

**CITY OF MERCER ISLAND**

**ORDINANCE NO. 21C-18**

**AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, AMENDING CHAPTER 7.04 MERCER ISLAND CITY CODE, RELATING TO ANIMALS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to chapter 16.08 RCW, the City of Mercer Island (City) is authorized to regulate potentially dangerous dogs, dangerous dogs, and appeals of decisions by the City relating to potentially dangerous dogs and dangerous dogs; and

**WHEREAS**, current City code, chapter 7.04 MICC (Animal Code), lacks provisions for determining that an animal is a potentially dangerous dog, clarity on requirements for owners of dangerous dogs, and a method for appeals of decisions by the City relating to potentially dangerous dogs and dangerous dogs; and

**WHEREAS**, the City Council hereby finds that amendments to chapter 7.04 MICC are necessary to bring City code into compliance with state law and to preserve the public peace, health, safety, and welfare; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Amendment of Chapter 7.04 MICC, Animal Code.** Chapter 7.04 MICC, Animal Code, is hereby amended in the form provided in the attached Exhibit A, which is incorporated herein by reference.

**Section 2. Severability.** If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property, or circumstance, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this Ordinance or its application to any other person, property, or circumstance.

**Section 3. Publication and Effective Date.** A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This Ordinance shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF MERCER ISLAND, WASHINGTON, AT ITS REGULAR MEETING ON \_\_\_\_\_, 2021.

CITY OF MERCER ISLAND

\_\_\_\_\_  
Benson Wong, Mayor

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
Deborah A. Estrada, City Clerk

\_\_\_\_\_  
Bio Park, City Attorney

Date of publication:

**Exhibit A**  
**Chapter 7.04 MICC – ANIMAL CODE**

**Sections:**

- 7.04.005 Short title.**
- 7.04.010 Purpose.**
- 7.04.020 Definitions.**
- 7.04.030 Annual license required – Tag.**
- 7.04.040 Application for license – Fees.**
- 7.04.050 Special permanent license – Purchase by residents 65 years of age or older.**
- 7.04.060 Late penalty.**
- 7.04.070 Dog collar – Shape and size of license tag – Removal of tag.**
- 7.04.080 Lost tag – Replacement fee.**
- 7.04.090 Change in ownership – Fee.**
- 7.04.100 License refund.**
- 7.04.110 Unlawful conduct – Owner responsible for violations.**
- 7.04.115 Determination of off-leash areas.**
- 7.04.120 Potentially Dangerous Dogs**
- 7.04.130 Dangerous Dogs**
- 7.04.140 Confiscation of Dangerous Dogs**
- 7.04.210 Confinement of biting animal.**
- 7.04.220 Enforcement power.**
- 7.04.230 Violation – Penalty.**
- 7.04.235 Appeals of Potentially Dangerous Dog Declarations or Dangerous Dog Declarations**
- 7.04.240 RCW Title 16, Animals and Livestock.**

**7.04.005 Short title.**

This chapter may be known and cited as the “Mercer Island animal code.”

**7.04.010 Purpose.**

This chapter is enacted for the purpose of regulating the keeping of animals within the city. The fees, charges and penalties collected under this chapter shall be budgeted to defray, in whole or in part, the expense of such regulation.

#### **7.04.020 Definitions.**

In construing the provisions of this chapter, except where otherwise plainly declared or clearly apparent from the context, words used shall be given their common and ordinary meaning; in addition, the following definitions shall apply:

1. "Animal" includes any living creature except man.
2. "Animal control authority" means the King County animal control division, department of general services, as agent of the city, the City of Mercer Island, or any other duly authorized agent of the city, acting alone or in concert with other municipalities for enforcement of the animal control laws of the city and state and for the shelter and welfare of animals.
3. "Animal control officer" means any individual employed by, contracted with, or appointed by the city for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impoundment of animals, and includes any state or municipal police officer, sheriff, constable or other employee whose duties, in whole or in part, include assignments which involve the seizure and taking into custody of any animal.
4. "At large" or "running at large" means to be off the premises of the owner and not under the control of the owner or of a competent person authorized by the owner, whether by leash or otherwise; but an animal within an automobile or other vehicle of its owner shall be deemed to be upon the owner's premises.
5. "Associated school facilities" means any property or facility associated with the instruction of children or people under college age that is purchased, constructed or owned by, on behalf of, or for the use of any public entity.
6. "Barking dog" means any dog which, by habitual howling, yelping or barking annoys, injures or endangers the comfort, repose, health or safety of others in a neighborhood or public place.
7. "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.

~~8-7.~~ "Depredatory animal" means any animal of either sex whose actions or habits customarily defile, despoil or damage property of persons other than its owner.

~~9-8.~~ "Dog" means an animal of the species Canis familiaris, including both male and female, altered or unaltered.

109. “Domestic animal” means but is not limited to, any dog, cat, rabbit, horse, mule, ass, bovine animal, lamb, goat, sheep, hog, or other animal made to be domestic.

1140. “Grooming parlor” means any place or establishment, public or private, where animals are bathed, clipped or combed for a consideration, for the purpose of enhancing their aesthetic value.

1244. Harboring. The occupant of any premises on which an animal remains or to which it customarily returns daily for food and care for a period of 10 days is presumed to be “harboring” or “keeping” the animal within the meaning of this title.

1342. “Hobby kennel” means a noncommercial kennel at, or adjoining, a private residence where four or more adult dogs or four or more adult cats are bred and/or kept for hunting, training, exhibition for organized shows, field, working and/or obedience trials, or for enjoyment of the species. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of four months.

1443. “Kennel” means a place where four or more adult dogs or four or more adult cats or any combination thereof are kept whether by owners of the dogs and cats or by persons providing facilities and care whether or not for compensation, but not including a small animal hospital or clinic or pet shop. An adult dog or cat is one of either sex, altered or unaltered, that has reached the age of four months.

1544. “Leash” means a cord, thong or chain, not more than eight feet in length by which an animal is controlled by the person accompanying it.

1645. “License,” when not preceded by the word “kennel” or “hobby kennel,” means the dog license issued by or on behalf of the city under this chapter.

1746. “Officer or official” means any police officer or any officer, official person or persons designated by the city manager or by ordinance of this city to issue licenses, pick up, restrain, impound, sell, dispose or give notice of any other acts, duties or functions prescribed by ordinance of the city relating to the animals regulated in this chapter.

1847. “Off-leash area” means those areas located in public park properties, as designated by sign, where dogs are allowed to be off-leash, but under control.

1948. “Owner” means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal. ~~having an interest in or right to possession of an animal or any person having control, custody or possession of an animal or who by reason of the animal being seen residing consistently at a location shall be presumed to be the owner or keeper.~~

2049. “Pack of dogs” consists of a group of three or more dogs running upon either public or private property not that of the dogs’ owner in a state in which either control of the dog or its ownership is in doubt and when such dogs are not under control.

2120. “Pet shop” means any establishment or place where live animals, birds or fish and/or supplies are kept and offered for sale to the public.

2224. “Playground” means a portion of a public park property containing play structures or components designed and constructed for children that includes the ground level area beneath

and immediately adjacent to a play structure or equipment. The boundaries of the playground shall be determined by the edge of all impervious surfaces or landscaping bordering the playground area.

23. "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.

24. "Proper Enclosure of a Dangerous Dog" means, while on the Owner's property, a Dangerous Dog shall be securely 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. Such pen or structure shall have secure sides and a secure top, and shall also provide protections from the elements for the dog.

2522. "Public emergency" means any situation resulting from conditions of war, insurrection, contagious diseases or other circumstances which, in the opinion of the police chief and/or fire chief, warrants the restraint and confinement of animals within the premises of the owner or keeper.

2623. "Public park property" means a property, including trails, forests, parks, facilities or open space areas purchased, constructed or owned by, on behalf of, or for the use of a public entity.

2724. "Public school ground" means any property purchased, constructed or owned by, on behalf of, or for the use of a public entity associated with the instruction of children or people under college age.

2825. "Public swimming area" means any body of water or portion of the body of water designated and signed for swimming, diving or recreational bathing, not contained in a structure, chamber or tank. This includes lakes, ponds, and streams, and similar outdoor facilities which are partially natural in character, together with buildings, equipment and appurtenances pertaining thereto, regardless of whether a fee is charged for the use.

2926. Restraint. An animal is considered to be under "restraint" if it is confined within the property limits of its owner by a suitable fence or securely fixed object.

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

3127. "Shelter" means a facility which is used to house or contain stray, homeless, abandoned or unwanted animals and which is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.

3228. "Spayed female" means a female dog which has been altered by a licensed veterinarian to avoid or prevent conception. Proof of such alteration must be evidenced by the certificate of a licensed veterinarian.

~~3329~~. “Synthetic turf” means any manufactured surface used to cover a field, playground, or other recreational facility.

~~3430~~. “Sports field or sports court” means a portion of public land where a play surface is designed or prepared for practicing or playing a game, including but not limited to soccer fields, baseball fields, football fields, tennis courts or basketball courts.

~~3531~~. “Under control” means the animal is on a leash or under voice and/or signal control so as to be thereby restrained from approaching any bystander or other animal or from causing or being the cause of physical or property damage when off a leash or off the premises of the owner. The animal is not under control if it charges, chases, jumps on, or displays aggression toward other people or animals, or behaves in a way that any reasonable person would find disturbing.

~~3632~~. “Under voice and/or signal control” means the immediate recall of an animal to the person in control of the animal when signaled or called. To be under effective voice and/or signal control, the animal must be within the sight of the person in control.

~~3733~~. “Veterinary hospital” includes any establishment maintained and operated by a licensed veterinarian for the diagnosis, treatment and care of diseased or injured animals and for their care and training.

#### **7.04.030 Annual license required – Tag.**

Except as provided in MICC 7.04.070, it is unlawful to keep or harbor a dog over four months of age within the city unless an animal license is procured for the animal annually from the city or the city’s authorized agent. The provisions of this section shall not apply to dogs whose owners are nonresidents, temporarily within the city for a period not exceeding 30 days, nor to dogs kept in duly licensed kennels during the period they are kept at such kennel, nor to dogs in the custody of a veterinarian.

#### **7.04.040 Application for license – Fees.**

Dog licenses shall be issued by the animal control authority upon application and payment of an annual license fee in the sum stipulated by the county ordinance currently in effect during the applicable contract year. Applications for a dog license shall be on forms provided by the animal control authority. The application shall list the name, address and phone number of the owner of the animal and such information shall be kept by the licensing official together with the number of the license issued.

#### **7.04.050 Special permanent license – Purchase by residents 65 years of age or older.**

City residents 65 years of age or older shall be entitled to purchase a special permanent license for the lifetime of the dogs for which they are the registered owner when the animals are maintained at the owners’ residence. Eligible residents may purchase the special permanent animal licenses at the price stipulated by the county ordinance currently in effect during the applicable contract year for each licensed dog, and they shall not be required to annually purchase a new license for the lifetime of such licensed animals; provided, that no person shall be granted more than three permanent animal licenses for any combination of three dogs for which they are the registered owner; provided further, that any permanent license issued under this section shall terminate at any time the person issued such license ceases to be the owner

of the licensed dog; and provided further, that the animal control authority is authorized to enact the necessary rules and procedures to efficiently implement the program.

#### **7.04.060 Late penalty.**

In addition to the appropriate license fee, a late penalty shall be charged to each owner who does not obtain a required license in the sum stipulated by the county ordinance currently in effect during the applicable contract year; however, no late penalty shall be charged if:

- A. The owner submits proof of purchase of the animal within the preceding 30 days; or
- B. The owner has moved into the city within the preceding 30 days; or
- C. The animal had been under the age which requires a license (four months); or
- D. The owner purchases the license(s) voluntarily, prior to in-person or field contact by animal control personnel; or
- E. The owner submits other proof deemed acceptable in the rules and regulations of the animal control division.

#### **7.04.070 Dog collar – Shape and size of license tag – Removal of tag.**

Upon payment of the license fee, the animal control authority shall issue to the owner a tag for each dog so licensed. Each licensed dog shall be provided by the owner with a suitable collar or harness which shall be worn by the animal at all times when it is off the owner's premises. To such collar or harness shall be affixed a license tag provided by the animal control authority for the current year for which a license has been procured; provided, that a collar and license tag need not be worn by a show dog when under the control of its handler at an authorized show. Such license tag shall be so affixed as to hang and be discernible to a person of normal vision at not less than 10 feet. The license tag shall be stamped with the number and year for which it is issued. As an alternative to a license tag, at the option of the owner, a dog may be identified as licensed by being tattooed on its right ear or on its inside right thigh or groin with a license number approved or issued by the city animal control authority.

#### **7.04.080 Lost tag – Replacement fee.**

Any owner of a licensed dog whose current license tag has been lost or destroyed may obtain a replacement tag, prior to impounding of such dog, by payment of a fee established by the animal control authority.

#### **7.04.090 Change in ownership – Fee.**

Whenever the ownership of a dog changes, the new owner shall notify the licensing official and pay to the official a sum equal to 50 percent of the annual fee, whereupon the licensing official shall change the record accordingly for such dog and the previously issued license for such dog shall remain valid for the remainder of the year; provided, that license tags may be transferred by the owner from one dog to another owned by him if the dog for which the license was originally issued is dead, has been sold or otherwise disposed of.

#### **7.04.100 License refund.**



No refund shall be made on any dog license fee because of the death of the animal or the owner's departure from the city prior to the expiration of the license period.

**7.04.110 Unlawful conduct – Owner responsible for violations.**

The owner of an animal is responsible for, and may be charged with and held liable for, violations committed by his or her animal. It is unlawful as follows:

A. For a domestic animal, with the exception of cats and service animals as defined in RCW 49.60.040, to enter or remain upon:

1. Any public school ground, or associated school facilities,
2. Any playground,
3. Any sports court,
4. Any sports field with a synthetic turf surface,
5. Any sports field without a synthetic turf surface when practices, games, or other organized activities are in progress; otherwise, an animal must be under control when at the sports field,
6. From May 1 to September 30, any public swimming area as designated by sign,
7. From October 1 to April 30, any public swimming area as designated by sign, except when on a leash,
8. The northeast quadrant of Pioneer Park, Deane's Children's Park ("Dragon Park") or Luther Burbank park property unless such animal is restrained by a leash or in a designated off-leash area on Luther Burbank park property, or
9. Any other public park property not referred to in subsections (A)(1) through (8) of this section, unless such animal is under control.

Any animal which enters or remains upon any such public property contrary to these provisions is declared to be a public nuisance and may be impounded as such; provided, that the provisions of this section shall not apply to any controlled dog show, trial or class held on any public park property pursuant to authority granted by the city parks and recreation director, any service animals as defined in RCW 49.60.040~~trained seeing eye dog, any dog which is trained to aid the disabled,~~ animal shows, exhibitions or dog training classes;

B. For any animal to enter any place where food is stored, prepared, served or sold to the public, or any other public building or hall. This section shall not apply to a trained seeing eye dog, any dog which is trained to aid the disabled, to veterinary offices or hospitals, to animal shows, exhibitions or organized dog training classes where at least 24 hours' advance notice has been given to the animal control authority by such persons requesting to hold such animal shows, exhibitions or dog training classes;

C. For a female dog to run at large while in heat (estrus);

D. For a domestic animal, with the exception of cats, to roam, run, stray or to be away from the premises of the owner and to be on any other public place or on any other public property or the private property of another in the city, unless such animal while away from such premises is

under control or restrained by leash, such control to be exercised by the owner or other competent and authorized person; and any such animal found roaming, running, straying or being away from the premises of the owner and not under control as herein provided may be impounded subject to redemption in the manner provided by this chapter. The owner of any licensed dog found roaming, running, straying, or being away from such premises contrary to the provisions of this subsection shall, in lieu of the dog being impounded, be issued an infraction for a violation of this chapter;

E. For any domestic animal to chase, run after or jump at vehicles using the public streets and alleys;

F. To harbor or permit on one's own property, property of another or a public place a barking dog after having received notice, written or oral, by the animal control officer or the city that a complaint, written or oral, has been made against such barking dog;

G. To keep, harbor or maintain animals known to have a contagious disease unless under the treatment of a licensed veterinarian;

H. For cattle, horses, goats, swine or sheep to escape from the premises owned, leased or occupied by the owner or custodian of such animals, or for such animals to run at large onto the streets, sidewalks or ways of the city or upon any property not owned, leased or occupied by such person;

I. To stake out or tether cattle, horses, or goats upon public property of the city or upon the property of any person other than the owner of such animals without the prior consent of the owner, lessee or occupant of the land upon which such animals are staked or tethered;

J. For a domestic animal to defecate on any public property or private property not owned by the owner unless the owner or person in control of said domestic animal immediately removes the deposited fecal matter from said property;

K. For a person to have more than two animals under control on any public property.

#### **7.04.115 Determination of off-leash areas.**

The city council will determine off-leash areas.

#### **7.04.120 Potentially Dangerous Dogs.**

A. Declaration of a Dog as Potentially Dangerous. The Animal Control Authority may declare a dog to be a Potentially Dangerous Dog, and place restrictions on such dog, if the Animal Control Authority has probable cause to believe that the dog falls within the definition of Potentially Dangerous Dog set forth in RCW 16.08.070 (or as hereafter amended). Such declaration must be based upon the following types of evidence, any amount or combination of which results in probable cause:

1. A declaration of a person that the animal has acted in a manner which causes it to fall within the definition of "Potentially Dangerous Dog;"
2. Animal bite report(s) filed with the Animal Control Authority;
3. Action(s) of the animal witnessed by any employee of the Animal Control Authority or law enforcement officer; or

4. Other substantial evidence, such as photographs of injuries caused by the animal, medical reports, etc.

B. The notice of written declaration shall be in writing and served on the Owner in one of the following methods: Certified and regular mail to the owner's last known address and/or personal service. The declaration shall include, but is not limited to:

1. A description of the dog;
2. The name and address of the Owner of the dog, if known;
3. The whereabouts of the dog if not in custody of the Owner;
4. A brief summary of the facts upon which the declaration is based, if known, including the definition of Potentially Dangerous Dog under which the declaration is being made and all reasons for which the Animal Control Authority considers the animal to be a Potentially Dangerous Dog;
5. The statutory and municipal code basis for the proposed action;
6. A statement that the dog is subject to the restrictions or controls placed on the animal or Owner as a result of the declaration; and
7. The ability and process for appealing the declaration by submitting a written request to the Animal Control Authority.

C. Appeal. Appeals of Potentially Dangerous Dog declarations shall be heard by the City of Mercer Island Hearing Examiner and conducted in accordance with MICC 7.04.235.

D. Exclusions. A dog shall not be declared a Potentially Dangerous Dog if the Animal Control Authority or Hearing Examiner determines that the threat, injury, or damage alleged to have been committed by the dog was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the Owner of the dog, or who was tormenting, abusing, or assaulting the dog, or who has in the past been observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime. Further, this Section 7.04.120 shall not apply to police dogs as defined in RCW 4.24.410.

E. Restraint. Notwithstanding any other provisions of this Chapter, it is unlawful for an Owner of a Potentially Dangerous Dog to permit the dog to be allowed or permitted to run free and physically unrestrained or off leash or not otherwise under physical restraint, unless within a fenced yard or similar restraint reasonably designed to prevent the dog from running free and physically unrestrained. It is provided, however, that the top of such fence shall be at least six feet in height as measured from the ground level, unless there is a secured top – full enclosure – to the fenced-in area; and it is further provided, that such fence or enclosure area shall comply with all applicable city codes. For purposes of this section, a dog solely under voice and/or signal control shall be considered to be “physically unrestrained.” Any person who violates this section shall be guilty of a misdemeanor.

F. The Owner of a Potentially Dangerous Dog is responsible for taking measures to ensure that the dog does not escape the above restraints.

#### **7.04.125 Review of Potentially Dangerous Dog Designation.**

A. If, after twenty-four (24) months of the Animal Control Officer declaring an animal a Potentially Dangerous Dog (provided such declaration is not overturned by the Hearing Examiner or a reviewing court), no violations of this chapter or RCW Ch. 16.08 have occurred,

the Owner of a Potentially Dangerous Dog may request review of the Potentially Dangerous Dog designation. The request shall be made in writing and submitted to the Animal Control Authority.

B. Review and notification to the Owner of the outcome of the request shall be made within thirty (30) days of the City's receipt of the written request. The determination by the Animal Control Authority pursuant to this section shall be final decision of the city.

C. Reclassification of a Potentially Dangerous Dog pursuant to this section means that the dog will no longer be considered a Potentially Dangerous Dog by the City of Mercer Island pursuant to this Chapter, unless the dog is again declared to be a Potentially Dangerous Dog as set forth in this Chapter.

#### **7.04.130 Dangerous Dogs**

A. This Section 7.04.130 is supplemental to the provisions of RCW 16.08.080 and 16.08.090 (or as may be hereafter amended).

B. Should the Animal Control Authority issue a final determination that a dog is a Dangerous Dog, the Owner may appeal the Animal Control Authority's determination. Appeals of Dangerous Dog determinations shall be heard by the City of Mercer Island Hearing Examiner and conducted in accordance with MICC 7.04.235.

C. In addition to other licensing fees as provided within this Chapter, the Owner of a Dangerous Dog shall pay to the City a Dangerous Dog registration fee in the amount of \$250.00 for calendar year 2021 and for subsequent years, starting in 2022, the registration fee shall be in an amount as set by the City Council in the City fee schedule. Further, the Owner of a Dangerous Dog shall comply with the City's Dangerous Dog registration procedures, including providing the City with a photograph of the Dangerous Dog each year. Such photograph(s) shall show the dog's coloring and body shape.

#### **7.04.140 Confiscation of Dangerous Dogs**

A. This Section 7.04.140 is supplemental to the provisions of RCW 16.08.100 (or as may be hereafter amended).

B. A Dangerous Dog impounded in violation of Dangerous Dog requirements shall not be released during investigation of or prosecution due to failure to comply with Dangerous Dog requirements. Any person convicted of failing to comply with Dangerous Dog requirements shall make restitution to the City for all costs incurred in boarding and disposition of such dog and shall forfeit any interest in such dog.

#### **7.04.210 Confinement of biting animal.**

It is unlawful for the owner of any animal, when notified that such animal has bitten any person or has so injured any person as to cause an abrasion of the skin, to sell or give away such animal or permit to allow such animal to be taken beyond the limits of the city except to a veterinary hospital, and it shall be the duty of such owner upon receiving notice of such biting to immediately place such animal in a duly licensed veterinary hospital where such animal shall be confined for a period of at least 10 days or to deliver such animal to any officer for such placement; provided, upon authorization of a licensed veterinarian with the consent of the city authorized health officer, such animal may be released to the custody of its owner upon the

owner's undertaking to keep the same securely chained and confined to the premises of the owner and segregated from any other animals during such observation period.

#### **7.04.220 Enforcement power.**

A. The county animal control authority, as agent of the city, or any other duly authorized agent of the city acting alone or in concert with other municipalities, is authorized to take such lawful action as may be required to enforce the provisions of this chapter and the laws of the state as they pertain to animal cruelty, shelter, welfare and enforcement.

B. The officer or official shall not enter a building designated for use for private purposes unless a proper warrant has first been issued upon a showing that the officer or official has reasonable cause to believe an animal is being maintained in the building in violation of this chapter.

C. The officer or official, while pursuing or observing any animal in violation of this title, may enter upon any public or private property, except any building designated for and used for private purposes, for the purpose of abating the animal violation being pursued or observed.

D. No person shall deny, prevent, obstruct, or attempt to deny or prevent or obstruct an officer from pursuing any animal observed to be in violation of this title. Further, no person shall fail or neglect, after a proper warrant has been presented, to promptly permit the officer or official to enter private property to perform any duty imposed by this chapter.

#### **7.04.230 Violation – Penalty.**

Any person who violates, or whose animal violates, any provision of this chapter may be issued a civil infraction, as authorized by Chapter 7.80 RCW, unless otherwise specified by this Chapter. Each separate day of noncompliance with this chapter shall be deemed a separate violation of this chapter and subject to a separate notice of civil infraction. The city manager will be authorized to set a fine not to exceed \$250 for each violation. A notice of infraction issued under this section shall comply with the requirements of RCW 7.80.070 and represents a determination that a civil infraction has been committed. This determination is final unless the person seeks a contested or mitigated hearing pursuant to RCW 7.80.080.

#### **7.04.235 Appeals of Potentially Dangerous Dog Declarations or Dangerous Dog Declarations**

A. Filing. A notice of appeal, substantially in the form prescribed, shall be filed with the Animal Control Authority within twenty (20) days of receiving a Potentially Dangerous Dog Declaration or final Dangerous Dog determination (notices that are mailed will be presumed to have been delivered three days after placing the notice in the mail for delivery). No fee is required to file a notice of appeal under this section 7.04.235. If the Owner does not file a timely written request for hearing, the restrictions imposed in connection with the Potentially Dangerous Dog Declaration or final Dangerous Dog determination shall remain in effect for the life of the animal, unless sooner lifted by action of the Animal Control Authority or a court of competent jurisdiction.

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

1. A caption reading: "Appeal of \_\_\_\_\_," giving the names of all appellants participating in the appeal;

2. A brief statement setting forth the legal interest of each of the appellants;

3. A brief statement of the specific action appealed, together with any material facts claimed to support the contentions of the appellant(s);

4. A brief statement of the relief sought, and the reasons why the Potentially Dangerous Dog Declaration or final Dangerous Dog determination should be reversed, modified, or otherwise set aside;

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

6. Certification (by signature of the appellant(s)) that to the best of the appellant(s)' knowledge, information, and belief, the appeal is well grounded in fact.

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. The Hearing Examiner shall send written notice of the date of the hearing to the appellant(s) and the Animal Control Authority at least 20 days prior to the scheduled hearing date. It shall be the responsibility of the parties to notify witnesses of the hearing date. The failure of the appellant(s) to appear at the hearing shall result in a denial of the appeal and upholding of the Potentially Dangerous Dog Declaration or final Dangerous Dog determination.

D. Enforcement Stayed During Pendency of Appeal. Unless otherwise determined by the Hearing Examiner, enforcement of the Potentially Dangerous Dog Declaration or final Dangerous Dog determination shall be stayed during the pendency of the appeal.

E. Duties of the Hearing Examiner. The Hearing Examiner may uphold, dismiss, or modify the Potentially Dangerous Dog Declaration or final Dangerous Dog determination. A written order shall be prepared and signed by the Hearing Examiner.

F. Presentation of Evidence. At the appeal hearing, the Hearing Examiner shall take evidence relevant to the appeal. Testimony may be provided in the form of signed written statements pursuant to RCW 9A.72.085. Further, the Hearing Examiner shall have the authority to issue subpoenas and subpoenas duces tecum.

G. Burden of Proof and Standard of Review. At the appeal hearing before the Hearing Examiner, the Animal Control Authority shall have the burden of proving that the dog is a Potentially Dangerous Dog or Dangerous Dog by a preponderance of the evidence.

H. Hearing. The Owner of the dog may present evidence in defense of the dog, including but not limited to: documentation and/or witnesses (both lay and expert) to present testimony in defense of the dog. The parties may conduct cross examination of witnesses. The Hearing Examiner shall weigh the evidence presented by both the Animal Control Authority and the Owner (if applicable), and shall issue a written decision that sustains, modifies, or reverses the Animal Control Authority's determination or declaration. If the Potentially Dangerous Dog Declaration or

final Dangerous Dog determination is reversed or modified and an appeal is not timely filed by the Animal Control Authority, any previously imposed restrictions on the dog shall be annulled.

I. Decision Final. The Hearing Examiner's decision shall be the City's final decision and no reconsideration or appeal is available through either the Hearing Examiner or the City.

#### **7.04.240 RCW Title 16, Animals and Livestock.**

The following statutes of RCW Title 16, Animals and Livestock, are adopted, by reference as now existing or hereafter amended, as follows:

RCW

~~16.08.070 — Dangerous dogs and related definitions.~~

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

16.08.090 Dangerous dogs – Requirements for restraint – Potentially dangerous dogs – Dogs not declared dangerous.

16.08.100 Dangerous dogs – Confiscation – Conditions – Duties of animal control authority – Penalties and affirmative defenses for owners of dogs that attack — ~~Dog fights, penalty.~~

16.52.011 Definitions – Principles of liability.

16.52.015 Enforcement – Law enforcement agencies and animal care and control agencies.

16.52.020 Humane societies – Enforcement authority.

16.52.025 Humane societies – Animal control officers.

16.52.080 Transporting or confining in unsafe manner – Penalty.

16.52.085 Removal of animals for feeding – Examination – Notice – Euthanasia.

16.52.090 Docking horses – Misdemeanor.

16.52.095 Cutting ears – Misdemeanor.

16.52.100 Confinement without food and water – Intervention by others.

16.52.110 Old or diseased animals at large.

16.52.117 Animal fighting – Prohibited behavior – Class C felony – Exceptions.

16.52.165 Punishment – Conviction of misdemeanor.

16.52.180 Limitations on application of chapter.

16.52.185 Exclusions from chapter.

16.52.190 Poisoning animals – Penalty.

16.52.193 Poisoning animals – Strychnine sales – Records – Report on suspected purchases.

- 16.52.200 Sentences – Forfeiture of animals – Liability for costs – Civil penalty – Education, counseling.
- 16.52.205 Animal cruelty in the first degree.
- 16.52.207 Animal cruelty in the second degree.
- 16.52.210 Destruction of animal by law enforcement officer – Immunity from liability.
- 16.52.220 Transfers of mammals for research – Certification requirements – Pet animals.
- 16.52.225 Nonambulatory livestock – Transporting or accepting delivery – Gross misdemeanor – Definition.
- 16.52.230 Remedies not impaired.
- 16.52.300 Dogs or cats used as bait – Seizure – Limitation.
- 16.52.305 Unlawful use of hook – Gross misdemeanor.
- 16.54.010 When deemed abandoned.
- 16.54.020 Disposition of abandoned animal by person having custody.