

ORDINANCE NO. 109-91

SUPERCEDES ORDINANCE NO. 39-90

AN ORDINANCE TO INCLUDE SECTION 3 (9) OF THE DANGEROUS DOG ORDINANCE, WHICH WAS INADVERTENTLY LEFT OUT WHEN ORDINANCE NO. 64-87 WAS AMENDED BY ORDINANCE NO. 39-90.

SECTION 1 - DEFINITIONS

When used in this chapter the definitions in this section shall apply.

- (1) "Animal Control Authority" means Mason County, Mason County's designee, acting alone or in concert with other local government units for enforcement of the animal control laws of Mason County and the shelter and welfare of animals.
- (2) "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 in other law or ordinance relating to the licensure of animals, or seizure or impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or part include assignments that cover the seizure and impoundment of any animal.
- (3) "Potentially Dangerous Dog" means any dog that when unprovoked:
 - (a) Inflicts bites on a human or a domestic animal either on public or on 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 threaten the safety of humans or domestic animals.
- (4) "Dangerous Dog" means any dog that according to the records of the appropriate authority,
 - (a) Has inflicted severe injury upon a human being without provocation while off the owner's property, or
 - (b) Has killed a domestic animal without provocation while off the owner's property, or
 - (c) Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals; provided, however, that dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

- (5) "Severe Injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- (6) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal.
- (7) "Proper Enclosure Of A Dangerous Dog" means, while on 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 animal; from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.

SECTION 2 - POTENTIALLY DANGEROUS DOGS

- (1) It shall be unlawful for any owner of a potentially dangerous dog, who has been notified by the animal control authority that he or she is the owner of a potentially dangerous dog, to keep such dog within Mason County unless such owner has procured a license from the animal control authority.
- (2) The animal control authority may find and declare an animal potentially dangerous if it has probable cause to believe that the animal falls within the definition set forth in Section 1 (3). The finding must be based upon:
 - (a) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition in Section 1 (3); or
 - (b) Dog bite reports filed with the animal control authority as required by this ordinance or state law; or
 - (c) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (d) Other substantial evidence admissible in district court.
- (3) The declaration of potentially dangerous dogs shall be in writing, shall be served on the owner in one of the following methods:
 - (a) Certified mail to the owner or keeper's last known address, if known; or
 - (b) Personally; or
 - (c) If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
 - (d) The owner of the animal found to be a potentially dangerous dog under this section shall be assessed all service costs expended under this subsection.

- (4) The declaration shall state at least:
 - (a) A description of the animal.
 - (b) The name and address of the owner or keeper of the animal; if known.
 - (c) The whereabouts of the animal if it is not in custody of the owner.
 - (d) The facts upon which the declaration of potentially dangerous dog is based.
 - (e) The availability of a hearing in case the person objects to the declaration, if a request is made within five days.
 - (f) The restrictions placed on the animal as a result of the declaration of potentially dangerous dogs.
 - (g) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or finding of the owner.
- (5) If the owner of the animal wishes to object to the declaration of potentially dangerous dog:
 - (a) The owner may, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to Section 3 (c), request a hearing before the District Court by submitting a written request to the Clerk of the Court.
 - (b) If the court finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
 - (c) If the court finds sufficient evidence to support the declaration, it shall impose court costs on the appellant, and may impose additional restrictions on the animal.
 - (d) In the event the court finds that the animal is not a potentially dangerous dog, no court costs shall be assessed against Mason County or the animal control authority or officer.
- (6) Following service of a declaration of potentially dangerous dog, and pending appeals under this section to any other court with jurisdiction, the animal control authority may, if circumstances require, impound the animal at the owner's expense, pursuant to the provisions of this chapter, until a court orders either its redemption or destruction.

- (7) The owner of a potentially dangerous dog shall obtain a license for such dog from the animal control authority, and shall be required to pay the fee for such license in the amount set forth herein, or as hereafter amended. In addition, the owner of a potentially dangerous dog shall pay an annual renewal fee for such license in the amount set forth herein, or as hereafter amended.
- (8) The license fee for each potentially dangerous dog to be licensed under this section is two hundred and fifty dollars (\$250.00). The annual renewal fee for each potentially dangerous dog licensed under this section is fifty dollars (\$50.00).
- (9) The Mason County Sheriff shall be responsible for the declaration of potentially dangerous dogs, and the licensing of potentially dangerous dogs under this section.

SECTION 3 - DANGEROUS DOG

- (1) It is unlawful for an owner to have a dangerous dog in Mason County without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.
- (2) The animal control authority may find and declare an animal dangerous if it has probable cause to believe that the animal falls within the definition set forth in Section 1 (4). The finding must be based upon:
 - (a) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definitions in Section 1 (4); or
 - (b) Dog bite reports filed with the animal control authority as required by this ordinance or state law; or
 - (c) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (d) Other evidence which would be admissible in a court proceeding.
- (3) The declaration of dangerous dog shall be in writing and shall be served on the owner in one of the following methods:
 - (a) Certified mail to the owner or keeper's last known address, if known; or
 - (b) Personally; or
 - (c) If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
 - (d) The owner of the animal found to be a dangerous dog under this section shall be assessed all service costs expended under this subsection.

- (4) The declaration shall state at least:
 - (a) A description of the animal.
 - (b) The name and address of the owner or keeper of the animal; if known.
 - (c) The whereabouts of the animal if it is not in the custody of the owner.
 - (d) The facts upon which the declaration of dangerous dog is based.
 - (e) The availability of a hearing in case the person objects to the declaration, if a request is made within five days.
 - (f) The restrictions placed on the animal as a result of the declaration of dangerous dogs.
 - (g) The penalties for violation of restrictions, including the possibility of destruction of the animal, and imprisonment or finding of the owner.
- (5) If the owner of the animal wishes to object to the declaration of dangerous dog:
 - (a) The owner shall, within five days of receipt of the declaration, or within five days of the publication of the declaration pursuant to Section 3 (c), request a hearing before the District Court by submitting a written request to the Clerk of the Court.
 - (b) If the court finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.
 - (c) If the court finds sufficient evidence to support the declaration, it shall impose court costs on the appellant, and may impose additional restrictions on the animal.
 - (d) In the event the court finds that the animal is not a potentially dangerous dog, no court costs shall be assessed against Mason County or the animal control authority or officer.
- (6) Following service of a declaration of dangerous dog, and pending appeals under this section to any other court with jurisdiction, the animal control authority may, if circumstances require, impound the animal at the owner's expense, pursuant to the provisions of this chapter, until a court orders either its redemption or destruction.
- (7) The animal control authority (Mason County Sheriff) shall issue a certificate of registration to the owner of a dangerous dog if the owner presents to the animal control authority sufficient evidence of:

- (a) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible 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 fifty thousand dollars (\$50,000.00), 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 fifty thousand dollars (\$50,000.00), insuring the owner for any personal injuries inflicted by the dangerous dog.
- (8) A certificate of registration as used in this section shall be obtained from the animal control authority. The owner of a dangerous dog shall obtain a certificate of registration from the animal control authority, and shall be required to pay the fee for such certificate of registration in the amount set forth herein, or as hereafter amended. In addition, the owner of a dangerous dog shall pay an annual renewal fee for each dangerous dog licensed under this section in the amount set forth herein, or as hereafter amended, and shall submit proof of compliance with subsection (2) above.
- (9) The owner of a dangerous dog shall pay a fee for the certificate of registration in the amount of \$500.00. The annual renewal fee for each dangerous dog licensed under this section is one hundred dollars (\$100.00).

SECTION 4 - PENALTIES

- (1) Any owner of a potentially dangerous dog who fails to obtain a license or renewal for such dog as described in Section 2 of this ordinance in addition to criminal sanctions shall be assessed a civil penalty in the amount of two hundred and fifty dollars (\$250.00); provided, however, that no such civil penalty shall be assessed until five days have elapsed from the date such owner is notified by the animal control authority that such a license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been complete, whichever is later.
- (2) Any owner of a dangerous dog who fails to obtain a certificate of registration or renewal for such dog as set forth in Section 3 of this ordinance shall be assessed a civil penalty in the amount of five hundred dollars (\$500.00); provided, however, that no such civil penalty shall be assessed until five days have elapsed from the date such owner is notified by the animal control authority that such a license or renewal for such dangerous dog is required.

- (3) Any dangerous dog or potentially dangerous dog for which a license or certificate of registration (or renewal) has not been obtained by its owner, pursuant to subsections (1) and (2) above, is subject to being impounded by the animal control authority. The owner of any potentially dangerous dog or dangerous dog so impounded shall be subject to a civil penalty in the amount of ten dollars (\$10.00) per day for each day such dog remains impounded with the animal control authority. Any potentially dangerous dog or dangerous dog impounded due to the failure of the owner of such dog to obtain the required license or certificate of registration and which remains impounded for a period of at least twenty days due to the failure of the owner to obtain such a license or certificate of registration (or renewal), may be destroyed in an expeditious and humane manner by the animal control authority. A civil penalty in the amount of ten dollars (\$10.00) per day shall be assessed against the owner of each potentially dangerous dog or dangerous dog impounded by the animal control authority under this subsection.
- (4) It is unlawful for the owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. Any owner who violates this provision shall be assessed a civil penalty of two hundred fifty dollars (\$250.00) for each violation thereof.
- (5) Any dangerous dog shall be immediately confiscated by an animal control authority if the:
 - (a) Dog is not validly registered under Section 3 of this ordinance;
 - (b) Owner does not secure the liability insurance coverage required under Section 3 of this ordinance;
 - (c) Dog is not maintained in a proper enclosure;
 - (d) Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person.

In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance to RCW 9A.20.021. The owner of any dog confiscated under this subsection may recover such dog from the animal control authority upon the payment of a civil fine which shall be in the amount of two hundred and fifty dollars (\$250.00) plus ten dollars (\$10.00) per day for each day said dog has been in control of the animal control authority; provided, however, that in the event that the owner has not picked up the dangerous dog within ten days of being notified by the animal control authority that such dog is under the control of such authority, the dog shall be destroyed in an expeditious and humane manner and the owner shall be assessed an additional civil penalty in the amount of fifty dollars (\$50.00) for the cost of destroying such dangerous dog.

- (6) If a dangerous dog of an owner with prior conviction under this chapter attacks or bites a person or another domestic animal, the dog owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed pursuant to this subsection shall be assessed a civil penalty in the amount of ten dollars (\$10.00) per day for each day such dangerous dog is quarantined with the animal control authority and in the amount of fifty dollars (\$50.00) for the cost of destroying such dangerous dog.
- (7) The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has been declared potentially dangerous or dangerous, shall be guilty of a class C felony punishable in accordance with RCW 9A.20.021. In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed pursuant to this subsection shall be assessed a civil penalty in the amount of ten dollars (\$10.00) per day for each day such dangerous dog is quarantined with the animal control authority and in the amount of fifty dollars (\$50.00) for the cost of destroying such dangerous dog.
- (8) Any person entering a dog in a dog fight is guilty of a class C felony punishable in accordance with RCW 9A.20.021.

SECTION 5 - ENFORCEMENT

- (1) All civil penalties required to be paid by owners for violations of the provisions of this chapter shall be made to the animal control authority (Mason County Sheriff).
- (2) No potentially dangerous dog or dangerous dog confiscated by the animal control authority shall be returned to any owner until such owner has paid all civil penalties which have been assessed against such owner under this ordinance.
- (3) Mason County shall have authority to place a lien upon the real property of any owner of a dangerous dog or potentially dangerous dog against whom civil penalty has been assessed under this ordinance, who has been given notice of such civil penalty and has failed to pay such civil penalty; provided, however, that no such lien shall be placed until thirty days has elapsed from the date of any final determination of the validity of such civil penalty.
- (4) The Mason County Sheriff shall be responsible for the enforcement of all civil and criminal provisions of this ordinance.

SECTION 6 - HEARINGS

- (1) Any owner against whom a civil penalty has been assessed under this chapter may contest such civil penalty by requesting a hearing in the Mason County District Court by requesting such hearing within five days of notification of such civil penalty by the animal control authority.
- (2) Where an owner has requested a hearing pursuant to Subsection (1) of this section, no potentially dangerous dog or dangerous dog which is in the possession of the animal control authority shall be destroyed until the resolution of such hearing; provided, however, that an additional civil penalty in the amount of ten dollars (\$10.00) per day shall be assessed against any owner whose dog remains in the custody of the animal control authority during any hearings requested under this section where resolution of such hearing is that all or any part of the civil penalty against such owner is found to be properly assessed.
- (3) Following resolution of any contested hearing regarding a civil penalty as provided herein, the owner of any dangerous dog in the possession of the animal control authority shall pay all civil penalties which may have been assessed as authorized above within ten days of the final resolution of any hearing regarding such civil penalties.
- (4) Any dangerous dog or potentially dangerous dog which has not been picked up from the animal control authority by its owner within ten days of the final resolution of any hearing regarding any civil penalties under this section shall be destroyed in an expeditious and humane manner; provided, however, that an additional civil penalty in the amount of fifty dollars (\$50.00) for the cost of destroying such dog shall be assessed against the owner, and may be collected as provided in Section 5 above.

SECTION 7 - IMMUNITY

Mason County, Mason County's designee, the animal control authority, and the animal control officer shall be immune from any and all civil liability for any actions taken pursuant to this ordinance, or for any failure to take action to enforce the provisions of this ordinance. It is not the purpose or intent of this chapter to create on the part of Mason County or its agents any special duties or relationships with specific individuals. This chapter has been enacted for the welfare of the public as a whole.

SECTION 8 - SEVERABILITY

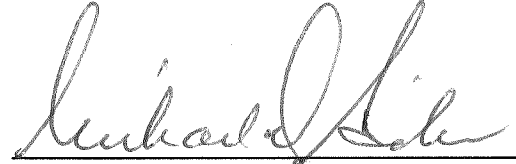
If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the act where the application of the provision to other person or circumstances is not affected.

ADOPTED this 17th day of September, 1991.

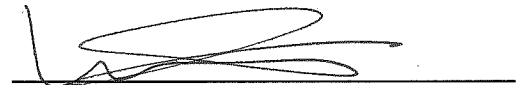
BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON



William O. Hunter, Chairperson



Michael D. Gibson, Commissioner



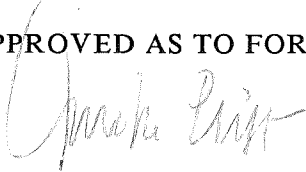
Laura E. Porter, Commissioner

ATTEST:



Rebecca S. Rogers, Clerk of the Board

APPROVED AS TO FORM:



Deputy Prosecuting Attorney
Michael Clift

c: 1W\RESOLUTE\1991\DANGDOG
Elected Officials
Department Heads