

ORDINANCE NO. 1916-17

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, RELATING TO ANIMAL CONTROL; AMENDING SECTION 6.01.010 OF THE MILTON MUNICIPAL CODE; ADOPTING BY REFERENCE RECENT AMENDMENTS TO THE SUMNER MUNICIPAL CODE; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE, AND FOR SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the City of Milton has an interlocal agreement with the City of Sumner for the purpose of animal control; and

WHEREAS the City last conformed its animal regulations with those of Sumner in 2012; and

WHEREAS in the interests of uniform regulation and enforcement of the same codes in both cities;

NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MILTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 6.01.010 of the Milton Municipal Code be, and the same hereby is, amended to read as follows:

6.01.010 Regulations and enforcement.

Title 6 of the City of Sumner Municipal Code (“SMC”) is hereby adopted by the Milton city council, as attached in Exhibit A to Ordinance 1740 and as thereafter amended in Exhibit B to Ordinance 1754, ~~and~~ Exhibit C to Ordinance 1800 and Exhibit D to Ordinance 1916 and incorporated by this reference as if set forth in full. No amendments to Exhibit A, Exhibit B, ~~and~~ Exhibit C or Exhibit D shall go into effect without Milton city council approval by ordinance. The regulations attached as Exhibit A, Exhibit B, ~~and~~ Exhibit C and Exhibit D are subject to the following modifications:

A. “Animal control authority” as defined by SMC 6.04.020(E) is replaced with the following definition: “The Milton police department or designee. Any other jurisdiction given animal control authority within the city of Milton by interlocal agreement or by written authorization by the Milton police chief shall be deemed a designee.”

B. “City” as defined by SMC 6.04.020(G) is replaced with the following definition: “The city of Milton, Washington.”

C. "Director" as defined by SMC 6.04.020(H) is replaced with the following definition:
"The Milton police chief."

D. All references to the "city of Sumner" or "Sumner" within Exhibit A, ~~and~~ Exhibit B, Exhibit C and Exhibit D are replaced with the "city of Milton."

E. All references to "SMC" in Exhibit A, Exhibit B, ~~and~~ Exhibit C, and Exhibit D that cite to SMC Title 6 provisions are replaced with "MMC" (for Milton Municipal Code).

F. SMC 6.04.050(A) in Exhibit A is repealed.

G. ~~"Chapter 2.58 SMC" is removed from SMC 6.10.010(E)(3) and 6.10.040(E)(3).~~

H. All licenses issued under ordinances in effect prior to the adoption of this chapter shall remain in effect until they expire and no additional license or license renewal for the same activity under this chapter shall be required until expiration.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall take effect thirty (30) days after passage and publication of an approved summary thereof consisting of the title.

Passed by the Milton City Council the 21st day of February, 2017, and approved by the Mayor, the 21st day of February, 2017.


DEBRA PERRY, MAYOR

ATTEST/AUTHENTICATED:


KATIE BOLAM, CITY CLERK

APPROVED AS TO FORM:

BY 
WILLIAM L. CAMERON, CITY ATTORNEY

FILED WITH THE CITY CLERK: 2-21-17
PASSED BY THE CITY COUNCIL: 2-21-17
PUBLISHED: 2-23-2017
EFFECTIVE DATE: 2-28-2017
ORDINANCE NO. 1916-17

EXHIBIT D

60 days of the license expiration date shall pay a penalty of \$20.00 per license. No late payment penalty shall be charged on new license applications if:

1. The owner submits proof of purchase of the animal within the preceding 30 days; or
2. The owner has moved into the city within the preceding 30 days; or
3. The animal is currently, or has been within the preceding 30 days, under the age which requires a license; or
4. The owner purchases the license(s) voluntarily prior to in-person or field contact by animal control personnel; or
5. The owner submits other proof deemed acceptable in the animal control authority's administrative policy.

E. Nonapplicability. Provisions of this section shall not apply to dogs or cats in the custody of a veterinarian or animal shelter, a service animal, or whose owners are nonresidents temporarily within the city for a period not exceeding 30 days. Dogs and cats are exempt from the above licensing provisions when they are in the custody of a recognized animal rescue group. In order to qualify as a recognized group, proof of registration with the Internal Revenue Service pursuant to IRC 501(c)(3) must be submitted to the Humane Society by the group.

6.04.150 Animal nuisances.

For purposes of this chapter, violations of this chapter are nuisances and shall include, but not be limited to, the following:

- A. Any public nuisance relating to animal control known at common law or in equity jurisprudence;
- B. Animals (excluding household pets, such as dogs and cats), particularly horses, mules, rabbits, bovine animals, lambs, goats, sheep, birds, hogs, chickens or other animals made to be domestic, being kept in residential districts which do not comply with the existing zoning regulations;
- C. Animals running at large within the city;
- D. Any domesticated animal, whether licensed or not, which runs at large in any park, or enters any public beach, pond, fountain, or stream therein, or upon any public playground or school ground; provided, however, that this section shall not prohibit a person from walking or exercising an animal in a public park or on any public beach when such animal is on a leash, tether or chain not to exceed eight feet in length. This section shall not apply to a service animal if a leash would interfere with the service animal's work or the nature of the owner's or keeper's disability prevents use of a leash;
- E. Any animal which enters any place where food is stored, prepared, served or sold to the public, or any other public building or hall. This section shall not apply to a service animal if a leash would interfere with the service animal's work or the nature of the owner's or keeper's disability prevents use of a leash;
- F. A female domesticated animal, whether licensed or not, while in heat, accessible to other animals for purposes other than controlled and planned breeding;
- G. Any domesticated animal which chases, runs after or jumps at vehicles using the public streets and alleys;
- H. Any domesticated animal which habitually snaps, growls, snarls, jumps upon or otherwise threatens persons lawfully using the public sidewalks, streets, alleys, or other public ways;
- I. Any animal which has exhibited vicious propensities and which constitutes danger to the safety of persons or property off his premises or lawfully on his premises;
- J. A vicious animal or animal with vicious propensities which runs at large at any time, or which is off the owner's premises not securely leashed and in the control of a person of suitable age and discretion to control or restrain such animal;
- K. Any domesticated animal which howls, yelps, whines, barks, or makes other oral noises, in such a manner that unreasonably annoys, disturbs, or interferes with the comfort, repose, health or safety of any person;
- L. Any domesticated animal which enters upon another person's property without the permission of that person;
- M. Animals staked, tethered, or kept on public property without prior written consent of the animal control authority;
- N. Animals on any public property not under control by their owner or other competent person by a leash. This section shall not apply to a service animal if a leash would interfere with the service animal's work or the nature of the owner's or keeper's disability prevents use of a leash;
- O. Animals kept, harbored, or maintained and known to have a contagious disease unless under the treatment of a licensed veterinarian;
- P. Animals running in packs.

EXHIBIT D

6.04.155 Rabies – Mandatory vaccination and quarantine.

- A. All dogs and cats three months or older shall be vaccinated against rabies.
- B. An owner of a dog or cat shall provide written documentation of rabies vaccination for a dog or cat when such written documentation is requested by a law enforcement officer or animal control officer as part of an investigation involving a dog or cat biting a human or animal.
- C. In cases where a dog or cat has bitten a person or caused an abrasion of the skin, the animal shall be quarantined for a period of no less than 10 days. The purpose of the quarantine is to ensure no adverse health problems with the animal are detected. The quarantine may be completed at the owner's home, veterinary clinic or animal shelter as determined by the investigating law enforcement officer or animal control officer.

6.10.010 Declaration of dogs as potentially dangerous – Procedure.

- A. The animal control authority may find and declare a dog potentially dangerous if any animal control officer has probable cause to believe that the dog falls within the definitions set forth in SMC 6.04.020(U) and the exclusions contained in this section do not apply. The written finding must be based upon:
 - 1. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of SMC 6.04.020(U); or
 - 2. Dog bite reports filed with the animal control authority; or
 - 3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - 4. Other substantial evidence.
- B. Exclusions. A dog may not be declared potentially dangerous if the animal control authority determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the dog was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or who was tormenting, abusing, or assaulting the animal, or who has been in the past observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.
- C. The declaration of potentially dangerous dog shall be in writing and shall be served on the owner in one of the following methods:
 - 1. Certified mail to owner's last known address; or
 - 2. Personally; or
 - 3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.
- D. The declaration shall state at least:
 - 1. The description of the dog.
 - 2. The name and address of the owner of the dog, if known.
 - 3. The whereabouts of the dog if it is not in the custody of the owner.
 - 4. The facts upon which the declaration of potentially dangerous dog is based.
 - 5. The availability of a hearing in case the person objects to the declaration, if a request is made within 10 days.
 - 6. The restrictions placed on the dog as a result of the declaration of potentially dangerous dog. The restrictions shall include confinement of the dog from the time the declaration is served to the dog owner.
 - 7. The penalties for violation of the restrictions, including the possibility of destruction of the dog, and imprisonment or fining of the owner.
- E. If the owner of the dog wishes to object to the declaration of potentially dangerous dog:
 - 1. The owner may request a hearing before the director of the animal control authority or the director's designee by submitting a written request to the animal control authority within 10 days of receipt of the declaration, or within 10 days of the publication of the declaration pursuant to subsection C of this section.
 - 2. The director or the director's designee shall provide notice to the owner stating the date, time, and location of the hearing. The hearing must provide the owner an opportunity to present, orally or in writing, any reason or information as to why the dog should not be declared a potentially dangerous dog.
 - 3. The burden shall be on the animal control authority to prove, by a preponderance of the evidence, that the dog is a potentially dangerous dog as defined in SMC 6.04.020(U).
 - 4. After reviewing the record, if the director or the director's designee finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled. If the director or the director's designee finds, by a preponderance of the evidence, sufficient evidence to support the

EXHIBIT D

declaration, the owner may appeal such decision by submitting a written notice of appeal to the clerk of the municipal court within 10 calendar days.

5. On appeal before the municipal court, the burden shall be on the animal control authority to prove the declaration of potentially dangerous dog, as defined in SMC 6.04.020(U), is supported by a preponderance of the evidence. The municipal court shall have the authority to enter the following finding:

- a. Deny the designation as potentially dangerous;
- b. Uphold the designation as potentially dangerous; or
- c. Condition the designation as potentially dangerous for a period not to exceed 12 months, at which time the municipal court shall review the designation to determine if sufficient evidence to maintain the designation continues to exist. The municipal court shall require that during the period of conditional designation the owner shall comply with all provisions set forth in SMC 6.10.020 and 6.10.030.

6. An appeal of the municipal court's decision must be filed in superior court within 15 calendar days of the date of the municipal court's written decision.

7. During the entire appeal process, it shall be unlawful for the owner appealing the declaration of potentially dangerous dog to allow or permit such dog to:

- a. Be unconfined on the premises of the owner; or
- b. Go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.

8. During the entire appeal process, should the owner fail to follow the restrictions outlined in subsection (E)(7) of this section, the animal control authority is authorized to seize and impound such dog for the remainder of the appeal process. The owner is responsible for the daily boarding fee outlined in SMC 6.04.030(B).

6.10.040 Declaration of dogs as dangerous – Procedure.

A. The animal control authority may find and declare an animal as dangerous if there is probable cause to believe the dog falls within the definitions set forth in SMC 6.04.020(V) and the exclusions contained in this section do not apply. The finding must be based upon:

1. The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of SMC 6.04.020(V); or
2. Dog bite reports filed with the animal control authority; or
3. Actions of the dog witnessed by any animal control officer or law enforcement officer; or
4. Other substantial evidence.

B. Exclusions. A dog shall not be declared dangerous if the animal control authority determines, by a preponderance of the evidence, that the threat, injury, or bite alleged to have been committed by the dog was sustained by a person who was at the time committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or who was tormenting, abusing, or assaulting the dog, or who has been in the past observed or reported to have tormented, abused, or assaulted the dog, or who was committing or attempting to commit a crime.

C. The declaration of a dangerous dog shall be in writing and shall be served on the owner in one of the following methods:

1. Certified mail to the owner's last known address; or
2. Personally; or
3. If the owner cannot be located by one of the first two methods, by publication in a newspaper of general circulation.

D. The declaration shall state at least:

1. The description of the dog.
2. The name and address of the owner of the dog, if known.
3. The whereabouts of the dog if it is not in the custody of the owner.
4. The facts upon which the declaration of dangerous dog is based.
5. The availability of an appeal in case the person objects to the declaration, if a request is made within 10 calendar days.
6. The restrictions placed on the dog as a result of the declaration of a dangerous dog.
7. The penalties for violation of the restrictions, including the possibility of destruction of the dog, and imprisonment or fining of the owner.

E. If the owner of the dog wishes to object to the declaration of a dangerous dog:

EXHIBIT D

1. The owner may request a hearing before the director or director's designee by submitting a written request to the animal control authority or its designee within 10 calendar days of receipt of the declaration, or within 10 calendar days of the publication of the declaration pursuant to subsection C of this section.
 2. The director or the director's designee shall provide notice to the owner stating the date, time, and location of the hearing. The hearing must provide the owner an opportunity to present, orally or in writing, any reason or information as to why the dog should not be declared a dangerous dog.
 3. The burden shall be on the animal control authority to prove, by a preponderance of the evidence, that the dog is a dangerous dog as defined in SMC 6.04.020(V).
 4. After reviewing the record, if the director or designee finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled. If the director or designee finds, by a preponderance of the evidence, sufficient evidence to support the declaration, the owner may appeal such decision by submitting a written notice of appeal to the clerk of the municipal court within 10 calendar days.
 5. On appeal before the municipal court, the burden shall be on the animal control authority to prove the declaration of dangerous dog, as defined in SMC 6.04.020(V), is supported by a preponderance of the evidence.
 6. An appeal of the municipal court's decision must be filed in superior court within 15 calendar days of the date of the municipal court's written decision.
 7. During the entire appeal process, it shall be unlawful for the owner appealing the declaration of potentially dangerous dog to allow or permit such dog to:
 - a. Be unconfined on the premises of the owner; or
 - b. Go beyond the premises of the owner unless such dog is securely leashed, under the control of a competent adult and humanely muzzled or otherwise securely restrained.
- F. In the case wherein a dog is found to be a dangerous animal pursuant to the procedures in this section because the dog killed or severely injured a human being without provocation, after the exhaustion of appeal therefrom, the dangerous dog shall be forfeited to the animal control authority and be humanely euthanized.
- G. During the entire appeal process, should the owner fail to follow the restrictions outlined in this section, the animal control authority is authorized to seize and impound such dog for the remainder of the appeal process. The owner is responsible for the daily boarding fee outlined in SMC 6.04.030(B).