

Project title: An Ordinance Relating to Animal Control, Amending Chapters 6.04 and 6.08 of the Everett Municipal Code

Council Bill # *interoffice use*

CB 2310-56

Agenda dates requested:

11/15/23, 11/29/23, 12/6/23

Briefing 11/29/2023

First Reading 11/15/2023

Consent

Action 12/6/2023

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

X Yes No

Attachments:

Ordinance

Department(s) involved:

Parks & Facilities

Animal Services

Legal

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Initialed by:

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Department head

Administration

Council President

Project: Animal Control Code Update

Partner/Supplier: N/A

Location: N/A

Preceding action: Ordinance No. 3903-22

Fund: N/A

Fiscal summary statement:

No fiscal impact.

Project summary statement:

The attached ordinance amends Chapter 6.04 and 6.08 of the Everett Municipal Code and reflects changes to state law regarding animal control, including definitions and impound procedures. The updates are needed to keep the Everett Municipal Code consistent with state law.

Other changes are presented to keep our code consistent with neighboring communities and to reflect community values, including standards relating to livestock, small livestock, and consequences for unprovoked animal bites.

The ordinance also repeals the sunset provision in Section 10 of Ordinance No. 3903-22.

These changes are proposed after review by Animal Services staff, the Animal Shelter Advisory Board, and the City Attorney's Office.

Recommendation (exact action requested of Council):

Adopt an ordinance relating to animal control, amending chapters 6.04 and 6.08 of the Everett Municipal Code.



ORDINANCE NO. 3984-23

An ORDINANCE Relating to Animal Control, AMENDING Chapters 6.04 and 6.08 EMC

WHEREAS,

- A. The 2023 State Legislature made revisions to State Law relating to animal control including definitions and impound procedures, and updates are needed to keep the Everett Municipal Code consistent with State Law.
- B. Other changes are also appropriate in order to keep our code consistent with neighboring communities and to reflect community values, including standards relating to livestock and consequences for unprovoked animal bites.
- C. The Everett City Council finds that the City should encourage, secure, and enforce those animal control measures deemed desirable and necessary for the protection of human health, safety, and welfare and to prevent injury to property and cruelty to animal life.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 10 of Ordinance No. 3903-22 is hereby repealed.

~~**Sunset provision.** This ordinance expires 12/15/2023 absent further action from Council, upon which time all amended sections shall revert back as if unamended herein.~~

Section 2. EMC 6.04.020, EMC 6.04.070, and EMC 6.04.090 are amended as follows, and a new section is added to Chapter 6.04 EMC to be codified as EMC 6.04.035, with strikeout text deleted and underlined text added:

6.04.020 Definitions.

As used in this chapter, the terms defined in this section shall have the defined meanings unless the context requires otherwise:

“Adult dog or cat” means any dog or cat over the age of six months.

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

Animal at Large. Any animal off the property of its owner, unless restrained by leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a responsible

person, whether or not the owner of such animal, or which enters upon the property of another person without authorization of that person, shall be deemed “at large.”

“Animal control” means the animal services division of the city of Everett, which includes the Everett animal shelter.

“Animal exhibition” means public display of any living animal in the promotion of entertainment, education, advertisement or any commercial enterprise.

Animal Kennel or Cattery. The three types of kennel or cattery are defined as follows:

1. “Hobby kennel or cattery” means any facility or residence where more than four, but less than eight, spayed or neutered dogs or spayed or neutered cats, or combinations thereof of cats and/or dogs, are kept, or harbored, for the enjoyment of the species only. In addition to the hobby kennel fee (see EMC 6.04.100), each dog and cat must be licensed individually at regular fees.
2. “Private kennel or cattery” means any facility or residence where more than two dogs or two cats of licensable age, or a combination of each in excess of two dogs and two cats and which cannot total more than eight animals (dogs and cats) are kept or harbored, which facility provides care, training of whatever nature, or breeding services, and does not have a business license related to the animal services. In addition to the private kennel fee, each dog and cat must be licensed individually at the regular fees set forth herein.
3. “Commercial kennel or cattery” means any owner or broker who keeps, leases, buys, barterers, or sells animals for gain; provides facilities for breeding, boarding, transporting, exhibiting, grooming, including bathing or their cosmetic care; or provides guard services. In addition to the commercial kennel or cattery license, each personal pet must be licensed individually at the regular fees set forth herein.

“Dog handler” means a law enforcement officer who has successfully completed training as prescribed by the Washington State Criminal Justice Training Commission in police dog handling.

“Euthanasia” means the putting to death of an animal in a humane manner.

“Exotic, wild or dangerous animal” means any member of the animal kingdom which is not commonly domesticated or which is not common to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal which, because of its size, vicious nature or other similar characteristics, would constitute a danger to human life or property if not kept, maintained or confined in a safe and secure manner. Incorporated by reference here are the State Game Department regulations, principally the following: WAC 232-12-15, 232-12-030, 232-12-040, 232-12-050 and 232-12-060.

“Harboring” means allowing any animal to remain, be lodged, fed, or sheltered on the property one



owns, occupies or controls for more than twenty-four hours.

“Kitten” means any cat under the age of six months.

“Livestock” includes horses, mules, jackasses, cattle, sheep, llamas, goats, swine, and all ratites, which includes, but is not limited to, emus and ostriches. Except, livestock shall not mean miniature pot-bellied pigs as defined in this section.

“Manager” means the manager of the animal services division or designee.

“Miniature pot-bellied pig” means a type of swine commonly known as the North American Vietnamese, Chinese, or Asian pot-bellied pig (Sus scrofa vittatus) that is no more than 22 inches in height at the shoulder and no more than 150 pounds in weight.

“Minimum care” means care sufficient to preserve the physical and mental health and well-being of an animal and includes, but is not limited to, the following requirements:

1. Food of sufficient nutrition, quantity, and quality to allow for normal growth or maintenance of healthy body weight;
2. Open or adequate access to potable water of a drinkable temperature in sufficient quantity to satisfy the animal’s needs;
3. Shelter sufficient to protect the animal from wind, rain, snow, sun, or other environmental or weather conditions based on the animal’s species, age, or physical condition;
4. Veterinary or other care as may be deemed necessary by a reasonably prudent person to prevent or relieve in a timely manner distress from injury, neglect, or physical infirmity; and
5. Continuous access to an area:
 - a. With adequate space for exercise necessary for the physical and mental health and well-being of the animal. Inadequate space may be indicated by evidence of debility, stress, or abnormal behavior patterns;
 - b. With temperature and ventilation suitable for the health and well-being of the animal based on the animal’s species, age, or physical condition;
 - c. With regular diurnal lighting cycles of either natural or artificial light; and
 - d. Kept reasonably clean and free from excess waste, garbage, noxious odors, or other contaminants, objects, or other animals that could cause harm to the animal’s health and well-being.

“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 the owner.

“Personal service” means: handing it to the owner’s attorney or to the owner; or leaving it at their office

with their clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the owner has no office, leaving it at their dwelling, house or usual place of abode with some person of suitable age and discretion then residing therein.

"Physical infirmity" includes, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infection.

"Physical injury" includes, but is not limited to, substantial physical pain, fractures, cuts, burns, punctures, bruises, or other wounds or illnesses produced by violence or by a thermal or chemical agent.

"Police dog" means a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

"Proper shelter" means a structure with at least four walls, a roof, a floor which is raised off the ground, a door opening properly shielded from wind and rain, with size commensurate to the size of the inhabiting animal.

"Puppy" means any dog under the age of six months.

"Retail pet store" means a retail establishment open to the public and engaging in the business of offering for sale and/or selling dogs, cats, and/or rabbits, at retail.

"Serious physical injury or infirmity" means physical injury or physical infirmity that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of a limb or bodily organ.

"Service dog" or "service animal" has the same meaning as currently enacted or later amended in RCW 49.60.040(25).

"Spayed or neutered" means medically determined to be incapable of reproduction or when the physical condition of an animal is certified by a licensed veterinarian to be such as would prohibit performance of such medical procedure to render it unproductive.

"Small livestock" includes domesticated fowl and fur-bearing animals which are normally bred or maintained within pens, cages or hutches.

"Valid license" means a current tag from the jurisdiction in which the animal resides.



6.04.035 Miniature pot-bellied pigs, livestock, and small livestock.

A. The keeping of miniature pet-bellied pigs, livestock and small livestock in non-agriculturally zoned areas is for the personal use of the household only.

B. Miniature pot-bellied pigs are allowed to be kept within the city limits. No more than two such animals per household are permitted. Owners of miniature pot-bellied pigs must comply with the licensing provision of EMC 6.02.030 and pay the fees for the license as defined therein.

C. Livestock is not permitted in non-agriculturally zoned areas, with the exception of miniature goats and potbellied pigs, subject to:

1. Miniature breeds of goats include the following: pygmy, Nigerian dwarf and pygora or similar breeds (based on height and weight). Adult goats shall not exceed 25 inches measured from the withers or weigh more than 85 pounds. The wither is the ridge between the shoulder blades of the goat.

2. Up to three miniature goats may be kept on lots over 10,000 square-foot of a single-family residential dwelling unit. Nursing offspring may be kept until weaned, no longer than 12 weeks after birth.

3. Male goats must be neutered.

D. Small livestock is permitted in non-agriculturally zoned areas, subject to:

1. Chickens:

- i. Up to six chickens on lots up to 10,000 square feet
- ii. Up to eight chickens on lots 10,000 – 15,000 square feet
- iii. Up to ten chickens on lots 15,000 – 35,000 square feet
- iv. One additional chicken per 5000 square feet, for lots over 35,000 square feet

2. Other fowl (ducks, geese, turkeys, etc.):

- i. Peafowl are not permitted
- ii. Up to six fowl on lots up to 15,000 square feet
- iii. Up to eight fowl on lots 15,000 – 35,000 square feet
- iv. One additional fowl per 5000 square feet, for lots over 35,000 square feet

3. Other small livestock:

- i. Mink and foxes are not permitted.
- ii. Up to six rabbits on lots smaller than 10,000 square feet
- iii. Up to eight rabbits on lots 10,000 – 15,000 square feet
- iv. Up to ten rabbits on lots 15,000 – 35,000 square feet



- v. One additional rabbit per 5000 square feet, for lots over 35,000 square feet
- vi. Nursing offspring may be kept no longer than 12 weeks after birth.
- vii. At no time should the combined total number of small livestock exceed 12 animals per 10,000 square feet.

E. Grandparent Clause. Anyone with a current facilities license under this Chapter will be permitted to keep existing animals until the license expiration date, unless an animal control officer has probable cause that the owner is not complying with the owner's responsibilities specified in facilities permit regulations per EMC 6.04.050 and the Animal Control Manager, after reviewing such evidence, revokes the license per EMC 6.04.060.

6.04.070 Prohibited conduct.

A. Offenses Relating to Safety and Sanitation. It is unlawful for any person to:

1. Allow, as an owner of an animal, the accumulation of animal feces in any open area, run, cage or yard ~~wherein animals are kept~~ and to fail to remove or dispose of feces at least once every twenty-four hours;
2. Fail to remove the fecal matter deposited by the person's animal on public or private property of another before the owner and/or animal leaves the immediate area where the fecal matter was deposited;
3. Fail to have in the person's possession the equipment necessary to remove the person's animal's fecal matter when accompanied by said animal on public property or public easement;
4. Have possession or control of any animal sick or afflicted with any infectious or contagious disease and fail to provide treatment for such disease, or suffer or permit such diseased or infected animal to run at large, or come in contact with other animals, or drink at any public or common watering trough or stream accessible to other animals.
5. Owners of duly licensed "working dogs" are exempted from subsections (A)(2) and (3) of this section.

B. Offenses Relating to Control. It shall be unlawful for any person to:

1. Permit any animal to be at large. Exception: licensed domestic cats;
2. Permit a domestic cat to trespass upon the property of another in such a manner as to be a nuisance;
3. Permit an animal to be unattended on public premises, property or right-of-way except in those areas specifically designated to permit animals; animals must be confined to such restricted areas. Exception: licensed domestic cats, when not in conflict with subsection (B)(2) of this section;
4. Fail to keep every female dog or cat in heat confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding;
5. Be in possession of property and knowingly permit frequent, continuous or repetitive barking or noise made by any animal, which originates from the property, and which unreasonably disturbs or interferes with the peace, comfort and repose of property owners or possessors, except that such

sounds made in animal shelters or veterinary hospitals in compliance with this chapter at the time of the effective date of the amendatory ordinance codified in this section shall be exempt from this subsection;

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

7. ~~Have possession or control of one or more roosters or peafowl. Under circumstances not amounting to a criminal charge, and in addition to the restrictions of Chapter 6.08 EMC and Chapter 16.08 RCW, permit any animal to bite or attack a person or other animal without provocation.~~

C. Offenses Relating to Cruelty. It shall be unlawful for any person to:

1. Abandon an animal by intentionally, knowingly, recklessly or with criminal negligence leaving a domesticated animal at a location without providing for the animal's continued care. It is no defense to abandonment to abandon an animal at or near an animal shelter, veterinary clinic or other place of shelter if reasonable arrangements for the care of the animal were not made by the person abandoning the animal;

2. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, fail to provide an animal with ~~minimum care as defined in 6.04.020 EMC. sufficient good and wholesome food and a constant source of clear potable water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment;~~

3. Leave an animal unattended for more than twenty-four consecutive hours;

4. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, or animal fighting as defined in RCW 16.52.117, beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal;

5. Give away any live animal as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animals as an incentive to enter any business agreement whereby the offer was for the purpose of attracting trade. Violation of this subsection shall be a misdemeanor, punishable in accordance with subsection (F) of this section;

6. Fail, as the operator of a motor vehicle which strikes a domestic animal, to stop at once and render such assistance as may be possible and fail to immediately report such injury or death to the animal's owner; in the event that the owner cannot be ascertained and located, such operator shall at once report the accident to the Everett animal control or the Everett police department;

7. Lay out or expose any kind of poison or leave exposed any poisoned food or drink for animals, or any substance or fluid whatever, whereon or wherein there is or shall be deposited or mingled, any kind of poison or poisonous or deadly substance or fluid whatsoever, on the premises of another, or in any unenclosed place, or to aid or abet any person in so doing. Exception: This does not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes;

8. Permit an animal exhibition or circus to perform in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering;

9. ~~Reserved. Under circumstances not amounting to first degree animal cruelty as defined in RCW~~

~~16.52.205, confine, without adequate ventilation, any animal in any box, container or vehicle;~~

10. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, confine an animal within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including but not limited to extreme temperatures, lack of food or water, or confinement with a dangerous animal. Any animal control or peace officer is authorized to remove any animal from a motor vehicle, at any location, when the officer reasonably believes it is confined in such conditions as described above. Any animal so removed shall be delivered to the animal control shelter after the removing officer leaves written notice of such removal and delivery, including the officer's name, in a conspicuous, secure location on or within the vehicle;

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

11. Under circumstances not amounting to first degree animal cruelty as defined in RCW 16.52.205, ~~keep tether or confine~~ any animal in such a manner or ~~in~~ such a place as to cause injury or pain or to endanger an animal, including reckless exposure to hazardous objects or substances, including but not limited to drugs such as fentanyl, methamphetamine, and heroin, or unsanitary and unhealthy environments. ; or to keep an animal in quarters that are injurious to the animal due to inadequate protection from heat or cold, or that are of insufficient size to permit the animal to move about freely;

12. Tether or confine an animal in such a manner that it can become entangled so that it cannot move freely, cannot reach shelter or water, or such that it can become entangled with another animal; the area where the animal is ~~kept tethered or confined~~ must be free of extraneous material that may cause it injury or illness (such as, but not limited to, glass, sharp metal, nails, etc.). Tether must be a minimum length of three times the length of the animal as measured from the tip of its nose to the base of its tail;

13. Transport an animal in or on a vehicle in such manner that it can exit the vehicle while it is in motion. The animal must be contained or secured in a manner so as to prevent the possibility of an inadvertent exit by the animal from the vehicle. It is further unlawful for any person to transport any living animal on the running board, fenders, hood, unrestrained in a convertible, in an unenclosed bed of a pickup or flatbed truck, or other outside part of any vehicle unless suitable harness, cage or enclosure is provided and so attached as to protect the animal from falling or being thrown therefrom;

14. Set out any ~~leg hold~~ traps in the city unless approved by animal control; except that this shall not apply to the reasonable use of rodent, insect, or slug traps for their intended purposes;

15. Except as provided in this subsection below, cut off more than one-half of the ear or ears of any domestic animal or cut off any part of the ear of a dog, devocalize a dog, or crop or cut off any part of the tail of a dog. Violation of this subsection shall be a misdemeanor, punishable in accordance with subsection (F) of this section. This section does not apply if the person performing the procedure is a licensed veterinarian utilizing accepted veterinary surgical protocols.

D. A retail pet store may not sell or offer for sale any dog, cat, or rabbit. A retail pet store may provide space and appropriate care for animals owned by a publicly operated animal control agency or nonprofit animal welfare organization for the purpose of adopting spayed or neutered dogs, cats or rabbits to the public. Violation of this subsection by any person or corporation shall be an infraction, punishable by a

fine of not more than two hundred fifty dollars per animal per day.

E. Offenses Relating to Misrepresenting an Animal as a Service Animal. It shall be unlawful for any person to:

1. It shall be an infraction punishable by a fine of not more than two hundred fifty dollars for any person to misrepresent an animal as a service animal. A violation of this section occurs when a person:

a. Expressly or impliedly represents that an animal is a service animal as defined in EMC 6.04.020 for the purpose of securing the rights or privileges afforded disabled persons accompanied by service animals set forth in this code, state or federal law; and

b. Knew or should have known that the animal in question did not meet the definition of a service animal.

2.

a. An animal control officer or police officer may investigate and enforce this section by making an inquiry of the person accompanied by the animal in question and issuing an infraction. Refusal to answer the questions allowable under subsection (E)(2)(b) of this section shall create a presumption that the animal is not a service animal, and the officer may issue an infraction and require the person to remove the animal from the place of public accommodation.

b. An animal control officer or police officer or place of public accommodation shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. An officer or place of public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. An officer or place of public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require that the service animal demonstrate its task. Generally, an officer or place of public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for a person with a disability, such as a dog is observed guiding a person who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to a person with an observable mobility disability.

F. Unless otherwise provided, violation of any provision of subsection (C) of this section shall constitute a gross misdemeanor, punishable by up to three hundred sixty-four days of jail and a five thousand dollar fine.

The sentence imposed for a misdemeanor or gross misdemeanor violation of subsection (C) of this section shall be in accordance with RCW 16.52.200, which is incorporated herein by reference as currently enacted or later amended, except as follows: The civil penalties under RCW 16.52.200(7) and (8) for convictions under subsection (C) of this section shall be payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control.

6.04.090 Shelter operation—Impoundment procedures—Release and disposal.



A. Shelter Operations.

1. The manager shall operate, maintain or provide an adequate facility to receive and care for any animal delivered to the manager's custody for disposition under provisions of this chapter, which facility shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals.

2. The shelter will accept animals from outside the city if the city has a written agreement with the government agency responsible for the geographic area from which the animal came. The city shall charge such government agency a per animal fee for handling animals brought to the shelter from its geographic area. The city shall charge the per animal fee irrespective of whether the animal was delivered by an employee of the government agency, a resident of the geographic area from which the animal came, or anyone else.

B. Any animal may be impounded and held at the shelter when it is the subject of a violation of ~~this chapter~~ Title 6 EMC, when an animal requires protective custody and care for mistreatment or neglect by its lawful owner, or when otherwise ordered impounded by a court.

C. An animal is deemed to be impounded from the time the manager or the manager's designee, including Everett police personnel and contracted agents such as on-call veterinarian hospitals, takes physical custody of such animal.

D. The manager or any animal control officer or police officer may enter the private unenclosed property of another, with or without warrant, when in hot pursuit, to take possession of any animal observed at large.

E. Any person who finds and harbors a dog or cat, which is not lawfully their property and/or without knowing the animal owner's identity, shall notify the animal control shelter and furnish a description of the animal. The finder may surrender the animal to the animal control shelter or retain its possession, subject to demand of the manager of animal control. Records of reported findings shall be retained by the manager and made available to public inspection. If, within thirty days of the finding report made to animal control, no person makes claim upon the finder for return of the animal, the finder who retains possession shall obtain a license as required in this chapter and thus shall become the legal owner.

F. Impoundment is subject to the following holding period and notice requirements:

1. Any animal wearing a current license tag from a jurisdiction within the state shall be held for one hundred forty-four hours (six days) from time of impoundment; the impounding officer shall make reasonable effort by telephone to give notice of impoundment to the owner and, if unsuccessful, shall mail written notice to the last known address of the owner advising of the impoundment and the date by which redemption must be made.

2. Any animal not wearing a current license shall be held for seventy-two hours (three days) from time of impoundment before any disposition may be made of such animal.



3. Litters of kittens and puppies, brought in as abandoned, may be disposed of immediately upon custody, at the discretion of the manager.

4. Animals held for periods prescribed in this section, and not redeemed by the owner, shall become the property of the city.

5. Animals delivered for impoundment by a peace officer who removed such animal from possession of a person in custody of the peace officer shall be held for the period prescribed in subsection (F)(1) of this section.

G. Impoundment and Disposition of Animals.

1. Any impounded animal shall be released to the owner upon payment of impoundment, care and license fees unless in the discretion of the manager or the manager's designee there is an ongoing investigation of a violation of this chapter or state law. The manager or the manager's designee may release the animal to the owner's authorized representative; full identification of the owner and their authorized representative must be provided to animal control prior to release.

2. Notwithstanding the provisions of subsection (G)(1) of this section, no impounded animal shall be released to the owner until the owner establishes that any penalties, fines or forfeitures owed by the owner for violation of this chapter have been satisfied.

3. Any animal held for the prescribed period and not redeemed by its owner, and which is neither dangerous nor unhealthy, may be released for adoption, subject to the following conditions:

- a. The adoptive owner agrees to furnish proper care to the animal in accord with this chapter;
- b. Payment of required fees, including any medical care costs incurred during impoundment;

and

c. All animals will be altered (i.e., spayed or neutered) prior to completion of the adoption process. This includes receipt of all applicable fees.

4. There are four exceptions to the mandatory spay and neuter requirement.

a. The first exception is for unaltered animals that are temporarily housed at the shelter and returned to their owners.

b. The second exception is for kittens under eight weeks of age weighing less than two pounds, puppies under six weeks of age, or kittens and puppies who are unhealthy to safely spay and/or neuter. Shelter staff has the option of (i) if shelter space is available, caring for these animals until they can be safely altered; (ii) releasing them to a rescue group as noted in subsection (G)(4)(d) of this section; or (iii) euthanizing them.

c. The third exception is for animals that have a medical condition that makes it dangerous to undergo a spay or neuter surgery. These animals will be subject to the same options as outlined in subsection (G)(4)(b) of this section.

d. The fourth exception is for unaltered animals that are transported to and adopted out by other agencies. This option may include animals described in subsection (G)(4)(b) and/or (G)(4)(c) of this section. It will be the responsibility of the agency to spay and/or neuter these animals. Unaltered animals will not be released to agencies that do not require the animals to be altered prior to or upon adoption.



5. Administration shall decide the most cost-effective means to spay and neuter animals prior to adoption.

6. The owner of any animal retained at the shelter pending legal action pertaining to violations of this chapter and/or other judicial actions or hearings, pertaining to the owner's ownership/responsibilities regarding the animal, shall be liable for all fees prescribed by fee schedule, upon conviction.

7. The manager shall dispose of animals held for the prescribed period without redemption or adoption only by means of euthanasia; provided, however, that irrespective of any prescribed holding period the manager, upon advice of a licensed veterinarian, may immediately dispose of any sick or injured impounded animal by euthanasia.

8. The decision of whether to release an animal to an individual for the purposes of adoption shall be discretionary with the manager or the manager's designee. In making the determination the manager or the manager's designee shall base the decision on what is in the best interest of the animal and what is in the best interest of public safety. Factors which shall be considered include, but are not limited to, the age of the individual requesting adoption, the premises where the animal will be kept, condition, size and/or temperament of the animal. Dogs which have been declared dangerous under the provisions of Chapter 6.08 EMC or Chapter 16.08 RCW, or potentially dangerous under the provisions of Chapter 6.08 EMC, will not be available for adoption.

H. Removal of Animals for Feeding and Care.

1. If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has violated EMC 6.04.070(C) or Chapter 16.52 RCW, or a person owns, cares for, or resides with an animal in violation of an order issued under EMC 6.04.070(D) or 6.04.140 or RCW 16.52.200(4), or is in possession of an animal in violation of a court order from any jurisdiction due to a prior criminal animal cruelty conviction, ~~and no responsible person can be found to assume the animal's care, the officer, after obtaining a may authorize, with a warrant, may enter the premises where the animal is located and seize the animal. the removal of the animal to the shelter or other suitable place for feeding and care. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.~~

2. If a law enforcement officer or an animal control officer has probable cause to believe an animal is in imminent danger or is suffering serious physical injury or infirmity, or needs immediate medical attention, ~~a violation of EMC 6.04.070(C) or Chapter 16.52 RCW has occurred,~~ the officer may ~~authorize an examination of a domestic animal allegedly neglected or abused in violation of EMC 6.04.070(C) or Chapter 16.52 RCW by a veterinarian to determine whether the level of neglect or abuse in violation of EMC 6.04.070(C) or Chapter 16.52 RCW is sufficient to require removal of the animal. This section does not condone illegal entry onto private property. enter onto private property without a warrant to:~~

a. Render emergency aid to the animal; or

b. Seize the animal without a warrant. Any animal seized without a warrant shall immediately be

brought to a veterinarian licensed in the state of Washington to provide medical attention and to assess the health of the animal.

3. A law enforcement officer or an animal control officer is not liable for any damages for entry onto private property without a warrant under this section, provided that the officer does not use any more force than is reasonably necessary to enter upon the property and remove the animal.

4.3.—The owner from whom the animal was seized shall be provided with notice of the right to petition for immediate return of the animal and shall be afforded an opportunity to petition for such a civil hearing before the animal is deemed abandoned and forfeited. Any owner whose domestic animal is seized removed pursuant to EMC 6.04.070, EMC 6.08.045 or Chapter 16.52 RCW shall, within 72 hours following the seizure, be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to the last known or suspected owner in person or a person residing at the place of seizure, or by registered mail if the owner is known to the last known or suspected owner. In making the decision to remove an animal pursuant to EMC 6.04.070 or Chapter 16.52 RCW, the officer shall make a good faith effort to contact the animal's owner before removal. Such notice shall include:

a. The name, business address, and telephone number of the law enforcement agency or animal care and control agency responsible for seizing the animal;

b. A description of the seized animal;

c. The authority and purpose for the seizure, including the time, place, and circumstances under which the animal was seized;

d. A statement that the owner is responsible for the cost of care for the animal who was lawfully seized, and that the owner will be required to post a bond payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control to defray the cost of minimum care within 14 calendar days of the seizure or the animal will be deemed abandoned and forfeited; and

e. A statement that the owner has a right to petition the Everett Municipal Court for a civil hearing for immediate return of the animal and that in order to receive a hearing, the owner or owner's agent must request the civil hearing by signing and returning to the court an enclosed petition within 14 calendar days after the date of seizure. The enclosed petition must be in substantially the same form as set forth in subsection 13 of this section.

4. —The manager or the manager's designee may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. The manager or the manager's designee may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by:

a. —Petitioning the Everett municipal court for the animal's immediate return subject to court-imposed conditions, or

b. —Posting a bond or security payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the city still has custody of the animal when the bond or security expires, the animal shall become the city's property unless the court orders an alternative disposition. If a court order prevents the city from assuming ownership and the city continues to care for the animal,

~~the court shall order the owner to post or renew a bond or security for the city's continuing costs for the animal's care. When a court has prohibited the owner from owning, caring for, or residing with an animal under EMC 6.04.070 or 6.04.140 or RCW 16.52.200(4) or similar statute or ordinance, the city may assume ownership upon seizure and the owner may not prevent the animal's destruction or adoption by petitioning the court or posting a bond.~~

~~5. If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the Everett municipal court for the animal's return. The petition shall be filed with the court. Copies of the petition must be served on the animal shelter and the prosecuting attorney. If the court grants the petition, the animal must be surrendered to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the hearing on the petition, then the petition shall be joined with the criminal matter.~~

~~6. In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.~~

5. a. When an animal is seized pursuant to this section, the owner shall post a bond payable to the Everett animal control's EMC 3.04.130 cumulative reserve fund for animal control in an amount sufficient to provide minimum care for each animal seized for 30 days, including the day on which the animal was taken into custody, regardless of whether the animal is the subject of a criminal charge. Such bond shall be filed with animal control within 14 calendar days after the day the animal is seized.

b. i. If an owner fails to post a bond by 5:00 p.m. on the 14th calendar day after the day the animal was seized as required under this section, the animal is deemed abandoned and the owner's interest in the animal is forfeited to animal control by operation of law in accordance with the notice provided in subsection (4) of this section.

ii. A petition required by subsection (4)(e) of this section may be filed in Everett Municipal Court concerning any animal seized pursuant to this section. Copies of the petition must be served on animal control and the prosecuting attorney.

iii. An owner's failure to file a written petition by 5:00 p.m. on the 14th calendar day after the day the animal was seized shall constitute a waiver of the right to file a petition under this subsection and the animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law unless a bond has been posted pursuant to this subsection (5). The court may extend the 14-day period to file a written petition by an additional 14 calendar days if the petitioner did not have actual notice of the seizure and the court finds, on the record and in writing, that there are exceptional and compelling circumstances justifying the extension.

c. i. Upon receipt of a petition pursuant to (b) of this subsection, the court shall set a civil hearing on the petition. The hearing shall be conducted within 30 calendar days after the filing of the petition.

ii. At the hearing requested by the owner, the rules of civil procedure shall apply and the respondent shall have the burden of establishing probable cause to believe that the seized animal was subjected to a violation of this chapter. The owner shall have an opportunity to be heard before the court makes its final finding. If the court finds that probable cause exists, the court shall order the owner to post a bond as required by this subsection (5) within 72 hours of the hearing, and if the owner fails to do so, the

seized animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law. If the respondent does not meet its burden of proof, the court may order the animal returned to the owner at no cost to the owner, subject to conditions set by the court. If the court orders the return of an animal to the owner, the court may also order:

A. Reasonable attorney fees for the owner; and

B. A full refund of the bond posted pursuant to this subsection (5) by the owner for the care of the animal.

d. i. If a bond has been posted in accordance with this subsection (5), subsequent court proceedings shall be given court calendar priority so long as the animal remains in the custody of the city and the city may draw from the bond the actual reasonable costs incurred by the city in providing minimum care to the animal from the date of seizure to the date of final disposition of the animal in the criminal action.

ii. At the end of the time for which expenses are covered by the bond, if the owner seeks to prevent disposition of the animal by the custodial agency, the owner shall post a new bond with animal control within 72 hours following the prior bond's expiration. If an owner fails to post or renew a bond as required under this subsection (5), the animal is deemed abandoned and the owner's interest in the animal is forfeited to the city by operation of law.

e. For the purposes of this subsection (5), "animal" includes all unborn offspring of the seized animal and all offspring of the seized animal born after the animal was seized.

6. When an animal is seized from a person prohibited from owning, caring for, possessing, or residing with animals under RCW 16.52.200 or an order issued pursuant to Chapter 6.04 EMC, Chapter 6.08 EMC, RCW 16.52.200, 16.52.205 or 16.52.207, or similar statute, the animal is immediately and permanently forfeited by operation of law to the city and no court action is necessary.

7. If an animal is forfeited to the city according to the provisions of this section, the city may place the animal with a new owner; provided that the city may not place the animal with anyone who lives in the same household as the former owner.

8. The city may authorize a veterinarian or veterinary technician licensed in the state of Washington or a certified euthanasia technician certified in the state of Washington to euthanize a seized animal for humane reasons at any time if the animal is severely injured, sick, diseased, or suffering.

9. Nothing in this chapter shall be construed to prevent the voluntary, permanent relinquishment of any animal by its owner to the city or other agency. Voluntary relinquishment has no effect on the criminal charges that may be pursued by the appropriate authorities.

10. Nothing in this chapter requires court action for taking custody of, caring for, and properly disposing of stray, feral, at-large, or abandoned animals, or wild animals not owned or kept as pets or livestock, as lawfully performed by the city.

11. 7.— Any authorized person caring for, treating, or attempting to restore an animal to health under this section shall not be civilly or criminally liable for such action.

12. The provisions of this section are in addition to, and not in lieu of, the provisions of EMC 6.04.070, 6.04.140, 6.08.050, or RCW 16.52.200.

13. A petition for a civil hearing for the immediate return of a seized animal shall be in a form substantially similar to the following:

"IN THE EVERETT MUNICIPAL COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF SNOHOMISH

..... No.

Petitioner,

vs. PETITION FOR

..... RETURN OF SEIZED

Respondent ANIMALS

PARTIES/JURISDICTION

(a)(i) That Petitioner is, and at all relevant times herein was, a resident of (county of residence) County, Washington.

(ii) That Respondent is, and at all relevant times herein was, an agent, contractor, or political subdivision of the City of Everett, State of Washington.

(iii) That Petitioner's animal/animals were seized by Respondent in Everett, Snohomish County, Washington.

(iv) That this Court has jurisdiction over the subject matter and the parties hereto.

FACTS

(b)(i) That upon seizure of (number and type of animals) such animals were placed in the care and custody of the Respondent on (date of seizure).

(ii) That on or about (date on notice) the Respondent issued a seizure, bond, and forfeiture notice under EMC 6.04.090(H), a true and correct copy of said notice and accompanying attachments is attached hereto and incorporated herein as Exhibit A (attach a copy of the notice of seizure to this petition).

(iii) That pursuant to such notice, Petitioner herein files this petition for the immediate return of all such seized animals pursuant to EMC 6.04.090(H).

PRAYER

(c) Petitioner prays that this Court grant said petition and order the immediate return of Petitioner's aforementioned animals to Petitioner's care and custody.

DATED the ... day of,

By:

Petitioner (Signature)

Section 3. EMC 6.08.045 is amended as follows, with strikeouts deleted and underlining added:

6.08.045 Dangerous and potentially dangerous dogs—Confiscation.

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

1. Dog is not validly registered under this chapter or RCW 16.08.080;
2. Owner does not secure the liability insurance coverage required under this chapter or RCW 16.08.080;
3. Dog is not maintained in the proper enclosure; or
4. Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person.

B. The owner must pay the costs of confinement and control to Everett animal control if the dog is confiscated. Everett animal control 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 twenty days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with Section 6.08.050.

C. Under circumstances not rising to severe injury or death under EMC 6.08.045(E), if a potentially dangerous dog of an owner with a prior criminal conviction under this chapter or Chapter 16.08 RCW, or prior violation of EMC 6.04.070(B)(7), attacks or bites a person or another domestic animal, the dog's owner is guilty of a gross misdemeanor. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a potentially dangerous dog pursuant to this chapter or Chapter 16.08 RCW and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the potentially dangerous dog may be immediately confiscated by an animal control authority and impounded pursuant to EMC 6.04.090.

D. If a dangerous dog of an owner with a prior conviction under this chapter or Chapter 16.08 RCW, or prior violation of EMC 6.04.070(B)(7), attacks or bites a person or another domestic animal, the dog's owner is guilty of a Class C felony, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a dangerous dog pursuant to this chapter or Chapter 16.08 RCW and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.



ED. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has previously been declared potentially dangerous or dangerous, shall, upon conviction, be guilty of a Class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog: (1) trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of the dog; or (2) provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of young children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of the dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter or Chapter 16.08 RCW. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by an animal control authority, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

FE. Any potentially dangerous dog or dangerous dog may be immediately seized and impounded by Everett animal control if an Everett animal control officer has probable cause to believe that the owner has failed to comply with the conditions or restrictions of this chapter or imposed by the animal control authority. Such impoundment shall be subject to the procedures of Section 6.04.090.

Section 4. The following is provided for reference and may not be complete:

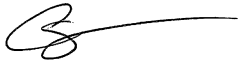
EMC Amended/Repealed by this Ordinance	Ordinance History of EMC Amended/Repealed by this Ordinance
EMC 6.04.020	(Ord. 3903-22 § 1, 2022; Ord. 3228-11 § 1, 2011; Ord. 2684-03 § 1, 2003; Ord. 2394-99 § 1, 1999; Ord. 1810-91 § 2, 1991.)
EMC 6.04.070	(Ord. 3903-22 § 4, 2022; Ord. 3236-11 § 9, 2011; Ord. 2873-05 § 1, 2005; Ord. 2394-99 § 6, 1999; Ord. 2091-95 § 1, 1995; Ord. 1810-91 § 7, 1991.)
EMC 6.04.090	(Ord. 3903-22 § 5, 2022; Ord. 3228-11 § 2, 2011; Ord. 2684-03 § 3, 2003; Ord. 2394-99 § 7, 1999; Ord. 1815-91 § 9, 1991.)
EMC 6.08.045	(Ord. 3705-19 § 8, 2019; Ord. 2782-04 § 5, 2004; Ord. 2393-99 § 9, 1999.)

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, text and font styles and colors, section/subsection numbers, and any internal references.

Section 6. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 7. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 8. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.



Cassie Franklin, Mayor

ATTEST:



City Clerk

PASSED: 12/6/2023

VALID: 12/07/2023

PUBLISHED: 12/9/2023

EFFECTIVE DATE: 12/21/2023

ORD 3984-23_CB 2310-56

Final Audit Report

2023-12-07

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By:	Ashleigh Scott (AScott@everettwa.gov)
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"ORD 3984-23_CB 2310-56" History

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