

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: A-4

DATE: April 23, 2009

SUBJECT: First Reading Ordinance No. 1036-09
Repealing Sultan Municipal Code Chapter 6.04
Animal Control and enacting a new Section 6.04

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue for the Council is to have First Reading Ordinance No. 1036-09 to amend animal control regulations contained in Chapter 6.04 of the Sultan Municipal Code (Attachment A).

STAFF RECOMMENDATION:

Have First Reading of Ordinance No. 1036-09 an ordinance of the city of Sultan, Washington, repealing chapter 6.04 (animal control) of the sultan municipal code in its entirety and enacting a new chapter 6.04 titled "animal control" providing comprehensive regulations of animals for the health, safety, welfare and general protection of human residents, animals, and property within the city of sultan;

Providing a declaration of dangerous dogs and potentially dangerous dogs and the restrictions on the possession thereof.

Prescribing penalties for violations; providing for severability; and establishing an effective date.

SUMMARY:

The City Council has discussed Sultan's animal control program at a number of meetings since 2007 and has taken a number of legislative actions to reestablish an animal control program. One remaining task is to review the City's animal control regulations.

For discussion purposes, Attachment A is a “mark-up” version of Chapter 6.04 highlighting areas where Council has directed changes or city staff are making recommendations. The major policy questions for Council consideration include:

1. Section 6.04.020 Code Enforcement Officer – Should the Animal Control Officer be responsible for collecting money or should that responsibility be transferred to the Finance Department?
2. Should the City require animal owners to secure their pets on leashes, pick up animal feces in public places and prohibit excessive barking and noise made by animals that unreasonably disturbs neighbors?
3. Section 6.04.060 Potentially Dangerous Dogs – Should the City use the Snohomish County Code as a template for developing process for declaring dangerous and potentially dangerous dogs as required by state law?
4. Section 6.04.110 through Section 6.04.150 Impound – How does the City Council want to handle animals that are impounded? The current practice is to temporarily “hold” animals in Sultan at the Public Works kennel until they can be adopted or euthanized.

BACKGROUND:

Chapter 6 of the Sultan Municipal Code seeks to address animal control issues. The Chapter has been amended and appended at various times throughout the City’s history starting as far back as 1908 (Animals Running at Large), 1915 (Fowl Running at Large), 1971 (Horses), and 1993 (Animal Control). While this section provides a unique look at Sultan’s municipal history it does not provide for a well coordinate code section. The Council should consider reviewing Chapter 6 and consider a holistic evaluation and revision of this section. Some of the issues, such as replacing “code enforcement officer” with “animal control officer”, may be housekeeping items. Other issues, such as license and fee requirements need to come into alignment with policy decisions.

In 2006, the City Council discussed the need to develop and fund an animal control program to address a growing need in the Sultan community to license and control domestic animals. The City Council funded an animal control officer position beginning again in 2007. The proposed code evaluation is part of the City’s legislative efforts to address animal control issues in Sultan.

DISCUSSION:

Animal Control Officer

City staff recommend changing Code Enforcement Officer to Animal Control Officer. For the most part, this is a housekeeping change. Code enforcement officers typically enforce regulations concerned with land use, zoning, surface water, and building standards. Code Enforcement Officers usually work out of the

Planning or Building Department.

An animal control officer is charged with catching stray or loose dogs, cats, and sometimes other animals, and bringing them to a kennel or animal shelter. The role of the animal control officer has changed over the past few decades. Today's animal control officer focuses more on educating the public on proper animal care, and rescuing animals from dangerous or abusive situations. They also pick up dead or injured wildlife and stray animals for disposal or treatment. Usually the requirements for this job are a high school diploma, and some prior experience with animals. Training is done both on the job, and through the National Animal Control Association, which holds classes around the country.

Various statutes authorize municipalities to give designated employment positions, other than law enforcement officers, the authority to enforce laws, such as local animal control laws, that carry civil penalties (civil infractions). For example, RCW 7.80.040, dealing with civil infractions, defines "enforcement officer" as "a person authorized to enforce the provisions of the title or ordinance in which the civil infraction is established."

So, a city may give an animal control officer a "limited commission" to issue citations for civil infractions under the town's ordinances. A "commission" is, in the sense discussed here, merely formal evidence of an appointment. There are no statutorily-required procedures for granting a limited commission. The only requirements for an animal control officer would be those established by the city for the position.

Collecting costs and charges

Section 6.04.020 outlines the powers and duties of the code enforcement officer. Section (E) provides that the code enforcement officer "Shall receive and collect any costs and charges hereinafter provided by this chapter."

City staff recommend amending this section to provide that the City's finance department collect costs and charges for cash control and audit purposes.

Prohibited Activities

Prohibited Activities now include:

- Allowing an animal to be unleashed on public premises, property or right-of-way except in those areas specifically designated to permit animals.
- Allowing the accumulation of animal feces in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces.
- Failing to remove the fecal matter deposited by animals on public or private property of another before the owner and/or animal leaves the immediate area where the fecal matter was deposited.

- Failing to have in possession the equipment necessary to remove an animal's fecal matter on public property or public easement.
- Knowingly permitting frequent, continuous, and/or repetitive barking or noise made by any animal, which originates from a property and which unreasonable disturbs or interferes with the peace, comfort and repose of property owners or possessors.
- Permit any animal to damage public property or the private property of another.

Violation of any of the provisions of this section constitute a misdemeanor under Section 6.04.160(E) and are punishable by a **maximum** of \$1,000 and 90 days in jail.

Section 6.04.060 - Potentially Dangerous Dogs

City staff recommend updating Section 6.04.060 of the Sultan Municipal Code to be consistent with Snohomish County Code and State law and adopt a hearing and appeal process per RCW 16.08.080 (Attachment C).

Under Ch. 16.08 RCW the state regulates "dangerous dogs" and imposes requirements and restrictions on the owners of such dogs. This law defines and makes a distinction between "dangerous dogs," which are to be regulated under the provisions of Ch. 16.08 RCW, and "potentially dangerous dogs," which are to be regulated by locally-adopted ordinances.

[RCW 16.08.090\(2\)](#) specifically recognizes that local governments will regulate potentially dangerous dogs and that state law does not limit those regulations. Thus, a city, town or county may adopt more rigorous requirements for potentially dangerous dogs than are suggested by the statutes.

Some cities, in adopting ordinances based upon Ch. 16.08 RCW, have modified the definition of "potentially dangerous dog" and/or "dangerous dog" to include reference to a specific breed such as the "pit bull terrier" breed. In these cities, the restrictions that apply to either "potentially dangerous dogs" or "dangerous dogs" are made to apply automatically to a specific breed.

A few cities have adopted ordinances that completely ban the ownership of particular breeds including pit bulls, wolf-hybrids, and others. The city of Yakima's ordinance banning pit bull terriers was challenged and upheld in *American Dog Owners v. Yakima*, 113 Wn.2d 213 (1989).

In the case of breed specific ordinances, local governments must be able to show that the breed has some unique traits and characteristics that pose a greater threat of serious injury or death to humans than other breeds. Breed-specific ordinances must also clearly define the particular breed being regulated

so that owners or potential owners are given sufficient notice of requirements and violations.

City staff **do not recommend** adopting a breed specific ordinance.

Section 6.04.70 and Pet Licenses and Fees

Pet licenses and fees were updated by the City Council in 2007.

FISCAL IMPACT:

Since this is a discussion of change the Chapter 6 of the Sultan Municipal Code, the fiscal impact is the cost for the code revisions. This project will require City Attorney time to research and review. City staff estimate the cost will be approximately \$250 to review and recommend code revision. It is unlikely that any fees or licensing requirements will off-set the initial code revision costs. The money would need to come from General Fund revenues.

ANALYSIS:

The City of Sultan Animal Control program is a vital City service since many Sultan residents are pet owners and lovers. The mission of animal control is to provide protection and service to all members of the community, both animal and human.

Through proactive public education and interaction, the City of Sultan can increase citizen's knowledge of responsible pet ownership, and animal behavior; and decrease potential cases of diseases; reduce the number of lost and abandoned animals; eliminate incidents of animal aggression and animal abuse, and reunite lost animals with their human families.

In order to achieve the City Council's animal control goals, the City must update its animal control ordinances in Chapter 6 of the Sultan Municipal Code to reflect the changing nature of the Sultan community from rural to suburban.

ALTERNATIVES:

1. Have First Reading Ordinance No. 1036-09.

This alternative implies the City Council supports making the changes to the animal control regulations and is prepared to move forward with Second Reading.

2. Have First Reading of Ordinance No. 1036.09. Direct staff to fix those sections of the code that Council would like to amend prior to second reading.

This alternative implies the City Council has minor questions and/or concerns regarding the proposed changes to the animal control regulations. The Council may make amendments to the regulations prior to second reading.

3. Do not have First Reading of Ordinance No. 1036-09 and direct staff to areas of concern.

This alternative implies the City Council has major questions and/or concerns regarding the proposed changes to the animal control regulations and would like to delay First Reading until the changes directed by Council are incorporated into the ordinance.

RECOMMENDED ACTION:

Have First Reading of Ordinance No. 1036-09 an ordinance of the city of Sultan, Washington, repealing chapter 6.04 (animal control) of the sultan municipal code in its entirety and enacting a new chapter 6.04 titled "animal control" providing comprehensive regulations of animals for the health, safety, welfare and general protection of human residents, animals, and property within the city of sultan; providing a declaration of dangerous dogs and potentially dangerous dogs and the restrictions on the possession thereof. Prescribing penalties for violations; providing for severability; and establishing an effective date.

ATTACHMENTS:

- A – SMC Chapter 6.04
- B - RCW 16.08.080 Dangerous Dog

COUNCIL ACTION:

DATE:

**CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1036-09**

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, REPEALING CHAPTER 6.04 (ANIMAL CONTROL) OF THE SULTAN MUNICIPAL CODE IN ITS ENTIRETY AND ENACTING A NEW CHAPTER 6.04 TITLED “ANIMAL CONTROL” PROVIDING COMPREHENSIVE REGULATIONS OF ANIMALS FOR THE HEALTH, SAFETY, WELFARE AND GENERAL PROTECTION OF HUMAN RESIDENTS, ANIMALS, AND PROPERTY WITHIN THE CITY OF SULTAN; PROVIDING A DECLARATION OF DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS AND THE RESTRICTIONS ON THE POSSESSION THEREOF. PRESCRIBING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Sultan has the authority, pursuant to Title 16 RCW to regulate the keeping of domestic animals; and

WHEREAS, the City of Sultan has the authority, pursuant to Chapter 16.08 RCW to regulate dogs which are dangerous to persons or property; and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and welfare to repeal the current Chapter 6.04 of the Sultan Municipal Code and to replace the same in its entirety to better address animal control enforcement, dangerous dogs and potentially dangerous dogs, pet licenses and fees and other animal control matters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN,
WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer. The existing SMC Section 6.04 “Animal Control” is hereby repealed in its entirety.

Section 2. New Chapter 6.04. A new Chapter 6.04 “Animal Control” is hereby enacted as set forth in Exhibit A.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE _____ DAY OF _____, 2009.

CITY OF SULTAN

Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

Laura Koenig, City Clerk

Approved as to form:

Margaret J. King, City Attorney

Ordinance: 1036-09

Passed by the City Council:

Date of Publication:

Effective Date:

EXHIBIT A

ORDINANCE NO. 1036-09

Chapter 6.04

ANIMAL CONTROL¹

Sections:

[6.04.010](#) Definitions.

[6.04.020](#) ~~Code enforcement officer~~[Animal Control Officer](#) – Powers and duties.

[6.04.030](#) Prohibited activities.

[6.04.032](#) Community event restrictions.

[6.04.040](#) Right of entry and inspection.

[6.04.050](#) Biting dogs.

[6.04.060](#)~~Declaration of potentially dangerous dog or dangerous dog -- Procedure and notification requirements.~~[Potentially dangerous dogs.](#)

[6.04.070](#) ~~Dog~~[Animal](#) license – Required.

[6.04.080](#) ~~Dogs~~[Animals](#) – Rabies inoculations.

[6.04.090](#) Issuance – Contents – Tags – Duplicates.

[6.04.100](#) Fees.

[6.04.110](#) Impounding ~~dogs~~[Animals](#) – When authorized.

[6.04.120](#) Redemption, destruction or adoption of unlicensed ~~dogs~~[animals](#).

[6.04.130](#) Impounded ~~dogs~~[animals](#) – Adoption conditions.

[6.04.140](#) Impounded ~~dogs~~[animals](#) – ~~Adoption~~ – Return to owner – Claiming impounded animals.

[6.04.150](#) Charges for impound.

[6.04.160](#) Violation – Penalties generally.

6.04.010 Definitions.

As used in this chapter, unless the context requires otherwise.

A. “Abandon” means leaving an animal for 24 hours or more without care, or dropping an animal on private property without the owner’s permission or in a public place.

B. “Animal” means any mammal, bird, reptile or amphibian.

¹ *Prior legislation: Ords. 168, 249, 294, 334, 389, 471 and 507.

B. 1 "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

B 2. Animal Control Authority. Any person, firm, association or corporation appointed or authorized by the Mayor to enforce or assist in the enforcement of the provisions of this title. The term shall specifically include, but not necessarily be limited to, any designated animal control officers, police officers, and employees of the animal shelter.

C. "Bail" means money or its equivalent deposited by the defendant to secure his appearance for an animal control ordinance offense.

D. "Dog" means any mammal of the canine family.

E. "Dog license" means a required license issued annually to each individual dog pursuant to the provisions of this chapter.

F. "Kennel" means the operation of any business in which four or more dogs of more than four months of age are kept on the premises, or the structure operated by the city in which impounded dogs are kept.

~~G. "Potentially dangerous dog" means any dog involved in an incident under investigation for:~~

~~1. An unprovoked bite of a person or other animal on either public or private property;~~

~~2. Chasing or approaching a person on public grounds in a menacing fashion or apparent attitude of attack;~~

~~3. An unprovoked attack on a domesticated animal.~~

"Potentially dangerous dog" means any dog that when unprovoked:

1. Inflicts bites on a human or a domestic animal either on public or private property, or

2. 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.

~~H. "Dangerous dog" means any dog that has demonstrated a disposition or propensity to do an unfavored act harmful in its character to human beings or animals done in a hostile manner. This shall be construed, but not limited to any dog who:~~

~~1. Has inflicted severe injury on a human being without provocation; or~~

~~2. Has killed a domesticated animal without provocation; or~~

~~3. Has been previously found to be potentially dangerous, the owner having received written notice of such and the dog again aggressively bites, attacks, or endangers the safety of human beings or domestic animals.~~

"Dangerous dog" means any dog that

1. ~~inflicts~~Inflicts severe injury on a human being without provocation on public or private property, or
2. ~~kills~~Kills a domestic animal without provocation while the dog is off the owner's property, or
3. ~~has~~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. "Guard dog" means any dog which has been trained and is used for the purpose of protecting persons or property by exhibiting hostile and aggressive propensities or which attack on signal or command.

~~J. "Not a dangerous dog" means any dog under investigation as potentially dangerous may be determined to be not dangerous if the threat, injury, or damage was sustained by a person:~~

- ~~1. Committing a willful trespass on the owner's property;~~
- ~~2. Tormenting, abusing, or assaulting the dog, or has done so in the past;~~
- ~~3. Committing or attempting to commit a crime.~~

Dogs Not Declared Dangerous Defined. Dogs shall not be declared a dangerous dog if the threat, injury or damage was sustained by a person who at the time was

1. ~~Committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or was~~
2. ~~Tormenting, abusing, or assaulting the dog, or has done so in the past; or was~~
3. ~~Committing or attempting to commit a crime~~

K. "Dog running at large" means any dog off or outside the premises of the owner not restrained by a rope, line, leash, chain, or other similar means. If a dog is not restrained by a tether of some kind, not engaged in supervised training, or not a working dog in the field, that dog shall be deemed at large.

~~L. "Owner" means any person who keeps, has custody of, possesses, harbors or exercises control over a dog or other animal, with the exception of veterinary hospitals and pet shops as defined in this section. In a family situation, such person is presumed to be the head of the household.~~

"Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control, custody or possession of an animal or by reason of the animal being seen residing consistently at a location, shall be presumed to be the owner

M. "Person" means an individual, partnership, company, association, or any other legal entity.

N. "Pet shop" means any person regularly engaged in the business of breeding or selling animals of any species.

O. "Public nuisance" means any dog which molests any passerby, bites a person or animal, habitually chases vehicles or persons, habitually attacks other animals traveling upon public grounds, damages or destroys property of persons other than the owner of the dog, scatters garbage and tips over garbage cans, habitually runs at large, disturbs the peace, comfort, health, or repose of any person of reasonable sensitivity by making loud, long, unnecessary or continuous noises.

P. "Veterinarian" means a practicing veterinarian licensed pursuant to the laws of the state to perform any of the acts set forth in RCW 18.92.105.

Q. "Veterinary hospital" means any business established, maintained and operated by a veterinarian which is operated for the diagnosis and treatment of diseases or injuries of animals.

~~R. "Severe injury" means any physical injury that results in broken bones or disfiguring marks.~~

"Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

S. "Confined" means being confined indoors, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping, or in a securely fenced yard with a locked gate.

~~T. "Quarantine" means securing a dog on the owner's premises with the approval of and under the supervision of a code enforcement officer or police officer and not allowing said dog to run at large or to come in contact with any person or other animal or being placed in a veterinary hospital, or in the city impound kennel. (Ord. 590, 1993)~~

"Quarantine". Every animal which bites a person must be securely quarantined at the direction of the animal control authority for a period of ten (10) days. At the discretion of the animal control authority officer, the quarantine may occur by:

1. Securing the dog on the owner's premises with the approval of and under the supervision of the Animal Control Authority or Police Officer and not allowing said dog to run at large or to come in contact with any person or other animal, or

2. Placing the dog in a veterinary hospital, or impounding it to an approved shelter for a period of at least ten (10) days.

3. Such dog may not be transported outside of the city limits without the written permission of the Sultan Police Department.

U. "Abatement" means the termination of any violation of this title by lawful and reasonable means as determined by the animal control officer in order that a person or

[persons presumed to be the owner of an animal comply with this chapter.](#)

6.04.020 ~~Code enforcement officer~~Animal Control Officer – Powers and duties.

The ~~code enforcement officer~~Animal Control Officer shall:

A. Have police power in the enforcement of all provisions of this chapter relating to the licensing and impounding of dogs and the citation of persons for violation of this chapter.

B. Establish a place where all dogs subject to impoundment may be kept and held safely and provided with proper and sufficient food, water and shelter.

C. Impound and keep safely any dog which is found doing any of the acts set forth in SMC [6.04.010](#), or any dog which is apparently abandoned.

D. Issue uniform animal control ordinance citations pursuant to this chapter and citations in complaints within the city, to appear as witnesses, and to perform all other acts necessary for enforcement of this chapter.

~~E. Receive and collect any costs and charges hereinafter provided by this chapter.~~

~~F~~E. Investigate reports of biting dogs, animal neglect or abuse as set forth by this chapter. (Ord. 590, 1993)

6.04.030 Prohibited activities.

It is unlawful for any person to:

A. Interfere with or hinder a code enforcement and/or police officer while in the exercise of his duties.

B. Remove any detained animal from the city kennel or a department vehicle without the consent of the police department or ~~code enforcement officer~~Animal Control Officer.

C. Refuse to allow a code enforcement or police officer to properly impound an animal.

D. Fail to prevent any ~~dog animal~~ from running at large ~~or to allow an animal to be unleashed on public premises, property or right-of-way except in those areas specifically designated to permit animals.~~

E. Own a dangerous dog [in contravention of this Chapter](#).

F. Own a dog that is deemed a public nuisance by being involved in three incidents within one year's time.

G. Own any ~~dog animal~~ affected with a contagious disease who runs at large or is exposed in any public place whereby the health of man or beast may be affected, except that such ~~dog animal~~ may be removed from the premises for the owner or other person by a veterinarian, ~~code enforcement officer~~Animal Control Officer or police officer.

H. Own a ~~dog animal~~ [not vaccinated with a modified live-virus vaccine for rabies](#)

within the past two years.

I. Own any ~~dog~~-animal for which he has failed to display a ~~dog~~-license upon such ~~dog~~-animal when it is off the owner's property, if such license is required under SMC [6.04.070](#).

J. Use or permit another to use an animal license or license identification not issued to such person for the specific animal.

K. Remove a license identification from any ~~dog~~-animal without the owner's permission.

L. Make a false or misleading statement or representation regarding the ownership or right to custody or control of an animal.

M. Tease, tantalize or provoke any animal with the intent to cause fear or anger.

N. Fail to keep every female ~~dog~~-animal in heat confined in a manner that such female ~~dog~~-animal cannot come into contact with another ~~dog~~-animal except for planned breeding.

O. Allow a ~~dog~~-animal in a posted prohibited area.

P. Knowingly or negligently commit acts of cruelty to animals:

1. Under circumstances not amounting to first degree animal cruelty not defined under state law ~~General-general~~ acts of cruelty include but are not limited to:

a. To subject any animal under a person's ownership, custody or control to neglect, defined as confinement without proper food, water and shelter.

b. To kill without legal privilege any animal under the ownership, custody, or control of another person.

2. For any person to overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill or cause or procure any such cruel treatment of any animal while having the charge or custody of any such animals as owner or otherwise, or for any owner or person having the charge or custody of any animal to permit the animal to be subjected to any of the above acts.

3. Confine an animal within or on a motor vehicle at any location under such conditions as may endanger the health or well being of the animal, including but not limited to, extreme temperatures, lack of food, water or attention, or confinement with a dangerous animal.

4. For any person owning, having charge or custody of any animal, to deprive any such animal of necessary and adequate food for more than 36 hours and/or water for more than 24 hours.

5. For any person having charge, or custody of any animal, to deprive such animal of necessary, adequate, sanitary, and humane shelter from the elements.

6. Abandon an animal.

7. Failing to report striking an animal with a motor vehicle whether accidental or negligently.

Q. Allow the accumulation of animal feces in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces.

R. Fail to remove the fecal matter deposited by his/her animal on public or private property of another before the owner and/or animal leaves the immediate area where the fecal matter was deposited.

S. Fail to have in his/her possession the equipment necessary to remove his/her animal's fecal matter when accompanied by said animal on public property or public easement.

T. Be in possession of property and knowingly permit frequent, continuous, and/or repetitive barking or noise made by any animal, which originates from the property and which unreasonable disturbs or interferes with the peace, comfort and repose of property owners or possessors.

U. Permit any animal to damage public property or the private property of another.

Q-V. Fail to make an appearance in court pursuant to a uniform animal control citation or complaint and the provisions of this chapter or fail to appear pursuant to an order of the court in such matter under this chapter. (Ord. 590, 1993)

W. Violation of any of the provisions of this section shall constitute a misdemeanor under Section 6.04.160(E)

6.04.032 Community event restrictions.

A. It shall be unlawful for an owner to allow any dog, other pets, or other domestic animals to stray and/or enter with or without a leash or other means of restraint upon any street right-of-way, park, playfield, water front or other property designated by the city by resolution as a community event. The resolution shall set out the name of the community event, its dates, and times and the area where dogs, other pets or other domestic animals may not stray or enter.

B. Notwithstanding the restrictions set forth in subsection (A) of this section, it shall not be unlawful for dogs, pets, or domestic animals to enter in the following circumstances:

1. As service or seeing-eye dogs;
2. As certified canine enforcement teams;
3. As parade day or community event participants in an organized activity of the parade of community events between the hours of 8:00 a.m and 1:00 p.m.;
4. As animals used by community event vendors approved by the city and event organizers that provide animal rides, animal performances, or attractions.

C. Notices. Nothing herein shall be determined to require the posting to exclude any dogs, other pets, or other domestic animals; provided, however, that such postings be undertaken at the discretion of the city. (Ord. 844-04 §§ 1, 2)

6.04.040 Right of entry and inspection.

A. Pursuant to consent of the owner or occupant of any premises an ~~code enforcement~~

~~officer~~Animal Control Officer or police officer may enter and inspect said premises to determine compliance with the provisions of this chapter.

B. An ~~code-enforcement-officer~~Animal Control Officer or police officer may enter the private property of another in the absence of the owner or occupant when in their judgement an animal on such premises needs immediate assistance or to prevent its death or serious injury.

C. An ~~code-enforcement-officer~~Animal Control Officer or police officer may enter the private property of another to enforce this chapter with a search warrant or when otherwise authorized by law.

D. An ~~code-enforcement-officer~~Animal Control Officer or police officer is authorized to remove any animal from a motor vehicle, at any location, when they reasonably believe it is confined in such conditions which endanger the health and well being of the dog. The animal shall be removed and impounded with the removing officer leaving written notice of the removal and impound, and the officer's name, in a secure and conspicuous location or inside the vehicle.

E. An ~~code-enforcement-officer~~Animal Control Officer or police officer may enter the private property of another, with or without a warrant, when in hot pursuit to take possession of any animal observed at large.

F. An ~~code-enforcement-officer~~Animal Control Officer or police officer may enter the private property of another and remove a dog which is creating a public nuisance. (Ord. 590, 1993)

G. An Animal Control Officer or police officer may enter the private property of another and remove a dog acting as a dangerous or potentially dangerous dog.

6.04.050 Biting dogs.

A. Any owner of a dog, any person who is bitten by a dog or any doctor, veterinarian or hospital which has information that a person has been bitten by a dog shall immediately report such bite, giving the name and address of the bitten person if known to him.

B. The owner of a dog alleged to have bitten a person must produce valid certification of a current rabies vaccine or be quarantined as described in this chapter for a period of at least 10 days. Such dog may not be transported outside the city limits without the written permission of the police department. (Ord. 590, 1993)

~~6.04.060 Potentially dangerous dogs.~~

6.04.060 Declaration of potentially dangerous dog or dangerous dog -- Procedure and notification requirements.

A. The animal control officer shall identify and classify potentially dangerous dogs and dangerous dogs. The agency may find and declare an animal potentially dangerous or dangerous if the animal control officer has probable cause to believe that the animal falls

within the definitions set forth in SMC 6.04.010(G) or SMC 6.04.010(H). Probable cause may be based upon:

1. The written statement of a citizen who is willing to testify that he or she witnessed the animal acting in a manner which causes it to fall within the definition of SMC 6.04.010(G) or SMC 6.04.010(H); or

2. Actions of the dog witnessed by any animal control officer or law enforcement officer; or

3. Other substantial evidence.

B. Upon declaring a dog potentially dangerous or dangerous under subsection (1) of this section, the animal control officer shall prepare a written notice that the dog is dangerous or potentially dangerous. At a minimum, the notice shall state:

1. A description of the dog including breed, color, sex and license number, if known;

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

3. The location of the animal if not in the custody of the owner;

4. The facts upon which the notice is based;

5. The requirements for containment and restraint of the dog, if applicable, as determined by the animal control officer, that the requirements for containment and restraint shall be complied with immediately upon receipt of the notice and that failure to comply with the requirements of containment and restraint shall result in the immediate confiscation and impoundment of the dog, pursuant to SMC 6.04.067;

6. The criminal penalty for violation of the requirements for containment and restraint imposed by the animal control officer, including a statement advising that if the requirements are not timely met, the animal control officer shall have the authority to issue a criminal citation or report such noncompliance to the office of the prosecuting attorney, which shall also have authority to issue a criminal citation, and that if the dog is declared potentially dangerous, similar incidents in the future could result in the dog being declared dangerous pursuant to Section 6.04.010(U); and

7. A statement advising:

(a) that the notice may be appealed to the **city hearing examiner** as specified in **SMC 2.02.125**; and

(b) that the failure to file a timely and complete appeal will constitute a waiver of all rights to an appeal under city code; and

8. A statement that the notice constitutes a final determination that the dog is either potentially dangerous or dangerous.

C. The notice shall be served on the owner by one of the following methods:

1. Certified mail to the owner's last known address. The service shall be deemed complete upon the third day following the day upon which the notice was placed in the mail; or

2. Personal service. If the declaration is personally served, proof of personal service of the declaration shall be made by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner in which service was made; or

3. If the owner cannot be located as provided in paragraph (1) or (2) of this subsection, by publication in a newspaper of general circulation. The service shall be deemed complete 14 days following the day upon which the notice was published.

6.04.061 Appeal of notice of potentially dangerous or dangerous dog.

A. Any owner of a dog which has been declared potentially dangerous or dangerous by the animal control officer pursuant to SMC 6.04.060 may appeal the declaration to the Sultan city hearing examiner pursuant to the provisions of SMC 2.02.125.

B. The enforcement stay contained in SMC 2.02.125(3) shall not apply to the declaration that a dog is potentially dangerous or dangerous, except that no dog declared potentially dangerous or dangerous shall be destroyed as provided by this chapter during the pendency of an appeal as provided herein.

C. At the hearing, the animal control officer shall have the burden of proving the dog declared dangerous or potential dangerous falls within the definition of SMC 6.04.010(H) and (G), which burden shall be met by a preponderance of the evidence.

D. The decision of the hearing examiner shall be final and conclusive with an optional right of reconsideration as provided in SMC 2.02.167 and may then be reviewable by an action for writ of review filed in Snohomish County superior court as provided in chapter 2.02 SMC.

6.04.062 Certification of registration of a dangerous dog required.

A. It shall be unlawful for a person or persons to keep, own or otherwise maintain a dangerous dog in the City without a certificate of registration issued under this section.

B. Following the declaration of dangerous dog, the owner of a dangerous dog must obtain a certificate of registration for the dog with the licensing authority within fifteen days as provided in this section.

C. The licensing authority is authorized to issue a certificate of registration to the owner of a dangerous dog upon payment of a \$200 registration fee and if the owner presents sufficient evidence of the following:

1. A proper enclosure of a dangerous dog;
2. Either:
 - (a) a surety bond issued by a surety insurer qualified under chapter 48.28 RCW and in a form acceptable to the licensing authority in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or
 - (b) a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW and in a form acceptable to the licensing authority in the amount of at least \$250,000, insuring the owner for any personal injury inflicted by the dangerous dog;
3. That the dog has been microchipped;
4. That the dog has been licensed; and
5. That the dog has been neutered or spayed.

6.04.063 Term of certificate of registration.

The term for a certificate of registration issued pursuant to SMC 6.04.062 is one year from the date of issuance or until the dog is moved to another address, whichever is less. Renewal applications for the certificate of registration must contain sufficient evidence of the information required in SMC 6.04.062 as well as payment of the application fees.

6.04.064 Potentially dangerous dog -- Confinement on and off premises of owner.

It shall be unlawful for the owner of a potentially dangerous dog:

A. To suffer or permit the dog to be on the property where the owner resides and outside the owner's dwelling unless the dog is contained by a secure fence or under control; or

B. To suffer or permit the dog to leave the property where the owner resides unless the dog is under control and securely muzzled. The muzzle shall be worn in a manner which will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

6.04.065 Dangerous dog -- Confinement off premises of owner.

It shall be unlawful for the owner of a dangerous dog to suffer or permit the dog to be outside the proper enclosure of a dangerous dog unless the dog is securely muzzled and under control. The muzzle shall be worn in a manner which will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

6.04.066 Duty of owner to notify animal control officer of change in status of potentially dangerous or dangerous dog.

A. The owner of a potentially dangerous or dangerous dog shall immediately notify the animal control officer when the dog:

1. Is loose or unconfined off the premises of the owner;
2. Has bitten or injured a human being or another animal;
3. Is sold, given away, or moved to another address; or
4. Dies.

B. If a potentially dangerous or dangerous dog is sold, given away, or moved to another location, the owner shall provide the name, address, and telephone number of the new owner, or the address and telephone number of the new location, to the animal control officer prior to moving the dog, whether within or outside of the City. All requirements of this chapter must be met by the new owner prior to moving the dog if the dog remains within the City. If the dog is retained by the same owner, but moved to another address, the requirements of this chapter must be met prior to moving the dog.

C. If a potentially dangerous or dangerous dog dies, the owner shall supply to the animal control officer within 30 days of death, a veterinarian certificate of death or other proof that the dog has died.

6.04.067 Potentially dangerous and dangerous dog -- Confiscation -- Conditions -- Penalties for owners of dogs that attack -- Dog Fights, penalty.

A. Any potentially dangerous dog shall be immediately confiscated by the animal control officer if:

1. The dog is either not contained by a secure fence or under control while on the property where the owner resides and outside of the owner's dwelling; or

2. The dog is off the property where the owner resides, and the dog is either not under control or not securely muzzled. In addition, the owner shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

B. Any dangerous dog shall be immediately confiscated by the animal control officer if:

1. The dog is not validly registered pursuant to SMC 6.04.062;

2. The owner does not maintain continuous liability insurance coverage or surety bond required under SMC 6.04.062; or

3. The dog is not in a proper enclosure of a dangerous dog and either not under control or not securely muzzled. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

C. If a dog is confiscated under section (A) or (B) above, the animal control officer must serve notice pursuant to this chapter upon the dog owner within **seventy-two hours** of the confiscation, specifying the reason for the confiscation of the potentially dangerous or dangerous dog, that the owner is responsible for redemption of the dog pursuant to **SMC 6.04.120**, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within fifteen calendar days of the receipt of the notification. The animal control officer shall destroy the confiscated potentially dangerous or dangerous dog in an expeditious and humane manner if any deficiencies required by the notice are not corrected within fifteen days of service of the notification.

D. Any dog which threatens the safety of any animal or person, whether designated as potentially dangerous or dangerous, may be immediately confiscated by the animal control officer prior to a notice being served pursuant to SMC 6.04.060. Within seventy-two hours of the confiscation, the animal control officer shall serve notice under SMC 6.04.060 on the owner. If the requirements included in the notice are satisfied and the dog is redeemed pursuant to **SMC 6.04.120**, the dog shall be released. The animal control officer shall destroy the confiscated dog in an expeditious and humane manner if the requirements included in the subsequent notice are not satisfied or the dog is not redeemed within **fifteen calendar days** of the notification.

E. If a potentially dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or a domestic animal, the dog's owner is guilty of a misdemeanor, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a potentially dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse.

F. If a dangerous dog of an owner with a prior conviction under this chapter 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. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by the animal control officer, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

G. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not 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. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog:

1. Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of small children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or

2. Provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of small children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by the animal control officer, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

H. Any person entering a dog into a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.

~~A. The duty of the owner of any dog involved in an alleged incident which defines the dog as potentially dangerous shall under the direction of the code enforcement officer/Animal Control Officer or police department:~~

~~1. Securely confine the dog on the owner's property as described in this chapter.~~

~~2. Post signs for the duration the dog is on the premises to warn the public that the dog is under investigation and symbol signs to warn young children. The signs will be provided by and placement determined by the police department or code enforcement officer/Animal Control Officer. Signs are to be returned to the city.~~

~~3. Permit the dog to leave the owner's property if the dog is restrained on a substantial leash or chain and under the physical restraint of a responsible person. Dogs under investigation for an alleged biting must be muzzled in a manner which prevents the dog from biting.~~

~~4. Allow the investigating officer to enter the area of confinement to determine compliance.~~

~~B. Compliance will continue until the investigation has determined the disposition of the dog. Failure to comply will result in immediate impound of the dog.~~

~~C. Dogs determined to be dangerous shall:~~

~~1. Be removed by the code enforcement officer/Animal Control Officer or police and thereafter be impounded for three days and destroyed in a humane manner; or~~

~~2. Be permanently removed from the limits of the city.~~

~~D. The determination of a dangerous dog shall be made by the police chief or their designee. (Ord. 590, 1993)~~

6.04.070 ~~Dog~~ Animal license – Required.

Any person owning a dog or cat ~~which is more than four months of age~~ shall procure a license for each and such ~~dog~~ animal each fiscal year or any part thereof and pay a fee as required by the city's adopted fee resolution or ordinance.

Such license shall be procured within 30 days after the date a dog or cat ~~is four months of age~~ is brought by the owner into the city, or any dog or cat four months of age kept for more than 30 days within the city limits. (Ord. 590, 1993)

6.04.080 ~~Dogs~~ Animal – Rabies inoculations.

It shall be the duty of the owner of any dog or cat which is more than four months of age kept in the city to have such dog or cat inoculated against rabies with a modified live virus type vaccine, and no license shall be issued for any dog unless the applicant exhibits a certificate of such inoculation by a veterinarian or, in the case of dogs owned by a kennel or pet shop, a statement of such inoculation signed and sworn to by the owner of that kennel or pet shop.

The certificate of inoculation or sworn statement must demonstrate that such vaccination is valid for immunity against rabies for the entire period for which the license is issued; however, if a veterinarian certifies to some physical condition of a dog which would prevent such inoculation for any period, no inoculation shall be required for the dog, and the license may be issued for that dog. (Ord. 590, 1993)

6.04.090 Issuance – Contents – Tags – Duplicates.

A. Upon payment to the ~~clerk/treasurer~~ City Clerk or designee of the required license fee as set by fee resolution or ordinance, the ~~clerk/treasurer~~ City Clerk or designee shall issue to the person a license and metal tag bearing the word “Sultan” and having thereon the year and number corresponding to that of the license and the stub.

B. The ~~clerk/treasurer~~ City Clerk or designee shall keep a record of each license which may be in the form of a stub upon which shall be recorded the essential facts of the license; the name, address and phone number of the owner. The sex, name sufficient information to identify the ~~dog~~ animal, the date and any other data deemed necessary or desirable to carry out the general purpose of this chapter. Licenses are for a specific ~~dog~~ animal to a specific owner and are not transferable between owners or animals.

C. If a license tag is lost, an owner may secure a duplicate tag from the City Clerk or

~~designee code enforcement officer~~Animal Control Officer on satisfactory proof of loss.
(Ord. 590, 1993)

6.04.100 Fees.

A. Fees for the annual license for each shall be set by resolution. All charges and penalties paid in accordance with the terms of this chapter shall be paid to the Sultan ~~city clerk/treasurer~~City Clerk or designee.

B. All licenses shall expire on the first day of the following year in which the license is issued.

~~C. Residents 62 years of age or older shall be entitled to acquire a special permanent license for the lifetime of the dog for which they are registered owner when the animals are maintained at the owner's registered address. Eligible residents may acquire the special permanent animal license at a cost set by resolution and they shall not be required to annually purchase a new license for the lifetime of such licensed animals. No person shall be granted more than three permanent animal licenses for any combination of three dogs for which they are the registered owner. Any permanent license issued under this section shall terminate at any time the person issued such license ceased to be the owner of the licensed dog. (Ord. 590, 1993)~~

6.04.110 Impounding ~~dogs~~animals – When authorized.

Whenever any ~~dog~~animal is found performing any of the activities described in this chapter, or has bitten any person or animal, an ~~code enforcement officer~~Animal Control Officer, police officer, any owner or any private person may impound it by immediately delivering such ~~dog~~animal to the place designated for such impoundment.

The ~~code enforcement officer~~Animal Control Officer, upon receiving any ~~dog~~animal, shall make a complete registry, entering the breed, color and sex of such ~~dog~~animal and whether licensed. If licensed, they shall enter the name and address of the owner, and the number of the license tag. ~~Licensed dogs shall be separated from unlicensed dogs.~~

Not later than two working days after the impounding of any ~~dog~~animal at a City of Sultan facility, the owner shall be notified, or if the owner of the ~~dog~~animal is unknown, written notice shall be posted for three days at the Sultan City Hall and/or Sultan Post Office describing the ~~dog~~animal and the place and time of taking. The owner of any ~~dog~~animal so impounded may reclaim such ~~dog~~animal upon payment of the license fee, if unpaid, and all costs and charges incurred by the city for impounding and maintenance of the ~~dog~~animal. (Ord. 590, 1993)

6.04.120 Redemption, destruction or adoption of unlicensed ~~dogs~~animals.

Unless an unlicensed ~~dog~~animal or impounded doganimal is redeemed by ~~its~~his owner from a City of Sultan facility within three working days after impoundment in a manner consistent with SMC 6.04.110, the ~~dog~~animal may be destroyed or adopted in a

manner consistent with SMC [6.04.130](#). If such ~~dog~~-[animal](#) has been impounded because of the biting of a person and does not have a vaccination which is valid for immunity against rabies at such time, such ~~dog~~-[animal](#) shall be kept in impoundment and quarantine for such period of time as is necessary to observe said dog for the required 10-day quarantine period commencing after the biting of a person. (Ord. 590, 1993)

~~The owner of any dog~~[animal impounded at a City of Sultan facility may reclaim such dog](#)[animal upon payment of the license fee, if unpaid, and all costs and charges incurred by the city for impounding and maintenance of the dog](#)[animal.](#)

6.04.130 Impounded ~~dogs~~-[animals](#) – Adoption conditions.

The decision of whether to release an animal to an individual for the purposes of adoption shall be discretionary with the Animal Control Officer or his/her designee. In making the determination the Animal Control Officer or his/her designee shall base his decision on what is in the best interest of the animal and what is in the best interest of public safety. Factors which shall be considered include, but are not limited to, the age of the individual requesting adoption, the premises where the animal will be kept, condition, size and/or temperament of the animal. Dogs which have been declared dangerous under the provisions of Chapter 6.04 of this code or Chapter 16.08 RCW, or potentially dangerous under the provisions of Chapter 6.04 of this code, will not be available for adoption.

~~A dog~~[An animal](#) may be redeemed by persons other than the owner only if the following qualifications are met:

- A. That the ~~dog~~-[animal](#) is in good health, or that adequate provisions for medical care of the ~~dog~~-[animal](#) will be taken;
- B. That the ~~dog~~-[animal](#) is not dangerous ~~or vicious~~;
- C. That the ~~dog~~-[animal](#) is immunized against rabies ~~within 30 days after adoption~~[prior to adoption](#);
- D. That the ~~dog~~-[animal](#) is licensed upon adoption if the owner lives within the city:
(Ord. 590, 1993)
- E. The adoptive owner agrees to furnish proper care to the animal in accord with this chapter:
- F. Payment of required fees, including any medical care costs incurred during impoundment:
- G. The adoptive owner agrees to spay or neuter the animal if medically feasible prior to completion of the adoption process.

6.04.140 Impounded ~~dogs~~-[animals](#) – ~~Adoption~~ – Return to owner – Claiming impounded animals.

~~A. Any dog adopted out by the code enforcement office may be returned to any owner supplying proof of ownership. If the dog is licensed, a current license shall be prima facie proof of ownership. If the dog is unlicensed, the owner must purchase a license and pay~~

~~all fees and penalties consistent therewith.~~

A. Any impounded animal at a City of Sultan facility shall be released to the owner upon payment of impoundment, care and license fees unless in the discretion of the Animal Control Officer or his/her designee there is an ongoing investigation of a violation of this chapter or state law. The Animal Control Officer or his/her designee may release the animal to the owner's authorized representative; full identification of the owner and their authorized representative must be provided to animal control prior to release.

B. The owner of any animal impounded ~~to a shelter~~ at a City of Sultan facility may reclaim such animal upon payment of the license fee, if applicable, and all costs and charges incurred by the impound facility for the keeping and maintenance of the animal and may be subject to an impound fee payable to the city of Sultan as set by resolution of the city council whether or not the owner claims or retakes possession of the animal. (Ord. 919-06 § 1; Ord. 590, 1993)

C. The owner of any animal impounded pending legal action pertaining to violations of this chapter and/or other judicial actions or hearings, pertaining to his/her ownership/responsibilities regarding the animal, shall be liable for all fees prescribed by fee schedule, upon conviction.

6.04.150 Charges for impound.

Charges for impounds will be established by resolution by the Sultan city council. (Ord. 703-99; Ord. 590, 1993)

6.04.160 Violation – Penalties generally.

A. Violations of or noncompliance with any provisions of this chapter is an offense which may result in the issuance of a citation by the ~~code enforcement officer~~ Animal Control Officer or police officer, notwithstanding other charges or costs and/or remedies under this chapter.

B. Each day any person is in violation of this chapter is a separate offense.

C. The first two citations issued within a one-year period shall be an infraction. Any subsequent citation issued within the one-year period shall be deemed a misdemeanor.

D. The fine for an infraction shall be in the amount **of \$50.00**. The process for contesting the citation is as designated on the back of the citation.

E. The penalty for a misdemeanor shall be set at a maximum of \$1,000 and 90 days in jail.

F. In addition to any penalty imposed as provided by subsection (C) of this section, a court may order the impoundment and/or destruction of any dog found to be ~~vicious or~~ dangerous.

G. The citation shall be issued to the owner as defined in this chapter. (Ord. 638, 1995; Ord. 605, 1994; Ord. 590, 1993)

Attachment B

RCW 16.08.080

Dangerous dogs — Notice to owners — Right of appeal — Certificate of registration required — Surety bond — Liability insurance — Restrictions.

(1) Any city or county that has a notification and appeal procedure with regard to determining a dog within its jurisdiction to be dangerous may continue to utilize or amend its procedure. A city or county animal control authority that does not have a notification and appeal procedure in place as of June 13, 2002, and seeks to declare a dog within its jurisdiction, as defined in subsection (7) of this section, to be dangerous must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested.

(2) The notice must state: The statutory basis for the proposed action; the reasons the authority considers the animal dangerous; a statement that the dog is subject to registration and controls required by this chapter, including a recitation of the controls in subsection (6) of this section; and an explanation of the owner's rights and of the proper procedure for appealing a decision finding the dog dangerous.

(3) Prior to the authority issuing its final determination, the authority shall notify the owner in writing that he or she is entitled to an opportunity to meet with the authority, at which meeting the owner may give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous. The notice shall state the date, time, and location of the meeting, which must occur prior to expiration of fifteen calendar days following delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the fifteen-day time period set forth in this section. After such meeting, the authority must issue its final determination, in the form of a written order, within fifteen calendar days. In the event the authority declares a dog to be dangerous, the order shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, and the signature of the person who made the determination. The order shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the authority.

(4) If the local jurisdiction has provided for an administrative appeal of the final determination, the owner must follow the appeal procedure set forth by that jurisdiction. If the local jurisdiction has not provided for an administrative appeal, the owner may appeal a municipal authority's final determination that the dog is dangerous to the municipal court, and may appeal a county animal control authority's or county sheriff's final determination that the dog is dangerous to the district court. The owner must make such appeal within twenty days of receiving the final determination. While the appeal is pending, the authority may order that the dog be confined or controlled in compliance with RCW **16.08.090**. If the dog is determined to be dangerous, the owner must pay all costs of confinement and control.

(5) It is unlawful for an owner to have a dangerous dog in the state without a certificate of registration issued under this section. This section and RCW **16.08.090** and **16.08.100** shall not apply to police dogs as defined in RCW **4.24.410**.

(6) Unless a city or county has a more restrictive code requirement, the animal control authority of the city or county in which an owner has a dangerous dog shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control unit sufficient evidence of:

(a) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a 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 dangerous dog;

(b) A surety bond issued by a surety insurer qualified under chapter **48.28** RCW in a form acceptable to the animal control authority in the sum of at least two hundred fifty thousand dollars, payable to any person injured by the dangerous dog; or

(c) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title **48** RCW in the amount of at least two hundred fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.

(7)(a)(i) If an owner has the dangerous dog in an incorporated area that is serviced by both a city and a county animal control authority, the owner shall obtain a certificate of registration from the city authority;

(ii) If an owner has the dangerous dog in an incorporated or unincorporated area served only by a county animal control authority, the owner shall obtain a certificate of registration from the county authority;

(iii) If an owner has the dangerous dog in an incorporated or unincorporated area that is not served by an animal control authority, the owner shall obtain a certificate of registration from the office of the local sheriff.

(b) This subsection does not apply if a city or county does not allow dangerous dogs within its jurisdiction.

(8) Cities and counties may charge an annual fee, in addition to regular dog licensing fees, to register dangerous dogs.

(9) Nothing in this section limits a local authority in placing additional restrictions upon owners of dangerous dogs. This section does not require a local authority to allow a dangerous dog within its jurisdiction.

Severability -- 1987 c 94: See note following RCW [16.08.070](#)

[2002 c 244 § 2; 1989 c 26 § 3; 1987 c 94 § 2.]