

ORDINANCE 2015 - 11



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, REPEALING CHAPTER 6.04 OF THE SUNNYSIDE MUNICIPAL CODE AND ADOPTING NEW CHAPTER 6.04 OF THE SUNNYSIDE MUNICIPAL CODE PERTAINING TO DOG CONTROL

WHEREAS, the City of Sunnyside last revised regulations for dog control on April 15, 2002 pursuant to the adoption of Ordinance No. 2038; and

WHEREAS, city staff has been requested to review all applicable municipal codes and make recommend changes where necessary; and

WHEREAS, Chapter 6.04 of the SMC pertaining to dog control has not been updated since 2002 and has some language that is currently not up to date and rates have been modified and moved to SMC 2.02; and

WHEREAS, the City Council finds and determines that Chapter 6.04 of the SMC should be repealed in its entirety and replaced with a revised Chapter 6.04 as set forth in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, the City Council finds and determines that such enactment is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

Section 1. Existing Chapter 6.04 of the Sunnyside Municipal Code is hereby repealed.

Section 2. New Chapter 6.04 of the Sunnyside Municipal Code, entitled "Dog Control", is hereby adopted and shall read as shown on Exhibit "A" attached hereto and incorporated herein by this reference.

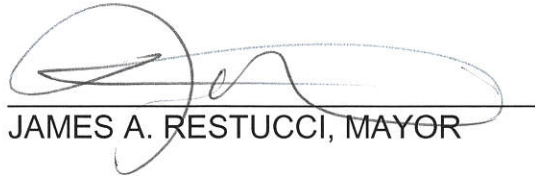
Section 3. Except as amended herein, Title 6 SMC shall remain unchanged.

First Reading: March 23, 2015/April 13, 2015

Second Reading: April 27, 2015

Section 4. This Ordinance shall be effective five (5) days after passage, approval and publication as required by law.

PASSED this 27th day of April, 2015.



JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CMC, CITY CLERK

APPROVED AS TO FORM:



KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

Chapter 6.04 DOG CONTROL

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Article I. General Regulations

6.04.010 Purpose.

Human experience benefits in many ways by the companionship and service of dogs. In order to obtain such benefits, dogs must be kept responsibly by people. When people fail to keep dogs responsibly, the community may be subjected to nuisance and health problems. The purpose of the dog control ordinance codified in this chapter is to strike a balance between the rights and responsibilities of dog owners and the community at large so that the community can both enjoy the benefits of responsible dog ownership and avoid problems which arise when dogs are not properly cared for. [Ord. 2038 § 2, 2002.]

6.04.020 Definitions.

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

“Adult dog” means any dog having a set of permanent canine teeth or older than six months of age.

“Aggressively bites” means any physical bite by a dog in combination with any of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging, multiple attacks, multiple lunges, or multiple bites.

“Animal” means any dog; cat; exotic, wild or dangerous animal; or livestock.

“At large” means, with regard to dogs, being physically present on public property and not under the actual control of a competent person or being physically present on private property without permission of the person in control of such premises. Exception: “At large” does not include dogs exhibited in dog shows, field trials, obedience training or trials, or the training of dogs therefor.

“City” means the City of Sunnyside.

“Council” means the City Council of the City of Sunnyside, Washington.

“Dangerous dog” means any dog that:

1. Without provocation bites or otherwise inflicts serious physical injury on a human being on public or private property;
2. Injures or kills a domestic animal without provocation while off the dog owner’s property; or
3. Aggressively bites, attacks, threatens, or endangers the safety of humans or domestic animals after such dog has been previously found to be potentially dangerous

by an appropriate authority, including but not limited to any law enforcement officer, animal control officer or court, and the owner of such dog has received notice that the dog has been determined to be potentially dangerous.

"Dog owner" means a person who owns, keeps or harbors a dog.

"Head of the household" means any person who owns, leases or otherwise controls any private premises.

"Kennel" definitions:

1. "Kennel" means any buildings, animal runs, enclosures, and/or any other facilities used for the keeping or housing of four or more dogs over four months of age, sufficient to secure the dogs on the premises. Exception: "Kennel" does not include a veterinarian business operated by a veterinarian licensed by the State of Washington.

2. "Commercial kennel" means the business of boarding, breeding, letting for hire, selling, bartering, or giving away dogs; provided, selling of three or fewer litters of offspring per year by a hobby kennel shall not be construed as commercial.

3. "Foster shelter kennel" means a kennel where four or more adult dogs are kept and temporary housing and care of owner-released dogs is provided for the purpose of placing them in permanent homes.

4. "Hobby kennel" means a kennel where four or more, but less than 10, adult dogs are kept for hunting, breeding, exhibition, organized events, field working, working of livestock or obedience trials.

"Litter" means two or more viable offspring.

"Livestock" means cattle, sheep, horses, llamas, buffalo, deer, elk, rabbits, mules, donkeys, goats, swine, fowl, poultry, and any fur-bearing animal bred and maintained commercially or otherwise within pens, fences, cages or hutches.

"Microchip" means a device implanted for identification purposes.

"Nuisance" means any unlawful act or failure to perform a duty, which act or failure to act either annoys, injures or endangers the comfort, repose, health or safety of other persons, or interferes with other persons' use of property.

"Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by that person.

"Permit" means and includes human conduct that is intentional, deliberate, careless, inadvertent or negligent in relation to any animal owned by that person.

"Person" means any individual, natural person, association, firm, partnership, corporation or other legal entity.

"Physical injury" means impairment of physical condition or substantial pain which is directly caused by a dog's behavior, and includes scratches, cuts, scrapes, punctures or other evidence of physical injury.

"Potentially dangerous dog" means:

1. Any dog that without provocation:

a. Bites or otherwise injures a human person or a domestic animal on either public or private property; or

b. Chases, threatens or approaches a person on either public or private property in a menacing fashion or apparent attitude of aggression or attack; or

2. Any dog which reasonably should be known by its owner to be disposed:

a. To attack or chase or approach persons in a menacing fashion or apparent attitude of aggression or attack without provocation; or

b. To cause injury or otherwise threaten the safety of humans or domestic animals.

"Premises" means the area of land to which a person has legal or equitable rights of possession, use and control.

"Quarantine area" means any area defined by a veterinarian, physician or public health official where, for a specific period, a dog is to be kept separated from other animals or people.

"Secure enclosure" means the secure confinement of a dangerous dog or a potentially dangerous dog on its owner's premises, either 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 protection from the elements for the dog. Such pen, kennel or structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. Any pen, kennel or structure erected shall comply with all zoning and building regulations of the City. Any pen, kennel or structure shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

"Serious physical injury" means any physical injury that creates a substantial risk of death or causes permanent loss or protracted impairment of any bodily organ or function, or substantial disfigurement.

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

"Tag" means a prenumbered metal or plastic identification license sold to an owner/custodian for a specific pet animal. Rabies identification or other identification may not be substituted or accepted in lieu of a license tag.

"Tattoo" means a predesignated identification number inked into the inside of the ear, lip or flank of the dog. [Ord. 2038 § 2, 2002; 1956 Code § 6-701.]

6.04.030 Jurisdiction.

The provisions of this code apply to all property within the City limits of the City as now existing or hereafter established. [Ord. 2038 § 2, 2002.]

6.04.040 Enforcement agents.

The provisions of this chapter shall be enforced by the appropriate clerical and law enforcement officers of the City and by the animal control officers or agency designated by the City Manager. Law enforcement officers and the animal control officers shall have concurrent jurisdiction to effect such enforcement. [Ord. 2038 § 2, 2002; 1956 Code § 6-718.]

6.04.050 Violation – Penalty.

It is unlawful for any person to violate any provision of this chapter. Except as provided in SMC 6.04.340, any person violating the provisions of this chapter shall be guilty of a civil infraction and shall be punished by a civil penalty or not more than

\$500.00 for each violation. Any violation of this chapter may result in the impoundment and/or destruction of the dog by order of the court. [Ord. 2038 § 2, 2002.]

6.04.060 Abatement of nuisances.

Violations of this chapter are deemed public nuisances. Any person violating any provision of this chapter may be enjoined from continued violations or ordered to abate such public nuisance, whether such injunction be in addition to the civil penalties provided as a part of the disposition of the civil prosecution or in an independent action inequity, and shall be liable for all costs and expenses of abating the same. [Ord. 2038 § 2, 2002; 1956 Code § 6-722.]

6.04.070 Enforcement.

Enforcement of citizen complaints shall be initiated by a written complaint that identifies the person(s) making the complaint, the name and address of the owner, if any, and the nature of the complaint. [Ord. 2038 § 2, 2002.]

6.04.080 Severability.

Should any section or provision of the ordinance codified in this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. [Ord. 2038 § 2, 2002.]

Article II. Registering and Licensing Dogs

6.04.090 Dog registration and license – Required.

All dogs six months old and older within the City limits of the City shall be registered with and licensed by the City or its designee at all times. Registration and license may be obtained at City Hall or at other locations designated and approved by the City Manager. [Ord. 2038 § 2, 2002; Ord. 1697 § 1, 1990; 1956 Code § 6-702.]

6.04.100 Dog registration and license – Application.

The person registering and licensing a dog shall submit to the department or its designee an application provided by the clerk, which shall disclose the following information:

- A. The name and physical and mailing addresses of the owner of the dog being registered;
- B. The name and physical and mailing addresses of the person having custody of the dog, if such person is other than the owner;
- C. The name, age, breed, color and sex of the dog being registered, and whether or not such dog has been neutered or spayed;
- D. Distinguishing features, markings, tattoos or microchip number of the dog being registered;
- E. The address of the premises where the dog is ordinarily kept or maintained; and
- F. A certification by the owner indicating the dog has been inoculated with the rabies vaccination within the last three years. Should the dog be unable to be immunized

against rabies for medical reasons, the signed statement of a veterinarian shall be accepted as proof. [Ord. 2038 § 2, 2002.]

6.04.110 Vaccination required for dog registration and license.

As a prerequisite to licensing, any dog four months of age or older shall be currently vaccinated against the disease of rabies. [Ord. 2038 § 2, 2002.]

6.04.120 Dog registration and license – Fees.

The annual license fee for initial or renewed registration and licensing of any dog shall be:

A. For each dog the fee shall be as listed in SMC 2.02, schedule of fees and charges. The license shall be valid for the calendar year and shall be issued to expire on December 31st of each year.

B. No license fee shall be charged to an owner who is legally blind and who uses such dog as a guide dog, or to an owner who is legally deaf and who uses such dog as a hearing ear dog, or to an owner who has been determined to be disabled pursuant to 42 U.S.C. Section 1382 (supplemental security income) and uses the dog as a support dog. The license shall be valid for the life of the dog.

C. Dogs that are spayed and neutered and owned by persons over the age of 65 years may be registered and licensed as listed in SMC 2.02, Schedule of Fees and charges. The license shall be valid for the lifetime of the dog or transfer of ownership. Lifetime Senior Citizen dog licenses purchased prior to April 1, 2015 will continue to be valid for the life of the dog with no expiration date.

D. The fee for replacement tags shall be as listed in SMC 2.02, Schedule of Fees and Charges. [Ord. 2038 § 2, 2002; Ord. 1697 § 1, 1990; 1956 Code §§ 6-702, 6-703.]

6.04.130 Dog registration and license – License Term, applications and renewals.

The license shall be annual by the calendar year and shall be issued to expire on December 31st of each year. Applications for registration and license issuance or renewal shall be made between the first business day of January and the last business day of January each year or within a timely manner as listed in the conditions set forth below:

A. In the case of a newly acquired dog, the application shall be made within 30 days of either the date of acquisition or the date when the dog reaches six months of age, whichever occurs later;

B. In the case of a new resident to the City with an unlicensed adult dog, the application shall be made within 30 days of establishing residency. [Ord. 2038 § 2, 2002.]

6.04.140 Dog registration and license – Tag and collar.

Upon application, certification or submission of proof of immunization and payment of fees by the owner or persons having the custody and control of any adult dog, the City or its designated agent shall issue to the applicant a numbered license identification tag for each dog so registered and register their tattoo or microchip number. The applicant shall ensure that the tag is securely fastened to a substantial collar or harness to be worn at all times by the dog. Any dog designated a dangerous dog or potentially

dangerous dog shall be required to wear at all times an identifying mark, tag or other device designated by the City to identify the dog as dangerous or potentially dangerous. [Ord. 2038 § 2, 2002; 1956 Code § 6-703.]

6.04.150 Incomplete applications.

A. In the event any registration and license applicant fails to provide all required information or fees, the City shall notify such applicant by first class mail at the mailing address stated on the application of any such deficiency, demanding that any required information or fees be provided to the City within 30 days and stating that if the required information or fees are not timely received, any fees paid shall be forfeited and the application shall be voided.

B. If any applicant fails to timely provide information requested under this section, a new application and fee will be required after the 30 days have expired and any tag previously supplied will be voided.

C. Any fees received by the City for applications that cannot be processed shall be deposited by the City in an appropriate City fund and forfeited to the City upon failure of the applicant to timely provide the required information and/or fees. [Ord. 2038 § 2, 2002.]

6.04.160 Delinquent date – Penalty – Exceptions.

Annual license fees required under this chapter shall be paid on or before March 1st of each year. Unless excepted herein, a late payment charge as listed in SMC 2.02, Schedule of Fees and Charges shall be added to said license fee after the due date. Exception: Upon proof of the date of acquisition, dogs acquired after March 1st in the license year may be licensed within 30 days of acquisition without penalty.

Article III. Human Responsibility for Dogs

6.04.160 Control of dogs.

It is unlawful for any person to permit any dog to engage in any of the following behavior:

A.. Level 1 Behavior. Level 1 behavior occurs when a dog menaces, chases, displays threatening or aggressive behavior, or otherwise threatens or endangers the safety of any person, domestic animal or livestock.

B. Level 2 Behavior. Level 2 behavior occurs when a dog at large causes physical injury to any domestic animal or livestock.

C. Level 3 Behavior. Level 3 behavior occurs when a dog, although not at large, aggressively bites or causes physical injury to any person.

D. Level 4 Behavior. Level 4 behavior occurs when a dog, while at large, either aggressively bites or causes physical injury to any person, or kills any domestic animal or livestock.

E. Level 5 Behavior. Level 5 behavior occurs when a dog:

1. Whether or not confined, causes the serious physical injury or death of any person; or

2. Is used as a weapon in the commission of a crime; or
3. Which has engaged in Level 4 behavior subsequently engages in Level 4 behavior after that dog's owner has received notice that the dog has exhibited Level 4 behavior.

It shall be an affirmative defense to any level of behavior described above, except for subsection (FE(2) of this section, that the dog was defending against a crime or attempted crime against persons or property, which crime involves harm or injury, or the threat of harm or injury, to such persons or property. [Ord. 2038 § 2, 2002.]

6.04.170 Control of potentially dangerous dogs.

A. It is unlawful for any person to fail to comply with the following provisions applicable to dogs that have engaged in behaviors, without defense, described in SMC 6.04.160:

1. Dogs that have exhibited Level 1 behavior shall be physically restrained in a manner that prevents the dog from reaching any public sidewalk or adjoining property. Such dogs shall be confined within a secure enclosure whenever the dog is not on a chain leash or inside the home of the owner. Such dogs must be located so as not to interfere with the public's legal access to the dog owner's property, and the dog owner shall conspicuously post warning signs, which must be approved by the City, on the property where the dog is kept. Whenever that dog is outside the dog owner's home it must be on a chain leash under the actual control of a person. In addition, the City may require the dog owner to obtain and maintain proof of public liability insurance.

2. Dogs that have exhibited Level 2 behavior shall be confined within a secure enclosure whenever the dog is not on a chain leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the dog owner's property, and the dog owner shall conspicuously post warning signs, which must be approved by the City, on the property where the dog is kept. In addition, the City may require the dog owner to obtain and maintain proof of public liability insurance.

3. Dogs which have exhibited Level 3 or 4 behavior shall be confined within a secure enclosure whenever the dog is not on a chain or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the dog owner's property, and the dog owner shall conspicuously post warning signs, which must be approved by the City, on the property where the dog is kept. In addition, the City may require the dog owner to obtain and maintain proof of public liability insurance. The dog owner shall not permit the dog to be off the dog owner's property unless the dog is muzzled and on a chain leash and under the actual control of a capable person.

4. Dogs that have exhibited Level 5 behavior shall be subject to euthanization upon compliance with procedures of the State Department of Health and other agencies with jurisdiction.

B. All potentially dangerous dogs may be required by the City to be marked with a permanent identifying mark, photographed, or fitted with a special tag or other identifying device designated by the City. The City shall adopt rules specifying the type of required identification. [Ord. 2038 § 2, 2002.]

6.04.175 Notification of designation as dangerous dog or potentially dangerous dog – Appeal.

A. Notice of Designation as Dangerous or Potentially Dangerous Dog. The animal control officer or any law enforcement officer may determine whether any dog is dangerous or potentially dangerous under this chapter.

Upon such determination, the animal control officer or law enforcement officer shall serve notice of such designation to the dog owner in person or by regular and certified mail, return receipt requested. Such notice shall state the municipal code authority for the determination; the reasons the officer considers the dog dangerous or potentially dangerous; a statement that the dog is subject to registration and controls required by this chapter, including as applicable, the controls found in SMC 6.04.170, Control of potentially dangerous dogs, and SMC 6.04.340, Dangerous dogs – Registration requirements – Fee; and an explanation of the owner's rights and of the proper procedure for appealing a decision finding the dog dangerous or potentially dangerous.

B. Appeal. Prior to issuing its final determination, the animal control officer or law enforcement officer shall notify the owner in writing that he or she is entitled to an opportunity to meet with the animal control 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 or potentially dangerous. The notice shall state the date, time, and location of the meeting, which must occur prior to the expiration of 15 calendar days following the delivery of the notice. The owner may propose an alternative meeting date and time, but such meeting must occur within the 15-day time period set forth in this section. After such meeting, the animal control authority must issue its final determination, in the form of a written order, within 15 calendar days. In the event the authority declares a dog to be dangerous or potentially 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.

The owner may appeal the administrative final determination that the dog is dangerous or potentially dangerous to the Municipal Court. The owner must make such appeal within 20 days of receiving the final determination. While the appeal is pending, the City may order the dog to be confined or controlled in compliance with SMC 6.04.170, Control of potentially dangerous dogs, or 6.04.340, Dangerous dogs – Registration requirements – Fee. If the dog is determined to be dangerous or potentially dangerous, the owner must pay all costs of confinement and control. [Ord. 2038 § 2, 2002.]

6.04.180 Dog in estrus at large prohibited.

It is unlawful for any person to permit a female dog in estrus, also known as being in season or in heat, to be accessible to any male dog not owned by the female dog's owner, except by agreement of the owners of both the male and female dogs for the purpose of controlled breeding for the betterment of the breed. [Ord. 2038 § 2, 2002.]

6.04.190 Restraint within quarantine area.

It is unlawful for any person to permit any dog to leave the confines of any quarantine area. [Ord. 2038 § 2, 2002.]

6.04.200 Abuse of dogs prohibited.

It is unlawful for any person to physically abuse any dog or to fail to furnish adequate care, including without limitation water, food, shelter and medical attention, or to confine a dog with any dangerous dog. [Ord. 2038 § 2, 2002.]

6.04.210 Abandonment of dogs prohibited.

It is unlawful for any person to leave any dog unattended for more than 24 hours without adequate care, including without limitation water, food, shelter and medical attention. [Ord. 2038 § 2, 2002.]

6.04.220 Confinement in motor vehicle prohibited.

It is unlawful for any person to leave any dog confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog, including without limitation conditions involving dangerous temperature, lack of food, water or attention. [Ord. 2038 § 2, 2002.]

6.04.230 Removal of dog waste from public areas.

It is unlawful for the owner or other person with custody of a dog to fail to remove any feces excreted by the dog from any public place not designed to receive dog waste, including without limitation streets, sidewalks, parking strips and public parks, or any private place off the dog owner's premises. [Ord. 2038 § 2, 2002.]

6.04.240 Rabies inoculation required – Exception.

No person may keep any adult dog unless that dog has been inoculated against rabies, unless the dog has, for medical reasons stated in writing by a licensed veterinarian, been specifically exempted from rabies inoculation. [Ord. 2038 § 2, 2002.]

6.04.250 Dogs at large prohibited – Presumption of ownership.

A. No person, dog owner or custodian shall permit any dog to be at large.

B. It is unlawful for the owner or custodian of any dog to cause, permit or allow such dog to roam, run, stray or to be away from the premises of such owner or custodian and to be on any public place, or on any public property, or the private property of another, without invite or permission, in the City of Sunnyside, unless such dog, while away from such premises, is under the direct control of an adult person by means of leash or chain not more than eight feet in length.

C. The owner or rightful occupant of any premises is presumed to own any dog kept at the premises. [Ord. 2038 § 2, 2002; 1956 Code § 6-709.]

6.04.260 Barking dogs prohibited.

A. No person shall keep on any premises a dog that howls, yelps, barks or makes other noises in such a manner as to deprive a neighboring person or persons of peace and quiet.

B. It shall be an affirmative defense to subsection (A) of this section that the howling, yelping, barking or other noise complained of was by a guard dog or watch dog which was responding to intruders, trespassers or other persons entering onto the premises of the dog owner. [Ord. 2038 § 2, 2002.]

6.04.270 Dog bites to be reported.

Any person who is bitten by a dog, or who otherwise is exposed to dog saliva through an open wound on the person, or any doctor, veterinarian or hospital employee having information that a person has been bitten by a dog or has otherwise been exposed to dog saliva through an open wound, within the City, shall notify the City of such bite or exposure, giving a description of the dog, the name and address of the owner, and location of the incident, if known to said person. [Ord. 2038 § 2, 2002; 1956 Code § 6-713.]

Article IV. Impoundment of Dogs

6.04.280 Impoundment of dogs.

Dogs found or reasonably believed to be kept in violation of this chapter may be impounded by the City's enforcement officers or agents; provided, that if a complaint identifying the dog owner of a dog at large, a barking dog or an unlicensed dog is received and the dog owner can be immediately located, the dog shall be left with the dog owner, and a summons and notice to appear in regard to the violation may be issued to such dog owner. [Ord. 2038 § 2, 2002; 1956 Code § 6-706.]

6.04.290 Interference with impounding.

It is unlawful for any person to interfere with, hinder, delay or impede any officer or enforcing official in the enforcement of this chapter as herein provided. [Ord. 2038 § 2, 2002; 1956 Code § 6-702.]

6.04.300 Notice of impoundment.

A. The City or its designee shall notify the impounded dog's owner of the impoundment of such dog and the terms upon which such dog can be released, and the consequence of failure to obtain the release of any dog within the applicable time limits, all in accordance with procedures of the designated impoundment agency.

B. If the owner of any impounded dog is unknown, then the City or its designee shall post at the animal shelter a notice of impoundment describing the dog. [Ord. 2038 § 2, 2002; 1956 Code § 6-715.]

6.04.310 Recovery of impounded dogs.

A. A dog wearing a dog tag, tattoo or microchip may be recovered within five business days of impoundment. Dogs not wearing a dog tag, tattoo or microchip may be recovered within three business days of impoundment. Injured or sick dogs shall be exempt from these recovery periods.

B. Dogs may be recovered only by a person who offers satisfactory proof of ownership or authorization to obtain custody of the dog and who pays the charges for

recovering impounded dogs as established by the City or its designated impoundment agent. [Ord. 2038 § 2, 2002; Ord. 1326 § 1, 1981; 1956 Code § 6-708.]

6.04.320 Disposition of dogs.

A. A dog, which has not been recovered within the applicable time frame after impoundment as set forth in SMC 6.04.310, may be sold or destroyed.

B. A dog voluntarily given to the City or its designated enforcement agency by the dog owner may be sold or destroyed forthwith without awaiting expiration of a recovery period. [Ord. 2038 § 2, 2002.]

6.04.330 Remittance of fees and charges.

Where dogs are impounded in an animal shelter maintained by a private organization under contract to the City, the impoundment charge as listed in SMC 2.02, Schedule of Fees and Charges, additional charges and applicable fines shall be remitted to the City, other than fees and charges imposed and collected by the shelter for services rendered in accordance with the policies and procedures of such shelter. [Ord. 2038 § 2, 2002.]

6.04.340 Mandatory Microchip - Impounded Dogs

Redemption. Prior to redemption or release from any animal shelter, any dog must be licensed by the city, and a computer chip shall be installed in the dog which enables future identification of the dog. All shelter, licensing, chip, and associated fees shall be paid prior to release of the dog.

Article V. Registration of Dangerous Dogs

6.04.340 Dangerous dogs – Registration requirements – Fee.

A. In addition to any other registration and licensing requirements provided in this chapter, it is unlawful for a person to keep any dog which has exhibited Level 1, 2, 3, 4, 5 behavior as described in SMC 6.04.160 in the City without a certificate of registration issued under this section. This section shall not apply to dogs used by law enforcement officials for police work.

B. The City shall issue a certificate of registration to the owner of a dangerous dog if the owner presents to the department sufficient evidence of:

1. A proper enclosure to confine the dangerous dog and the posting of the premises with clearly visible warning signs that there is a dangerous dog on the property. In addition, the owner shall conspicuously display warning symbols that inform children of the presence of a dangerous dog and provide a collar with the color designated by the City, or other City-designated tag, to be worn by the dog at all times; and

2. For any dog which has exhibited Level 1, 2, 3, 4, or 5 behavior as defined in SMC 6.04.160, a surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the City in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or

3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least \$250,000.

C. A fee as listed in SMC 2.02, Schedule of Fees and Charges shall be paid to the City by any person seeking to register a dangerous dog.

D. Violation – Confiscation – Penalty. Any dangerous dog shall be immediately confiscated by the animal control authority or law enforcement officer if the:

1. Dog is not validly registered under this section;
2. The owner does not secure the surety bond or liability insurance coverage required by this section;
3. The dog is not maintained in a secure enclosure; or
4. The dog is outside the dwelling of the owner, or outside the secure enclosure and not under physical restraint of the responsible person.

Pursuant to this section and RCW 16.08.100, the owner must pay the costs of confinement and control. The animal control authority must serve notice upon the dog owner in person or by regular and certified mail, return receipt requested, specifying the reason for the confiscation of the dangerous dog, that the owner is responsible for payment of the costs of confinement and control, 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 20 days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this section are not corrected within 20 days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with SMC 1.16.010.

If a dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, or aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, such owner shall be subject to felony penalty and prosecution as provided in RCW 16.08.100. [Ord. 2038 § 2, 2002; Ord. 1582 § 1, 1986.]

Article VI. Kennels

6.04.350 Kennel license – Requirements.

It is unlawful for any person to own, maintain or operate a kennel unless such person has obtained the applicable license as provided hereinafter. If there is a change in the ownership of any kennel, the new owner shall have the license transferred to his name upon receipt of a new updated application and payment of a \$25.00 transfer fee. [Ord. 2038 § 2, 2002.]

6.04.360 Kennel license – Application.

A. Information Required. Any person making application for a kennel license shall submit to the City the following information:

1. The name, address and phone number of the owner of the kennel;
2. The name, address and phone number of a person having primary supervision of the kennel;
3. The address or location and phone number of the kennel;
4. The maximum number of adult dogs that the kennel will contain at any time;

5. The name and address of the person designated by the applicant as agent for service of legal process or notice;

6. A statement giving permission for the inspection of the kennel at any reasonable time; and

7. A certificate of zoning compliance by the Community Development/Planning Department of the City.

B. Notice of Deficiencies. In the event any kennel license applicant fails to provide all required information or fees, the City shall notify such applicant by first class mail at the mailing address stated on the application of any such deficiency, demanding that any required information or fees be provided to the City within 30 days and stating that if such required information or fees are not timely received, any fees paid shall be forfeited and the application shall be voided.

C. Failure to Provide Information. If any applicant fails to provide information requested under this section, a new application and fee shall be required after the 30 days have expired, and any license previously supplied shall be voided.

D. Disposition of Fees Received. After 30 days have passed since the applicant was notified of any deficiency of information or fees, such fees shall be forfeited to the City. Any overpayment of fees shall be refunded to the applicant if the request for overpayment refund is made within 90 days of such overpayment.

E. Appeals. Any decision made concerning the type of kennel to be licensed and the fee required may be appealed to the City Manager. If the applicant is not satisfied with the decision of the City Manager, such decision may be appealed to the City Council. Should the appeal be determined in favor of the applicant, the excess license fee shall be refunded from the date the appeal was filed, or prorated on a monthly basis. [Ord. 2038 § 2, 2002.]

6.04.370 Kennel license – Fees and late penalties.

A. The annual application for a kennel license shall be accompanied by a fee as follows:

1. Commercial or foster shelter kennel: yearly, as listed in SMC 2.02, Schedule of Fees and Charges, upon submission, inspection and approval of the enforcement agency.

2. Hobby kennel: yearly, as listed in SMC 2.02, Schedule of Fees and Charges, upon submission, with a surcharge as listed in SMC 2.02, Schedule of Fees and Charges per unaltered dog, upon inspection of the enforcement agency.

3. Late penalty: as listed in SMC 2.02, Schedule of Fees and Charges.

B. The late penalty shall be assessed if the kennel license is not applied for within 30 days of its due date. [Ord. 2038 § 2, 2002.]

6.04.380 Kennel license – Inspection of facilities.

Upon application for a kennel license, the City or its designee shall inspect the subject facilities to determine if they may be properly licensed. [Ord. 2038 § 2, 2002.]

6.04.390 Kennel license – Display.

The license issued for a kennel shall be posted in a conspicuous place upon the premises where such kennel is located. [Ord. 2038 § 2, 2002.]

6.04.400 Kennel license – Expiration and renewal.

Kennels shall be licensed in January on a yearly basis ending December 31st. License renewals shall be processed in the same manner as the original application, except that a certificate of zoning compliance is not required. [Ord. 2038 § 2, 2002.]

6.04.410 Kennel license – Revocation, denial or refusal to renew.

A license for any kennel may be revoked, denied or not renewed for failure to comply with the provisions of this chapter, and such action by the City shall be final and conclusive unless within 20 days of written notification thereof an appeal is received by the City Manager's office. [Ord. 2038 § 2, 2002.]

6.04.420 Kennel license – Records required.

Each kennel shall prepare, maintain and make available to the department a current record of all dogs auctioned off, sold, let or otherwise disposed of, proof of vaccination, and a current record of all dogs born within such facility or acquired from other sources. Such records shall include the origin, the age and type of dog, and the name and address of the transferee or transferor. A kennel shall have available for inspection at any time all required records, tags or tattoos or microchip numbers for each dog. [Ord. 2038 § 2, 2002.]

6.04.430 Vaccination required.

Each kennel shall cause each dog owned or sold by it to receive current and proper rabies inoculation for dogs over four months of age. [Ord. 2038 § 2, 2002.]