

VII. STANDING COMMITTEES

A. Academic and Student Affairs Committee

Adoption of Proposed New Chapter 478-128 WAC, Animal Control at the University of Washington; Repeal of WAC 478-124-060 through 478-124-100; and Amendment of WAC 478-108-010

RECOMMENDED ACTION:

It is the recommendation of the administration and the Academic and Student Affairs Committee that the Board of Regents adopt the proposed new Chapter 478-128 WAC, Animal Control at the University of Washington; repeal WAC 478-124-060 through 478-124-100 from Chapter 478-124 WAC, General Conduct Code for the University of Washington; and amend WAC 478-108-010, Matters Subject to Brief Adjudication.

BACKGROUND:

The University's rules concerning the control of non-research, non-wildlife animals on campus were added to Chapter 478-124 WAC, General Conduct Code for the University of Washington, in September 1973 and have not been revised since.

Several reasons to review these rules came about in late 2006:

- The rules considered enforcement only through the Seattle division of animal control and did not reflect the University's multiple campuses outside the City of Seattle's animal control jurisdiction;
- The rules did not use current ADA language to address service animals, and spoke only of "guide dogs for sightless persons," nor did the code address service animals in training, which various students and staff were uncertain about bringing on campus;
- Working animals, including the bomb detection dog maintained by the University Police, were not addressed; and
- The rules were scheduled for review by Rules Coordination Office to comply with the state's regulatory rules review process.

Consequently, the Rules Coordination Office worked with the Attorney General's Office to draft preliminary rules that would reflect current ADA language; move the rules to a stand-alone chapter; and create a multi-jurisdictional approach to enforcement that would work for the University's campuses, medical centers, student residences, and field stations.

In early 2007 the Rules Coordination Office requested a more widespread review of these preliminary draft rules and former Executive Vice President, Weldon

Ihrig, convened the Animal Control Policy Task Force chaired by former Chief of UW Police, Vicky Stormo, on March 8, 2007. There were 23 original members named to the Task Force, including representatives from student government, the Adoption of Proposed New Chapter 478-128 WAC, Animal Control at the University of Washington; Repeal of WAC 478-124-060 through 478-124-100; and Amendment of WAC 478-108-010 (continued p. 2)

Attorney General's Office, as well as employees from UW Bothell, UW Tacoma, the medical centers, Housing and Food Services, Disability Services, Environmental Health and Safety, and Human Resources, among others. The Task Force met between April 19, 2007 and October 28, 2008 with Ray Wittmier, former Interim Chief of UW Police, stepping into the role of Task Force Chair after Ms. Stormo's retirement. The Task Force made several improvements to the preliminary draft including: streamlining the purpose statement; adding new definitions; expanding and clarifying the differences between service animals, working animals and pets; and combining the previous enforcement and penalties sections into a single section with a variety of tools available for enforcement, as required by the circumstances.

Formal rule-making procedures followed the Task Force's work with notices to the public concerning the proposed rules, and a public hearing held on February 12, 2009 on the Seattle campus. Notices that the public hearing would be held were published in the *Washington State Register*, *The Daily*, *University Week*, and included in the online campus calendar of events at all three campuses. The hearing officer's report is attached; although, no oral testimony or written comments were received.

In addition to the work by the Animal Control Policy Task Force, the final proposed rules include related housekeeping amendments to WAC 478-108-010, Matters Subject to Brief Adjudication. These amendments update references to the new animal control chapter, add a subject previously missing from the list, and remove an inaccurate and partially obsolete subsection. All proposed revisions and amendments have been reviewed by the Attorney General's Office.

ATTACHMENTS:

- 1) The proposed new Chapter 478-128 WAC, Animal Control at the University of Washington; repeal of WAC 478-124-060 through 478-124-100; and amendments to WAC 478-108-010.
- 2) Current rules (WAC 478-124-060 through 478-124-100) proposed for repeal.
- 3) Hearing Officer's Report concerning written and oral comments on the proposed rule revisions.

Chapter 478-128 WAC

ANIMAL CONTROL AT THE UNIVERSITY OF WASHINGTON

NEW SECTION

WAC 478-128-010 Purpose. It is the policy of the University of Washington to secure and maintain a level of animal control that protects human health and safety, prevents animals from hindering university employees, students, and members of the public on university property, prevents property damage, and to the greatest degree practicable, prevents cruelty to animals. It is the purpose of these rules to fulfill the objectives of the above policy.

NEW SECTION

WAC 478-128-020 Definitions. "Animal" means any living creature except human beings, fish, any research animal maintained in university facilities, or natural wildlife inhabiting university property. This definition includes, among other things, pets.

"Imminent danger" means a threat to human and/or animal life or university property that is immediate or reasonably foreseeable under the circumstances.

"Organic debris" means animal feces, urine, vomit, blood, etc.

"Owner" means any person having an interest in or right of possession to an animal, or any person having control, custody, or possession of an animal.

"Running at large" means to be off the owner's residential premises and not under the owner's direct control.

"Service animal" means an animal, including guide dogs, individually trained to do work or perform tasks for the benefit of an individual with a disability, as defined by applicable state and/or federal laws, which includes but is not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing, providing minimal protection, pulling a wheelchair, or fetching dropped items.

"Service animal in training" means an animal that is being trained for the purpose of assisting or accommodating an individual with a disability as defined by applicable state and/or federal

laws.

"University property" means property that the university owns as well as property that the university operates, leases, rents, or otherwise controls.

"Working animal" means an animal that is trained for specific tasks and under the control of police, security or emergency personnel, or other university employees or agents. Examples of working animals include, but are not limited to, patrol, rescue, or sentry dogs and therapy animals.

NEW SECTION

WAC 478-128-030 Animal control. (1) All animals brought onto university property shall be subject to license and leash laws of the applicable city, county, or state jurisdiction.

(2) Except as provided in (a) through (e) of this subsection, no animals shall be allowed in any buildings or structures the university owns, operates, leases, rents, or controls.

(a) "Service animals" and "service animals in training" may be permitted consistent with university policies, and/or state and federal laws.

(b) Working animals under the control of police, security or emergency personnel, or a trained university employee may be permitted for specific functions consistent with the animal's training.

(c) Pets may be permitted in university residences for students, employees, patient's families, and the general public, consistent with housing agreements and policies established for each residence facility.

(d) The recognized university mascot, properly leashed, may be permitted at appropriate university assemblages in auditoria, ballrooms, dining areas, and at athletic events.

(e) Animals included as part of special events may be permitted, subject to guidelines established for specific university facilities and those established by the use of university facilities committee in accordance with chapters 478-136 and 478-137 WAC (for example, hosting a visiting team's animal mascot at Husky football games).

(3) Further restrictions to animals may apply to specific areas of university property, consistent with university policies and/or state and federal laws, including, but not limited to, food preparation areas, animal research facilities and grounds, medically sensitive patient and clinic areas, and biologically sensitive or hazardous research sites.

(4) No animal shall be permitted to run at large on university property. Animals that are tethered in the owner's absence and not under the owner's direct control are also considered to be "running at large."

(5) No animal shall be permitted to enter any pond, fountain, or stream located on university property.

(6) No animal which emits frequent or long-continued noise so as to disturb or disrupt normal administrative or academic routine shall be permitted on university property. Moreover, any animal that places human and/or animal life or university property in imminent danger shall be removed immediately from university property.

(7) Fecal matter or other organic debris deposited by animals must be removed immediately and properly disposed of by the animal's owner.

NEW SECTION

WAC 478-128-040 Enforcement and penalties. (1) Any animal found on university property under conditions violating any provision of this chapter shall be subject to apprehension and impoundment in accordance with the requirements of the applicable university, city, county or state rules, regulations, or laws.

(2) Owners found in violation of any provision of this chapter may be cited, banned from any university property, or otherwise fined or penalized as provided under applicable university, city, county, or state rules, regulations, or laws.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 478-124-060	Animal control policy--Purpose.
WAC 478-124-070	Animal control policy--Definitions.
WAC 478-124-080	Animal control policy--Animal control.
WAC 478-124-090	Animal control policy--Enforcement.
WAC 478-124-100	Animal control policy--Penalties.

AMENDATORY SECTION (Amending WSR 02-15-174, filed 7/24/02, effective 8/24/02)

WAC 478-108-010 Matters subject to brief adjudication. This rule is adopted in accordance with RCW 34.05.479 through 34.05.494, the provisions of which are hereby adopted. Brief adjudicative procedures shall be used in all matters related to:

(1) Appeals from residency classifications under RCW 28B.15.013 as established in chapter 478-160 WAC;

(2) Appeals from traffic ~~((and))~~, parking violations and skateboard impoundment as provided for in chapters 478-116, 478-117 and 478-118 WAC;

(3) Challenges to contents of educational records as provided for in chapter 478-140 WAC;

(4) Proceedings under the animal control policy as detailed in chapter ~~((478-124))~~ 478-128 WAC;

(5) Requests for reconsideration of admission decisions as provided for in chapter 478-160 WAC;

(6) Appeals of library charges as provided in chapter 478-168 WAC;

(7) Reviews of denials of public records requests as provided in chapter 478-276 WAC;

(8) Federal financial aid appeals as provided for by federal law; and

(9) Collection of outstanding debts owed by students or employees ~~((; and~~

~~((10) Appeals from areas exempt from the rules requirements of chapter 34.05 RCW including standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships (except for all aspects of faculty and librarian employment relationships), and fiscal processes)) .~~

**Existing WAC Sections from Chapter 478-124 WAC,
General Conduct Code for the University of Washington, Proposed for Repeal**

478-124-060 Animal control policy — Purpose.

It is declared the policy of the University of Washington to secure and maintain such levels of animal control as will protect human health and safety, prevent nuisances created by animals running at large, remove hindrances to university employees in the performance of their duties, and to the greatest degree practicable to prevent injury to property and cruelty to animal life. To this end, it is the purpose of this regulation to provide a means of fulfilling the objectives of the above policy. This regulation is not applicable to research animals maintained in university-controlled quarters nor to natural wildlife inhabiting university property.

[Order 73-7, § 478-124-060, filed 8/27/73.]

478-124-070 Animal control policy — Definitions.

- (1) "Animal" means any living creature except human beings or fish.
- (2) "Owner" means any person having an interest in or right of possession to an animal, or any person having control, custody, or possession of an animal.
- (3) "Running at large" means to be off the premises of the owner and not under the direct control of the owner.

[Order 73-7, § 478-124-070, filed 8/27/73.]

478-124-080 Animal control policy — Animal control.

- (1) All animals brought onto university property shall be subject to license and leash laws of the city of Seattle.
- (2) In addition to the license and leash laws of the city of Seattle, the following rules shall apply:
 - (a) No live animals shall be allowed in any university-operated building or in any area used for the conduct of food service operations: Provided, That guide dogs accompanying sightless persons may be permitted in academic, administrative, and dining areas; and Provided further, That the recognized university mascot, properly leashed, may be permitted at appropriate student body assemblages in auditoria, ballrooms, dining areas, and at athletic events.
 - (b) No animal shall be permitted to run at large on university property. Animals that are tethered in the absence of the owner shall not be considered to be under direct control but, rather, to be running at large.
 - (c) No animal shall be permitted to enter any pond, fountain, or stream located on university property.
 - (d) No animal which emits frequent or long-continued noise so as to disturb or disrupt normal administrative or academic routine shall be permitted on university property.

[Order 73-7, § 478-124-080, filed 8/27/73.]

478-124-090**Animal control policy — Enforcement.**

Any animal found on university property under conditions violating the animal control provisions (WAC 478-124-080) shall be subject to apprehension and impoundment in compliance with requirements of the Seattle division of animal control, subject to redemption in the manner provided for by Seattle city ordinance.

[Order 73-7, § 478-124-090, filed 8/27/73.]

478-124-100**Animal control policy — Penalties.**

(1) Owners of animals impounded for violation of any of these regulations may be subject to such penalties as provided for by Seattle city ordinance.

(2) Owners of animals found on university property in violation of this regulation shall be subject to citation by university police.

[Order 73-7, § 478-124-100, filed 8/27/73.]

February 20, 2009

President Mark A. Emmert
Office of the President
University of Washington
Box 351230

Dear President Emmert,

Pursuant to your delegation, I served as the Hearing Officer to receive public comment on the University of Washington's proposed new Chapter 478-128 WAC, "Animal Control at the University of Washington"; the repeal of the current animal control sections (WAC 478-124-060 through 478-124-100) in Chapter 478-124 WAC, "General Conduct Code for the University of Washington"; and related housekeeping amendments to WAC 478-108-010, "Matters Subject to Brief Adjudication." The hearing commenced at 12:00 p.m. on Thursday, February 12, 2009, in Room 309 of the Husky Union Building at the University of Washington, Seattle campus. I am pleased to provide you a report of that hearing and the written comments received.

As required by the Administrative Procedure Act, the University filed the following notices with the State of Washington Code Reviser: a Preproposal Statement of Inquiry (published as WSR 07-01-001, in the *Washington State Register* on January 3, 2007) and a notice of Proposed Rule Making (published as WSR 09-01-121, in the *Washington State Register* on January 7, 2009). Campus notice that the hearing would be held was published in *The Daily* on February 4, 2009, and in *University Week* on February 5, 2009. In addition, notice of the public hearing was included in the online events calendar for the Seattle, Bothell, and Tacoma campuses. The written comment period began January 3, 2007, and ended February 12, 2009.

Public Comment

No individuals attended the hearing to provide comment on these proposed amendments and no written comments were received.

Analysis and Recommendation

The proposed new Chapter 478-128 WAC, "Animal Control at the University of Washington" (and repeal of the current animal control sections from Chapter 478-124 WAC, "General Conduct Code for the University of Washington") was developed by the Animal Control Policy Task Force with assistance from the Attorney General's Office. The changes create a separate chapter for animal control and update the code to cover animal control at all three campuses, as well as the medical centers and the University's field stations.

In addition, the new chapter updates language concerning service animals and includes service animals in training for the first time, acknowledges the role of working animals on University grounds, and provides additional definitions to clarify existing rules. Amendments to WAC 478-108-010 update references to the new animal control chapter, add a subject previously missing to the list of matters subject to brief adjudication, and remove an inaccurate subsection.

The revisions have been reviewed by the Attorney General's Office and endorsed by the Animal Control Policy Task Force and the University Police Department.

It is my recommendation that the Board of Regents adopt new Chapter 478-128 WAC, repeal WAC 478-124-060 through 478-124-100, and amend WAC 478-108-010.

An audio tape of the hearing has been deposited with the Secretary of the Board of Regents.

Sincerely yours

Carol S. Niccolls
Special Counsel to the President

cc: Mr. Eric Godfrey
Ms. Rebecca Goodwin Deardorff
Ms. Joan Goldblatt
Ms. Patricia Huling
Mr. Rolf Johnson
Dr. John Vinson
Dr. Phyllis Wise
Mr. Ray Wittmier