

CHAPTER 6.04

DOGS

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6.04.010 Definitions.

The following words and phrases used or referred to in this chapter shall have the following meanings unless a different meaning is evident from the context:

A. “Abatement” means the removal, stoppage, extinguishment or destruction of that which causes the nuisance.

B. “Animal control authority” means a person, association or corporation, appointed or authorized by the City of Bingen and/or the chief of police or his designee, to enforce the provisions of this chapter and all other ordinances of the city pertaining to animal control.

C. “Animal control officers” means officers employed by the animal control authority and, in addition, includes police officers.

D. “At large” means off the premises of the owner and not under the immediate control of the owner, member of the owner’s immediate family, or person authorized by the owner, by means of a leash, cord, or chain no longer than eight feet.

E. “Dangerous dog” means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner's property, or (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. (i.e., RCW 16.070.080 (2) or as hereafter amended).

F. “Own” means owning, keeping, leasing, possessing or harboring a dog. “Owner” means any person having an interest in, or right of possession to, a dog, or any person having control, custody or possession of a dog, or by reason of the dog being seen residing consistently at a location, the person or persons resident at that location.

G. “Person” means any person, firm, corporation or association.

H. “Potentially dangerous dog” means any dog that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals. (i.e., RCW 16.070.080 (1) or as hereafter amended).

I. “Public places” for the purposes of this chapter, shall mean any public building, public roads, streets and highways, public rights of way, city parks, school bus stops, and all commercial establishments wherein the public is invited to do business unless the proprietor has elected to allow a dog or dogs on those commercial premises and exhibits a sign approved by the City stating there may be a dog at large on the premises.

J. “Secure enclosure” means a structure that prevents the dog from reaching a public sidewalk, easement, right-of-way, road or adjoining property and must be located where the animal does not interfere with legal access to the owner’s property.

K. “Tag” means a numbered metal or plastic identification license sold by the city to an owner/custodian for a specific dog. Rabies identification or other identification may not be substituted or accepted in lieu of a license tag.

6.04.020 License required.

From the time the ordinance codified in this chapter is adopted and thereafter, until repealed or amended, it shall be unlawful for any person, firm, or corporation to own, keep, or maintain any dog over the age of six months in the incorporated areas of the City of Bingen without paying the license fee and obtaining a license from the city clerk and keeping said license attached to the dog.

6.04.030 Tag specification, fees, duration and exceptions.

The dog license referred to above shall be an annual license and shall expire at midnight on the 31st day of December of the year in which the same was issued. It shall be a metal or

plastic tag bearing an identification number and the words “City of Bingen.” The tag shall be attached to a dog collar to be worn by the dog at all times. Effective January 1, 2010, the fee for such license shall be twenty-five dollars (\$25.00) per year and, in the event the owner provides proof of a neutered or spayed animal, the fee shall be reduced to ten dollars (\$10.00). Proof of rabies shot must be shown prior to purchase of tag.

6.04.040 Failure to license.

Any person, firm, or corporation failing to license a dog and failing to keep the license attached to the dog as required in Section 6.04.020, or to annually renew that license, may receive a citation from the animal control authority or the Bingen-White Salmon Police Department or other City designee, charging said person, firm, or corporation with failure to license said dog. Thereafter, said person, firm, or corporation shall have ten days within which to license said dog and failure to do so within that period of time will subject the owner to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).

6.04.050 Licensing enforcement procedure.

All dogs not licensed under this section, or who do not exhibit the identification tag provided for in BMC 6.04.020 are declared to be public nuisances and may be impounded as provided in this BMC Chapter, including BMC 6.04.140 – 6.04.210.

6.04.060 City clerk to keep records.

The Bingen city clerk shall keep a record of all dog licenses, showing the number of each license, the name, address and telephone number, if any, of the applicant or owners, and the sex and general description of each dog so licensed.

6.04.070 Barking declared a nuisance.

Every person, persons, firm, partnership or corporation having the ownership or control of any dog, either by itself or by its agent, who permits such dog to howl, yelp, whine, bark, or makes any noise in such a manner as to disturb any person or neighborhood to an unreasonable degree; shall be guilty of a nuisance; and any person so affected by such nuisance may file a complaint with the Bingen-White Salmon Police Department against said person, persons, firm, partnership or corporation, or agents of same, having control of such dog, whereupon the owner, person, persons, firm, partnership or corporation shall be subject to issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars. Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).

6.04.080 Dog waste.

A. It shall be unlawful for the owner or person having charge of any dog to permit, either willfully or by failure to exercise due care, such dog to defecate in any area of the city other than the premises of the owner or person having charge or control of the dog, unless said owner or person having charge takes immediate steps to remove and properly dispose of said feces.

B. “Disposal” is defined, for the purposes of this section, as the removal of feces by means of a bag, scoop or other device and eventual disposal in a trash receptacle, by burying or by other means of lawful disposal.

C. A violation of this section will subject the violator to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ).

6.04.090 Running at large.

A. Any owner or custodian of a dog running loose or being at large upon any public place, or upon private property owned by a person or persons other than the owner or custodian of the dog, unless such dog is confined and controlled by a leash, rope, device or cord not exceeding eight (8) feet in length, shall be in violation of this section.

B. Any person who does not or cannot control a dog or dogs upon any public street, highway, or public place, or upon private property owned by a person or persons other than the owner or custodian of the dog, regardless of whether the dog is on a leash, rope, device or cord complying with the requirements of this chapter, shall be in violation of this section.

C. Any leash, rope, device or cord used to control or confine a dog must be of such material and of such size to ensure that the dog will be controlled and restrained at all times. Failure to use such a leash, device or cord shall be a violation of this section.

The first violation of this section within a six-month period will subject the violator to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). Second and subsequent violations of this section within a six-month period shall be a misdemeanor and each shall be punishable by a maximum penalty of \$1,000 fine and/or 90 days in jail.

6.04.100 Nuisances.

A. All violations of this chapter are detrimental to public health, safety and welfare and any violation may be declared to be public nuisances. Such declaration shall be at the sole discretion of the city and may be declared as set forth on BMC 6.04.110 below or by the City’s mayor or designee.

B. Such violations are not limited to but may include:

1. Any dog which chases, runs after or jumps at vehicles using public streets and alleys;

2. Any dog, and especially a dangerous or potentially dangerous dog, running at large within the city pursuant to Bingen Municipal Code 6.04.090;

3. Any dog which howls, yelps, whines, barks, or makes any noises in such a manner as to disturb any person or neighborhood to an unreasonable degree as set forth in Bingen Municipal Code 6.04.070;

4. Any dog kept, harbored, or maintained and known to have a contagious disease, unless under the treatment of licensed veterinarian;

5. A female dog, whether licensed or not, while in season, accessible to other dogs for purposes other than controlled and planned breeding;

6. Any dog which causes damage to property, other than the property of the dog's owner or person having physical charge and control of the dog; or

7. Any dog in or maintained in violation of any provision of this chapter.

C. All nuisances under this chapter may be abated as provided in Bingen Municipal Code 6.04.110. In addition, any owner or person having charge of any dog who fails to abate such nuisance shall be guilty of a misdemeanor with a maximum penalty of \$1,000 fine and/or 90 days in jail.

6.04.110 Nuisance – Notice and order to abate.

A. Notice – When required. Whenever it shall be stated in writing by an animal control officer or by three or more persons in separate residences, or regularly employed in any neighborhood, that any dog is a nuisance as defined in BMC 6.04.100, the animal control authority or the Bingen-White Salmon Police Department or other City designee, shall serve notice of violation and order of abatement upon the owner of the dog directing that the nuisance be abated.

B. Notice – Final determination unless appealed. Unless timely appealed, a notice of violation and order of abatement, upon effective service of same, shall be a final determination, that the dog is a nuisance and such nuisance must be immediately abated.

C. Notice – Contents. The notice of violation and order to abate a nuisance shall contain:

1. The name and address, if known, of the owner or person having physical charge and control of the dog if the identity of the owner cannot be reasonably ascertained;

2. The license number, if available, and description of the dog;

3. A statement that the animal control authority or other City designee has determined the dog to be a nuisance and a description of the nuisance activity;

4. A statement that the nuisance activity must be immediately abated;

5. A statement that service of notice of violation and order of abatement is a final determination unless appealed and that an appeal must be filed not more than five business days after effective service of the notice of violation and order of abatement;

6. A copy of BMC 6.04.130 regarding appeal procedures.

D. Notice – Service. Service of the notice of violation and order of abatement upon the owner of the dog may be made either by personal service to the owner, by posting such notice at the residence of the owner and, if known, by certified mail and regular mail to the last known address of the owner. Service is effected at the time of personal service or posting. If there is no owner known to the City and no residence upon which to post notice, service may be effected by posting notice at the Bingen post office and the City Clerk’s office. Service is effective upon such posting.

E. Appeal of Notice of Violation and Order of Abatement. An appeal of a notice of violation and order of abatement must be served upon the clerk of the City of Bingen not more than five business days after service of the notice of violation and order of abatement. Appeals shall be heard by the Bingen Municipal Court and conducted in accordance with BMC 6.04.130 and RCW 7.80.100 (1)-(4) or as amended.

F. Penalty. Any person who willfully fails to comply with an order to abate a nuisance is guilty of a misdemeanor and shall be subject to a fine of \$1,000 and 90 days in jail or both.

6.04.120 Potentially dangerous dogs.

A. Declaration. Upon determination by the animal control authority that a dog is a potentially dangerous dog as defined in BMC 6.04.010 (H), the owner shall be served with a potentially dangerous dog declaration.

B. Declaration – Final determination unless appealed. Unless timely appealed, a potentially dangerous dog declaration, upon effective service of same, shall be a final determination that the dog is a potentially dangerous dog.

C. Notice – Contents of a potentially dangerous dog declaration. A potentially dangerous dog declaration shall contain:

1. The name and address, if known, of the owner of the dog;

2. The license number, if available, and description of the dog;

3. A statement that the animal control authority has found the dog to be a potentially dangerous dog as defined in BMC 6.04.010 (H), and a concise recitation explaining why the declaration has been made;

4. A statement that the potentially dangerous dog declaration is a final determination unless appealed and that an appeal must be filed not more than five business days after service of the aggressive dog declaration;

5. A copy of BMC 6.04.120 and a copy of BMC 6.04.130 regarding appeal procedures;

D. Notice – Service. Service of the potentially dangerous dog declaration upon the owner of the dog may be made either by personal service on the owner, by posting such notice at the residence of the owner and, if known, by certified and regular mail to the last known address of the owner. Service is effected at the time of personal service or posting. If there is no owner known to the City and no residence upon which to post notice, service may be effected by posting notice at the Bingen post office and the City Clerk’s office. Service is effective upon such posting.

E. Appeal. An appeal of a potentially dangerous dog declaration must be served upon the City of Bingen not more than five business days after service of the potentially dangerous dog declaration. Appeals shall be heard by the judge of the Bingen municipal court and conducted in accordance with BMC 6.04.130.

F. Requirements for Potentially Dangerous Dogs. Strict compliance with each of the following conditions is required to keep a potentially dangerous dog in the city of Bingen:

1. In addition to any license required under the provisions of this chapter, all owners of a dog declared a potentially dangerous dog must obtain a city of Bingen potentially dangerous dog certificate of registration. The applicant shall apply for such certificate upon forms supplied by the city clerk and pay an annual fee of \$100.00, which shall not be prorated for any part of a year. The City of Bingen potentially dangerous dog certificate of registration shall be issued upon completing the requirements of this section.

2. A potentially dangerous dog whenever outside the owner’s dwelling and not on a leash, shall be restrained in a secure enclosure. A potentially dangerous dog shall not be off the owner’s property unless muzzled and restrained by chain, leash or cord no longer than eight feet, adequate to contain the animal, and under the control of a person 18 years of age or older and physically able to restrain and control the animal. The muzzle shall be made in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal.

3. The owner of a potentially dangerous dog shall secure liability insurance coverage issued by an insurer qualified under Title 48 RCW in the amount of at least \$100,000, insuring the owner for any personal injuries inflicted by the dog. Proof of such coverage must be provided to the City upon request.

4. The owner of a potentially dangerous dog shall be required to post its premises with a clearly visible sign warning that there is a potentially dangerous dog on the property. In

addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a potentially dangerous dog.

G. Failure to comply with potentially dangerous dog requirements. Any potentially dangerous dog may be seized and removed by an animal control officer or other City designee if the owner fails to comply with any requirement for a potentially dangerous dog as set forth in BMC 6.04.120 F., as well as any of the following:

1. The dog is not validly registered under this chapter; or
2. The owner does not secure liability insurance coverage as required by this chapter; or
3. The dog is not maintained in a secure enclosure; or
4. The owner refuses to allow inspection of the secure enclosure by the City's designee or animal control authority; secure enclosures for dangerous and potentially dangerous dogs shall be subject to inspection at any time; or
5. The dog is outside of the dwelling of the owner or outside of a secure enclosure and not muzzled and restrained by a substantial chain or leash and under the control of a person 18 years of age or older and physically able to restrain and control the animal; or
6. The owner has failed to post the property with warning signs as required by this chapter; or
7. The owner of a dog that has been declared dangerous or potentially dangerous dog fails to immediately notify the City or the animal control authority when such dog is sold or is given away or moves to another address; or
8. The owner of a dangerous or potentially dog that has moved to a new address within the City of Bingen fails to immediately notify the City or the animal control authority of the new address and, if applicable, the new owner.

H. Penalty. Failing to comply with any potentially dangerous dog requirement is a gross misdemeanor, punishable by a fine of up to \$5,000 and one year in jail or both. A potentially dangerous dog seized and removed in violation of potentially dangerous dog requirements may not be released during investigation or prosecution for failure to comply with the potentially dangerous dog requirements. Any person convicted of failing to comply with the potentially dangerous dog requirements shall make restitution to the city of Bingen for all costs incurred in boarding and disposition of such dog and shall forfeit any interest in such dog.

I. The provisions of this section shall not apply to dogs used by law enforcement officials for police work.

6.04.130 Appeal.

A. Filing. A notice of appeal, substantially in the form prescribed below, shall be filed with the Bingen municipal court and the Bingen City Administrator not more than five business days after service of the order to abate a nuisance or potentially dangerous dog declaration. Failure to timely file a notice of appeal shall constitute a waiver of the right to appeal the determination of the order to abate a nuisance or potentially dangerous dog declaration.

B. Form. An appeal pursuant to this chapter shall be written and shall conform substantially to the following requirements:

1. A caption reading: “Appeal of Order to Abate Nuisance” or “Appeal of Potentially Dangerous Dog Declaration,” as applicable, giving the names of all appellants participating in the appeal;

2. A brief statement setting forth the legal interest of each of the appellants involved in the notice and order;

3. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

4. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

5. Signature of all parties named as appellants, and their official mailing addresses; and

6. Verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the facts stated in the appeal.

C. Scheduling of hearing. Upon receipt of a timely filed notice of appeal, a hearing shall be scheduled not more than 60 days from the date of the filing of the notice of appeal. Written notice of the date of the hearing shall be sent to the appellants at least 10 days prior to the scheduled hearing date. The failure of the appellant to appear at the hearing shall result in a denial of the appeal and upholding of the order to abate a nuisance or potentially dangerous dog declaration.

D. Enforcement stayed (suspended) during pendency of appeal. Unless otherwise ordered by the Bingen Municipal Court pursuant to petition by the City, enforcement of the order to abate a nuisance or potentially dangerous dog declaration shall be stayed (suspended) during the pendency of the appeal

E. Presentation of evidence. At the appeal hearing, the court shall take evidence relevant to the order to abate a nuisance or potentially dangerous dog declaration. Testimony may be provided in the form of a signed written statement pursuant to RCW 9A.72.085.

F. Decision of the court. The judge of the Bingen municipal court may uphold, dismiss, or modify the order to abate nuisance or potentially dangerous dog declaration. A written order shall be signed by the judge. The decision of the judge of the Bingen municipal court shall be a final administrative decision appealable to the Klickitat County superior court within 30 days of the final written order.

6.04.140 Authorization to impound.

Any person designated by the City of Bingen as a animal control officer, or any deputy sheriff of Klickitat County or City of Bingen-White Salmon police officer, or any person contracted with for such services, or any other City designee, is authorized to impound any dog in violation of any of the sections of this chapter, including running at large, and whether or not in violation of any other provisions of this chapter and whether or not said dog is licensed as provided for herein.

Further, any person authorized above to impound any dog is also authorized to issue a citation for failure to license, as referred to in Sections 6.04.020 and 6.04.040.

6.04.150 Impoundment procedures.

Whenever any dog is impounded under the authority of this chapter, written notice shall be sent to the owner or custodian of such dog if such owner or custodian is known. Such owner or custodian shall have five days after the mailing of such notice to reclaim the dog and if he fails to do so within such time and pay the fees provided for herein, such dog may be sold or humanely disposed of at the expiration of such period. If the dog owner is unable to reclaim the dog within five days, he may notify the City Hall or police to retain that dog for up to two additional days, provided the owner pays all impounding fees in advance, at which time the officer will then instruct the pound to hold the dog up to a total of seven additional days.

Any dog impounded for having bitten any person shall not be released and shall be securely quarantined at the direction of the animal control authority or the City for a period of no less than 10 days. At the discretion of the animal control authority or the City, such quarantine may be on the premises of the owner or at the shelter designated as the city's animal shelter or, at the owner's option and expense, in a veterinary hospital of the owner's choice. When a dog's owner is unknown, such quarantine shall be at the shelter designated as the city animal shelter or at a veterinary hospital.

Whenever a dog is impounded and the owner or custodian thereof is unknown, a notice shall forthwith be posted in the area post office where the dog is found and placed on file at the city clerk's office and the city police office. The notice shall contain a general description of the impounded dog, showing the probable breed, sex, color, and place where the dog was picked up and the date and place where the described dog shall be sold or otherwise disposed of unless sooner claimed and redeemed. Such date shall be not less than three days after impounding of the dog.

If no claim or redemption by the owner or custodian of the described dog is made within the time fixed by the notice, such dog shall be sold or humanely disposed of at the expiration of such period.

6.04.160 Impounded dogs-Hearing-Effect or judgment.

A. Whenever any dog is impounded under the authority of this chapter and it is not appropriate for the owner to appeal pursuant to BMC 6.04.130 by virtue of BMC 6.04.110 or BMC 6.04.120., the owner or custodian of any impounded dog may file with the City of Bingen prosecutor a written notice for hearing before the expiration of the time provided for reclaiming the dog as provided in BMC 6.04.150. The form of such notice conform substantially to the following requirements:

1. A caption reading: “Appeal of Impoundment”, giving the names of all appellants participating in the appeal;
2. A brief statement setting forth the legal interest of each of the appellants involved in the notice and order;
3. A brief statement in concise language as to why the impoundment was improper, together with any material facts claimed to support the contentions of the appellant;
4. Signature of all parties named as appellants, and their official mailing addresses; and
5. Verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the facts stated in the appeal.

B. Scheduling of hearing. Upon receipt of a timely filed notice for hearing, the hearing shall be scheduled not more than 60 days from the date of the filing of the notice of hearing. Written notice of the date of the hearing shall be sent to the appellants at least 10 days prior to the scheduled hearing date. The failure of the appellant to appear at the hearing shall result in an order upholding of the impoundment.

D. Dog to remain impounded. Unless otherwise appropriate at the City’s discretion, or the court determines otherwise, the dog shall remain impounded while the appeal is pending.

E. Presentation of evidence. At the hearing, the court shall take evidence relevant to the impoundment. Testimony may be provided in the form of a signed written statement pursuant to RCW 9A.72.085.

F. Decision of the court. The judge of the Bingen municipal court may uphold, reverse or modify the impoundment. A written order shall be signed by the judge. The decision of the judge of the Bingen municipal court shall be a final administrative decision appealable to the Klickitat County superior court within 30 days of the final written order.

6.04.170 Dangerous dogs – Incorporation of RCWs.

The City adopts, by incorporation, those portions of RCW 16.08.070, 16.08.080, 16.08.090 and 16.08.100, and as those statutes may be amended, that apply in any manner to

dangerous dogs. This incorporation is for clarification and not to diminish or expand those statutes or the City's responsibility regarding those statutes.

6.04.180 Dangerous dogs – Banned.

No person, firm, corporation, organization, or department may possess, harbor, keep, or have in custody in the City of Bingen, a dangerous dog as dangerous dog is defined in BMC 6.04.010 (E). This prohibition shall not apply to any such dog temporarily housed at the place of business of a licensed veterinarian or any such dog designated dangerous in the City and properly certified and in compliance with the requirements of keeping a dangerous dog on and before March 3, 2009.

6.04.190 Redemption of fees and charges.

Any dog impounded under authority of this chapter may, if otherwise appropriate, be released to the owner or custodian thereof upon payment of the following fees and charges:

A. A basic redemption fee of fifty dollars (\$50.00) will be charged for each impounding.

B. For the second impounding of the same dog, belonging to the same person, the redemption fee shall be one hundred twenty-five dollars (\$125.00), on a third impounding, the redemption fee shall be one hundred seventy-five dollars (\$175.00), on a fourth impounding the redemption fee shall be two hundred twenty-five dollars (\$225.00) and all subsequent redemption fees shall increase at the rate of fifty dollars (\$50.00) per occurrence.

C. In addition to the above redemption fee, the dog's owner or custodian shall pay the dog's board bill for the time the dog has been impounded as well as the license fee as fixed herein if the dog has not been licensed for the current year.

6.04.200 Contract, impounding, animal control authority, authority.

The City of Bingen may enter into a contract with any other person, firm, or corporation, to provide a place for the care of impounded dogs. The animal control authority and/or his agents are authorized to impound said dogs in the name of the city and to retain or dispose of the same until all fees and expenses as provided in Section 6.04.180 and 6.04.190 have been paid in full. In addition, the City may contract with the animal control authority to assist in enforcement of this chapter.

6.04.210 Interference with impounding prohibited.

It shall be unlawful for any person to interfere in any way with any police officer, or any other authorized person who is engaged in seizing or impounding any dog under authority of this chapter, and the penalty for any such conduct shall be a misdemeanor and a fine not exceeding one thousand dollars and imprisonment for not more than ninety days may be imposed, or any part thereof.

6.04.220 Right of self-help.

This chapter shall not affect the rights of owners of property, or others, to use self help for the protection of their property, domestic animals, or persons, which they now have by virtue of state law; but this chapter shall be cumulative rather than in limitation of said rights.

6.04.230 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of this Chapter or the application of the provisions to other circumstances is not affected.