized national, state or local pigeon association to keep, house and allow to fly for exercise and training within the corporate limits of the city of Oak Harbor, for racing, carrier, homing or air performance, pigeons which are banded with numbered leg bands showing the same to be registered with such association and provided that such pigeons are not kept so as to constitute a nuisance or create a hazard to public health. (Ord. 401 § 7, 1974).

Chapter 7.32
DANGEROUS DOG AND POTENTIALLY DANGEROUS DOG

Sections:

7.32.010	Title.
7.32.020	Applicability.
7.32.030	Definitions.
7.32.040	Defense.
7.32.050	Declaration of dangerous dog or potentially dangerous dog – Procedure.
7.32.060	Notice of potential declaration.
7.32.070	Evidence.
7.32.080	Final decision.
7.32.090	Service.
7.32.100	Registration of dangerous and potentially dangerous dogs required.
7.32.110	Prohibited acts.
7.32.120	Penalties.
7.32.130	Destruction.
7.32.140	Costs.
7.32.150	Failure to reclaim.
7.32.160	Nuisance.
7.32.170	Civil damages.

7.32.010 Title.

The ordinance codified in this chapter shall be referred to as the dangerous dog and potentially dangerous dog ordinance. (Ord. 1480 § 2, 2006; Ord. 787 § 1, 1987).

7.32.020 Applicability.

The provisions of this chapter shall apply to adult dogs only, which means any dog over the age of six months. The declaration of dangerous dog or potentially dangerous dog follows the dog, regardless of ownership or change of ownership. (Ord. 1480 § 3, 2006; Ord. 787 § 2, 1987).

7.32.030 Definitions.

The following definitions shall apply throughout this chapter:

- (1) "Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is thereby charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals.
- (2) "Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (3) "Dangerous dog" means any dog that:
 - (a) Inflicts severe injury on a human being without provocation on public or private property; or
 - (b) Kills a domestic animal, without provocation, while the dog is off the owner's property; or

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- (c) Has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- (4) "Owner" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal.
- (5) "Potentially dangerous dog" means:
 - (a) 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; or
 - (b) Any dog which unprovoked inflicts bites on a human or domestic animal either on public or private property; or
 - (c) Any dog which unprovoked chases or approaches a person upon the streets, sidewalks or other public grounds in a menacing fashion or apparent attitude of attack.
- (6) "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's property, a dangerous dog shall either be:
 - (a) Securely confined indoors; or
 - (b) In a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of 10 years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and provide protection from the elements for the dog. If such pen or structure does not have a bottom that is secured to the sides, the sides must be embedded at least one foot into the ground.
- (7) "Running at large" means to be off the premises of the owner and not under the immediate control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle.
- (8) "Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery. (Ord. 1480 § 4, 2006; Ord. 787 § 3, 1987).

7.32.040 Defense.

Dogs shall not be declared dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person who, at the time:

- (1) Was committing a willful trespass or other tort upon the property or vehicle occupied or owned by the owner of the dog; or
- (2) Was tormenting, abusing, or assaulting the dog; or
- (3) Has, in the past, tormented, abused, or assaulted the dog; or
- (4) Was committing or attempting to commit a crime. (Ord. 1480 § 5, 2006; Ord. 787 § 5, 1987).

7.32.050 Declaration of dangerous dog or potentially dangerous dog – Procedure.

- (1) The animal control officer shall issue a notice of potential declaration to the owner of the dog following the guidelines of service found at OHMC 7.32.090. Said notice will include an opportunity for the owner to discuss the action in writing or orally with the animal control officer within 14 days of receipt of the notice.
- (2) After the discussion or the 14-day period, whichever comes first, the animal control officer shall issue a final decision in the form of either a final declaration or a letter of no finding.
- (3) If the dog has been impounded due to its actions, such impoundment shall continue during the pendency of the above procedure. The owner shall be responsible for the cost of impoundment

regardless of the outcome of the action.

- (4) The city administrator in a Chapter 1.24 OHMC appeal can take note of and consider the owner's failure to discuss the action with the animal control officer or failure to raise any and all defenses at the discussion with the animal control officer. (Ord. 1480 § 6, 2006; Ord. 787 § 6, 1987).

7.32.060 Notice of potential declaration.

Notice in the form of a declaration given to an owner in the manner described below or in OHMC 7.32.080 shall be prima facie evidence that the owner acted knowingly, although notice is not the only way to prove the owner's knowledge of the animal's propensity. Any notice of potential declaration must be in writing and include the following:

- (1) A description of the animal;
- (2) The name and address of the owner, if known;
- (3) The whereabouts of the animal if it is not in the custody of the owner;
- (4) A brief statement of why the dog is being considered a dangerous or potentially dangerous dog;
- (5) The specific provision or provisions of OHMC 7.32.030(3) or (5) which the animal control officer has found applicable;
- (6) The restrictions that could be placed on the dog as a result of a final declaration;
- (7) The penalties for violation of the restrictions of a final declaration, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
- (8) The date, time and location to meet with the animal control officer to discuss the action. (Ord. 1480 § 7, 2006; Ord. 787 § 7, 1987).

7.32.070 Evidence.

Based on an investigation, the animal control officer may find and declare a dog dangerous or potentially dangerous if he has a reasonable belief that the dog falls within the definitions set forth in OHMC 7.32.030(3) or (5). For the purposes of this chapter, a reasonable belief may be supported by any of the following:

- (1) The written complaint of a citizen who has witnessed the animal acting in a manner which causes it to fall within the definitions in OHMC 7.32.030(3) or (5) and is willing to so testify in a court of law; or
- (2) Dog bite reports filed with the animal control officer; or
- (3) Actions of the dog witnessed by the animal control officer or any law enforcement officer; or
- (4) A verified report that the animal previously has been found to be either potentially dangerous or dangerous by the animal control officer; or
- (5) Other substantial evidence admissible in a court of law. (Ord. 1480 § 8, 2006; Ord. 787 § 8, 1987).

7.32.080 Final decision.

The final decision shall consist of either a final declaration or a letter of no finding issued to the owner.

- (1) In the event the animal control officer finds reason to issue a final declaration, it shall contain the following:
 - (a) A description of the animal;
 - (b) The name and address of the owner, if known;
 - (c) The date and time of the meeting with the owner, if any;
 - (d) A brief statement of why the dog has been found to be a dangerous or potentially

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- (e) dangerous dog;
 - (e) The specific provision or provisions of OHMC 7.32.030(3) or (5) which the animal control officer found applicable;
 - (f) The restrictions placed on the dog as a result of the declaration;
 - (g) The penalties for violation of the restrictions, including the possibility of destruction of the dog, civil damages assessed against the owner, imprisonment and fines incurred by the owner through criminal prosecution;
 - (h) A statement that the declaration can be appealed to the city administrator pursuant to Chapter 1.24 OHMC within 14 days; and
 - (i) A statement that failure to file a timely and complete notice of appeal will constitute a waiver of all rights to appeal said declaration.
- (2) A letter of no finding shall include:
- (a) A description of the animal;
 - (b) The name and address of the owner;
 - (c) The date and time of the meeting with the owner;
 - (d) A brief summary of testimony and evidence presented at such discussion;
 - (e) A brief summary of why the animal is not being found dangerous or potentially dangerous. (Ord. 1480 § 9, 2006; Ord. 787 § 9, 1987).

7.32.090 Service.

Service of the notice of potential declaration, final declaration or letter of no finding shall be in writing, and shall be served on the owner in one of the following methods:

- (1) Certified mail, return receipt requested or delivery confirmation requested, to the owner's last known address; or
- (2) Personally delivered with proof of personal service made by written declaration under penalty of perjury by the person effecting service declaring the time, date and manner in which service was made; or
- (3) Posting the declaration on the front door of the living unit of the owner, or person with right to control the animal if said owner is not home; or
- (4) Publication in a newspaper of general circulation, if the owner cannot be located by one of the above methods. (Ord. 1480 § 10, 2006; Ord. 787 § 10, 1987).

7.32.100 Registration of dangerous and potentially dangerous dog required.

All dangerous dogs and potentially dangerous dogs residing within the city of Oak Harbor must be registered to the current owner. The fee for registration of a dangerous dog is \$50.00 and the fee for registration of a potentially dangerous dog is \$25.00. Registration must be renewed annually.

- (1) A dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a dangerous dog if the owner presents to the animal control officer sufficient evidence of:
 - (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the dangerous dog;
 - (b) The posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a conspicuously displayed sign with a warning symbol that informs children of the presence of a dangerous dog;
 - (c) A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form

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- acceptable to the city in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least \$250,000, insuring the owner for any personal injuries inflicted by the dangerous dog;
- (d) Proof of payment of the annual registration fee;
 - (e) Proof that the dog has been microchipped, including providing the microchip serial number or proof that the dog has been tattooed including providing the tattoo number;
 - (f) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a dangerous dog within the city.
- (2) A potentially dangerous dog certificate of registration shall be issued by the animal control officer to the owner of a potentially dangerous dog if the owner presents to the animal control officer sufficient evidence of:
- (a) A proper enclosure as defined in OHMC 7.32.030(6) in which to confine the potentially dangerous dog;
 - (b) Proof of payment of the annual registration fee;
 - (c) Proof that the dog has been microchipped, including providing the microchip serial number or proof that the dog has been tattooed, including providing the tattoo number;
 - (d) Written acknowledgement of receipt of a copy of this chapter that includes a statement that the acknowledger has read and understood what is required to keep a potentially dangerous dog within the city and what actions may lead to a dangerous dog declaration. (Ord. 1480 § 11, 2006; Ord. 787 § 11, 1987).

7.32.110 Prohibited acts.

It shall be unlawful for any person to:

- (1) Fail to register a dangerous dog under OHMC 7.32.100(1) within 30 days of bringing the dog into the city limits or after it has been declared a dangerous dog;
- (2) Fail to secure, and maintain, the liability insurance coverage required under OHMC 7.32.100(1)(c) within 30 days of bringing a dangerous dog into the city limits or after it has been declared a dangerous dog;
- (3) Fail to register a potentially dangerous dog under OHMC 7.32.100(2) within 30 days of bringing the dog into the city limits or after it has been declared a potentially dangerous dog;
- (4) Fail to keep a dangerous dog or a potentially dangerous dog in a proper enclosure as defined in OHMC 7.32.030(6);
- (5) Allow a dangerous dog or a potentially dangerous dog outside of a proper enclosure, unless the dog is muzzled, restrained by a substantial chain or leash and under the physical control of a person over the age of 18 years who is of sufficient size and stature to control the animal. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. (Ord. 1480 § 12, 2006; Ord. 787 § 12, 1987).

7.32.120 Penalties.

- (1) Violations of any of the prohibited acts under OHMC 7.32.110 may result in the following penalties:
 - (a) Immediate confiscation of the dog;
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- (i) The animal control officer shall immediately confiscate and impound any dangerous dog not registered, or insured, or kept in a proper enclosure and the animal control authority shall hold the same until such time as the prohibited act is abated.
 - (ii) The animal control officer shall immediately impound any dangerous dog or potentially dangerous dog found running at large as defined in OHMC 7.32.030(7).
 - (b) The owner of said dog shall be guilty of a gross misdemeanor punishable by a fine of up to \$5,000 or a jail sentence of one year or both fine and jail time.
 - (c) Each day of violation is a separate offense.
 - (2) If a dangerous dog of an owner with a prior conviction under this chapter or Chapter 16.08 RCW attacks or bites a person or another domestic animal, the dog's owner is guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.
 - (3) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control officer, placed with the animal control authority to be held in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Ord. 1480 § 13, 2006; Ord. 787 § 13, 1987).

7.32.130 Destruction.

Whenever the animal control authority comes into possession of a dangerous dog or potentially dangerous dog they shall destroy the same if the dog is not reclaimed by the owner within 30 days. Under no circumstances shall a dangerous dog be sold or given to another as a pet. (Ord. 1480 § 14, 2006; Ord. 797 § 1, 1987; Ord. 787 § 4, 1987).

7.32.140 Costs.

- (1) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all actual service costs expended under OHMC 7.32.050(3).
- (2) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of confinement for any dog impounded pursuant to a violation of OHMC 7.32.110.
- (3) The owner of any dog found to be a potentially dangerous dog or dangerous dog under this chapter shall be assessed all costs of destruction expended for any dog impounded and not reclaimed under OHMC 7.32.130. (Ord. 1480 § 15, 2006).

7.32.150 Failure to reclaim.

Whenever a dog is seized and impounded under this chapter, the failure to either reclaim the dog or to give a written surrender of the dog to the animal control authority shall result in the owner being prohibited from registering any new dogs in the city for a period of one year. This prohibition shall not apply to the renewal of any existing dog license. (Ord. 1480 § 16, 2006).

7.32.160 Nuisance.

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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. (Ord. 1480 § 17, 2006).

7.32.170 Civil damages.

- (1) In addition to criminal penalties, the following civil damages shall be incurred by the owner of a potentially dangerous dog or dangerous dog:
 - (a) 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 \$250.00.
 - (b) If a potentially dangerous dog or dangerous dog menaces a person, the owner shall be liable for damages not to be less than \$250.00.
 - (c) 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.
- (2) The damage enumerated under subsection (1) of this section may be imposed as restitution requirements for criminal violations of this chapter; provided, that in no event may damages awarded as restitution exceed \$5,000. (Ord. 1480 § 18, 2006).

**Chapter 7.34
BREED-SPECIFIC RESTRICTIONS**

Sections:

- 7.34.010 Findings.**
- 7.34.020 Applicability.**
- 7.34.030 Definitions.**
- 7.34.040 Restrictions.**
- 7.34.050 Exemptions.**
- 7.34.060 Penalties.**

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7.34.010 Findings.

The potential for harm from mishandling of certain breeds of dogs with known aggressive tendencies, such as pit bull terriers, far outweighs the burden of added requirements imposed on owners for the keeping of such dogs. (Ord. 1479 § 2, 2006).

7.34.020 Applicability.

The provisions of this chapter shall apply to adult dogs only, which means any dog over the age of six months. (Ord. 1479 § 3, 2006).

7.34.030 Definitions.

The following definitions shall apply throughout this chapter:

- (1) "Animal control authority" means the department of the city charged with the responsibility of administering the provisions of this chapter, or the department and any other agency to which this responsibility is contractually delegated and which is, thereby, charged with the duty of enforcing the animal control laws of the city and/or with the shelter and welfare of animals.
- (2) "Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (3) "Owner" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal.
- (4) "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.
- (5) "Proper enclosure" of a dangerous dog or a potentially dangerous dog means that while on the owner's property, a dangerous dog shall either be:
 - (a) Securely confined indoors; or
 - (b) In a securely enclosed and locked pen or structure suitable to prevent the entry of children under the age of 10 years and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and provide protection from the elements for the dog. If such pen or structure does not have a bottom that is secured to the sides, the sides must be embedded at least one foot into the ground.
- (6) "Running at large" means to be off the premises of the owner and not under the immediate

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control of the owner or other competent person authorized by the owner, by means of a leash, cord or chain, except when in or on any vehicle and securely confined to such vehicle. (Ord. 1479 § 4, 2006).

7.34.040 Restrictions.

The following restrictions apply to all dogs identified in this chapter:

- (1) Dogs must be kept in a proper enclosure as defined in OHMC 7.34.030(5);
- (2) Dogs may not be allowed outside of a proper enclosure, unless the dog is muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal; and
 - (a) Is restrained by a substantial chain or leash and under the physical control of a person over the age of 18 years who is of sufficient size and stature to restrain the animal; or
 - (b) Is secured within a vehicle in a manner that protects the public from harm when the vehicle is parked and the public may have access to the dog and protects the dog from harm when the vehicle is in motion. (Ord. 1479 § 6, 2006).

7.34.050 Exemptions.

Owners of dogs falling under the breed(s) defined by this chapter may earn an exemption from the restrictions listed in OHMC 7.34.040 by showing proof that their dog has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC), as administered by any AKC certified trainer, and received appropriate certification from the AKC. Such animal shall be retested at least once every two years and must pass each time in order to maintain this exemption. The exemption shall be noted on the dog license application. (Ord. 1479 § 7, 2006).

7.34.060 Penalties.

Violations of any of the restrictions in this chapter may result in the following penalties:

- (1) Impoundment. The animal control officer shall immediately impound any dog restricted by the provisions of this chapter found:
 - (a) Outside a proper enclosure as defined in OHMC 7.34.030(4); or
 - (b) Running at large as defined in OHMC 7.34.030(6); or
 - (c) Under the care and control of a minor; or
 - (d) Off the owner's property without a muzzle.
- (2) Crime. In addition to impoundment, the owner of said dog shall be guilty of a misdemeanor punishable by a fine of up to \$1,000 or a jail sentence of up to 90 days in jail or both fine and jail time. (Ord. 1479 § 8, 2006).

Chapter 7.36
ANIMAL CRUELTY

Sections:

- 7.36.010** **Definitions.**
- 7.36.020** **Animal cruelty – Prohibited acts.**
- 7.36.030** **Penalty.**
- 7.36.040** **Affirmative defense.**
- 7.36.050** **Poisoning of animals.**

7.36.010 **Definitions.**

- (1) "Abandoned" means placing an animal in the custody of a veterinarian, boarding kennel owners, or any person for treatment, board, or care, either for an unspecified time and failing to remove the animal after 15 days' notice, or for a specified time and failing to remove the animal at the end of the specified period.
- (2) "Animal control officer" means any person or agency designated by the city as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (3) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species and sufficient to provide a reasonable level of nutrition for the animal.
- (4) "Owner" means any person, firm, corporation, organization, or department in possession of, harboring, keeping, having an interest in, or having control or custody of an animal. (Ord. 1477 § 2, 2006).

7.36.020 **Animal cruelty – Prohibited acts.**

- (1) Any person is guilty of animal cruelty if the person, under circumstances not amounting to animal cruelty in the first degree as defined under RCW 16.52.205, as now in effect or as hereafter amended, does any of the following:
 - (a) Knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; or
 - (b) Teases, tantalizes or provokes any animal with the intent to cause destructive behavior, fear or hostility; or
 - (c) Keeps an animal in an unsanitary condition.
- (2) Any owner of an animal is guilty of animal cruelty if the owner knowingly, recklessly, or with criminal negligence, under circumstances not amounting to animal cruelty in the first degree as defined under RCW 16.52.205, as now in effect or as hereafter amended, does any of the following:
 - (a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or
 - (b) Abandons the animal. (Ord. 1477 § 3, 2006).

7.36.030 **Penalty.**

Animal cruelty is a misdemeanor punishable by a maximum of up to 90 days in jail and/or a fine of

\$1,000. (Ord. 1477 § 4, 2006).

7.36.040 Affirmative defense.

In any prosecution of animal cruelty, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control. (Ord. 1477 § 5, 2006).

7.36.050 Poisoning of animals.

- (1) A person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree, such as lying out to expose or leaving exposed any kind of poison or poisoned food or drink where it is accessible to an animal.
- (2) Subsection (1) of this section shall not apply to:
 - (a) Euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority; or
 - (b) Reasonable use of rodent or pest poison, insecticides, fungicides or slug bait for their intended purpose.
- (3) Poisoning an animal is a gross misdemeanor crime, punishable by a maximum of one year in jail and/or a \$5,000 fine. (Ord. 1477 § 6, 2006).

Chapter 7.40
EXOTIC ANIMALS

Sections:

- 7.40.010 Chapter intent.**
- 7.40.020 Definitions.**
- 7.40.030 Scope.**
- 7.40.040 Violation – Penalty.**
- 7.40.050 Euthanasia in exigent circumstances.**
- 7.40.060 Exceptions.**

7.40.010 Chapter intent.

It is the intent of the Oak Harbor city council to limit and set conditions on the possession or maintenance of exotic animals as defined by this chapter in order to preserve the public peace and safety, to reduce the possibility of ecosystem degradation by introducing species not native to this environment, and to assure the humane treatment of such exotic animals. (Ord. 1444 § 2, 2005).

7.40.020 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Animal control officer" means any person or agency designated by the city of Oak Harbor as a law enforcement officer or quasi-law enforcement officer who is authorized to implement the provisions of this chapter and this title.
- (2) "Exotic animal" means any species of animal that is both nondomesticated and capable of killing or seriously injuring a human being. Subject to the preceding sentence, the definition of "exotic animal" contained in this section includes but is not limited to:
 - (a) Nonhuman primates and prosimians;
 - (b) Species of ursidae such as bears;
 - (c) Nondomesticated species of felines and their hybrids such as lions, tigers, cougars, ocelots, servals and lynx;
 - (d) Nondomesticated species of canines and their hybrids, including wolf and coyote hybrids;
 - (e) The order Crocodylia, including alligators, crocodiles, caimans and gavials;
 - (f) Constricting snakes such as pythons and boa constrictors over 10 feet in length;
 - (g) All venomous species of snakes and reptiles (regardless whether their venom glands have been removed) capable of inflicting serious physical harm or death to human beings;
 - (h) All venomous insects and spiders capable of inflicting serious physical harm or death to human beings;
 - (i) Reptiles capable of inflicting serious physical harm or death to human beings;
 - (j) Emus and ostriches;
 - (k) Procyonidae (raccoons, coatis);
 - (l) Mustelidae (examples: weasels, skunks, martens) except not including ferrets or mink;
 - (m) Wallabies and kangaroos.
- (3) "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative

thereof. (Ord. 1457 § 1, 2006; Ord. 1444 § 3, 2005).

7.40.030 Scope.

This chapter shall not include domestic cats and dogs, which shall be regulated under a different chapter. The traditional ownership of cats and dogs allows for more freedom of mobility and thus requires a different regulatory scheme. (Ord. 1444 § 4, 2005).

7.40.040 Violation – Penalty.

- (1) It is unlawful for any person, firm or corporation to own, possess, keep, maintain, harbor, bring into the city, have control or custody of, an exotic animal except as specified in this chapter.
- (2) Violators of subsection (1) of this section are guilty of a misdemeanor and are subject to a fine not to exceed \$1,000 or confinement in jail up to 90 days in jail or both such fine and jail time.
- (3) All other animals, vertebrate or invertebrate, must be housed and confined in such a manner as to prevent their escape at any time from said confinement. At-large status for any such animal shall constitute per se proof of a violation of this section.
- (4) Violators of subsection (3) of this section may be punishable by:
 - (a) A Class I infraction and subject to a fine of up to \$250.00 for their first two offenses; or
 - (b) A misdemeanor and subject to a fine not to exceed \$1,000 or confinement in jail up to 90 days in jail or both such fine and jail time for their third and subsequent offenses.
- (5) It shall not be a defense to any violation of this section that identifiably different animals are involved in the alleged violation(s). (Ord. 1444 § 5, 2005).

7.40.050 Euthanasia in exigent circumstances.

An exotic animal possessed or maintained in violation of this chapter or the rules and regulations of the animal control authority may be subject to euthanasia if any one of the following exigent circumstances is deemed to exist by the director of the animal control authority:

- (1) The exotic animal presents an imminent threat of serious physical harm to the public and there is no other reasonably available means of abatement; or
- (2) There is no reasonable basis to believe that the violation can be, or in good faith will be, corrected and after reasonable search or inquiry by the animal control authority, no facility as authorized by local, state or federal law is available to house the exotic animal; or
- (3) The exotic animal suffers from a communicable disease injurious to other animals or human beings; provided, that this section shall not apply if the animal:
 - (a) Is under treatment by a licensed veterinarian; and
 - (b) May reasonably be expected to recover without infecting other animals or human beings; and
 - (c) The animal is not being released to reside permanently or temporarily within the city limits of Oak Harbor. (Ord. 1444 § 6, 2005).

7.40.060 Exceptions.

The provisions of this chapter shall not apply to:

- (1) Institutions accredited by or under the mentorship of the American Zoo and Aquarium Association (AZA).
- (2) Duly incorporated nonprofit animal protection organizations housing an exotic animal at the written request of the animal control authority.
- (3) Animal control or law enforcement agencies or officers acting under the authority of this chapter.

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- (4) Licensed veterinary hospitals or clinics.
- (5) Any wildlife sanctuary as defined under this chapter, as part of a licensed veterinary clinic which is involved in rehabilitation of animals.
- (6) Any lawfully operated circus or rodeo.
- (7) A person temporarily transporting an exotic animal through the city if the transit time is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent the exotic animal from escaping. (Ord. 1444 § 7, 2005).