

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING CORRECTIVE)
REVISIONS TO THE SPOKANE COUNTY ANIMAL)
CONTROL ORDINANCE CODIFIED AS SPOKANE)
COUNTY CODE CHAPTER 5.04 SECTION 033(1) AND)
SECTION 42(3)(e) EFFECTIVE IN THE)
UNINCORPORATED AREA OF SPOKANE COUNTY AND)
IN CITIES/TOWNS THAT CONTRACT FOR ANIMAL)
CONTROL SERVICES WITH SPOKANE COUNTY)

RESOLUTION

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County has the care of County property and the management of County funds and business; and

WHEREAS, pursuant to the provisions of Article XI § 11 of the Washington State Constitution and RCW 36.32.120(7), the Board of County Commissioners has adopted an ordinance regulating cats and dogs to be effective within the unincorporated areas of Spokane County and in cities/towns that contract for animal control services with Spokane County; and

WHEREAS, pursuant to the above-cited constitutional and statutory provisions, Nancy Hill, Spokane County Regional Animal Care and Protection Services Director, recommended that the Board of County Commissioners adopt a corrective revision to its Ordinance regulating dogs and cats, for the purpose of correcting a scribner's error regarding the reference to the definition of "potentially dangerous dog" and in the criteria for licensee of commercial kennels, as set forth in Attachment "A," attached hereto and incorporated herein by reference; and

WHEREAS, the Board of County Commissioners held a public hearing at 5:30 p.m. on December 4, 2012, to consider the corrective revisions set forth in Attachment "A," which corrective revisions were stated in a published Notice; and

WHEREAS, after considering all public testimony submitted at such public hearing, to include the recommendation of the Spokane County Regional Animal Care and Protection Services Director, the Board believes that the adoption of the proposed corrective revisions would correct the scribner's error and would be in the best interest of the general public health, safety and welfare.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Spokane County, that Board, pursuant to the provisions of Article XI § 11 of the Washington State Constitution and RCW 36.32.120(7), does hereby adopt those corrective revisions to the County Ordinance regulating cats and dogs [Chapter 5.04 of the Spokane County Code], more particularly set forth in Attachment "A." The adopted corrective revisions shall become effective immediately upon this adoption thereof.

BE IT HEREBY FURTHER RESOLVED by the Board of County Commissioners of Spokane County, that in adopting the Ordinance amendments, the Board does hereby adopt each and every recital set forth above as a Finding of Fact.

ADOPTED by the Board of County Commissioners of Spokane County, Washington this 4th day of December 2012.

TODD MIELKE, Chair

ATTEST:

MARK RICHARD, Vice-Chair

Daniela Erickson, Clerk of the Board

AL FRENCH, Commissioner

EXHIBIT "A"
Corrective Revision SCC 5.04.33

5.04.033 Determination of Potentially Dangerous Dog--Notice, Administrative Review, and Appeal.

(1) When the Director, or his/her designee, has sufficient information to determine that a dog is a potentially dangerous dog as defined in section 5.04.020(~~47~~18), a notice either in person or by regular mail, shall be provided to the owner or keeper of the dog. The notice shall contain the following information:

(a) That the person receiving the notice is the owner or keeper of a potentially dangerous dog as defined in section 5.04.020(~~47~~18);

(b) The breed, color, sex, and license number (if known) of said dog;

(c) The facts upon which the determination of potentially dangerous dog is based;

(d) That if there are future similar incidents with the dog, the dog could be declared a dangerous dog pursuant to section 5.04.032, and required to be registered as provided in section 5.04.035;

(e) That the owner or keeper must comply with restrictions set forth in the notice as a condition of continued ownership or keeping of the dog and that restrictions may include but are not limited to those which may be imposed on the owner or keeper of a potentially dangerous dog pursuant to section 5.04.032(3);

(f) That the notice constitutes a final determination that the dog is a potentially dangerous dog, unless the owner or keeper of the dog requests an administrative review meeting in writing on a form provided with the notice within fifteen (15) days of the receipt of the notice. For purposes of this section, if the notice is mailed, it shall be deemed received on the third day after the notice is placed in the mail; and

(g) That pursuant to 5.04.033(3), a failure by the dog owner or keeper to request and attend an administrative review meeting with the animal control director or designee shall constitute a failure to exhaust all administrative remedies, and that such failure to exhaust all administrative remedies shall preclude any appeal of the administrative determination to the Board of County Commissioners or Court.

(2) In the event the owner or keeper of a dog requests an administrative review meeting as provided in subsection (1)(f) of this subsection, the administrative review meeting shall be held within thirty (30) days of the receipt of the request. The meeting date may be continued upon a showing of good cause. The Director or his/her designee shall notify the owner or keeper of the date, time and place of the administrative review meeting, as well as the right to present evidence as to why the dog should not be found potentially dangerous. The administrative review meeting shall be held before the Director or his/her designee. Administrative review meetings shall be informal, open to the public; and, at the option of the Director or his/her designee, may be held telephonically.

(3) Following an administrative review meeting, the Director or his/her designee may affirm or reverse the initial determination that a dog is potentially dangerous. If a determination that a dog is potentially dangerous is upheld, the Director or his/her designee may impose the same reasonable conditions as may be imposed on the owner or keeper of a potentially dangerous dog pursuant to section 5.04.032(3).

(4) The Director or his/her designee shall notify, in writing, the owner or keeper of the dog of his/her decision within ten (10) days of the administrative review meeting. The decision of the Director or his/her designee may be appealed in the same manner as provided in section 5.04.032.

(5) The decision of the Director or his/her designee is final unless appealed.

(6) An owner or keeper of a potentially dangerous dog who violates any of the conditions imposed under this section shall be guilty of a misdemeanor.

5.04.042 - Commercial kennels.

(1) Commercial kennels located in Spokane County shall be licensed as required by this section. Commercial kennel licenses shall be for a twelve-month period and shall be renewed on or before the expiration of the twelve-month period. The fee for a commercial kennel license is one hundred-fifty dollars, payable to SCRAPS. An additional fee of twenty-five dollars shall be assessed and payable if the license is not timely renewed; and, all renewal rights to existing license cease to exist ninety days after renewal date and continued operation of the kennel shall be deemed operation of an illegal kennel. SCRAPS shall mail a notice of renewal of license not less than thirty days prior to the expiration of said license. Individual licenses are not required for any animals legally maintained within a commercial kennel.

(2) Applications for commercial kennel licenses shall be made to SCRAPS. Each application shall be in writing, and signed and sworn to by the applicant. The application shall contain the following information:

- (a) The name, home address, and telephone number of the applicant;
- (b) The business name, business address, and telephone number of the proposed commercial kennel.
- (c) A diagram to scale or approximately to scale showing the property and structures for which the license is sought;
- (d) A diagram of the kennel facility;
- (e) A description of the premises where the kennel will be operated, as well as a description of the magnitude and nature of the proposed business; and
- (f) A written statement from the Spokane County building and planning division that the contemplated business complies with applicable zoning laws.

(3) SCRAPS may refuse issuance or renewal of a license, or revoke or suspend said license, upon finding after investigation or hearing it deems necessary that:

- (a) The license fee has not been paid;
- (b) The application does not satisfy the requirements of subsection (2);
- (c) Upon the inspection by the Director or his/her designee, the business does not meet the standards for a commercial kennel set forth in subsection (5);
- (d) Such license was issued illegally, or by mistake or inadvertence, or was procured by fraud, misrepresentation, false or misleading statements, evasions or suppression of material facts, or that any of the material facts contained in the application are false;

(e) The licensee, or any agent of the licensee, in connection with the operation of the commercial kennel, has, within a two-year period:

(i) Been found guilty or committed of a violation of any provisions of this chapter, Chapter 5.12 of the Spokane County Code, or Chapters 16.08, 16.52, or 16.54 RCW; ~~or~~

(ii) Been found to have engaged in any other misconduct, or improper, fraudulent, or wrongful behavior relating to the operation of a commercial kennel; or

(iii) Violated any of the standards imposed for operation of a commercial kennel by subsection (5) of this section.

(f) Any servant, agent, employee or representative of the commercial kennel has been guilty of any act or omission while on the premises of the commercial kennel, where said act constitutes a criminal violation of this chapter, or Chapter 5.12 of the Spokane County Code or Chapters 16.08, 16.52, or 16.54 RCW; or has been to have engaged in any misconduct or improper, fraudulent or wrongful behavior relating to the operation of the commercial kennel if:

(i) the circumstances surrounding any of the foregoing acts or omissions are such as to establish that such act was knowingly allowed by any person sharing in profits of said business, or, if a corporation, any officer or director thereof, or of any person acting as a proprietor, manager, or person in charge of such business; or

(ii) in any event, if two or more such acts or omissions have occurred on the premises within a two-year period.

(g) Failure to observe any of the standards set forth in subsection (5) of this section.

(4) Any applicant who has duly made application for a new commercial kennel or renewal of an existing license under the provisions of this section and has been denied such license, or any person holding a license which is revoked or suspended under the provisions of this section, may file a petition with the clerk of the board of county commissioners for a administrative appeal hearing provided that such petition must be filed within fifteen days following notification of such denial, revocation or suspension. If the applicant's petition is on a current legally issued license, such denial, revocation or suspension shall be stayed upon the filing of such petition for administrative appeal with the clerk of the board pending final determination of the board of county commissioners as herein provided. In the event such petition is filed, the board of county commissioners may elect to use designee(s) as a hearing officer; in any event, a date, no less than ten days following the mailing of notice thereof shall be set for a administrative appeal hearing, of which all interested parties shall be notified. All evidence bearing on the questions of whether such denial, revocation or suspension is proper under the provisions of this section may be

received at that administrative appeal hearing conducted by the board of county commissioners or its designee(s). If the board of county commissioners shall determine upon such administrative appeal hearing that such denial, suspension or revocation is not proper under the provisions of this chapter, they shall notify SCRAPS, which shall cause the license to be issued or reinstated forthwith. If the board of county commissioners determines upon such administrative appeal hearing that such license should be denied, suspended or revoked under the provisions of this section, they shall issue such order in writing. An appeal of such an order may be made in the superior court of Spokane County in the manner provided under the general laws of the state of Washington. In those instances where the board of county commissioners' designee acts as a hearing officer in conjunction with this section, the following procedures shall apply:

- (a) All hearings before the hereinabove designee shall be recorded; all testimony shall be taken under oath and witnesses may be subpoenaed by the designee;
 - (b) The hearing officer shall render an oral recommendation at the conclusion of the hearing or within five business days. This time may be extended at the discretion of the hearing officer. The oral recommendation shall be reduced to writing and shall include findings of fact and conclusions of law, and shall be submitted to the board of county commissioners of Spokane County for action; a copy will be forwarded to the applicant and the director. Upon receipt by the clerk of the board of county commissioners of the written recommendation of the hearing officer, the clerk shall place the matter on its next regular meeting agenda for action. The applicant shall be advised by the clerk of the board that the board will take formal action on the recommendation of the hearing officer at the time, date and place of the board of county commissioners' next regular meeting;
 - (c) At the time, date and place that the board of county commissioners considers the written recommendation of the hearing officer no additional testimony or evidence will be considered. The record before the board of county commissioners will include the electronic recording of the hearing before the hearing officer, any written documents submitted to the hearing officer for consideration at the time of the hearing or after the hearing if requested by the hearing officer and the findings of fact conclusions of law and recommendation of the hearing officer. The board of county commissioners may ask questions of the hearing officer for purposes of clarification; and
 - (d) The board of county commissioners may accept, reject, or modify the recommendation of the hearing officer. The board shall render its decision in writing.
- (5) The following operation standards shall be observed in connection with a commercial kennel:
- (a) All animals must have an adequate supply of drinking water, sanitary sleeping quarters, adequate shelter, medical attention, grooming and exercise areas appropriate to their size, breed characteristics and climate;

- (b) All animals shall be supplied with sufficient good and wholesome food as often as the feeding habits of the respective animals require, but not less than, in the case of puppies or kittens under four months of age, three times every twenty-four hours; and in the case of adults, once every twenty-four hours;
 - (c) Food shall be stored in a fashion which prevents contamination or infestation;
 - (d) The facilities shall be maintained and operated in a healthful, sanitary manner, free from disease, infestation and foul odors;
 - (e) All animals and animal buildings or enclosures shall be maintained in a clean and sanitary condition. Housing facilities shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entry of other animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
 - (f) Sick animals shall be isolated from healthy ones in quarters adequately ventilated to prevent contamination of healthy animals;
 - (g) Animals shall be immunized from disease as is usual and customary for the animals' age and species.
 - (h) All animal rooms, cages, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept therein. If individual runs are utilized, the surface shall be cement, gravel, or shavings. At a minimum, sufficient space must be provided for every animal in an enclosure to separately and together, stand up, lie down, and turn around in a natural position.
 - (i) All animals shall be maintained so as to comply with Section 5.04.070(7).
- (6) No commercial kennel license, or any renewal thereof, may be issued until the owner or operator thereof allows the director or his/her designee to inspect the premises of the license applicant. Such inspections shall be made during regular business hours. The purpose of such inspection shall be to determine if the commercial kennel does or can meet the standards set forth in subsection (5). The director, or his/her designee, may inspect the premises at any time to insure compliance with the provisions of this ordinance.
- (7) Any person owning or exercising control of an unlicensed commercial kennel is guilty of a misdemeanor.

(Res. No. 09-1146, 12-15-2009)

2012
PROPOSED CORRECTIVE REVISIONS TO
SPOKANE COUNTY CODE 5.04.033(1) AND TO SPOKANE COUNTY
CODE 5.04.042(3)(e)

The following is a summarization of the proposed 2012 corrections to SCC 5.04.033(1):

- The proposed corrective revision would correct a scribner's error in the referenced code section to correctly refer to the definition of "potentially dangerous dog" as that definition appears in the Spokane County Code at 5.04.020(18) as opposed to 5.04.020(17) as the code section currently reads, and to delete the word "or" in Spokane County Code at the end of 5.04.042(3)(e)(i) and add the word "or" at the end of 5.04.042(3)(e)(ii)..