

**KITSAP COUNTY DISTRICT COURT
STATE OF WASHINGTON**

<p>_____, Petitioner, v. ANIMAL CONTROL KITSAP HUMANE SOCIETY, Respondent.</p> <p>Animal Name(s) – _____ Animal Description(s) – _____ _____</p>	<p>No. _____</p> <p>APPEAL OF POTENTIALLY DANGEROUS ANIMAL DECISION (OWNER APPEAL)</p> <p>KCC 7.12.010(i)</p>
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1. LITIGANT CONFIDENTIAL INFORMATION FORM

IMPORTANT NOTICE – District Court needs information about every party involved in a case so the court can accurately identify the parties and be able to contact them.

If you have not already done so, please complete a Litigant Confidential Information Form and provide it to the court. You should also use the form to update information previously provided to the court. The form is available at many locations on the District Court website (www.kitsap.gov/dc).

2. DECLARATION OF OWNER

My true name is _____ and I make the following declaration –

2.1 **Owner**. I am the owner of _____ (*names*) [hereafter “animal(s)”],
_____ (*animal descriptions*).

2.2 **Potentially Dangerous**. On _____, the Animal Control Kitsap Humane Society prepared a written declaration declaring my animal(s) potentially dangerous.

2.3 **Notice Of Declaration**.

Received Notice Of Declaration. On _____, I received written notice of the declaration described in paragraph 2.2.

Did Not Receive Notice Of Declaration. I did not receive written notice of the declaration described in paragraph 2.2.

2.4 **My Appeal To The Clerk Of The Board Of Commissioners.** On _____, I appealed the written declaration described in paragraph 2.2 to the Clerk of the Board of Commissioners by providing a written notice of appeal to the Clerk.

2.5 **Notice Of Appeal Hearing.**

____ **Received Notice Of Appeal Hearing.** On _____, I received written notice of my appeal hearing before the Hearing Examiner from the Clerk of the Board of Commissioners.

____ **Did Not Receive Notice Of Appeal Hearing.** I did not receive written notice of my appeal hearing before the Hearing Examiner from the Clerk of the Board of Commissioners.

2.6 **Hearing Examiner’s Decision.** On _____, the Hearing Examiner entered a written decision sustaining the Animal Control Kitsap Humane Society’s declaration described in paragraph 2.2.

2.7 **My Appeal Of Hearing Examiner’s Decision.** I want to appeal to the Kitsap County District Court the Hearing Examiner’s decision that my animal(s) is/are potentially dangerous. I understand I need to prove that the Hearing Examiner’s decision is arbitrary and capricious.

2.8 **My Animal(s) Is/Are Not Potentially Dangerous.** The Hearing Examiner’s decision is arbitrary and capricious for the following reason(s) (see the definitions on the final page) –

- 2.9 **My Request.** I request that District Court – (1) find the Hearing Examiner’s decision was arbitrary and capricious; (2) rescind the potentially dangerous animal declaration described in paragraph 2.2; and (3) annul any restrictions imposed on my animal(s).
- 2.10 **If I Lose My Appeal.** I understand that if the Court finds the decision by the Hearing Examiner was not arbitrary and capricious, the Court may impose court costs, but not attorney fees, against me and may impose additional restrictions on my animal(s).

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, and that I am the person whose name I typed (or wrote) below.

SIGNED at (city) _____, (state) _____ on (date) _____.

/s/ Signed Electronically

[Note – By typing your name, you intend to sign electronically and agree your electronic signature is the same as a handwritten signature for the purpose of validity, enforceability, and admissibility.]

DEFINITIONS

ARBITRARY AND CAPRICIOUS.

An agency's decision is arbitrary and capricious if the decision is willfully unreasonable, without consideration and in disregard of facts or circumstances. *DeFelice v. Employment Security Department*, 187 Wn.App. 779, ¶11 (2015) (citations omitted) (quotation marks omitted).

Where there is room for two opinions, an action is not arbitrary and capricious when exercised honestly and upon due consideration although it may be felt that a different conclusion might have been reached. One who seeks to demonstrate that an action is arbitrary and capricious must carry a heavy burden. *Kitsap County Deputy Sheriffs' Guild v. Kitsap County*, 183 Wn.2d 358, ¶42 (2015).

LIVESTOCK – KCC 7.04.020(22).

“Livestock” means animals including, but not limited to, all equine (horse, mule), bovine (cattle), porcine (swine), caprine (goats), ovine (sheep), camelid (camel, llama, alpaca), ratitae (ostrich, emu, rhea), domesticated poultry, game birds and waterfowl (as authorized by the state of Washington), or federally permitted fowl and other pen raised fowl, or other animals raised primarily for use as food or fiber for human utilization or consumption.

OWNER – KCC 7.04.020(23).

“Owner” means any person or entity which controls, maintains, possesses, has custody of, or otherwise provides care, shelter, protection, restraint, refuge, food, or nourishment in such a manner as to control an animal's activities.

PET – KCC 7.04.020(24).

“Pet” means any animal maintained by a person or entity for the primary purpose of personal enjoyment, exhibition, companionship or service including, but not limited to, domesticated animals, such as cats and dogs, and non-domesticated animals suitable to living in companionship with humans, such as some birds and mammals.

POTENTIALLY DANGEROUS ANIMAL – RCW KCC 7.04.020(26).

“Potentially dangerous animal” means any animal that when unprovoked:

- (A) Inflicts a bite(s) on a human, pet, or livestock either on public or private property;
- (B) Chases or approaches a person upon the streets, sidewalks, or any other public grounds or private property in a menacing fashion or apparent attitude of attack; or
- (C) Any animal with a known propensity, tendency, or disposition to attack unprovoked, or to cause injury or otherwise threaten the safety of humans, pets, or livestock on any public or private property.

PROVOKE – KCC 7.04.020(27).

“Provoke” means to intentionally agitate, harass, or excite an animal.