

FILED
Jul 23, 2015
Court of Appeals
Division I
State of Washington

Washington State Court of Appeals
Division I



Docket No. 72667-6-I

King Cy. Sup. Ct. Cause No. 14-1-02159-0SEA

Seattle Muni. Ct. No. 585313

JANET NORMAN,

Defendant-Appellant,

-against-

CITY OF SEATTLE,

Plaintiff-Respondent.

APPELLANT'S REPLY BRIEF

ADAM P. KARP, ESQ.
114 W. Magnolia St., Ste. 425
Bellingham, WA 98225
(888) 430-0001
WSBA No. 28622

EDWIN ARALICA
King County Department of Public
Defense – ACA Division
420 W. Harrison, Ste. 201
Kent, WA 98032
(253) 520-6509
WSBA No. 35160

TABLE OF CONTENTS

I.	REBUTTAL.....	1
	A. <i>State v. Bash</i>	1
	B. <i>Auburn v. Solis-Marcial</i>	1
	C. <i>Rabon</i>	2
	D. Due Process Challenge	4
	E. Privileges and Immunities Challenge	9
	F. Ms. Grant’s statements were hearsay and violated the Confrontation Clause. Her statements were only relevant if they were admitted for their truth	20
	G. The purpose of Officer Jackson’s testimony was a comment on Ms. Norman’s guilt	22
II.	CONCLUSION.....	25

TABLE OF AUTHORITIES

CASES

<i>Boyd v. U.S.</i> , 116 U.S. 616 (1886).....	19
<i>City of Kennewick v. Fountain</i> , 116 Wn.2d 189 (1991)	13
<i>City of Pierre v. Blackwell</i> , 635 N.W.2d 581 (2001).....	8, 9
<i>City of Seattle v. Hogan</i> , 53 Wash.App. 387 (1989)	12
<i>Downey v. Pierce Cy.</i> , 165 Wash.App. 152 (2011)	10
<i>Kennedy v. Mendoza-Martinez</i> , 372 U.S. 144 (1963).....	18
<i>Olsen v. Densmore</i> , 48 Wn.2d 545 (1956).....	11, 14
<i>Rabon v. City of Seattle</i> , 107 Wash.App. 734 (2001).....	10
<i>Rabon v. City of Seattle</i> , 135 Wn.2d 278 (1998)	2
<i>Rhoades v. City of Battle Ground</i> , 115 Wash.App. 752 (2002)	11
<i>Spokane v. Bates</i> , 96 Wash.App. 893 (1999).....	21
<i>State v. Bash</i> , 130 Wn.2d 594 (1996)	1
<i>State v. Blake</i> , 172 Wash.App. 515 (2012).....	23, 24
<i>State v. Blanchey</i> , 75 Wn.2d 926 (1969)	11
<i>State v. Kirwin</i> , 165 Wn.2d 818 (2009)	13, 14
<i>State v. Nelson</i> , 152 Wash.App. 755 (2009).....	22, 24
<i>State v. Olmedo</i> , 112 Wash.App. 525 (2002)	23
<i>State v. Von Thiele</i> , 47 Wash.App. 558 (1987).....	16, 17
<i>State v. Zornes</i> , 78 Wn.2d 9 (1970)	13, 14
<i>U.S. v. Ward</i> , 448 U.S. 242 (1980)	16, 17, 19, 20
<i>Yakima County Clean Air Authority v. Glascam Builders, Inc.</i> , 85 Wn.2d 255 (1975).....	13

STATUTES AND REGULATIONS AND RULES

SMC 9.25.083	1, 3
SMC 9.25.036	5, 9
SMC 9.25.022	8
SMC 9.25.023	3
Wash.Const.Art. I, § 12	13
SMC 9.25.035	4, 5, 6, 9, 16

I. REBUTTAL

Ms. Norman directs the Court to her original brief to respond to the anticipated arguments of the City as to *Bash* and *Auburn* (Section III(A)(1): *The Lesson of State v. Bash*); *Rabon* (Section III(A)(3): *The Inapplicable Rabon Trilogy*), *Medina* (Section III(A)(4): *The Proper Procedural Due Process Measure*), and *Youngstown* (Section III(B)). She adds the following:

A. State v. Bash

The City argues that the crime of Driving While License Revoked does not require knowledge of same. But, as the Supreme Court noted, it did compel the prosecutor to prove that the driver “was provided with notice of suspension and an opportunity to be heard.” *Bash*, at 614 fn. 3. Further, here, knowledge is a distinct element of SMC 9.25.083(A).

B. Auburn v. Solis-Marcial

Auburn observed that actual notice of a permanent protection order sufficed for criminal prosecution of a respondent who violated it, but was not served with it. This case would help the City if, in fact, there were some written order or directive from the Director of Seattle Animal Control, or even a citation issued by an animal control officer, about which Mrs. Norman had actual knowledge but had not received by personal service or certified mail or posting at her door. The undisputed

evidence is that no order issued, in writing or verbally. There was no document to personally serve upon her. Indeed, Ms. Norman was simply presented with “a couple of options” without any certainty of prosecution.

See CP 324:21-25, where Officer Leahy testifies:

I advised the defendant that if – that she had a couple of options, that she could remove the dog from the city limits, or if she kept the dog at her residence in the City limits, the City may pursue criminal charges against her.

What makes the decision of the City to criminally prosecute Ms. Norman on such facts so unnerving is that the City amended SMC 9.25.083 in 2003 to make it a crime to possess a dangerous animal ordered removed by order of the Director under SMC 9.25.035, an order that would have been in writing and delivered to Ms. Norman personally, yet the City argues that it had a right to prosecute Ms. Norman in the absence of any order, orally or in writing.

C. Rabon

The City’s citations to the *Rabon* decisions must be considered against the 1992 version of Ch. 9.25 SMC under which Mr. Rabon was charged. The SMC 9.25.083 at issue in *Rabon* did not provide for mandatory destruction upon conviction. *Rabon v. City of Seattle*, 135 Wn.2d 278, 294 (1998). Compare Ord. 112335 (1985) with Ord. 119998 (2000) (attached).

Two years following *Rabon I*, decided in 1998, the City amended SMC 9.25.083 by adding subsection (B), stating, “An animal whose owner is convicted of or pleads guilty to violating this section shall be humanely destroyed.” In 2003, per Ord. 121178, the City amended SMC 9.25.083 again, renumbering SMC 9.25.083(B) (2000) as SMC 9.25.083(C) (2003) and adding a new subsection (B), which stated “It is unlawful to possess within the City of Seattle any animal that has been ordered removed from the City of Seattle pursuant to SMC 9.25.035,” as presently codified. In so doing, the City reaffirmed that the administrative procedure of SMC 9.25.035-.036 feeds into and sets the foundation for filing the criminal charge. Far from mutually exclusive processes, these codes are wedded to one another.

It is also relevant to note that at the time the *Rabon* decisions came down, the Director had no authority to banish a dog outside city limits, unless sent to a “secure animal shelter,” defined at SMC 9.25.023(C). Technically, such shelter could be within the City of Seattle, meaning that dangerous animals could, in fact, remain within the city limits without being a crime under SMC 9.25.083(A). Yet, this opportunity was never given to Ms. Norman. The ability to send the animal to a private citizen outside city limits came in the same ordinance that amended SMC 9.25.083.

Thus, in the post-2003 posture in which Ms. Norman found herself prosecuted, the City had conveyed to the Director the power to *order* what Officer Leahy merely *suggested* was an “option.” Yet, so the City argues, under either set of facts, Ms. Norman was properly convicted. The City furnishes no plausible reason why some citizens should get the former, while others the latter, all while depriving the latter of the procedures outlined in SMC 9.25.035. The Supreme Court and Court of Appeals in *Rabon* were not presented with this modified statutory framework. And as the holdings were admittedly statute-specific and, except for *Rabon II*, not based on the constitution,¹ the proposition that Ms. Norman received maximum due process in the criminal case relative to the determination of whether Duncan was dangerous is *dictum*.

D. Due Process Challenge.

It should be prefaced that nothing in the Seattle Municipal Code *requires* the Director to declare any dog dangerous. “The Director ... *may* conduct an investigation, and if the findings of the investigation so indicate, he or she *may* declare an animal to be dangerous.” SMC 9.25.035(A) (emphasis added). There is no other mechanism by which a dog’s legal classification may change to “dangerous” except following an investigation and pursuant to the declaration procedure described in that

¹ The constitutional arguments made by Ms. Norman were never considered by the appellate courts in *Rabon*, even under the old code.

section. Hence, until so “declared,” the dog remains nondangerous as a matter of law. Such undeclared status does not carry with it any order of legal substance or compulsion to direct the dog’s “humane disposal,” being “sent at the owner’s expense to a secure animal shelter,” or “remov[al] from the City and maintained at all times in compliance with RCW Chapter 16.08.” SMC 9.25.035(A).

The City Council restrained the Director’s discretion by installing several procedural speedbumps prior to declaring the dog and ordering disposition, as set forth in SMC 9.25.035(B), emphasis added – i.e., written notice explaining “the reasons why the animal is **believed to be dangerous**” and written notice of an opportunity to meet the Director within twenty days and give “any reasons or information as to why the animal should **not be declared to be dangerous**, or why the Director should direct that the animal be sent to a secure animal shelter **instead of directing humane disposal.**” Only after exhaustion of such procedure may the Director enter a *final* determination of dangerousness and direct disposition, which must be in writing and contain a “brief and concise statement of the facts that supports the disposition,” along with a right of appeal. SMC 9.25.035(D). On appeal, the rightness of the determination “shall be considered de novo” by the hearing examiner. SMC 9.25.036(C).

The City Council’s desire to involve the dog owner in a noticed, nonexpedited, dialectic prior to ordering the dog removed from city limits or killed is evidenced by the very enactment of SMC 9.25.035-.036. Yet the City urges this Court to accept that it may withhold from the dog owner the statutory entitlements to a written notification of the purported facts explaining why the City believes the dog may be dangerous² dog; of the opportunity to meet and present counterfactuals to the Director; and, lastly, of receipt of a “final” notice that again sets forth the specific facts that support the legal conclusion that the dog is “dangerous.” Further, the City claims that it can achieve the same outcome of SMC 9.25.035(A)(1) – viz., euthanasia – by ignoring the notice and hearing safeguards painstakingly set forth in SMC 9.25.035-.036 by simply filing a criminal charge that completely deprives the owner of the ability to argue for banishment or secure sheltering – two alternative statutory rights conferred by SMC 9.25.035(A)(2) and (A)(3).

What justification does the City give for this disparate treatment – i.e., killing the dog *and* exposing the dog owner to a gross misdemeanor punishment? It claims that a different standard of proof permits a mandatory death penalty. But did the dog engage in different behavior that

² The City routinely issues notices of “preliminary” determination of dangerous animal. Only after the meet-and-confer session articulated by SMC 9.25.035(B) may the Director send a “final” determination notice.

would warrant deprivation of alternative means of sparing his life? No, for as the City contends, it must prove the same elements as would the Director in an administrative hearing before the Hearing Examiner. Did the dog owner engage in different behavior? Not with respect to the incidents that allegedly gave rise to the dog being deemed “dangerous.” Rather, SMC 9.25.083(A) and (B) turn on what the dog owner or possessor knew and when she knew it. And did the City inform Mrs. Norman that if she “might” be criminally charged that Duncan “might” be killed and deemed irredeemable? No. Further, she received nothing in writing. CP 322:17-20.

Epistemologically, then, we are faced with parsing subsection (A), which requires proof that the dog owner knowingly or recklessly kept a dog deemed dangerous. As a dog may only be declared dangerous by the Director according to the foregoing process, it follows that the “fact” that Duncan was “dangerous” had not yet come to fruition. Hence, Ms. Norman could not have come to “know” or act in “reckless disregard” of that “fact” and the threat that Duncan would be executed without any right to argue for an alternative outcome. Indeed, as the City reminds Ms. Norman in its response brief, death remains an option even in the administrative hearing. However, in that hearing, the City “shall have the burden of proving that the Director’s decision not to allow the animal to

be sent to a secure animal shelter was not arbitrary and capricious.” SMC 9.25.036(C).

Subsection (B) appears to infer knowledge of dangerousness through the Director’s order. This, after all, would comport with the holding of *Bash* in having provided the defendant with notice that the dog at issue is potentially dangerous or dangerous. A further distinction arises: (A) prohibits “own[ing]” a dangerous animal, while (B) proscribes “possess[ing].” Read together, the sweep of the code seeks to criminalize either possession or ownership of dogs declared dangerous by the Director.³

City of Pierre v. Blackwell, 635 N.W.2d 581 (2001), cited by the City at pages 14-15, aids Mrs. Norman. Unlike Ch. 9.25 SMC, which expressly furnished a notification and appeal procedure for any dangerous dog declaration, the City of Pierre had none to follow prior to initiating criminal prosecution. Notwithstanding the absence of a civil hearing to determine the dog’s dangerousness, the City of Pierre sent Blackwell, by

³ Issuance of an order of removal, after all, necessarily means that the Director has issued a “final determination” that the dog is, in fact (at least until vacated at contested hearing), dangerous. Mindful that the Director is instructed to deliver such order “by regular and certified mail, return receipt requested, or ... in person” to “the owner,” it is quite likely that the City Council intended to cover the scenario where said owner has given the dog to a third party “possessor” in an effort to avoid criminal liability under (A). That said, a statutory “owner” is also a possessor. See SMC 9.25.022(B) (“Owner” means a “person who harbors, keeps, causes or permits an animal to be harbored or kept, or who has an animal in his/her possession or custody, or who permits an animal to remain on or about his/her premises, or who has legal title to an animal.”)

registered mail, a written notice declaring his dog dangerous and imposing written restrictions for control and keeping of a dangerous dog. When Blackwell refused to abide the notice, animal control sent him a *second* notice of declaration of dangerousness via registered mail. Only after receipt of *two* written declarations of dangerous dog, outlining the restrictions imposed and, presumably, the risk of criminal charges if he continued to refuse to comply, did the City criminally charge him. *Id.*, at 583-84. Here, the City never sent Mrs. Norman any notice, order, directive, or declaration that deemed Duncan “dangerous,” imposed upon her the obligation of removing Duncan, or informed her of the risk of being charged with a gross misdemeanor and Duncan being killed.

E. Privileges and Immunities Challenge.

At 19, the City claims that Mrs. Norman “seems to ignore the option available in the civil proceeding of killing the dangerous animal.” SMC 9.25.035(A, C, and E) provides the dog owner with the right to seek an alternative disposition to death and, on appeal, the City has the burden of proving that a decision to reject such alternative is not arbitrary or capricious. SMC 9.25.036(C). Additionally, if the dog owner can furnish proof that all conditions required by Ch. 16.08 RCW and state or local law for maintaining a dangerous animal have been met, that the jurisdiction to which the animal is being moved has been informed of and consents to

such relocation, and the owner indemnifies and holds harmless the City, then it would be arbitrary or capricious to have denied banishment. In this criminal prosecution, however, Ms. Norman was denied any of these disposition alternatives and the predicate opportunity to contest the underlying declaration of Duncan as dangerous.

At the aforementioned administrative hearing, were the City unable to persuade the Hearing Examiner that Duncan was, in fact, dangerous, then preclusive offensive mutual collateral estoppel would apply. If the City could not prove Duncan's dangerousness by evidentiary preponderance, it certainly could not beyond a reasonable doubt. Moreover, and quite obviously, if he were found not dangerous by the Hearing Examiner, then, at that point, Ms. Norman would have knowledge that Duncan was *not* a dangerous animal – a complete defense to any criminal charge.

While property in dogs may be imperfect and qualified, even dogs deemed dangerous after a criminal trial are entitled to due process. “There may be merit to the argument that a person's relationship with a dog deserves more protection than a person's relationship with, say, a car[.]” in which the property interest is perfect and unqualified. *See Rabon v. City of Seattle*, 107 Wash.App. 734, 744 (2001). In *Downey v. Pierce Cy.*, 165 Wash.App. 152, 165 (2011), Division II held that the private interest of pet

owners in keeping their pets is “arguably more than a mere economic interest because pets are not fungible.” *Rhoades v. City of Battle Ground*, 115 Wash.App. 752, 766 (2002), echoed this position, adding that in the case of the government threatening to remove one’s companion animal, the “private interest at stake is great.”

These precious interests, property- and liberty-based, cannot be so readily dispatched by the City choosing to prosecute one class of allegedly “dangerous” dog owners with a gross misdemeanor and mandatory euthanasia provision while providing an administrative sit-down with the Director, followed by a *de novo* appeal to the Hearing Examiner to another class of “dangerous” dog owners with the added bonus that if their dogs are deemed dangerous, they can still save them from the needle.

The City disregards the clear holding of *Olsen v. Delmore*, 48 Wn.2d 545 (1956) that “statutes which give the prosecution discretion to charge either a felony or a misdemeanor upon the same facts violate the equal protection clause.” *State v. Blanchey*, 75 Wn.2d 926, 939 (1969). Stating that *Olsen* is limited to two different classifications of crimes, the City cites *Blanchey* and *Boggs*. But *Blanchey* examined only a statute that permitted variation in punishment under a single crime classification of felony (i.e., 20 years in the state penitentiary or no more than 1 year in county jail). It never examined the issue here. Besides, the City has done

worse in this instance by proceeding by either gross misdemeanor charge or administrative hearing with the potential of an identical criminal penalty (i.e., as discussed below, forfeiture by death). *City of Seattle v. Hogan*, 53 Wash.App. 387 (1989), bears out this point, adding that the *Olsen* prohibition applies “even where both statutes are of the same degree, for example, both misdemeanors”:

The City contends that another line of cases which also cite *Olsen* controls here. These cases hold there is no denial of equal protection where a statute merely permits a range or variation in punishment. We note, however, that where this principle is stated, it is accompanied with the proviso that the charging authorities cannot exercise discretion with regard to the *degree* of the offense charged (i.e., felony or misdemeanor), and that sentencing discretion lies only with the court. See *Jansen v. Morris*, [87 Wash.2d 258, 261, 551 P.2d 743 \(1976\)](#); *State v. Blanche*, [75 Wash.2d 926, 939-40, 454 P.2d 841 \(1969\)](#), cert. denied, [396 U.S. 1045, 90 S.Ct. 694, 24 L.Ed.2d 688 \(1970\)](#); ****1137** *State v. Boggs*, [57 Wash.2d 484, 489-90, 358 P.2d 124 \(1961\)](#); *State v. Edwards*, [17 Wash.App. 355, 361, 563 P.2d 212 \(1977\)](#), review denied, [89 Wash.2d 1015 \(1978\)](#). To allow a prosecutor to set the range of punishment by choosing the degree of the charge would not be in harmony with our state's policy “goals of treating all men equally in the guilt determination process while retaining some flexibility and individualized treatment at the punishment stage.” *Blanche*, [75 Wash.2d 940, 454 P.2d 841](#).

Id., at 391. For the same act committed under the same circumstances by persons in like situations (i.e., harboring a dangerous dog), the City exercises unbridled discretion when it picks its punishment or, here, poison, by proceeding to kill a dog via the criminal process under SMC

9.25.083(A) or to seek death (or its two alternatives) via the administrative process of SMC 9.25.035. Wash.Const.Art. I, § 12, does not countenance such disparate treatment. It states:

No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

The City responds by citing to *Kennewick v. Fountain*, 116 Wn.2d 189 (1991) and *Yakima County Clean Air Authority v. Glascam Builders, Inc.*, 85 Wn.2d 255, 260 (1975). Neither alter this analysis. For while *Kennewick* did abrogate *State v. Zornes*, 78 Wn.2d 9, 20-22 (1970) as to the federal constitutional claim, it did not touch upon the state constitutional claim at bar. Consider the following from *State v. Kirwin*, 165 Wn.2d 818 (2009):

¶ 21 In *City of Kennewick v. Fountain*, 116 Wash.2d 189, 802 P.2d 1371 (1991), the court observed that *United States v. Batchelder*, 442 U.S. 114, 99 S.Ct. 2198, 60 L.Ed.2d 755 (1979), overruled *Zornes* insofar as it had held that equal protection under the Fourteenth Amendment was violated by acts defining the same offense but prescribing different punishments. As the court subsequently reiterated, *Batchelder* “overrules *Zornes* as to analysis under the Fourteenth Amendment.” *In re Pers. Restraint of Boot*, 130 Wash.2d 553, 574, 925 P.2d 964 (1996).

¶ 22 The question that remains, of course, is whether the *Olsen-Zornes* line of cases is still viable insofar as article I, section 12 is concerned. FN3 The present status of the rule under the state constitution is uncertain. This court has not

overruled the cases to the extent they rely on article I, section 12. ...

FN3. In an unpublished opinion (which therefore may not be cited as authority, *see* GR 14.1(a)), the Court of Appeals engaged in a *Gunwall* analysis (*see State v. Gunwall*, 106 Wash.2d 54, 720 P.2d 808 (1986)) and then determined that the state constitution provides greater protection in this context than the equal protection clause. The court concluded that *Zornes* remains good law under article I, section 12. ...

Id., at 831. Applying the *Gunwall* factors also bolsters this conclusion given the different language (the State provision prohibiting the giving of a privilege or immunity, the Federal provision prohibiting the taking away of the same); the populist history of the delegates to the state constitutional convention evidencing the framers' intent to reserve greater protections to Washington citizens; and that the former is embedded in a constitution while the latter was passed as an amendment to a constitution.

Add the identical elements scenario present here; that the specific holdings of *Zornes* (at 23) and *Densmore* (at 550) stating that charging a defendant under the statute with the harsher penalty in the “identical elements” case violates the State Constitution have not been reversed, and it follows that SMC 9.25.035(A)(1-3) and SMC 9.25.083(C), in

prescribing different punishments⁴ for precisely the same deed, violate the State Constitution.

Yakima Count Clean Air Authority involved a civil action to collect a \$250 penalty issued by the Authority to Glascam Builders, Inc. While the Supreme Court stated that “it is constitutionally permissible to provide for civil or criminal penalties, or both, for the same, act,” what is truly at stake in this case (aside from the obvious threat of incarceration for Mrs. Norman and the fine for a gross misdemeanor), is the *death* penalty for Duncan.

Yakima and *Ankney* do not apply because the death penalty is not, for purposes of Privileges and Immunities analysis, “civil” in nature. The case at bar does not present a typical criminal/civil dichotomy, for here, the administrative procedure of SMC 9.25.035-.036 imposes no fine schedule. There is no economic penalty. Rather, the only punishment, as it were, pertains to whether to deem the dog forfeit to the City and executed. In short, the “penalty scheme” described in *Ankney* and *Yakima* do not resemble the stakes here. Should this court find that Duncan’s death amounts to a “criminal” or “quasi-criminal” penalty, then the case will fall

⁴ To be clear, one punishment is a mandatory death sentence; the other punishment is a discretionary death sentence or secure sheltering within or without city limits or banishment from the city.

within the *Olsen-Zornes* rule prohibiting disparate penalties for the same act.

Ankney discussed *State v. Von Thiele*, 47 Wash.App. 558 (1987) and *U.S. v. Ward*, 448 U.S. 242 (1980) as a means to determine whether “civil penalties” are truly civil or instead criminal in character. While *Von Thiele* and *Ward* did not examine equal protection, they do serve as a basis to apply *Yakima* to these facts and determine whether the City’s attempt to construe the euthanasia provision as a “civil penalty” is misnamed for purposes of this constitutional analysis.

Considerations in adjudicating this question include the following. In 2003, the City enacted Ord. 121178 (attached), amending SMC 9.25.035 to add (A)(3), which provided for removal of the animal from City limits provided that the animal was kept in accordance with Ch. 16.08 RCW, as well as other assurances and a release found in subsection (E). At the same time, it amended SMC 9.25.083 by moving subsection (B) to position (C) and creating a new (B) that provided for prosecution of any possessor of a dangerous animal who does not abide the Director’s order of removal under SMC 9.25.035. Both subsections (A) and (B) of SMC 9.25.083 criminalize the keeping of a dangerous animal within the City limits, and subsection (C) imposes the penalty of euthanasia. In this context, it is clear that the City regards euthanasia as a criminal

punishment, whether routed through the administrative process or not.⁵ In so tying these two statutes together, the City has criminalized SMC 9.25.035.

In *Von Thiele*, the Court found that ordering reimbursement to the State for each animal killed or possessed under an illegal hunting or possession of wildlife charge, because it involved remunerating the victim for redress of wildlife values lost due to the illicit hunting, was “inherently remedial, rather than criminal, in nature.” *Id.*, at 563. Killing a dog in no way meets the test of restoring the victim or providing redress for loss. And, at the risk of appearing too facile, the fact that the City amended SMC 9.25.083(C) precisely to make euthanasia a penalty upon conviction seems to terminate this inquiry in Mrs. Norman’s favor.

Nonetheless, *Ward* examined whether Congress, “despite its manifest intention to establish a civil, remedial mechanism, nevertheless provided for sanctions so punitive as to ‘transfor[m] what was clearly intended as a civil remedy into a criminal penalty.’” *Id.*, at 249 (quoting *Rex Trailer Co. v. U.S.*, 350 U.S. 148, 154 (1956)). Seven factors were drawn from to make this determination, though they are neither exhaustive nor dispositive. They are:

⁵ Mrs. Norman makes this argument without waiving her position that due process requires the initiation of the administrative process under SMC 9.25.035 before any criminal charges may be filed, whether under SMC 9.25.083(A) or (B).

Whether the sanction involves an affirmative disability or restraint,²² whether it has historically been regarded as a punishment,²³ whether it comes into play only on a finding of scienter,²⁴ whether its operation will promote the traditional aims of punishment—retribution and deterrence,²⁵ whether the behavior to which it applies is already a crime,²⁶ whether an alternative**568 purpose to which it may *169 rationally be connected is assignable for it,²⁷ and whether it appears excessive in relation to the alternative purpose assigned²⁸ are all relevant to the inquiry, and may often point in differing directions.

Kennedy v. Mendoza-Martinez, 372 U.S. 144, 168 (1963). Evidently, euthanizing Duncan amounts to an affirmative disability or restraint of the greatest and most irreversible magnitude. Whether killing a dog as a condition of sentencing has been historically regarded as punishment is, to this author, unknown, but again, the City made it a criminal penalty in 2003. SMC 9.25.083(A) specifically requires proof of scienter. Destroying a dog who may endanger public safety is akin to executing an inmate convicted of a capital offense, thereby ending the risk of recidivism with finality and deterring others who think of engaging in similar misconduct. SMC 9.25.083 has criminalized the behavior at issue. There is no alternative purpose assigned to euthanasia other than a nonremedial/penal one that can be conceived of by this author.

While *Ward* held that only one factor favored the respondent (a man fined \$500 by the Coast Guard for violating the Federal Water Pollution Control Act), viz., that the conduct that gave rise to the “civil

penalty” was also criminal in nature, it did discuss whether it qualified as a “quasi-criminal” case for which the Fifth Amendment protection against self-incrimination applied. In citing *Boyd v. U.S.*, 116 U.S. 616 (1886), the court took notice of a holding that is quite germane here. In finding the Fifth Amendment applicable to an action involving the forfeiture of certain goods, the Supreme Court in *Boyd* held, “We are ... clearly of the opinion that proceedings instituted for the purpose of declaring the forfeiture of a man’s property by reason of offences committed by him, though they may be civil in form, are in their nature criminal.” *Id.*, at 633-34. *Ward* observed that *Boyd* pressed on in expanding the holding by stating:

“As, therefore, suits for *penalties and forfeitures*, incurred by the commission of offences against the law, are of this quasi-criminal nature, we think that they are within the reason of criminal proceedings for all the purposes of the fourth amendment of the constitution, and of that portion of the fifth amendment which declares that no person shall be compelled in any criminal case to be a witness against himself” *Id.*, at 634, [6 S.Ct., at 534](#) (emphasis added).

Ward, at 252 (quoting *Boyd*, at 634). While *Ward* ultimately held for the United States, it did so by distinguishing *Boyd* in a way that favors Mrs. Norman, for it held:

Initially, we note that the penalty and proceeding considered in *Boyd* were quite different from those considered in this case. **Boyd dealt with forfeiture of property, a penalty that had absolutely no correlation to**

any damages sustained by society or to the cost of enforcing the law. See also *Lees v. United States, supra* (fixed monetary penalty); *One 1958 Plymouth Sedan v. Pennsylvania, supra* (forfeiture); *United States v. United States Coin & Currency, supra* (forfeiture).

Id., at 254 (emphasis added). Per *Ward*, it follows that the threatened killing of Duncan amounts to a “criminal penalty” for purposes of applying *Olsen-Zornes*. However misnomered, the City is wielding SMC 9.25.083 as a means to punish Mrs. Norman in a manner that it could not do under SMC 9.25.035-.036, notwithstanding that the operative facts giving rise to either avenue are the same. While perhaps not as conventionally presented, this scenario is precisely the type of governmental misconduct that our Constitution sought to prevent.

F. Ms. Grant’s statements were hearsay and violated the Confrontation Clause. Her statements were only relevant if they were admitted for their truth.

At Ms. Norman’s trial, Ms. Grant did not testify. Ms. Grant’s out-of-court statements were admitted through Officer Jackson. She *de facto* testified through him. As with all evidence, these statements must be relevant to an issue in controversy. The City argued that the statements were admissible not for their truth, but to show Ms. Norman’s reaction to it for background or context.

Ms. Grant’s statements were not necessary to show to show any background or context. And, the statements were not necessary to explain

Ms. Norman's reaction. There was no controversy that Duncan bit Ms. Grant. The statements, however, were only relevant if they were admitted for their truth—that Duncan bit Ms. Grant and Ms. Grant did not provoke Duncan.

The City relies on *Spokane v. Bates*, 96 Wn.App. 893, 899 (1999) to support its claim. In *Bates*, Spokane Animal Control officers testified in a dangerous dog trial. *Id.* at 893. They stated there had been past complaints about the dog in question. *Id.* at 899. The out-of-court statements were not hearsay because offered to prove that the defendant was aware of his dog's aggressive behavior. *Id.*

Bates, however, is not “exactly the reasoning relied on by the trial court regarding Officer Jackson’s testimony.” *Respondent’s Brief*, pg. 23. A closer examination of *Bates* is necessary. *Bates* was decided before *Crawford*. *Bates* dealt with prior complaints about a dog. And, *Bates* did not deal with the victim’s out-of-court accusation about the actual incident.

At Ms. Norman’s trial, the admitted out-of-court statements were not past complaints about Duncan. It was the exact opposite. The victim and her mother lived across the street from Ms. Norman for many years. CP 296, 300. She had never complained about Duncan prior to September 2012 despite the mother’s live, in-court testimony that he was

“uncontrollable.” CP 290-304. The victim’s mother testified; hence, her statements were not hearsay. Moreover, Duncan had not been aggressive in the past according to several witnesses at trial. CP 255, 341, 344, 346.

The trial court admitted Ms. Grant’s out-of-court statements about the actual incident. Officer Jackson testified that the victim told him that Duncan bit her. CP 252. She told him that she did not provoke Duncan before the bite. CP 261-62. She did, however, punch the dog after the bite. *Id. Bates* does not justify the admission of the victim’s out-of-court statements.

Ms. Grant was a material witness for the City, and the jury heard her “story” without the benefit of cross-examination. In closing, the City emphasized what Ms. Grant told Officer Jackson. CP 400. Accepting the City’s argument, any statement that any witness said would circumvent the 6th Amendment violating the central holding of the Confrontation Clause.

G. The purpose of Officer Jackson’s testimony was a comment on Ms. Norman’s guilt.

A witness (expert or not) may not comment on a defendant’s guilt or innocence. *State v. Nelson*, 152 Wash.App. 755, 768 (2009). Courts will consider the following to determine if the witness’s testimony is impermissible opinion evidence:

“(1) the type of witness involved, (2) the specific nature of the testimony, (3) the nature of the charges, (4) the type of defense, and (5) the other evidence before the trier of fact.”

State v. Blake, 172 Wash.App. 515, 526, 527 (2012). A witness, however, can testify from “their own sensory perceptions...” *Id.* at 526. The testimony is also permissible if based on direct and specific observations. *Id.* Hence, a witness can testify about inferences from the evidence. *Id.*

“Evidence is not improper when the testimony is not a direct comment on the defendant's guilt, is helpful to the jury, and based on inferences from the evidence.” *Blake*, at 528 (citing *State v. Olmedo*, 112 Wash.App. 525, 531 (2002)). *Olmedo* distinguished proper inference evidence from improper legal conclusion evidence. *Id.* “Improper legal conclusions include testimony that a particular law applies to the case, or testimony that the defendant’s conduct violated a particular law.” *Id.* at 532.

Here, the City replies that Officer Jackson’s testimony was permissible because it was based on an inference after his discussion and with Ms. Grant, and his own observations. He was not present when the bite happened. He could infer that Duncan bit Ms. Grant, and he could infer it was serious bite. His testimony, however, went beyond inferences based on his own observations.

Blake’s holding supports that Officer Jackson’s testimony was in

fact a legal conclusion and an improper opinion. 172 Wash.App. at 529. Officer Jackson's testimony was an expression of belief. He believed that the bite was "unprovoked," and he conveyed this opinion to the jury. His testimony carried a "special aura of reliability." *Id.* He was a law enforcement officer. The nature of his testimony was not based on inferences. It was legal in nature. At trial, he testified about how he explained the dangerous animal statute to Ms. Norman. CP 311. He testified about how he explained the legal definition of "provoked bite" vs. "unprovoked bite" to her. CP 312. Then, he testified that it was an "unprovoked" bite. Ms. Norman's defense at trial was that the City could not prove that the bite was "unprovoked." Officer Jackson's opinion went directly to this legal element, and "undermined the jury's independent determination of the facts." *Olmedo*, at 531.

Nor does *Nelson* save the City's case. 152 Wash.App. 755, 768. Again, Officer Jackson's testimony went beyond proper expert testimony as allowed in *Nelson*. His testimony was that bite was "unprovoked." The jury, not the witness, had to make this decision. Biting Ms. Grant did not prove Duncan was a "dangerous animal." The City had to prove that Duncan's bite was "unprovoked." If "unprovoked," Ms. Norman was guilty of Owing a Dangerous Animal *but only if the City could prove that she knew this to be a fact at the time she was charged* and subject to the

foregoing constitutional arguments. The purpose of his testimony was to show that bite was unprovoked. This is why his testimony constituted an improper opinion and an improper legal conclusion.

II. CONCLUSION

Ms. Norman respectfully requests that the Court find in her and Duncan's favor.

Dated this Jul. 22, 2015

ANIMAL LAW OFFICES



Adam P. Karp, WSB No. 28622
Attorney for Appellant

KING COUNTY DEPARTMENT OF PUBLIC DEFENSE—
ACA DIVISION



(WSB 28622, for)
Edwin Aralica, WSB No. 35160
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 23, 2015, I caused a true and correct copy of the foregoing, to be served upon the following person(s) in the following manner:

[x] Email (stipulated)

Richard Greene
City of Seattle Attorney's Office
PO Box 94667
Seattle, WA 98124-4667
(206) 684-8538
F: (206) 684-4648
Richard.greene@seattle.gov



Adam P. Karp

ORD. 112335

(1985)

RJP:pm
6/14/85
ORD3.1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE 112335

AN ORDINANCE relating to the Comprehensive Animal Control Ordinance, amending various portions of the ordinance and adding new sections, and renumbering Chapter 9.24 to create a new Chapter 9.25 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to Title 9 of the Seattle Municipal Code a new Chapter 25 as follows:

Section 9.25.010 Purpose and Policy.

A. It is the purpose of this chapter to control hazards to the physical and mental health of the public caused by animals, and to prevent cruelty to animals, by establishing standards of control.

B. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the owners and possessors of animals.

C. Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for any liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of any person to comply with the terms of this chapter, or by reason or in consequence of any omission in connection with the implementation or enforcement of this chapter on the part of the City by its officers, employees or agents.

D. Animals owned by the Seattle Police Department and used to assist in the law enforcement and the carrying out of its duties shall be exempt from the provisions of this chapter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 9.25.020 Definitions - A-E.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

- A. "Abandon" means the act of leaving an animal
 - 1. Without food, water, or care for twenty-four (24) hours or more; or
 - 2. In a situation where the conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.
- B. "Alter" means to permanently render an animal incapable of reproduction.
- C. "City" means The City of Seattle.
- D. "Dangerous animal" means any animal, other than the common household cat or dog, bees or other insects specifically provided for by Ordinance, that is capable of killing or seriously injuring a human being.
- E. "Director" means the Director of Licenses and Consumer Affairs of The City of Seattle or his/her authorized representative.
- F. "Department" means the Department of Licenses and Consumer Affairs of The City of Seattle.
- G. "Disposed of in a humane manner" means euthanized by a lethal dose of sodium pentobarbital.
- H. "Detain" means to place an animal in custody.

Section 9.25.021 Definitions - F-J.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. "Guard Dog" or "Attack Dog" means any member of the dog family (Canidae), not owned by a government agency, which has been trained and is used for the purpose of protecting persons or property by exhibiting hostile and aggressive propensities, or which will attack on signal or command.

B. "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 (24) hours.

C. "Holding period" means seventy-two (72) hours commencing at the close of regular business on the day of detainment of any unlicensed or unidentified cat or dog, and 144 hours for any licensed or identified animal, excluding days the City Animal Shelter is not open to the public.

Section 9.25.022 Definitions - K-O.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Owner" means a person who harbors, keeps, causes or permits an animal to be harbored or kept, or who has an animal in his/her possession or custody, or who permits an animal to remain on or about his/her premises, or who has legal title to an animal.

Section 9.25.023 Definitions - P-T.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Permit" means human conduct in relation to an owned animal which is intentional, deliberate, careless, inadvertent or negligent.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. "Trespassing" means any animal which enters upon the property of another person without the authorization of the lawful occupant.

Section 9.25.024 Definitions - U-Z.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Vicious animal" means an animal which bites, claws or otherwise harms a human being or another animal, or which demonstrates menacing behavior toward human beings or domestic animals, but does not include an animal that bites, attacks or menaces a person or another animal that has tormented or hurt it.

Section 9.25.025 Animal Control Commission.

A. There hereby is established an Animal Control Commission comprised of eleven members, who shall serve without compensation. Six commissioners shall be appointed by the Mayor, subject to confirmation by a majority vote of all members of the City Council; and five shall be appointed by the City Council. No more than a simple majority shall be pet owners. At least one Mayor's appointee shall be a veterinarian eligible to practice veterinary medicine in Washington State. Commissioners shall be selected to be representative of the various neighborhoods of the City, and to be representative of the youthful, middle-aged and elderly citizenry of the City. Each Commissioner shall be appointed for a term of three years; provided, that the Commission appointed pursuant to Ordinance 100965 as amended (SMC 3.54.030) shall serve as the first Commission contemplated by this section. The term of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

each Commissioner appointed under SMC 3.54.030 shall expire as originally scheduled, and each vacant position shall be filled by the same appointing authority as filled the position under SMC 3.54.030.

B. The Commission shall organize, elect officers, adopt rules for its procedures, and provide a statement of organization and public disclosure index, all in accordance with public disclosure law (RCW 42.17.250 et seq.) and the City's Administrative Procedures Ordinance (SMC 3.02), as now existing or hereafter amended, revised or re-enacted.

C. The Animal Control Commission shall advise the Mayor and the Director of the Department of Licenses and Consumer Affairs regarding animal control in the city.

Section 9.25.030 Authority of the Director.

- A. The Director is authorized to:
 - 1. Make rules for the interpretation and implementation of this ordinance, pursuant to the Administrative Code;
 - 2. Accept the surrender of animals to the City Animal Shelter;
 - 3. Permit or deny adoption from the City Animal Shelter of animals that have been surrendered to the City, or which are stray or under detainment and unclaimed after the expiration of a holding period;
 - 4. Authorize immediate humane disposal of any animal surrendered to the City for humane disposal, or any animal determined by the Seattle Municipal Court or any other court of law to be a nuisance, vicious, or dangerous, or any animal unclaimed after the expiration of a holding period;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Detain animals found to be unlicensed, or abandoned, or at large, or in inhumane conditions, or to be a nuisance, or to be vicious or dangerous, or otherwise found to be in a circumstance violative of this chapter;

6. Collect cats, dogs and other animals found dead on the public areas of the City, or from private property on request of the occupant of the property, and to bury, cremate, or arrange for the disposal of such animal;

7. Appoint agents for the collection of dog and cat license fees;

8. Grant, renew, or deny licenses according to the terms of this chapter;

9. Administer the City Animal Shelter;

10. Administer the City Spay and Neuter Clinic and Program;

11. Charge and collect fees for the services authorized by this chapter, as established by Seattle Municipal Code chapter 9.26, known as the "Animal Fee Ordinance", as now existing or hereafter amended, revised or re-enacted;

12. Reduce fees for the adoption or redemption of any animal, when, in the discretion of the Director, such a reduction is in the best interests of the animal;

13. Appoint persons experienced in the humane trapping of animals to set and bait a trap or use other devices that do not physically harm an animal trapped, when, in the judgment of the Director, such action will protect the public peace, health, safety and welfare.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. The Director shall keep records of the handling and licensure of animals in the City.

C. Nothing prohibits the Police Department from enforcing provisions of this chapter.

Section 9.25.040 Animal Shelter.

A. There shall be a City Animal Shelter within the City for detaining animals, and having facilities for handling animals that are injured or ill, or possibly contagious with infectious diseases, and facilities for humane disposal of animals.

B. No animal at the City Animal Shelter shall be used, sold, loaned or given away for medical or research purposes, whether the animal is dead or alive.

Section 9.25.045 Municipal Spay and Neuter Clinic.

A. There shall be a municipal spay and neuter clinic, as provided by Ordinance 107631, at which members of the public may have cats and dogs spayed or neutered in a humane manner upon payment of fees as provided by the Animal Fee Ordinance.

B. Such fees shall include immunization of dogs against distemper, hepatitis, leptospirosis and para-influenza, and of cats against feline panleukopenia, Rhino-Traecheitis and Calici, the respective immunizations to be given at time of surgery.

C. The clinic shall operate at a level according to public demand and shall be financed by surgery fees, pet license fees for unaltered animals and other means necessary, provided license fees for altered animals shall not be increased.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 9.25.046 Waiver of City Liability.

A. Persons submitting dogs and cats for the above service shall sign a consent form certifying thereon under penalty of perjury that they are the owner of said animal(s) or are otherwise authorized to present the animal for the above operation and such persons may be required to furnish proof of such ownership or authority.

B. Such consent shall contain a waiver of any and all liability of the city, the Division of Animal Control and any city employee for the injury or death to an animal arising out of the aforementioned operation or any service provided incidental thereto.

Section 9.25.047 Return Date Establishment.

The Director shall establish a return date by which persons submitting animals for the above operations shall pick up said animals or be subject to a reasonable board and care fee to commence on the day after such a return date. Failure to pick up an animal within five days of said return date shall be deemed abandonment of such animal and the Director may dispose of it by adoption or euthanasia.

Section 9.25.048 License Required.

It shall be required that each dog or cat sterilized shall be properly licensed with a current pet license.

Section 9.25.050 Animal Licenses Generally.

A. The following animal licenses shall be required: cat and dog licenses; guard and attack dog licenses and dangerous animal licenses.

B. Possession of a cat or dog license or any type of animal license shall not excuse a person from the requirement to obtain other types of animal licenses, or from the requirements of Health or Zoning laws.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C. Licenses are not transferable.

D. Applications for licenses shall be made on forms approved by the Director and shall be accompanied by the fee set by the Animal Fee Ordinance and, in the case of cat and dog licenses, proof of alteration if the animal is altered. Licenses shall be issued in the name of the owner, and shall be numbered. Licenses shall be issued for a twelve-month period.

Section 9.25.051 Cat and Dog Licenses.

Any owner of a weaned cat or dog must obtain a valid license for each such animal.

Section 9.25.053 Dangerous Animals.

It is unlawful for any person to procure or keep a dangerous animal, provided, this prohibition shall not apply to any facilities possessing or maintaining dangerous animals which are owned, operated or maintained by any City, County, State or Federal Agency, school, college, university or similar educational facility, or to a properly licensed veterinary hospital where a dangerous animal may be confined temporarily for treatment, or to the procurement of a dangerous animal by a properly licensed commercial animal dealer where the animal is confined temporarily for sale to a zoo or other facility identified in Section 9.25.085 of this Chapter. The Director may authorize by special license, not to exceed thirty (30) days, the keeping of dangerous animals for circuses or special exhibits.

Section 9.25.054 Guard or Attack Dog License.

A. No person shall use a guard or attack dog without first obtaining a "Guard or Attack Dog License" therefore.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. The applicant for a guard or attack dog license shall certify the following information:

1. The name and address of the owner of the guard or attack dog, a description of the dog, and the address and business name (if any) of the premises the dog will guard;

2. The name and address of the trainer, and the name and address of the purveyor of the dog;

3. That the premises the dog will guard are adequately secured for the safety of the public;

4. That signs are displayed on the premises at all entrances clearly warning that a guard or attack dog is on duty;

5. That the user of the guard or attack dog is aware of and understands the aggressive nature of the dog.

Section 9.25.060 Right of Entry and Inspection.

A. Pursuant to consent of the owner or occupant of any premises the Director or any police officer may enter and inspect said premises to determine compliance with the provisions of this chapter.

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

C. The Director or any police officer may enter the private property of another to enforce this chapter with a search warrant or when otherwise authorized by law.

D. The Director or any police officer may enter the private property of another in the absence of the owner or occupant when in his/her judgment an animal on such premises needs immediate assistance or to prevent its death or serious injury.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 9.25.070 Fees.

All fees are established by Seattle Municipal Code Chapter 9.26, known as the "Animal Fee Ordinance", as now existing or hereafter amended, revised, or re-enacted.

Section 9.25.080 Offenses Relating to Licensing.

It is unlawful for the owner of any animal to:

- A. Fail to obtain the licenses required by the Animal Control Fee Ordinance;
- B. Fail to display conspicuously the current and valid license identification on the licensed animal;
- C. Fail to show the license upon request of any Animal Control Officer or any Police Officer;
- D. Use or permit another person to use a license or license identification not issued to such person;
- E. Remove a license identification from any cat or dog without the owner's consent;
- F. Alter a license in any manner;
- G. Make a false or misleading statement or representation regarding the ownership or right to custody or control of an animal, or regarding the ownership of an animal redeemed from, surrendered to, detained by the Director; or to
- H. Remove any detained animal from the City Animal Shelter or a Department vehicle without the written consent of the Director.

Section 9.25.081 Offenses Relating to Cruelty.

It is unlawful for any person to:

- A. Injure, kill, or physically mistreat any animal except as is expressly permitted by law;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. Lay out to expose or leave exposed any kind of poison or poisoned food or drink where accessible to an animal, or place such poisoned materials in a stream or other body of water, endangering fish or shellfish; provided, that nothing shall prevent the reasonable use of rodent poison, insecticides, fungicides or slug bait for their intended purposes; and provided, further, that nothing in this paragraph shall prohibit any governmental agency acting in the course of its governmental duties;

C. Set or bait any trap unless appointed by the Director to do so; provided, no permit is required to trap rats or mice;

D. Confine, without adequate ventilation, any animal in any box, container or vehicle;

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

F. 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; 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;

G. Keep an animal in an unsanitary condition or fail to provide sufficient food, water, shelter, or ventilation necessary for the good health of that animal;

H. Fail to provide his/her animal the medical care that is necessary for its health or to alleviate its pain;

I. Permit any animal to fight or injure any other animal, or permit any animal to be fought or injured by any other animal; or to train or keep for the purpose of training any animal for the exhibition of such animal in combat with

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

any other animal, whether for amusement of him/herself or others, or for financial gain; or permit such conduct on premises under his/her control, or to be present as a spectator at such exhibition;

J. To possess cock spurs, slashers, gaffs, or other tools, equipment, devices or training facilities for the purpose of training and/or engaging an animal in combat with another animal;

K. Abandon any animal.

Section 9.25.082 Offenses Relating to Safety and Sanitation.

It is unlawful for an owner to:

A. Allow the accumulation of cat or dog feces in any open area, run, cage or yard wherein dogs and/or cats are kept and to fail to remove or dispose of feces at least once every twenty-four hours;

B. Fail to remove the fecal matter deposited by his/her animal on public property or private property of another before the owner leaves the immediate area where the fecal matter was deposited;

C. Fail to have in his/her possession the equipment necessary to remove his/her animal's fecal matter when accompanied by said animal on public property or public easement;

D. Have possession or control of any animal sick or afflicted with any infectious or contagious disease and fail to provide treatment for such infection or 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 assessible to other animals. Owners of duly licensed "Guide Dogs" shall be exempted from subsections (B) and (C) of this Section.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 9.25.083 Owning Vicious Animals Prohibited - Exception.

It is unlawful to own a vicious animal (other than a licensed guard or attack dog) with knowledge that the animal is vicious, or with reckless disregard of the fact that the animal is vicious.

Section 9.25.084 Offenses Relating to Control.

It is unlawful for the owner to:

A. Permit any domestic animal except cats and pigeons to be at large or trespass upon the property of another; provided, that pets may be removed from the premises of the owner if restrained by a leash that is eight feet or shorter, and if in the physical control of a person;

B. Permit any cat or dog to enter any public fountain or schoolground;

C. Fail to confine any female cat or dog that is in estrus ("heat") in a secure enclosure so that the female cat or dog cannot come in contact with the male unless the male is admitted by the owner of the female;

D. Permit any animal: (1) to damage public property or the private property of another, or (2) to bark, whine, or howl, in violation of Chapter 25.08 of the Seattle Municipal Code (Noise Ordinance 106360) or its successor ordinance; or (3) to spread or spill garbage;

E. Have in his/her possession any animal not owned by him/her without the knowledge of the owner, unless he/she notifies the Director of such possession within twenty-four hours; or to fail to surrender such animal to the Director upon demand;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

F. Tether an animal in such a manner as to permit the animal to enter any sidewalk, street, alley or place open to the public, or to enter any adjacent lot or premises unless authorized by the occupant of the adjacent premises.

Section 9.25.085 Offenses Relating to Sale of Animals.

For the purpose of consumer protection it is unlawful to:

A. Sell any animal known to be sick or injured unless the buyer is given, at the time of sale, written notice of the condition of the animal;

B. Sell any animal known to be vicious;

C. Sell any dangerous animal except to zoos or other facilities possessing or maintaining dangerous animals which are owned by any City, County, State, or Federal Agency or school, college, university or similar educational facility.

Section 9.25.090 Detainment and Disposal.

A. No detained animal shall be released to the owner until all applicable fees are paid and licenses obtained.

B. The Director shall ascertain whether any detained animal is currently licensed, and, if so, shall notify the licensee by letter or by telephone that such animal has been detained and may be redeemed upon payment of any applicable fees.

C. Anyone claiming a detained animal must prove ownership or provide written authorization from the owner to claim the animal, to the satisfaction of the Director before redeeming the animal.

D. Notwithstanding any other provision of this Chapter, injured or diseased animals need not be detained for the holding period, but may be disposed of in a humane manner at any time at the discretion of the Director.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E. Any animal which is detained by the Director may be held at the City Animal Shelter or other place appropriate for the animal. The Director shall post a notice of detainment at the City Animal Shelter, and shall attempt to determine ownership of an animal. If, after the expiration of a holding period, no owner has claimed the animal, the Director shall authorize adoption or dispose of the animal in a humane manner.

F. A kennel fee for every twenty-four (24) hour period or part thereof, commencing at the close of business on the day the animal is detained, shall be charged to the owner or other authorized person claiming the animal for the care and feeding of the animal.

G. The Director of Public Health may direct the detention of animals suspected of having rabies. These animals shall be held until their release is approved by the Director of Public Health, and all applicable fees are paid.

Section 9.25.091 Adoption.

A. Strays and abandoned animals, following the holding period, and animals voluntarily surrendered to the Director shall become the property of The City of Seattle.

B. Any animal detained or surrendered to the Department, and not redeemed, shall be disposed of in a humane manner or, at the discretion of the Director, may be held for a longer period to allow for adoption.

C. No warranty, express or implied shall be made with respect to any animal adopted.

D. Any sexually mature unaltered cat or dog selected for adoption must be altered prior to the adopter taking possession of the animal. The expense of altering will be paid by the adopter. A deposit is required at the time of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

adoption for all sexually immature dogs and cats. The deposit shall be refunded when proof has been furnished to the Director that the sterilization operation has been performed prior to the established due date. The deposit shall be forfeited to The City of Seattle if not claimed on or before the due date.

E. Dog and cat license fees may be refunded to any adopter, providing the animal is returned to the City Animal Shelter within eight (8) days of the day of adoption accompanied by a written request for the refund and documentation from a licensed veterinarian certifying that the animal was diseased or ill at the time of adoption.

Section 9.25.092 Nuisance Animals.

A. Any animal which, by its actions or condition, presents a clear and present threat to the public peace, health, or safety is a nuisance and may be summarily detained pending correction of the condition, or pending the owner's trial for violation of this chapter.

B. If an animal is a threat to public peace, health or safety, but the public is not in imminent danger, in lieu of summarily detaining the animal, the Director may post a notice to abate a nuisance upon any property wherein an animal is kept in violation of the provisions of this chapter. If no response is made to the notice within twenty-four hours, the animal shall be detained at the City Animal Shelter.

C. In addition, nothing shall prevent prosecution of owners of noisy animals under Chapter 25.08 of the Seattle Municipal Code (Noise Ordinance 106360) or its successor ordinance.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Section 9.25.100 Penalty Clause.

A. Conduct made unlawful by this chapter constitutes a crime subject to the provisions of Sections 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment for no more than one hundred eighty (180) days, or by both such fine and imprisonment.

B. In addition, the court may order the revocation or denial of any Guard or Attack Dog License and any cat or dog license for a period not to exceed one year.

C. Any person whose Guard or Attack Dog License is revoked or denied shall surrender all of his or her guard or attack dogs to the Director to be disposed of in a humane manner.

D. Any person whose cat or dog license is revoked or denied shall surrender all of his or her cats and dogs to the Director to be disposed of in a humane manner.

Section 9.25.110 Denial of License - Order.

The denial of a license shall be in writing in the form of an order and shall include a recital of the authority for the action, a brief and concise statement of facts which constitute the grounds for the denial and the Director's signature. A copy of the order, including notice of the right to a hearing shall be mailed to the applicant.

Section 9.25.120 Denial of License - Appeal

A. If the Director has ordered a license denied, the applicant may contest the denial by filing a notice of appeal and request for hearing with the Hearing Examiner within thirty (30) days after service or mailing of the order. If a timely appeal is not filed by the applicant, the order of the Director denying the license shall be final.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

B. If a timely request for hearing is filed by the applicant, a hearing shall be scheduled before the Hearing Examiner and shall be conducted by the Hearing Examiner according to his/her rules for contested cases.

Section 9.25.130 Adoption Procedures - Exemption.

The procedures set out in this Chapter for the adoption of animals shall be exempt from the authority and control of the City Purchasing Agent.

Section 9.25.140 Severability.

The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 2. Chapter 9.24 of the Seattle Municipal Code is hereby repealed.

This repeal shall not affect any existing right acquired or duty imposed under an ordinance or section repealed prior to its effective date.

No prosecution or administrative action pending, and no violation of or noncompliance with any prior ordinance shall be terminated or prejudiced by passage of this ordinance. Any conviction, finding, or license denial, suspension or revocation under any prior ordinance is relevant to this ordinance and may be considered in license denial, suspension and revocation actions under this ordinance.

(To be used for all Ordinances except Emergency.)

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 15th day of July, 1985,
and signed by me in open session in authentication of its passage this 15th day of

July, 1985. *Morgan B. Price*
President of the City Council.

Approved by me this 9th day of July, 1985. *Charles Rosen*
Mayor.

Filed by me this 9th day of July, 1985.

Attest: *Jim Hill*
City Comptroller and City Clerk.

(SEAL)

Published _____

By: *Theresa Dunbar*
Deputy Clerk.

ORD. 117218
(1994)

3
4 ORDINANCE 117218

5 AN ORDINANCE revising the Animal Control Code (Seattle Municipal
6 Code Chapter 9.25); establishing an administrative process for
7 destroying vicious or dangerous animals; requiring rabies
8 vaccinations for dogs and cats and proof of insurance for guard
9 or attack dogs; and making other changes; amending Sections
10 9.25.020, -.025, -.030, -.045, -.046, -.047, -.050, -.054,
11 -.080, -.081, -.091, -.110, and -.120; adding new Sections
12 9.25.035, -.036 and -.037; and repealing Chapter 9.22.

13 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

14 Section 1. Section 9.25.020 of the Seattle Municipal Code
15 (Ordinance 112335, Section 1 (part)) is amended as follows:

16 9.25.020 Definitions -- A -- E.

17 As used in this chapter, except where a different meaning is
18 plainly apparent from the context, the following definitions apply:

19 A. "Abandon" means the act of leaving an animal:

20 1. Without food, water, or care for twenty-four (24)
21 hours or more; or

22 2. In a situation where the conditions present an imme-
23 diate, direct, and serious threat to the life, safety, or health of
24 the animal.

25 B. "Alter" means to permanently render an animal incapable of
26 reproduction.

27 C. "Animal Control Officer" means any person who is employed
28 with the Seattle Division of Animal Control or appointed by the
29 Director for the purpose of aiding in the enforcement of any
30 ordinance, or relating to the licensing control, quarantine, seizure
31 or impoundment of animals.

32 ((C-)) D. "City" means The City of Seattle.

33 ((D-)) E. "Dangerous animal" means any animal, other than the
common household cat or dog, bees or other insects specifically
provided for by ordinance, that is capable of killing or seriously
injuring a human being.

((E-)) F. "Director" means the Finance Director of The City of

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 Seattle or his/her authorized representative.

2 ((F-)) G. "Department" means the Finance Department of The
3 City of Seattle.

4 Section 2. Section 9.25.025 of the Seattle Municipal Code
5 (Ordinance 112335, Section 1 (part)) is amended as follows:

6 A. There hereby is established an Animal Control Commission
7 comprised of eleven (11) members, who shall serve without compen-
8 sation. Six (6) commissioners shall be appointed by the Mayor,
9 subject to confirmation by a majority vote of all members of the
10 City Council; and five (5) commissioners shall be appointed by the
11 City Council. ~~((No more than a simple majority shall be per-
12 owners.))~~ At least one (1) Mayor's appointee shall be a veterinar-
13 ian eligible to practice veterinary medicine in Washington State.
14 Commissioners shall be selected to be representative of the various
15 neighborhoods of the City, and to be representative of the youthful,
16 middle-aged and elderly citizenry of the City. Each Commissioner
17 shall be appointed for a term of three (3) years; provided, that the
18 Commission appointed pursuant to Ordinance 100965 as amended (SMC
19 Section 3.54.030) shall serve as the first Commission contemplated
20 by this section. The term of each Commissioner appointed under SMC
21 Section 3.54.030 shall expire as originally scheduled; and each
22 vacant position shall be filled by the same appointing authority as
23 filled the position under SMC Section 3.54.030.

24 B. The Commission shall organize, elect officers, adopt rules
25 for its procedures, and provide a statement of organization and
26 public disclosure index, all in accordance with public disclosure
27 law (RCW 42.17.250 et seq.) and the City's Administrative Procedures
28 Ordinance (SMC Chapter 3.02), as now existing or hereafter amended,
29 revised or re-enacted.

30 C. The Animal Control Commission shall advise the Mayor, the
31 City Council, and the Finance Director regarding animal control in
32 the ((e)) City.
33

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 Section 3. Section 9.25.030 of the Seattle Municipal Code
2 (Ordinance 112335, Section 1 (part), as last amended by Ordinance
3 116694, Section 5) is further amended as follows:

4 **9.25.030 Authority of the Director.**

5 A. The Director is authorized to:

6 1. Make rules for the interpretation and implementa-
7 tion of this chapter, pursuant to the Administrative Code;

8 2. Accept the surrender of animals to the City Animal
9 Shelter;

10 3. Permit or deny adoption from the City Animal Shelter
11 of animals that have been surrendered to the City, or which are
12 stray or under detainment and unclaimed after the expiration of a
13 holding period;

14 4. ~~((Authorize))~~ Direct immediate humane disposal of any
15 animal (a) surrendered to the City for humane disposal, or ((any
16 animal)) (b) determined by the Seattle Municipal Court or any other
17 court of law to be a nuisance, vicious or dangerous, or ((any
18 animal)) (c) involved in a court proceeding in which the owner pled
19 guilty or was found to be guilty of owning a nuisance, vicious or
20 dangerous animal, (d) unclaimed after the expiration of a holding
21 period, or (e) determined by the Director to be vicious or dangerous
22 pursuant to SMC Section 9.25.035;

23 5. Detain animals found to be unlicensed, or abandoned,
24 or at large, or in inhumane conditions, or to be a nuisance, or to
25 be vicious or dangerous, or otherwise found to be in a circumstance
26 violative of this chapter;

27 6. Collect cats, dogs and other animals found dead on
28 the public areas of the City, or from private property on request of
29 the occupant of the property, and to buy, cremate, or arrange for
30 the disposal of such animal;

31 7. Appoint agents for the collection of pig, dog and cat
32 license fees;

33 8. Grant, renew, suspend, revoke, or deny licenses

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 according to the terms of this chapter;

2 9. Administer the City Animal Shelter;

3 10. Administer the City Spay and Neuter Clinic and
4 Program;

5 11. Charge and collect fees for the services authorized
6 by this chapter, as established by Seattle Municipal Code chapter
7 9.26, known as the "Animal Fee((s)) Ordinance," as now existing or
8 hereafter amended, revised or re-enacted;

9 12. Reduce fees for the adoption or redemption of any
10 animal, when, in the discretion of the Director, such a reduction is
11 in the best interests of the animal;

12 13. Appoint persons experienced in the humane trapping of
13 animals to set and bait a trap or use other devices that do not
14 physically harm an animal trapped, when, in the judgment of the
15 Director, such action will protect the public peace, health, safety
16 and welfare;

17 14. Implant into animals leaving the shelter through
18 adoption or redemption a microchip for identification purposes.

19 B. The Director shall keep records of the handling and
20 licensure of animals in the City.

21 C. Nothing prohibits the Police Department from enforcing
22 provisions of this chapter.

23 D. The Director is authorized to enforce Seattle Municipal
24 Code Sections 18.12.080, 18.12.090 and 18.12.100 (~~(subject to such~~
25 ~~restrictions or qualifications)) as authorized by the Superintendent
26 of Parks and Recreation (~~may establish~~) by rule.~~

27 E. The Director is authorized to enforce Seattle Municipal
28 Code Chapter 9.12 and Seattle Municipal Code Section 10.72.020,
29 subject to such restrictions or qualifications as the Director of
30 the Seattle-King County Department of Public Health may establish by
31 rule.

32 Section 4. There are added to Seattle Municipal Code Chapter
33 9.25 (Ordinance 112335) new Sections 9.25.035, 9.25.036, and

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 9.25.037, as follows:

2 **9.25.035 Declaration that an animal is vicious or dangerous**
3 **-- Order of humane disposal -- Right to meeting.**

4 A. The Director, upon the petition of any person, or at his
5 or her own discretion, may conduct an investigation, and if the
6 findings of the investigation so indicate, he or she may declare an
7 animal to be vicious or dangerous, and may order humane disposal of
8 the animal.

9 B. Before declaring an animal to be vicious or dangerous, the
10 Director shall notify the owner in writing of the reasons why the
11 animal is believed to be vicious or dangerous and subject to humane
12 disposal, the authority for the proposed action, and that the
13 Director will make a final determination after the expiration of
14 twenty (20) days following service of the notice, or, if sent by
15 certified mail, within twenty (20) days after the date of delivery
16 as shown on the returned receipt. In addition, the notice shall
17 inform the owner that he or she will be provided an opportunity to
18 meet with the Director or the Manager of the Animal Control Division
19 as the Director's designee, at which meeting the owner may give,
20 orally and/or in writing, any reasons or information as to why the
21 animal should not be destroyed. The notice shall state the date,
22 time and location of the meeting, which will occur prior to the
23 expiration of twenty (20) days following delivery of the notice.
24 The notice shall be sent by certified mail, return receipt
25 requested, or delivered in person to the owner at the owner's last
26 address known to the Director.

27 C. In the event the Director finds an animal to be vicious or
28 dangerous and orders humane disposal, the declaration and order
29 shall be in writing in the form of an order, and shall include a
30 recital of the authority for the action, a brief and concise
31 statement of the facts which constitute the grounds for ordering
32 humane disposal, and contain the Director's signature. A copy of
33 the order, including notice of the right to appeal, shall be sent by
certified mail, return receipt requested, or delivered in person to

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 the owner.

2 **9.25.036 Appeal of Director's Order.**

3 A. An owner may appeal a determination of the Director
4 ordering the humane disposal of a vicious or dangerous animal to the
5 office of the Hearing Examiner by filing a notice of appeal and
6 written request for hearing with the Hearing Examiner within ten
7 (10) days after the date of delivery of the Director's order, as
8 noted by the signed returned receipt, and mailing a copy of the
9 notice to the Director. The Hearing Examiner may allow an appeal
10 filed after the tenth (10th) day but within thirty (30) days of the
11 date of delivery of the order, as noted by the signed return
12 receipt, if the Hearing Examiner is satisfied that the delay in
13 filing the appeal occurred as a result of circumstances beyond the
14 control of the owner/appellant, and that the owner/appellant filed
15 the notice as soon as he or she could reasonably do so.

16 B. An order for humane disposal that is not appealed shall be
17 final and authorize the animal's humane disposal.

18 **9.25.037 Authority of Hearing Examiner.**

19 A. The Hearing Examiner shall conduct the review of an appeal
20 from an order for the humane disposition of an animal in an
21 expedited manner and shall make a decision thereon. The procedures
22 of Sections 3.02.090 and 3.02.100 shall apply, except that the
23 intervals for action shall be compressed so that, unless both the
24 owner and the Director consent, the time elapsed between the date of
25 the notice of appeal and the Hearing Examiner's determination shall
26 not exceed thirty (30) days.

27 B. The Hearing Examiner shall have the power to:

28 1. With the owner's consent, authorize an alternate
29 disposition, such as placement of a dangerous animal in a zoological
30 garden, or, if a snake, in a herpetarium;

31 2. Assess the costs of care and feeding of the animal
32 while in City detention; and/or

33 3. Stay on order affirming the Director's order for

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 humane disposal to allow an owner an opportunity to seek judicial
2 review.

3 C. The decision of the Hearing Examiner shall be final
4 subject to judicial review in the Superior Court.

5 Section 5. Section 9.25.045 of the Seattle Municipal Code
6 (Ordinance 112355, Section 1 (part)) is amended as follows:

7 **9.25.045 Municipal Spay and Neuter Clinic.**

8 A. There shall be a municipal spay and neuter clinic, as
9 provided by Ordinance 107631, at which members of the public may
10 have cats and dogs spayed or neutered in a humane manner upon
11 payment of fees as provided by the Animal Fee Ordinance (Seattle
12 Municipal Code Chapter 9.26).

13 B. Such fees shall include immunization of dogs (~~against~~
14 ~~distemper, nepatitis, leptospirosis and para-influenza~~) and (~~of~~)
15 cats (~~against feline panleukopenia, Rhine-Tracheitis and Calici,~~
16 ~~the respective immunizations to be given~~) as deemed necessary by
17 the spay/neuter veterinarian at the time of surgery.

18 C. The clinic shall operate at a level according to public
19 demand and shall be financed by surgery fees, pet license fees for
20 unaltered animals and other means necessary, provided license fees
21 for altered animals shall not be increased.

22 Section 6. Section 9.25.046 of the Seattle Municipal Code
23 (Ordinance 112355, Section 1 (part)) is amended as follows:

24 **9.25.046 Waiver of City liability.**

25 A. Persons submitting dogs and cats for (~~the above~~) any
26 service identified in Section 9.25.045 of this chapter shall sign a
27 consent form certifying thereon under penalty of perjury that they
28 are the owner of said animal(s) or are otherwise authorized to
29 present the animal for the above operation, and such persons may be
30 required to furnish proof of such ownership or authority.

31 B. Such consent shall contain a waiver of any and all
32 liability of the (~~e~~) City, its agents, (~~the Division of Animal~~
33 ~~Control~~) and any (~~e~~) City employee for the injury or death to an

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 animal arising out of the aforementioned operation or any service
2 provided incidental thereto.

3 Section 7. Section 9.25.047 of the Seattle Municipal Code
4 (Ordinance 112335, Section 1 (part)) is amended as follows:

5 **9.25.047 Return date establishment.**

6 The Director shall establish a return date by which persons
7 submitting animals for any of the ((above operations)) services
8 identified in Section 9.25.045 of this chapter shall pick up said
9 animals or be subject to a reasonable board and care fee to commence
10 on the day after such a return date. Failure to pick up an animal
11 within five (5) days of said return date shall be deemed abandonment
12 of such animal. ((and)) The Director shall serve notice upon the
13 owner or mail notice by certified mail, return receipt requested,
14 and if fees are not paid, the Director may dispose of it by adoption
15 or euthanasia.

16 Section 8. Section 9.25.050 of the Seattle Municipal Code
17 (Ordinance 112335, Section 1 (part)) is amended as follows:

18 **9.25.050 Animal licenses generally.**

19 A. The following animal licenses shall be required: potbelly
20 pig, cat, and dog licenses, guard and attack dog licenses, and
21 dangerous animal licenses.

22 B. Persons owning or harboring a dog or cat four (4) months
23 of age or older shall be required to provide proof of current rabies
24 vaccination in order to obtain a license for that animal.

25 ((B-)) C. Possession of a pig, cat or dog license, or any type
26 of animal license, shall not excuse a person from the requirement to
27 obtain other types of animal licenses, or from the requirements of
28 Health, ((or)) Zoning, or other applicable laws.

29 ((C-)) D. Licenses are not transferable.

30 ((D-)) E. Applications for licenses shall be made on forms
31 approved by the Director and shall be accompanied by the fee set by
32 the Animal Fee Ordinance (Seattle Municipal Code Chapter 9.26) and,
33 in the case of cat or dog licenses, proof of alteration if the

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 animal is altered. Licenses shall be issued in the name of the
2 owner, and shall be numbered. Licenses shall be issued for a twelve
3 (12) month period.

4 Section 9. Section 9.25.054 of the Seattle Municipal Code
5 (Ordinance 112335, Section 1 (part)) is amended as follows:

6 **9.25.054 Guard or attack dog license; Proof of insurance;
7 Posting notice and license.**

8 A. No person shall use or harbor a guard or attack dog
9 without first obtaining a guard or attack dog license therefor.

10 B. The applicant for a guard or attack dog license shall
11 ~~((certify))~~ provide the following information:

12 1. The name and address of the owner of the guard or
13 attack dog, a description of the dog, the address and business name
14 (if any) of the premises the dog will guard;

15 2. The name and address of the trainer of the guard or
16 attack dog, and the name of and address of the purveyor of the dog;

17 3. Proof of a policy of public liability insurance, such
18 as homeowner's insurance, issued by an insurer authorized to do
19 business in the State of Washington in an amount of at least Fifty
20 Thousand Dollars (\$50,000), insuring the owner on account of any
21 liability for claims for death or personal injury inflicted by the
22 guard or attack dog to any person; and

23 4. Such other information as the Director may reasonably
24 require.

25 C. The applicant shall certify that:

26 ~~((2-))~~ 1. ~~((That))~~ the premises the dog will guard are
27 adequately secured for the safety of the public;

28 ~~((4-))~~ 2. ~~((That))~~ signs are displayed on the premises
29 at all entrances and at thirty (30) foot intervals clearly warning
30 that a guard or attack dog is on duty; and

31 ~~((5-))~~ 3. ~~((That))~~ the user of the guard or attack dog
32 is aware of and understands the aggressive nature of the dog and can
33 demonstrate total control of the dog.

D. A copy of the guard or attack dog license must be posted

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 and presented upon demand of a police officer or the Director.

2 Section 10. Section 9.25.080 of the Seattle Municipal Code
3 (Ordinance 112335, Section 1 (part)) is amended as follows:

4 **9.25.080 Offenses relating to licensing.**

5 It is unlawful for the owner of any animal to:

6 A. Fail to obtain the licenses required by the Animal Control
7 Fee Ordinance (Seattle Municipal Code Chapter 9.26);

8 B. Fail to display conspicuously the current and valid
9 license identification on the licensed animal;

10 C. Fail to show the license upon request of any Animal
11 Control Officer or any Police Officer;

12 D. Use or permit another person to use a license or license
13 identification not issued to such person;

14 E. Remove a license identification from any pig, cat or dog
15 without the owner's consent;

16 F. Alter a license in any manner;

17 G. Make a false or misleading statement or representation
18 regarding the ownership or right to custody of control of any
19 animal, or regarding the ownership of an animal redeemed from,
20 surrendered to, detained by the Director; (~~or to~~)

21 H. Remove any detained animal from the City Animal Shelter or
22 a Department vehicle without written consent of the Director;

23 I. Remove a microchip implanted in an animal by the City for
24 identification purposes.

25 Section 11. Section 9.25.081 of the Seattle Municipal Code
26 (Ordinance 112335, Section 1 (part)) is amended as follows:

27 **9.25.081 Offenses relating to cruelty.**

28 It is unlawful for any person to:

29 A. Injure, kill, or physically mistreat any animal except as
30 is expressly permitted by law;

31 B. Lay out to expose or leave exposed any kind of poison or
32 poisoned food or drink where it is accessible to an animal, or place
33 such poisoned materials in a stream or other body of water,

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 endangering fish or shellfish; provided, that nothing shall prevent
2 the reasonable use of rodent poison, insecticides, fungicides or
3 slug bait for their intended purposes; and provided, further, that
4 nothing in this paragraph shall prohibit any governmental agency
5 acting in the course of its governmental duties;

6 C. Set or bait any trap, except for rats or mice, unless
7 appointed by the Director to do so (~~provided, no permit is required~~
8 ~~to trap rats or mice~~));

9 D. Confine, without adequate ventilation, any animal in any
10 box, container or vehicle;

11 E. Tease, tantalize or provoke any animal with the intent to
12 cause destructive behavior, fear or (~~anger~~) hostility;

13 F. Tether or confine any animal in such a manner or in such
14 a place as to cause injury or pain or to endanger an animal; or to
15 keep an animal in quarters that are injurious to the animal due to
16 inadequate protection from heat or cold, or that are of insufficient
17 size to permit the animal to move about freely;

18 G. Keep an animal in an unsanitary condition or fail to
19 provide sufficient food, water, shelter, or ventilation necessary
20 for the good health of that animal;

21 H. Fail to provide his/her animal the medical care that is
22 necessary for its health or to alleviate its pain;

23 I. Permit any animal to fight or injure any other animal, or
24 permit any animal to be fought or injured by any other animal; or to
25 train or keep for the purpose of training any animal for the exhibi-
26 tion of such animal in combat with any other animal, whether for
27 amusement of him/herself or others, or for financial gain; or permit
28 such conduct on premises under his/her control, or to be present as
29 a spectator at such exhibition;

30 J. (~~Fe~~) (~~p~~) Possess cock spurs, slashers, gaffs, or other
31 tools, equipment, devises or training facilities for the purpose of
32 training and/or engaging an animal in combat with another animal;

33 K. Abandon any animal.

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS .JFICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 Section 12. Subsection D of Section 9.25.091 of the Seattle
2 Municipal Code (Ordinance 112335, Section 1 (part)) is amended as
3 follows:

4 D. Any (~~sexually mature~~) unaltered cat or dog eight weeks
5 or older selected for adoption must be altered prior to the adopter
6 taking possession of the animal. The expense of altering will be
7 paid by the adopter. A deposit (~~is~~) shall be required for any dog
8 or cat unable to have surgery at the time of adoption (~~for all~~
9 ~~sexually immature dogs and cats~~) setting a date by which that
10 animal must be altered. The deposit shall be refunded when proof
11 has been furnished to the Director that the sterilization operation
12 has been performed prior to the established ~~due date~~. The deposit
13 shall be forfeited to The City of Seattle if not claimed on or
14 before the due date.

15 Section 13. Section 9.25.110 of the Seattle Municipal Code
16 (Ordinance 112335, Section 1 (part)) is amended as follows:

17 **9.25.110 Denial, Suspension, or Revocation of license --**
18 **Order.**

19 The Director may deny, suspend, or revoke a license for an
20 animal found to be a "vicious animal," and a license for a guard or
21 attack animal under Section 9.25.054 upon determining that the
22 applicant or licensee has violated or failed to comply with any
23 provision of this chapter. The denial, suspension, or revocation of
24 a license shall be in writing in the form of an order, and shall
25 include a recital of the authority for the action, a brief and
26 concise statement of facts which constitute the grounds for the
27 denial, and the Director's signature. A copy of the order,
28 including notice of the right to a hearing, shall be mailed to the
29 applicant.

30 Section 14. Section 9.25.120 of the Seattle Municipal Code
31 (Ordinance 112335, Section 1 (part)) is amended as follows:

32 **9.25.120 Denial, Suspension, or Revocation of License --**
33 **Appeal.**

A. If the Director has ordered a license denied, suspended,

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 or revoked, the applicant may contest the ((denial)) order by filing
2 a notice of appeal and request for hearing with the Hearing Examiner
3 within thirty (30) days after service or mailing of the order. If
4 a timely appeal is not filed by the applicant, the order of the
5 Director ((denying the license)) shall be final.

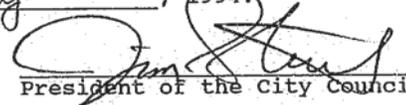
6 B. If a timely request for hearing is filed by the applicant,
7 a hearing shall be scheduled before the Hearing Examiner and shall
8 be conducted by the Hearing Examiner according to his/her rules for
9 contested cases.

10 Section 15. This ordinance shall not terminate any prosecution
11 or administrative action pending on its effective date.

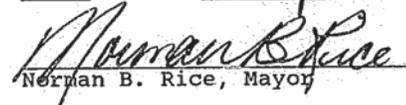
12 Section 16. Seattle Municipal Code Chapter 9.22 (Ordinance
13 109020, Sections 104), being duplicatory of Sections 9.25.045
14 through 9.25.048, is hereby repealed.

15 Section 17. This ordinance shall take effect and be in force
16 thirty days from and after its passage and approval, if approved by
17 the Mayor; otherwise it shall take effect at the time it shall
18 become a law under the provisions of the City Charter.

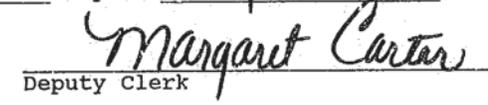
19 Passed by the City Council the 11 day of July, 1994,
20 and signed by me in open session in authentication of its passage
21 this 11 day of July, 1994.

22 
23 _____
24 President of the City Council

25 Approved by me this 14 day of July, 1994.

26 
27 _____
28 Norman B. Rice, Mayor

29 Filed by me this 15 day of July, 1994.

30 
31 _____
32 Deputy Clerk

33 (SEAL)
Published _____

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
IT IS DUE TO THE QUALITY OF THE DOCUMENT.

8



JAN DRAGO
Seattle City Councilmember

COPY RECEIVED
94 JUN 20 PM 3:14
SEATTLE CITY ATTORNEY

TO: JORGEN BADER
FROM: JAN DRAGO *JD*
DATE: JUNE 20, 1994
RE: CHANGES TO THE PROPOSED AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE

I have three changes for the proposed amendments to the Animal Control Ordinance.

The first is the proposed change to Section 9.25.110 which authorizes the Director to deny, suspend or revoke a license upon determining that the applicant has violated or failed to comply with this or any other law or ordinance. **Please remove this Section from the ordinance.**

The second is the proposed changes to Sections 9.25.035, 036, 037 which provides the Director an administrative process for declaring an animal to be vicious or dangerous. **Please add due process provisions for the owner and that the Director must conduct an investigation when going through the process to declare an animal vicious or dangerous.**

The third change is to Section 9.25.035, 036, 037 which provides for the administrative process for declaring an animal to be vicious or dangerous. **Please add a requirement that the Director's notification by mail must be via a certified or registered letter.** This will ensure that the owner knows what is happening to his or her animal.

In addition, any references to Licenses and Consumer Affairs should be deleted. I am scheduled to pass this ordinance at our July 6 committee meeting.

I have also enclosed a copy of the ordinance with some suggestions for changes. Please review them and make the appropriate changes.

If you have any questions about my changes, please call me, or my assistant, Dan McGrady, at 684-8801. Thank you for your attention to this request.

cc: Delores Petty

Eleventh Floor Municipal Building
600 Fourth Avenue Seattle WA 98104-1876 (206) 684-8801

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

ORD. 119998
(2000)

Council Bill Number: 113088

Ordinance Number: 119998

AN ORDINANCE relating to Animal Control; adding definitions of dangerous and potentially dangerous animals; adding and expanding definitions of different classifications of animals; clarifying the Director's authority to detain and dispose of certain animals; amending the appeals process and the authority of the Hearing Examiner on appeal; separating the licensing requirement from the vaccination requirement; increasing the insurance requirement for guard dogs, granting an exemption to the requirement to display a current license and amending Chapter 9.25 and Chapter 9.26 of the Seattle Municipal Code in accordance therewith.

Status: Passed

Note: Fourth Quarter 1999 Salary Ordinance

Vote: 6-0 (Absent: Compton, McIver, Wills)

Date filed with the City Clerk: 2000/07/03

Date of Mayor's signature: 2000/06/27 ([about the signature date](#))

Date introduced/referred to committee: 2000/02/07

Committee: Finance, Budget and Economic Development

Sponsor: DRAGO

Committee Recommendation: Pass

Index Terms: ANIMAL-CONTROL, DOMESTIC-ANIMALS, ADMINISTRATIVE-PROCEDURES, LICENSES

Electronic Copy: [PDF scan of Ordinance No. 119998](#)

Reference: Amending: Ord 119672; Related: Ord 119394; Related: Res 30133

Text:

AN ORDINANCE relating to Animal Control; adding definitions of dangerous and potentially dangerous animals; adding and expanding definitions of different classifications of animals; clarifying the Director's authority to detain and dispose of certain animals; amending the appeals process and the authority of the Hearing Examiner on appeal; separating the licensing requirement from the vaccination requirement; increasing the insurance requirement for guard dogs, granting an exemption to the requirement to display a current license and amending Chapter 9.25 and Chapter 9.26 of the Seattle Municipal Code in accordance therewith.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 9.25.020 of the Seattle Municipal Code is amended as follows:

9.25.020 Definitions-A - E.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Abandon" means the act of leaving an animal:

1. Without food, water, or care for twenty-four (24) hours or more; or
2. In a situation where the conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

B. "Alter" means to permanently render an animal incapable of reproduction.

C. "Animal" means any living non-human mammal, bird, reptile, or amphibian.

CD. "Animal Control Officer" means any person who is employed with the Seattle Division of Animal Control or appointed by the Director for the purpose of aiding in the enforcement of any ordinance, or relating to the licensing control, quarantine, seizure or impoundment of animals.

E. "At large" means a dog or other animal inside The City of Seattle, off the premises of the owner, and not under control by a leash of eight (8) feet in length or shorter.

DE. "City" means The City of Seattle.

EG. "Dangerous animal" means any animal (~~or other than the common household cat or dog, bees or other insects specifically provided for by ordinance, that is capable of killing or seriously injuring a human being~~ that according to the records of the appropriate authority, (a) has inflicted severe injury on a human being without provocation on public or private property, (b) has killed a domestic animal without provocation while off the owner's property, or (c) has been previously found to be potentially dangerous, whose owner has received notice of such, which animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.

FH. "Director" means the Executive Services Director of The City of Seattle or his/her authorized representative.

GI. "Department" means the Executive Services Department of The City of Seattle.

HJ. "Disposed of in a humane manner" means euthanized by a lethal dose of sodium pentobarbital or its equivalent.

HK. "Detain" means to place an animal in custody.

L. "Domestic Animal" means an animal that is livestock, a companion animal, or both.

1. "Livestock" means any species of animal commonly used by inhabitants of

Washington State for food, fiber, or draft purposes.

2. "Companion animal" means any species of animal commonly kept by inhabitants of Washington State as a pet or for companionship, except that snakes exceeding eight (8) feet in length, venomous reptiles (regardless of whether the venom glands have been removed), and venomous amphibians (regardless of whether the venom glands have been removed) are not domestic animals, even if such animals are commonly kept by inhabitants of Washington State pets or for companionship.

M. "Exotic animal" means any species of animal that is both: 1) not a domestic animal, and 2) capable of killing or seriously injuring a human being. Subject to the preceding sentence, the definition of "exotic animal" contained in this section includes but is not limited to:

1. All animals of the order Primates (as primates) except humans;

2. All animals of the family Canidae (as dogs, wolves, jackals, or foxes) and their hybrid, except for the domestic dog Canis familiaris;

3. All animals of the family Felidae (as lions, tigers, jaguars, leopards, cougars, or cheetahs) and their hybrid, except for the domestic cat Felis catus;

4. All animals of the family Ursidae (as bears);

5. All animals of the family Hyaenidae (as hyenas);

6. All animals of the order Crocodylia (as alligators, crocodiles, gavials, or caimans);

7. All animals of the family Elephantidae (as elephants);

8. All animals of the order Perissodactyla (as horses, rhinoceroses, or tapirs);

9. All animals of the order Artiodactyla (as camels, cattle, deer, giraffes, goats, hippopotamuses, llamas, pigs, or sheep);

"Exotic animal also includes all venomous reptiles and amphibians, (regardless of whether the venom glands have been removed), and all snakes that are eight (8) feet or more in length. An animal that is normally domesticated, but that is determined to be wild or feral, shall be considered an exotic animal.

Section 2. Section 9.25.021 of the Seattle Municipal Code is amended as follows:

9.25.021 Definitions-F - J.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Guard dog" or "attack dog" means any animal in the taxonomic classification Canis Familiaris (also referred to as the common household dog) member of the dog family (Canidae), not owned by a government agency, which has been trained and is used for the purpose of protecting persons or property by exhibiting hostile and aggressive propensities, or which will attack on signal or command.

B. "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 (24) hours.

C. "Holding period" means seventy-two (72) hours commencing at the close of regular business on the day of detainment of any unlicensed or unidentified cat or dog, and one hundred forty-four (144) hours for any licensed or identified animal, excluding days the City Animal Shelter is not open to the public.

Section 3. Section 9.25.023 of the Seattle Municipal Code is amended as follows:

9.25.023 Definitions-P - T.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Permit" means human conduct in relation to an owned animal which is intentional, deliberate, careless, inadvertent or negligent.

B. "Potbelly pig" means that type of swine commonly known as the Vietnamese, Chinese, or Asian Potbelly Pig (*Sus scrofa vittatus*).

C. "Potentially dangerous animal" means any animal that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or (b) chases or approaches a person on public property or on private property (other than that of the animal's owner) in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.

D. "Secure animal shelter" means an animal shelter that agrees to accept an animal and that agrees to the following conditions:

1. Not to release the animal from the shelter for the rest of the animal's natural life;

2. Not to allow the animal to come into contact with the general public for the rest of the animal's natural life;

3. Not to allow the former owner to have contact with the animal;

4. To indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, liabilities, causes, suits or action of any kind or nature whatsoever relative to past or future care and custody of the animal and to the animal's future behavior.

5. To notify the City if the shelter goes out of business or can no longer keep the animal and to abide by the City's disposition instructions.

E. "Service dog" means a dog that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

F. "Severe Injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery. It also means transmittal of an infectious or contagious disease by an animal.

EG. "Trespassing" means any animal which enters upon the property of another person without the authorization of the lawful occupant.

Section 4. Section 9.25.024 of the Seattle Municipal Code is repealed.

Section 5. Section 9.25.030 of the Seattle Municipal Code is amended as follows:

9.25.030 Authority of the Director.

A. The Director is authorized to:

1. Make rules for the interpretation and implementation of this chapter, pursuant to the Administrative Code;
2. Accept the surrender of animals to the City Animal Shelter;
3. Permit or deny adoption from the City Animal Shelter of animals that have been surrendered to the City, or which are stray or under detainment and unclaimed after the expiration of a holding period;
4. Direct immediate humane disposal of:
 - (a) any exotic animal;
 - (b) any animal surrendered to the City for humane disposal; ~~or (b)~~
 - (c) any animal determined by the Seattle Municipal Court or any other court of law to be a nuisance; ~~vicious, or dangerous, or (e)~~
 - (d) any animal involved in a court proceeding in which the owner pled guilty or was found to be guilty of owning a nuisance, ~~vicious or dangerous animal or in which the owner pled guilty or was found to be guilty of negligent control of an animal;~~ ~~(d)~~
 - (e) any animal unclaimed after the expiration of a holding period; ~~or (e)~~
 - (f) any animal determined by the Director to be ~~vicious or dangerous~~ pursuant to SMC Section 9.25.035;
5. Detain animals found to be unlicensed, or abandoned, or at large, or in inhumane conditions, or to be a nuisance, or to be ~~vicious~~ exotic or dangerous, or otherwise found to be in a circumstance violative of this chapter or any other provision of law;
6. Collect cats, dogs and other animals found dead on the public areas of the City, or from private property on request of the occupant of the property, and to bury, cremate, or arrange for the disposal of such animal;
7. Appoint agents for the collection of pig, dog and cat license fees and other fees established by Chapter 9.26 of the Seattle Municipal Code, including past due fees and penalties;
8. Grant, renew, suspend, revoke, or deny licenses according to the terms of this chapter;
9. Administer the City Animal Shelter;
10. Administer the City Spay and Neuter Clinic and Program;
11. Charge and collect fees for the services authorized by this chapter, as established by Seattle Municipal Code Chapter 9.26, known as the "Animal Fee Ordinance," as now existing or hereafter amended, revised or re-enacted;
12. Reduce fees for the adoption or redemption of any animal, when, in the discretion of the Director, such a reduction is in the best

interests of the animal;

13. Appoint persons experienced in the humane trapping of animals to set and bait a trap or use other devices that do not physically harm an animal trapped, when, in the judgment of the Director, such action will protect the public peace, health, safety and welfare and issue live animal trapping permits as authorized by the Director of Finance by rule;

14. Implant into animals leaving the shelter through adoption or redemption a microchip for identification purposes.

15. Direct disposition of exotic animals, including but not limited to transfer to a zoological garden or herpetarium.

16. Refund fees for overpayment or services not provided.

17. Detain an animal that is the subject of any violation of law, or whose owner is accused of violating any law relating to that animal, and collect from the owner all costs of detainment, care, feeding, and disposition.

18. Direct disposition of dangerous animals to a secured animal shelter as provided for in this Chapter.

B. The Director shall keep records of the handling and licensure of animals in the City.

C. Nothing prohibits the Police Department from enforcing provisions of this chapter.

D. The Director is authorized to enforce Seattle Municipal Code Sections 18.12.080, 18.12.100 and 18.12.110 as authorized by the Superintendent of Parks and Recreation by rule.

E. The Director is authorized to enforce Seattle Municipal Code Chapter 9.12 and Seattle Municipal Code Section 10.72.020 , subject to such restriction or qualification as the Director of the Seattle- King County Department of Public Health may establish by rule.

Section 6. Section 9.25.035 of the Seattle Municipal Code is amended as follows:

9.25.035 Declaration that an animal is ~~vicious or dangerous~~-~~Order of humane disposal~~ Disposition; Right to meeting.

A. The Director, upon the petition of any person, or at his or her own discretion, may conduct an investigation, and if the findings of the investigation so indicate, he or she may declare an animal to be ~~vicious or dangerous~~ , and. If a domestic animal is found to be dangerous, the Director shall enter an order so stating and shall direct either: may order 1) humane disposal of the animal; or 2) that the animal be sent at the owner's expense to a secure animal shelter. The owner is responsible for paying all fees owed to the City for the care of the animal.

B. Before declaring an animal to be ~~vicious or dangerous~~ or directing the disposition of the animal, the Director shall notify the owner in writing of the reasons why the animal is believed to be ~~vicious or dangerous and subject to humane disposal~~, the proposed disposition of the animal, the authority for the proposed action, and that the Director will make a final determination after the expiration of twenty (20) days following service of the notice, or, if sent by certified mail, within twenty (20) days after the date of delivery as shown on the returned receipt. In addition, the notice shall inform the owner that he or she will be provided an opportunity to meet with the Director ~~or the Manager of the Animal Control Division as the Director's designee~~), at which meeting the owner may give, orally ~~and/~~ or in writing, any reasons or information as to why the animal should not be ~~destroyed~~ declared to be dangerous, or why the Director should direct that the animal be sent to a secure animal shelter instead of directing humane disposal. The notice shall state the date, time and location of the meeting, which will occur prior to the expiration of twenty (20) days following delivery of the notice. The notice 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 Director.

C. The Director will consider directing that an animal be sent to a secure animal shelter only upon request of the owner. The owner shall bear the burden to establish that an animal shelter is available that meets the criteria for a secure animal shelter, that the shelter will accept the animal, and that the owner is willing and able to pay all expenses for transporting the animal.

€ D. In the event the Director finds an animal to be ~~vicious or dangerous and orders humane disposal~~)) and directs disposition of the animal, the declaration and ~~order directive~~ shall be in writing in the form of an order, and shall include a recital of the authority for the action, a brief and concise statement of the facts ~~which constitute the grounds for ordering humane disposal~~ that supports the disposition, and contain the Director's signature. A copy of the order, including notice of the right to appeal, shall be sent by regular and certified mail,

return receipt requested, or delivered in person to the owner.

Section 7. Section 9.25.036 of the Seattle Municipal Code is amended as follows:

9.25.036 Appeal of Director's order determination.

Appeal.

A. Availability of Appeal. An owner may appeal a determination of the Director ~~declaring an animal to be dangerous or ordering directing the humane disposal disposition of an vicious or dangerous animal to the office of the Hearing Examiner~~ by filing a notice of appeal and written request for a hearing with the Hearing Examiner ~~by five o'clock (5:00 p.m.) on the tenth (10) calendar day within ten (10) days after the date of delivery of the Director's order.~~; A notice that an animal is to be humanely disposed of that is based either on a conviction of the animal's owner of possessing a dangerous animal or on a conviction of the animal's owner of negligent control of an animal may not be appealed under this Section. The date of delivery of the Director's order shall be the date evidenced by a as noted by the signed returned receipt, an affidavit of service, or three days after the date of mailing as shown in a declaration of mailing. When the last day of the appeal period falls on a Saturday, Sunday, or City holiday, the period shall run until five o'clock p.m. (5:00 p.m.) on the next business day, and mailing a copy of the notice to the Director. The Hearing Examiner may allow an appeal filed after the tenth day but within thirty (30) days of the date of delivery of the order, as noted by the signed return receipt, if the Hearing Examiner is satisfied that the delay in filing the appeal occurred as a result of circumstances beyond the control of the owner/appellant, and that the owner/appellant filed the notice as soon as he or she could reasonably do so.

B. ~~An order for humane disposal that is not appealed shall be final and authorize the animal's humane disposal.Process.~~

1. An appeal shall conform to the requirements of Hearing Examiner Rule 3.01(d) in that it must be in writing, and contain the following:

(a) A brief statement as to how the owner is significantly affected by or interested in the decision of the Director;

(b) A brief statement of the owner's issues on appeal, noting owner's specific exceptions and objections to the Director's Determination and Order;

(c) The relief requested, such as reversal of the Director's Order;

(d) Signature, address, and phone number of the owner, and name and address of owner's designated representative, if any.

2. The Hearing Examiner shall summarily dismiss an appeal without hearing which the Hearing Examiner determines to be without merit on its face, frivolous, or brought merely to secure a delay.

3. Any person beneficially interested or the Director shall only obtain judicial review of the Hearing Examiner's decision by applying for a Writ of Review in the Superior Court of Washington in and for King County in accordance with the procedure set forth in Chapter 7.16 RCW and other applicable law and local court rules within ten (10) days of the date of the decision.

C. Standard of Review. Appeals shall be considered de novo. The owner shall have the burden of proving by a preponderance of the evidence that the Director's decision was incorrect. In the case of an order ordering the humane disposal of exotic animals or livestock under SMC 9.25.030(A)(4), the owner shall have the burden of proving that a reasonable alternative disposition is available. In the case of a directive of humane disposal for dangerous animals, the owner shall have the burden of proving that the Director's decision not to allow the animal to be sent to a secure animal shelter was arbitrary and capricious.

Section 8. Section 9.25.037 of the Seattle Municipal Code is amended as follows:

9.25.037 Authority of Hearing Examiner.

A. The Hearing Examiner shall conduct the review of an appeal ~~from an order for the humane disposal of an animal~~ in an expedited manner and shall make a decision thereon. The procedures of Sections 3.02.090 and 3.02.100 shall apply, except that the intervals for action shall be compressed so that, unless both the owner and the Director consent, the time elapsed between the date of the notice of appeal and the Hearing Examiner's determination shall not exceed thirty (30) days.

B. The Hearing Examiner shall have the power to:

1. ~~With the owner's consent, authorize an alternate disposition, such as placement of a dangerous animal in a zoological garden, or, if a snake, in a herpetarium;~~
2. ~~Assess the costs of care and feeding of the animal while in City detention; and/or~~
3. ~~Stay on order affirming the Director's order for humane disposal to allow an owner an opportunity to seek judicial review.~~

~~C. The decision of the Hearing Examiner shall be final subject to judicial review in the Superior Court.~~

B. Hearing Examiner's Authority.

1. The Hearing Examiner may affirm or reverse the Director's decision in whole or in part, or remand the decision to the Director for further consideration.
2. The decision of the Hearing Examiner shall be final subject to judicial review in the Superior Court.

Section 9. Section 9.25.045 of the Seattle Municipal Code is amended as follows:

9.25.045 Municipal Spay and Neuter Clinic.

A. There shall be a Municipal Spay and Neuter Clinic, as provided by Ordinance 107631, at which members of the public may have cats and dogs spayed or neutered in a humane manner upon payment of fees as provided by the Animal Fee Ordinance (Seattle Municipal Code Chapter 9.26).

B. Such fees shall include immunization of dogs and cats as deemed necessary by the spay/neuter veterinarian at the time of surgery.

C. The clinic shall operate at a level according to public demand and shall be financed by surgery fees, pet license fees for unaltered animals and other means necessary, ~~provided license fees for altered animals shall not be increased.~~

D. Every dog and cat sterilized at the clinic shall be properly licensed with a current City of Seattle pet license if the animal resides in the City of Seattle.

Section 10. Section 9.25.046 of the Seattle Municipal Code is amended as follows:

9.25.046 Waiver of City liability.

A. Persons submitting dogs and cats for any service identified in Section 9.25.045 of this chapter shall sign a consent form certifying thereon under penalty of perjury that they are the owner of said animal(s) or are otherwise authorized to present the animal for the above operation, and such persons may be required to furnish proof of such ownership or authority.

B. Such consent shall contain a waiver, to the extent permitted by law, of any and all liability of the City, its agents, and any City employee for the injury or death to an animal arising out of the aforementioned operation or any service provided incidental thereto.

Section 11. Section 9.25.047 of the Seattle Municipal Code is amended as follows:

9.25.047 Return date establishment.

The Director shall establish a return date by which persons submitting animals for any of the services identified in Section 9.25.045 of this chapter shall pick up said animals or be subject to a reasonable board and care fee to commence on the day after such a return date. Failure to pick up an animal within five (5) days of said return date shall be deemed abandonment of such animal. The Director shall serve notice upon the owner or mail notice by regular and certified mail, return receipt requested, and if fees are not paid, the Director may dispose of it by adoption or euthanasia.

Section 12. Section 9.25.048 of the Seattle Municipal Code is recodified in Section 9.25.045 and Section 9.25.048 is repealed:

Section 13. There is added to the Seattle Municipal Code Chapter 9.25 a new Section 9.25.049 as follows:

9.25.049 Rabies vaccination required.

All dogs and cats four (4) months of age or older shall be vaccinated against rabies.

Section 14. Section 9.25.050 of the Seattle Municipal Code is amended as follows:

9.25.050 Animal licenses and permits generally.

A. The following animal licenses shall be required: potbelly pig, cat, and dog licenses, guard and attack dog licenses, and ~~dangerous exotic animal licenses~~ permits.

~~B. Persons owning or harboring a dog or cat four (4) months of age or older shall be required to provide proof of current rabies vaccination in order to obtain a license for that animal.~~

~~C. Possession of a pig, cat or dog license, or any type of animal license, shall not excuse a person from the requirement to obtain other types of animal licenses, or from the requirements of Health, Zoning, or other applicable laws.)~~

~~D.~~ B. Licenses and permits are not transferable.

~~E.~~ C. Applications for licenses and permits shall be made on forms approved by the Director and shall be accompanied by the fee set by the Animal Fee Ordinance (Seattle Municipal Code Chapter 9.26) and, in the case of cat or dog licenses, proof of alteration if the animal is altered. Licenses shall be issued in the name of the owner, and shall be numbered. Licenses shall be issued for a twelve (12) month period ~~or a two-year period. A provisional license may be issued for dogs or cats as provided in Section 9.26.020 C.)~~ and may include a twelve (12) month renewal. A provisional cat or dog license shall be for a six-month period. Guard or Attack Dog licenses shall be issued for a twelve (12) month period only upon the applicant's compliance with Section 9.25.054. Each permit or subsequent license renewal for the same animal shall commence from the expiration date of the last valid license or permit.

D. A City of Seattle animal license does not relieve the owner of the obligation to obtain any other permit or license otherwise required by local, state or federal law.

Section 15. Section 9.25.051 of the Seattle Municipal Code is amended as follows:

9.25.051 Cat and dog licenses.

Any owner of a weaned cat or dog over the age of eight (8) weeks must obtain a valid license for each such animal. Within thirty (30) days of entry of any cat or dog into The City of Seattle, the owner of the cat or dog must obtain a valid license for each such animal.

Section 16. Section 9.25.052 of the Seattle Municipal Code is amended as follows:

9.25.052 ~~Miniature p~~ Potbelly pig licenses.

No potbelly pig may be kept as a domestic pet in the city if it is greater than twenty-two inches (22") in height at the shoulder or more than one hundred fifty (150) pounds in weight. Within thirty (30) days of entry of any miniature potbelly pig into The City of Seattle, the owner of the pig must obtain a valid license for each such animal. Along with the fee for such license or renewal, the owner must present the following: proof that the pig is spayed or neutered; certification by a licensed veterinarian that the pig has current vaccinations; certification within the prior thirty (30) days by a licensed veterinarian of the weight of the pig; certification within the prior thirty (30) days by a licensed veterinarian that no tusk appears outside of the mouth of the pig when the mouth is closed; and the address of the property and description of the physical location(s) on the property where the pig will be kept.

Section 17. Section 9.25.053 of the Seattle Municipal Code is amended as follows:

9.25.053 ~~Dangerous~~ Exotic animals.

A. It is unlawful for any person to procure or keep an exotic ~~dangerous~~ animal; provided, this prohibition shall not apply to any ~~facilities possessing or maintaining dangerous animals which are owned, operated or maintained by any city, county, state or federal agency, school, college, university or similar educational facility,~~ or to a properly licensed veterinary hospital where an exotic ~~dangerous~~ animal may be confined temporarily for treatment, or to the procurement of an exotic ~~dangerous~~ animal by a properly licensed commercial animal dealer where the animal is confined temporarily for sale to a zoo or other facility identified in Section 9.25.085 of this chapter. The Director may authorize by special license permit, not to exceed thirty (30) days, the keeping of exotic ~~dangerous~~ animals for circuses or special exhibits.

B. If a permit for an exotic animal is granted pursuant to Subsection A, the owner of such exotic animal must at all times keep the animal under control.

Section 18. Section 9.25.054 of the Seattle Municipal Code is amended as follows:

9.25.054 Guard or attack dog license-Proof of insurance-

Posting notice and license.

A. No person shall use or harbor a guard or attack dog without first obtaining a guard or attack dog license therefor.

B. The applicant for a guard or attack dog license shall provide the following information:

1. The name and address of the owner of the guard or attack dog, a description of the dog, and the address and business name (if any) of the premises the dog will guard;

2. The name and address of the trainer of the guard or attack dog, and the name and address of the purveyor of the dog;

3. Proof of a policy of public liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business in the State of Washington in an amount of at least One Hundred Thousand Dollars (\$100,000.00) ~~Fifty Thousand Dollars (\$50,000.00)~~, insuring the owner on account of any liability for claims for death or personal injury inflicted by the guard or attack dog to any person; and

4. Proof of microchip identification, microchip number and identification of the date and location of microchip implant.

45. Such other information as the Director may reasonably require.

C. The applicant shall certify that:

1. The premises the dog will guard are adequately secured for the safety of the public;

2. Signs are displayed on the premises at all entrances and at thirty (30) foot intervals clearly warning that a guard or attack dog is on duty; and

3. ~~The user~~ owner of the guard or attack dog is aware of and understands the aggressive nature of the dog, certifies under penalty of perjury that the dog has been trained as a guard or attack dog, and can demonstrate total voice control of the dog.

D. A copy of the guard or attack dog license must be posted and presented upon demand of a police officer or the Director.

E. The premises where a guard or attack dog is to be located shall be subject to inspection by the Director prior to approval of the license. Upon inspection by an Animal Control Officer, the applicant may be requested to provide proof of compliance with the requirements of this Section.

F. It shall be the responsibility of the owner of a guard or attack dog to make application with the Seattle Animal Control for a guard or attack dog license annually before the date of expiration of the previous license.

Section 19. Section 9.25.080 of the Seattle Municipal Code is amended as follows:

9.25.080 Offenses relating to licensing.

It is unlawful for the owner of any animal to:

- A. Fail to obtain the licenses required by the Animal Control Fee Ordinance (Seattle Municipal Code Chapter 9.26);
- B. Fail to display conspicuously the current and valid license identification on the licensed animal provided that cats need not display a license identification tag if the cat is licensed and has been implanted with microchip identification and the microchip number is registered with Seattle Animal Control;
- C. Fail to show the license upon request of any Animal Control Officer or any Police Officer;
- D. Use or permit another person to use a license or license identification not issued to such person;
- E. Remove a license identification from any pig, cat or dog without the owner's consent;
- F. Alter a license in any manner;
- G. Make a false or misleading statement or representation regarding the ownership or right to custody or control of an animal, or regarding the ownership of an animal redeemed from, surrendered to, detained by the Director;
- H. Remove any detained animal from the City Animal Shelter or a Department vehicle without the written consent of the Director;
- I. Remove a microchip implanted in an animal by the City for identification purposes.

Section 20. Section 9.25.081 of the Seattle Municipal Code is amended as follows:

9.25.081 Offenses relating to cruelty.

It is unlawful for any person to:

- A. Injure, kill, or physically mistreat any animal under circumstances not amounting to first degree animal cruelty as defined in ~~Section 8, Chapter 261, Laws of 1994~~ RCW 16.52.205, except as is expressly permitted by law;
- B. Lay out to expose or leave exposed any kind of poison or poisoned food or drink where it is accessible to an animal, or place such poisoned materials in a stream or other body of water, endangering fish or shellfish; provided, that nothing shall prevent the reasonable use of rodent poison, insecticides, fungicides or slug bait for their intended purposes; and provided, further, that nothing in this subsection shall prohibit any governmental agency acting in the course of its governmental duties;
- C. Set or bait any trap, except for rats or mice, unless ~~appointed by the Director~~)) a permit to do so has been issued as provided for in subsection 9.25.030.A. 13;
- D. Confine, without adequate ventilation, any animal in any box, container or vehicle;
- E. Tease, tantalize or provoke any animal with the intent to cause destructive behavior, fear or hostility;
- F. Tether or confine any animal in such a manner or in such a place as to cause injury or pain not amounting to first degree animal cruelty defined in ~~Section 8, Chapter 261, Laws of 1994,~~) RCW 16.52.205, or to endanger an animal; 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;
- G. Keep an animal in an unsanitary condition or fail to provide sufficient food, water, shelter, or ventilation necessary for the good health of that animal;

H. Fail to provide his/her animal the medical care that is necessary for its health or to alleviate its pain;

I. Permit any animal to fight or injure any other animal, or permit any animal to be fought or injured by any other animal; or to train or keep for the purpose of training any animal for the exhibition of such animal in combat with any other animal, whether for amusement of him/herself or others, or for financial gain; or permit such conduct on premises under his/her control, or to be present as a spectator at such exhibition;

J. Possess cock spurs, slashers, gaffs, or other tools, equipment, devices or training facilities for the purpose of training and/or engaging an animal in combat with another animal;

K. Abandon any animal.

Section 21. Section 9.25.082 of the Seattle Municipal Code is amended as follows:

9.25.082 Offenses relating to safety and sanitation.

It is unlawful for an owner to:

A. Allow the accumulation of ~~pig, cat or dog~~ animal feces in any open area, run, cage or yard wherein ~~pigs and/or dogs and/or cats~~) animals are kept and to fail to remove or dispose of feces at least once every twenty-four (24) hours;

B. Fail to remove the fecal matter deposited by his/her animal on public property or private property of another before the owner leaves the immediate area where the fecal matter was deposited;

C. Fail to have in his/her possession the equipment necessary to remove his/her animal's fecal matter when accompanied by said animal on public property or public easement;

D. Have possession or control of any animal sick or afflicted with any infectious or contagious disease and fail to provide treatment for such infection or 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.

Owners of ~~duly licensed guide~~ service dogs shall be exempted from subsections B and C of this section.

Section 22. Section 9.25.083 of the Seattle Municipal Code is amended as follows:

9.25.083 Owing ~~vicious~~ dangerous animals prohibited -Exception.

A. It is unlawful to own a dangerous ~~vicious~~ animal (other than a licensed guard or attack dog) with knowledge that the animal is dangerous ~~vicious~~, or with reckless disregard of the fact that the animal is dangerous ~~vicious~~.

B. An animal whose owner is convicted of or pleads guilty to violating this section shall be humanely destroyed.

Section 23. Section 9.25.084 of the Seattle Municipal Code is amended as follows:

9.25.084 Offenses relating to control.

It is unlawful for the owner to:

A. Permit any ~~potbelly pig, domestic~~ animal, except cats and pigeons, to be at large or trespass upon the property of another; ~~provided, that pets may be removed from the premises of the owner if restrained by a leash that is eight feet (8') or shorter, and if in the physical control of a person;~~ It is not a violation of this subsection to have a dog off-leash in an area designated pursuant to Section 18.12.080 as an off-lease area provided that the requirements of Section 18.12.080 B are met.

B. Permit any cat, dog, potbelly pig or other animal to enter any public fountain, or any school ground while school is in session or during

after-school activities It is not a violation of this subsection for an owner to permit an animal to enter on to any school ground when school is not in session and no after-school activities are taking place if the animal is on leash and the owner has in his or her immediate possession a device to remove properly any feces the animal may deposit on school grounds;

C. Fail to confine any female cat or dog that is in estrus ("heat") in a secure enclosure so that the female cat or dog cannot come in contact with ~~the a~~ male unless the male is admitted by the owner of the female;

D. Permit any animal:

1. To damage public property or the private property of another, or
2. To bark, whine, howl, or otherwise vocalize in violation of Chapter 25.08 of the Seattle Municipal Code (Noise Ordinance 106360) or its successor ordinance, or
3. To spread or spill garbage;

E. Have in his/her possession any animal not owned by him/her without the knowledge of the owner, unless he/she notifies the Director of such possession within twenty-four (24) hours; or to fail to surrender such animal to the Director upon demand;

F. Tether an animal in such a manner as to permit the animal to enter any sidewalk, street, alley or place open to the public, or to enter any adjacent lot or premises unless authorized by the occupant of the adjacent premises.

Section 24. Section 9.25.085 of the Seattle Municipal Code is amended as follows:

9.25.085 Offenses relating to sale of animals.

For the purpose of consumer protection it is unlawful to:

A. Sell any animal known to be sick or injured unless the buyer is given, at the time of sale, written notice of the condition of the animal;

B. Sell any animal known to be ~~vicious~~ dangerous;

C. Sell any ~~dangerous~~ exotic animal except to zoos or other facilities possessing or maintaining dangerous animals which are owned by any city, county, state, or federal agency or school, college, university or similar educational facility.

Section 25. Section 9.25.090 of the Seattle Municipal Code is amended as follows:

9.25.090 Detainment and disposal.

A. No detained animal shall be released to the owner until all applicable fees are paid and licenses obtained except as otherwise provided in this Chapter.

B. The Director shall ascertain whether any detained animal is currently licensed, and, if so, shall notify the licensee by letter or by telephone that such animal has been detained and may be redeemed upon payment of any applicable fees.

C. Anyone claiming a detained animal must prove ownership or provide written authorization from the owner to claim the animal, to the satisfaction of the Director before redeeming the animal.

D. Notwithstanding any other provision of this Chapter, injured or diseased animals need not be detained for the holding period, but may be disposed of in a humane manner at any time at the discretion of the Director.

E. Any animal which is detained by the Director may be held at the City Animal Shelter or other place appropriate for the animal. The Director shall post a notice of detainment at the City Animal Shelter, and shall attempt to determine ownership of an animal. If, after the expiration of a holding period, no owner has claimed the animal, the Director shall authorize adoption or dispose of the animal in a humane manner.

F. A kennel fee for every twenty-four (24) hour period or part thereof, commencing at the close of business on the day the animal is detained, shall be charged to the owner or other authorized person claiming the animal for the care and feeding of the animal.

G. The Director of Public Health may direct the detention of animals suspected of having rabies. These animals shall be held until their release is approved by the Director of Public Health, and all applicable fees are paid.

Section 26. Section 9.25.092 of the Seattle Municipal Code is amended as follows:

9.25.092 Nuisance animals.

A. Any animal which, by its actions or condition, presents a clear and present threat to the public peace, health, or safety is a nuisance and may be summarily detained pending correction of the condition, or pending the owner's trial, hearing, appeal or other judicial proceedings for violation of this chapter or any other provision of law.

B. If an animal is a threat to public peace, health or safety, but the public is not in imminent danger, in lieu of summarily detaining the animal, the Director may post a notice to abate a nuisance upon any property wherein an animal is kept in violation of the provisions of this chapter. If no response is made to the notice within twenty- four (24) hours, the animal shall be detained at the City Animal Shelter.

C. In addition, nothing shall prevent prosecution of owners of noisy animals under Chapter 25.08 of the Seattle Municipal Code (Noise Ordinance 106360) or its successor ordinance.

Section 27. Section 9.25.100 of the Seattle Municipal Code is amended as follows:

9.25.100 Penalty clause.

A. Conduct made unlawful by Sections 9.25.053, 9.25.083 , and 9.25.085 of this chapter constitutes a crime subject to the provisions of Sections 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment for no more than one hundred eighty (180) days, or by both such fine and imprisonment.

B. Conduct made unlawful by Sections 9.25.081 B and 9.25.081 I of this chapter constitutes a gross misdemeanor subject to the provisions of Section 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for no more than three hundred sixty-five (365) days, or by both such fine and imprisonment.

C. Conduct made unlawful by Sections 9.25.081 A, 9.25.081 C, 9.25.081 D, 9.25.081 E, 9.25.081 F, 9.25.081 G, 9.25.081 H, 9.25.081 J and 9.25.081 K of this chapter constitutes a misdemeanor subject to the provisions of Sections 12A.02.010 and 12A.02.20 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for no more than ninety (90) days, or by both such fine and imprisonment.

D. Conduct made unlawful by any other section of this chapter is a violation and any person found to have committed a violation may be punished by a civil fine or forfeiture of not more than Five Hundred Dollars (\$500.00), but a finding that a violation was committed shall not give rise to any disability or legal disadvantage based on the conviction of a criminal offense. ~~Failure to have obtained, prior to December 1, 1997, a dog, cat, or potbelly pig license as required by Section 9.25.048, 9.25.051, or 9.25.052 shall not subject the owner to the civil fine or forfeiture established in this subsection if, not later than December 31, 1997: (1) a current license is obtained for the animal; or (2) if the owner has disposed of the animal, the owner notifies the Director of the disposition.~~ Disposition of violations under this chapter shall be governed by the procedures for disposition of traffic infractions under Seattle Municipal Code Chapter 11.31 .

E. In addition, the court may order the revocation or denial of any guard or attack dog license and any cat or dog license of or to any person convicted of a crime under this chapter for a period not to exceed one (1) year.

F. Any person whose guard or attack dog license is revoked, suspended, or denied shall surrender all of his or her guard or attack dogs to the Director to be disposed of in a humane manner.

G. Any person whose cat or dog license is revoked, suspended, or denied shall surrender all of his or her cats and dogs to the Director to be disposed of in a humane manner.

Section 28. Section 9.25.110 of the Seattle Municipal Code is amended as follows:

9.25.110 Denial, suspension, or revocation of license-

Order.

The Director ~~may~~ shall deny, suspend, or revoke a license for an animal found to be a "vicious dangerous animal," ~~in any jurisdiction, and may deny, suspend, or revoke~~ and a license for a guard or attack animal under Section 9.25.054 upon determining that the applicant or licensee has violated or failed to comply with any provision of this chapter. The denial, suspension, or revocation of a license shall be in writing in the form of an order, and shall include a recital of the authority for the action, a brief and concise statement of facts which constitute the grounds for the denial, and the Director's signature. A copy of the order, including notice of the right to a hearing, shall be mailed to the applicant.

Section 29. Section 9.26.020 of the Seattle Municipal Code is amended as follows:

9.26.020 Cat or dog license fee-Renewal.

A. The fee for each cat or dog license and for each annual period of renewal shall be:

1. Cats Altered \$10.00 Unaltered 20.00

2. Dogs

Altered 15.00 Unaltered 33.00

B. The fee for each cat or dog license for an annual license with a twelve (12) month ~~a two-year period~~ of renewal shall be:

1. Cats Altered 17.00 Unaltered 35.00

2. Dogs Altered 25.00 Unaltered 55.00

C. A provisional license may be issued for dogs or cats up to age six (6) months to allow time for such animals to be spayed or neutered ~~and vaccinated for rabies~~. A provisional license may also be issued for cats and dogs of any age that were not previously licensed within The City of Seattle if proof of spay or neuter status is not available at the time the license is requested. The fee for each provisional cat or dog license for a six-month period shall be:

1. Cats \$5.00 2. Dogs 8.00

Each cat or dog shall be limited to a single provisional license which shall be valid for six months.

D. Late fee for renewal of a cat or dog license more than thirty (30) days after its expiration. . . . \$10.00

~~E. Guide or service dog for the handicapped~~ No fee

F. Dog or cat owned by a member of the diplomatic or consular corps of a country having a treaty with the United States granting immunity from local law, upon submission of proof of such status

No fee

G. Dog or cat owned by a person possessing a valid "senior citizen's identification card" or "handicapped person's identification card" issued by The City of Seattle Human Resources)) Services Department. Fifty (50) percent of license fee otherwise payable

H. Lost cat, or dog or potbelly pig license tag, upon submission of affidavit attesting to loss

2.00

Section 30. Section 9.26.025 of the Seattle Municipal Code is amended as follows:

9.26.025 ~~Miniature p~~Potbelly pig license fee.

A. The fee for the initial annual potbelly pig license shall be One Hundred Fifteen Dollars (\$115.00).

B. The fee for each annual period of license renewal for ~~miniature~~ potbelly pigs shall be Twenty-five Dollars (\$25.00).

C. Late fee for renewal of a potbelly pig license more than thirty (30) days after its expiration

\$10.00

Section 31. Section 9.26.040 of the Seattle Municipal Code is amended as follows:

9.26.040 Guard or attack dog license.

The annual fee for each guard dog or attack dog license shall be Fifty-five Dollars (\$55).

Section 32. Section 9.26.050 of the Seattle Municipal Code is amended as follows:

9.26.050 Other animal control fees and charges.

Other animal control fees shall be:

A. Administrative fee for each detained animal:

First detainment \$ 40.00 Second detainment 80.00 Third and subsequent detainments 120.00

B. For each twenty-four (24) hour period or part thereof for kenneling

10.00

C. For each animal adopted 5.00

D. For each ~~dangerous~~ exotic animal permit 30.00

E. For collecting and disposing of an owner's animal, whether the animal is dead or alive

15.00

F. For euthanizing an owner's animal 15.00

G. For the handling of animals, other than dogs and cats, charges may be assessed to recover the cost of special equipment.

Section 33. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2000, and signed by me in open session in authentication of its passage this _____ day of _____, 2000. _____ President _____ of the City Council

Approved by me this _____ day of _____, 2000. _____ Mayor

ORD. 121178

(2003)

Council Bill Number: 114571

Ordinance Number: 121178

AN ORDINANCE relating to Seattle's Animal Control Code; creating a civil infraction for possession of a potentially dangerous animal; amending the definition of "dangerous animal" to incorporate reference to the new civil infraction; defining "unprovoked;" providing for implanting a microchip into and photographing of animals whose owners have been found to have committed the new civil infraction; changing the definition of "Animal Control Officer" to conform to the current organization of the Department of Executive Administration; providing for removal of certain dangerous animals to another jurisdiction; providing for penalties for possessing in the City of Seattle an animal that has been ordered removed; amending Chapter 9.25 of the Seattle Municipal Code; and amending Section 12A.06.060 of the Seattle Municipal Code which defines negligent control of an animal.

Status: Passed as Amended

Note: Wallingford Steps

Vote: 9-0

Date filed with the City Clerk: 2003/06/17

Date of Mayor's signature: 2003/06/10 ([about the signature date](#))

Date introduced/referred to committee: 2003/05/19

Committee: Finance, Budget, Business and Labor

Sponsor: DRAGO

Committee Recommendation: Pass

Index Terms: ANIMAL-CONTROL, DOMESTIC-ANIMALS, PUBLIC-REGULATIONS, ADMINISTRATIVE-PROCEDURES

Fiscal Note: [Fiscal Note to Council Bill No. 114571](#)

Electronic Copy: [PDF scan of Ordinance No. 121178](#)

Reference: Related: CF 305952

Text:

AN ORDINANCE relating to Seattle's Animal Control Code; creating a civil infraction for possession of a potentially dangerous animal; amending the definition of "dangerous animal" to incorporate reference to the new civil infraction; defining "unprovoked;" providing for implanting a microchip into and photographing of animals whose owners have been found to have committed the new civil infraction; changing the definition of "Animal Control Officer" to conform to the current organization of the Department of Executive Administration; providing for removal of certain dangerous animals to another jurisdiction; providing for penalties for possessing in the City of Seattle an animal that has been ordered removed; amending Chapter 9.25 of the Seattle Municipal Code; and amending Section 12A.06.060 of the Seattle Municipal Code which defines negligent control of an animal.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 9.25.020 of the Seattle Municipal Code is amended as follows:

9.25.020 Definitions -- A -- E.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

A. "Abandon" means the act of leaving an animal:

1. Without food, water, or care for twenty-four (24) hours or more; or

2. In a situation where the conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

B. "Alter" means to permanently render an animal incapable of reproduction.

C. "Animal" means any living nonhuman mammal, bird, reptile, or amphibian.

D. "Animal Control Officer" means any person who is employed with the ~~Seattle Division of Animal Control~~ section of the Department or appointed by the Director for the purpose of aiding in the enforcement of any ordinance, or relating to the licensing control, quarantine, seizure or impoundment of animals.

E. "At large" means a dog or other animal inside The City of Seattle, off the premises of the owner, and not under control by a leash of eight (8) feet in length or shorter. "At large" does not include an animal on property other than the animal's owner with the permission of a lawful occupant of that property.

F. "City" means The City of Seattle.

G. "Dangerous animal" means any animal ~~that according to the records of the appropriate authority,~~

~~(1) That, when unprovoked, has inflicted severe injury on or kills a human being or domestic animal without provocation on public or private property;~~

~~(2) has killed a domestic animal, without provocation while off the owner's property, or;~~

~~(2)(3) Whose owner has been previously found to be potentially dangerous, whose owner has received notice of such, have committed a civil violation of 9.25.084G or has been convicted of a crime under 12A.06.060 of the Seattle Municipal Code and whose owner is found to have committed a which animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals violation of either 9.25.084G or 12A.06.060 of the Seattle Municipal Code with respect to the behavior of that same animal;~~

~~(3) That, under circumstances other than as described in subsection G(2) above, has been the subject of one or more findings that its owner has committed a civil violation of 9.25.084G or has been convicted of a crime under 12A.06.060 of the Seattle Municipal Code, whether involving the same or a different owner, whose owner is found to have committed a violation of either 9.25.084G or 12A.06.060 of the Seattle Municipal Code; or~~

~~4) Whose owner has received a written notification alleging behavior that would be in violation of either 9.25.084G or 12A.06.060 of the Seattle Municipal Code issued under the laws of any other city, county or state agency within or outside of the State of Washington, which animal again engages in behavior that is in violation of either 9.25.084G or 12A.06.060 of the Seattle Municipal Code.~~

The breed of a dog shall not be considered in any determination whether a dog is a "dangerous animal" under this section.

H. "Director" means the Director of Executive Administration of The City of Seattle or his/her authorized representative.

I. "Department" means the Department of Executive Administration of The City of Seattle.

J. "Disposed of in a humane manner" means euthanized by a lethal dose of sodium pentobarbital or its equivalent.

K. "Detain" means to place an animal in custody.

L. "Domestic Animal" means an animal that is livestock, a companion animal, or both.

1. "Livestock" means any species of animal commonly used by inhabitants of Washington State for food, fiber, or draft purposes.

2. "Companion animal" means any species of animal commonly kept by inhabitants of Washington State as a pet or for companionship, except that snakes exceeding eight (8) feet in length, venomous reptiles (regardless of whether the venom glands have been removed), and venomous amphibians (regardless of whether the venom glands have been removed) are not domestic animals, even if such animals are

commonly kept by inhabitants of Washington State pets or for companionship.

M. "Exotic animal" means any species of animal that is both: (1) not a domestic animal, and (2) capable of killing or seriously injuring a human being. Subject to the preceding sentence, the definition of "exotic animal" contained in this section includes but is not limited to:

1. All animals of the order Primates (as primates) except humans;
2. All animals of the family Canidae (as dogs, wolves, jackals, or foxes) and their hybrid, except for the domestic dog *Canis familiaris*;
3. All animals of the family Felidae (as lions, tigers, jaguars, leopards, cougars, or cheetahs) and their hybrid, except for the domestic cat *Felis catus*;
4. All animals of the family Ursidae (as bears);
5. All animals of the family Hyaenidae (as hyenas);
6. All animals of the order Crocodylia (as alligators, crocodiles, gavials, or caimans);
7. All animals of the family Elephantidae (as elephants);
8. All animals of the order Perissodactyla (as horses, rhinoceroses, or tapirs);
9. All animals of the order Artiodactyla (as camels, cattle, deer, giraffes, goats, hippopotamuses, llamas, pigs, or sheep);

"Exotic animal" also includes all venomous reptiles and amphibians, (regardless of whether the venom glands have been removed), and all snakes that are eight (8) feet or more in length. ~~An animal that is normally domesticated, but that is determined to be wild or feral, shall be considered an exotic animal.~~

Section 2. Section 9.25.023 of the Seattle Municipal Code is amended as follows:

9.25.023 Definitions -- P -- T.

As used in this chapter, except where a different meaning is plainly apparent from the context, the following definitions apply:

- A. "Permit" means human conduct in relation to an owned animal which is intentional, deliberate, careless, inadvertent or negligent.
- B. "Potbelly pig" means that type of swine commonly known as the Vietnamese, Chinese, or Asian Potbelly Pig (*Sus scrofa bittatus*).
- ~~C. "Potentially dangerous animal" means any animal that when unprovoked: (1) inflicts bites on a human or a domestic animal either on public or private property; or (2) chases or approaches a person on public property or on private property (other than that of the animal's owner) in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.~~

~~C~~D. "Secure animal shelter" means an animal shelter that agrees to accept an animal and that agrees to the following conditions:

1. Not to release the animal from the shelter for the rest of the animal's natural life;
2. Not to allow the animal to come into contact with the general public for the rest of the animal's natural life;
- ~~3. Not to allow the former owner to have contact with the animal;~~
34. To indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, liabilities, causes, suits or action of any kind or nature whatsoever relative to past or future care and custody of the animal and to the animal's future behavior;

45. To notify the City if the shelter goes out of business or can no longer keep the animal and to abide by the City's disposition instructions.

DE. "Service dog" means a dog that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

EF. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery. It also means transmittal of an infectious or contagious disease by an animal.

FG. "Trespassing" means any animal which enters upon the property of another person without the authorization of the lawful occupant.

Section 3. Section 9.25.024 of the Seattle Municipal Code is amended as follows:

9.25.024 Definitions -- U -- Z.

(Reserved).

A. "Unprovoked" means that an animal is not "provoked." An animal is "provoked" if the animal was being tormented physically abused or hurt at the time of the incident. An animal also is "provoked" if a reasonable person would conclude that the animal was defending itself, its owner or an immediate family member of its owner, or another person within its immediate vicinity from an actual assault or was defending real property belonging to its owner or an immediate family member of its owner from a crime being committed on the owner's property at that time. An animal is not "provoked" if the victim is alleged to have provoked the animal and the victim is less than 6 years old.

Section 4. Section 9.25.030 of the Seattle Municipal Code is amended as follows:

9.25.030 Authority of the Director.

A. The Director is authorized to:

1. Make rules for the interpretation and implementation of this chapter, pursuant to the Administrative Code;
2. Accept the surrender of animals to the City Animal Shelter;
3. Permit or deny adoption from the City Animal Shelter of animals that have been surrendered to the City, or which are stray or under detainment and unclaimed after the expiration of a holding period;
4. Direct immediate humane disposal of: (a) any exotic animal when alternatives, such as placing the animal in a zoo or outside of the City, have been exhausted, (b) any animal surrendered to the City for humane disposal, (c) any animal determined by the Seattle Municipal Court or any other court of law to be a nuisance, (d) any animal involved in a court proceeding in which the owner pled guilty or was found to be guilty of owning a nuisance or dangerous animal or in which the owner pled guilty or was found to be guilty of negligent control of an animal, (e) any animal unclaimed after the expiration of a holding period, (f) any animal determined by the Director to be dangerous pursuant to SMC Section 9.25.035, (g) any animal found in the City of Seattle after removal pursuant to SMC 9.25.035A(3).
5. Detain animals found to be unlicensed, or abandoned, or at large, or in inhumane conditions, or to be a nuisance, or to be exotic or dangerous, or otherwise found to be in a circumstance violative of this chapter or any other provision of law;
6. Collect cats, dogs and other animals found dead on the public areas of the City, or from private property on request of the occupant of the property, and to bury, cremate, or arrange for the disposal of such animal;
7. Appoint agents for the collection of pig, dog and cat license fees and other fees established by Chapter 9.26 of the Seattle Municipal Code, including past-due fees and penalties;
8. Grant, renew, suspend, revoke, or deny licenses according to the terms of this chapter;
9. Administer the City Animal Shelter;

10. Administer the City Spay and Neuter Clinic and Program;

11. Charge and collect fees for the services authorized by this chapter, as established by Seattle Municipal Code Chapter 9.26, known as the "Animal Fee Ordinance," as now existing or hereafter amended, revised or re-enacted;

12. Reduce fees for the adoption or redemption of any animal, when, in the discretion of the Director, such a reduction is in the best interests of the animal;

13. Appoint persons experienced in the humane trapping of animals to set and bait a trap or use other devices that do not physically harm an animal trapped, when, in the judgment of the Director, such action will protect the public peace, health, safety and welfare and issue live animal trapping permits as authorized by the Director by rule;

14. Implant a microchip for identification purposes into animals leaving the shelter through adoption, or redemption or release to another jurisdiction pursuant to 9.25.035; or whose owners have been found to have committed a violation of 9.25.084G or has been convicted of a crime under 12A.06.060 of the Seattle Municipal Code a microchip for identification purposes;

15. Photograph for identification purposes animals released to another jurisdiction pursuant to 9.25.035 or whose owners have been found to have committed a violation of 9.25.084G or has been convicted of a crime under 12A.06.060 of the Seattle Municipal Code.

1615. Direct disposition of exotic animals, including but not limited to transfer to a zoological garden, ~~or herpetarium or other jurisdiction so long as the requirements of 9.25.035 E are met;~~

1716. Refund fees for overpayment or services not provided;

1817. Detain an animal that is the subject of any violation of law, or whose owner is accused of violating any law relating to that animal, and collect from the owner all costs of detainment, care, feeding, and disposition;

1918. Direct disposition of dangerous animals to a secured animal shelter or otherwise as provided for in this chapter.

B. The Director shall keep records of the handling and licensure of animals in the City.

C. Nothing prohibits the Police Department from enforcing provisions of this chapter.

D. The Director is authorized to enforce Seattle Municipal Code Sections 18.12.080 , 18.12.100 and 18.12.110 as authorized by the Superintendent of Parks and Recreation by rule.

E. The Director is authorized to enforce Seattle Municipal Code Chapter 9.12 and Seattle Municipal Code Section 10.72.020, subject to such restriction or qualification as the Director of the Seattle-King County Department of Public Health may establish by rule.

Section 5. Section 9.25.035 of the Seattle Municipal Code is amended as follows:

SMC 9.25.035 Declaration that an animal is dangerous -- Disposition -- Right to meeting.

A. The Director, upon the petition of any person, or at his or her own discretion, may conduct an investigation, and if the findings of the investigation so indicate, he or she may declare an animal to be dangerous. If a domestic animal is found to be dangerous, the Director shall enter an order so stating and shall direct either: (1) humane disposal of the animal; ~~or~~ (2) that the animal be sent at the owner's expense to a secure animal shelter; ~~or~~ (3) removed from the City and maintained at all times in compliance with RCW Chapter 16.08. The owner is responsible for paying all fees owed to the City for the care of the animal.

B. Before declaring an animal to be dangerous or directing the disposition of the animal, the Director shall notify the owner in writing of the reasons why the animal is believed to be dangerous, the proposed disposition of the animal, the authority for the proposed action, and that the Director will make a final determination after the expiration of twenty (20) days following service of the notice, or, if sent by certified mail, within twenty (20) days after the date of delivery as shown on the returned receipt. In addition, the notice shall inform the owner that he or she will be provided an opportunity to meet with the Director, at which meeting the owner may give, orally or in writing, any reasons or information as to why the animal should not be declared to be dangerous, or why the Director should direct that the animal be sent to a

secure animal shelter instead of directing humane disposal. The notice shall state the date, time and location of the meeting, which will occur prior to the expiration of twenty (20) days following delivery of the notice. The notice 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 Director.

C. The Director will consider directing that an animal be sent to a secure animal shelter only upon request of the owner. The owner shall bear the burden to establish that an animal shelter is available that meets the criteria for a secure animal shelter, that the shelter will accept the animal, and that the owner is willing and able to pay all expenses for transporting the animal.

D. In the event the Director finds an animal to be dangerous and directs disposition of the animal, the declaration and directive shall be in writing in the form of an order, and shall include a recital of the authority for the action, a brief and concise statement of the facts that supports the disposition, and contain the Director's signature. A copy of the order, including notice of the right to appeal, shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner.

E. Prior to releasing an animal for removal from Seattle pursuant to SMC 9.25.035A(3) the Director shall require (1) proof that all conditions required Chapter 16.08 RCW and all other conditions required by state or local law for maintaining a dangerous animal have been met; (2) proof that the animal control authority in the jurisdiction to which the animal is being moved has been informed of the relocation; (3) proof that the animal control authority in the jurisdiction to which the animal is being moved has consented to the relocation; (4) agreement by the animal's owner to indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, liabilities, causes, suits or action of any kind or nature whatsoever relative to past or future care and custody of the animal and to the animal's future behavior.

Section 6. Section 9.25.083 of the Seattle Municipal Code is amended as follows:

9.25.083 Owning ~~vicious~~ dangerous animals prohibited - - Exception.

A. It is unlawful to own a dangerous animal (other than a licensed guard or attack dog) with knowledge that the animal is dangerous, or with reckless disregard of the fact that the animal is dangerous.

B. It is unlawful to possess within the City of Seattle any animal that has been ordered removed from the City of Seattle pursuant to SMC 9.25.035.

C. An animal whose owner is convicted of or pleads guilty to violating this section shall be humanely destroyed.

Section 7. Section 9.25.084 of the Seattle Municipal Code is amended as follows:

9.25.084 Offenses relating to control.

It is unlawful for the owner to:

A. Permit any animal, except cats and pigeons, to be at large or trespass upon the property of another. It is not a violation of this subsection to have a dog off-leash in an area designated pursuant to Section 18.12.080 as an off-leash area provided that the requirements of Section 18.12.080 B are met;

B. Permit any cat, dog, potbelly pig or other animal to enter any public fountain or any school ground while school is in session or during after-school activities. It is not a violation of this subsection for an owner to permit an animal to enter on to any school ground when school is not in session and no after-school activities are taking place if the animal is on leash and the owner has in his or her immediate possession a device to remove properly any feces the animal may deposit on school grounds;

C. Fail to confine any female cat or dog that is in estrus ("heat") in a secure enclosure so that the female cat or dog cannot come in contact with a male unless the male is admitted by the owner of the female, with the consent of the owners of both the male and female animals;

D. Permit any animal:

1. To damage public property or the private property of another, or

2. To bark, whine, howl, or otherwise vocalize in violation of Chapter 25.08 of the Seattle Municipal Code (Noise Ordinance 106360) or its successor ordinance, or

3. To spread or spill garbage;

E. Have in his/her possession any animal not owned by him/her without the knowledge of the owner, unless he/she notifies the Director of such possession within twenty-four (24) hours; or to fail to surrender such animal to the Director upon demand;

F. Tether an animal in such a manner as to permit the animal to enter any sidewalk, street, alley or place open to the public, or to enter any adjacent lot or premises unless authorized by the occupant of the adjacent premises.

G. Permit any animal when unprovoked on public or private property to:

1. Bite a human being causing less than severe injury as defined in 9.25.023E of the Seattle Municipal Code or bite a domestic animal; or

2. Chase or approach a human, on property other than that of the animal's owner, in a menacing fashion or apparent attitude of attack, which may include but is not limited to any one or more of the following behaviors: snarling, baring teeth, growling, snapping, pouncing, lunging, attacking, or attempting to bite.

The breed of a dog shall not be considered to be evidence of violation of this section.

Section 6. Section 9.25.090 of the Seattle Municipal Code is amended as follows:

SMC 9.25.090 Detainment and disposal.

A. No detained animal shall be released to the owner until all applicable fees are paid and licenses obtained except as otherwise provided in this chapter.

B. The Director shall ascertain whether any detained animal is currently licensed, and, if so, shall notify the licensee by letter or by telephone that such animal has been detained and may be

redeemed upon payment of any applicable fees.

C. Anyone claiming a detained animal must prove ownership or provide written authorization from the owner to claim the animal, to the satisfaction of the Director before redeeming the animal.

D. Notwithstanding any other provision of this chapter, injured or diseased animals, in cases where the owner cannot be located, need not be detained for the holding period, but may be disposed of in a humane manner at any time at the discretion of the Director, following a reasonable attempt to locate the owner of the injured animal. If the owner is identifiable, the Director must contact the owner and give the owner the option of transferring the animal to a veterinarian for immediate treatment.

E. Any animal which is detained by the Director may be held at the City Animal Shelter or other place appropriate for the animal. The Director shall post a notice of detainment at the City Animal Shelter, and shall attempt to determine ownership of an animal. If, after the expiration of a holding period, no owner has claimed the animal, the Director shall authorize adoption or dispose of the animal in a humane manner.

F. A kennel fee for every twenty-four (24) hour period or part thereof, commencing at the close of business on the day the animal is detained, shall be charged to the owner or other authorized person claiming the animal for the care and feeding of the animal.

G. The Director of Public Health may direct the detention of animals suspected of having rabies. These animals shall be held until their release is approved by the Director of Public Health, and all applicable fees are paid.

Section 7. Section 9.25.100 of the Seattle Municipal Code is amended as follows:

SMC 9.25.100 Penalty clause.

A. Conduct made unlawful by Sections 9.25.053, 9.25.054, 9.25.083 A, and 9.25.085 of this chapter constitutes a crime subject to the provisions of Sections 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Hundred Dollars (\$500) or by imprisonment for no more than one hundred eighty (180) days, or by both such fine and imprisonment.

B. Conduct made unlawful by Sections 9.25.081 B, and 9.25.081 I, and 9.25.083 B of this chapter constitutes a gross misdemeanor subject to the provisions of Section 12A.02.010 and 12A.02.020 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than Five Thousand Dollars (\$5,000) or by imprisonment for no more than three hundred sixty-five (365) days, or by both such fine and imprisonment.

C. Conduct made unlawful by Sections 9.25.081 A, 9.25.081 C, 9.25.081 D, 9.25.081 E, 9.25.081 F, 9.25.081 G, 9.25.081 H, 9.25.081 J and 9.25.081 K of this chapter constitutes a misdemeanor subject to the provisions of Sections 12A.02.010 and 12A.02.20 of the Seattle Municipal Code (Ordinance 102843 as amended) and any person convicted thereof may be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment for no more than ninety (90) days, or by both such fine and imprisonment.

D. Conduct made unlawful by any other section of this chapter is a violation and any person found to have committed a violation may be punished by a civil fine or forfeiture of not more than Five Hundred Dollars (\$500), but a finding that a violation was committed shall not give rise to any disability or legal disadvantage based on the conviction of a criminal offense. ~~Failure to have obtained, prior to November 1, 2000, a dog, cat, or potbelly pig license as required by Sections 9.25.050, 9.25.051 and 9.25.052 shall not subject the owner to the civil fine or forfeiture established in this subsection if, not later than November 30, 2000: (1) a current license is obtained for the animal, or (2) if the owner has disposed of the animal, the owner notifies the Director of the disposition.~~ Disposition of violations under this chapter shall be governed by the procedures for disposition of traffic infractions under Seattle Municipal Code Chapter 11.31.

E. In addition, the court may order the revocation or denial of any guard or attack dog license and any cat or dog license of or to any person convicted of a crime under this chapter for a period not to exceed one (1) year.

F. Any person whose guard or attack dog's license is revoked, suspended, or denied shall surrender all of ~~his or her~~ said guard or attack dogs to the Director to be disposed of in a humane manner.

G. Any person whose cat or dog's license is revoked, suspended, or denied shall surrender all of ~~his or her~~ said cats and dogs to the Director.

Section 8. Section 12A.06.060 of the Seattle Municipal Code is amended as follows:

SMC 12A.06.060 Negligent control of an animal.

A. A person is guilty of negligent control of an animal if he or she has possession, custody or control of an animal that, because of the person's negligence, inflicts bodily injury on or kills another person or another animal.

B. "Negligence" includes, but is not limited to, failure to comply with or violation of any provision of Section 9.25.083 or Section 9.25.084.

C. Negligent control of an animal is a gross misdemeanor.

Section 9. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2003, and signed by me in open session in authentication of its passage this ____ day of _____, 2003. _____ President of the City Council

Approved by me this ____ day of _____, 2003. _____ Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2003. _____ City Clerk