

CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1036-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, REPEALING CHAPTER 6.04 (ANIMAL CONTROL) OF THE SULTAN MUNICIPAL CODE IN ITS ENTIRETY AND ENACTING A NEW CHAPTER 6.04 TITLED “ANIMAL CONTROL” PROVIDING COMPREHENSIVE REGULATIONS OF ANIMALS FOR THE HEALTH, SAFETY, WELFARE AND GENERAL PROTECTION OF HUMAN RESIDENTS, ANIMALS, AND PROPERTY WITHIN THE CITY OF SULTAN; PROVIDING A DECLARATION OF DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS AND THE RESTRICTIONS ON THE POSSESSION THEREOF. PRESCRIBING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Sultan has the authority, pursuant to Title 16 RCW to regulate the keeping of domestic animals; and

WHEREAS, the City of Sultan has the authority, pursuant to Chapter 16.08 RCW to regulate dogs which are dangerous to persons or property; and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and welfare to repeal the current Chapter 6.04 of the Sultan Municipal Code and to replace the same in its entirety to better address animal control enforcement, dangerous dogs and potentially dangerous dogs, pet licenses and fees and other animal control matters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer. The existing SMC Section 6.04 “Animal Control” is hereby repealed in its entirety.

Section 2. New Chapter 6.04. A new Chapter 6.04 “Animal Control” is hereby

enacted as set forth in Exhibit A.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE _____ DAY OF _____, 2009.
CITY OF SULTAN

Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

Laura Koenig, City Clerk

Approved as to form:

Margaret J. King, City Attorney

Ordinance: 1036-09

Passed by the City Council:

Date of Publication:

Effective Date:

EXHIBIT A

ORDINANCE NO. 1036-09

Chapter 6.04

ANIMAL CONTROL¹

Sections:

[6.04.010](#) Definitions.

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6.04.010 Definitions.

As used in this chapter, unless the context requires otherwise.

A. “Abandon” means leaving an animal for 24 hours or more without care, or dropping an animal on private property without the owner’s permission or in a public place.

B. "Abatement" means the termination of any violation of this title by lawful and reasonable means as determined by the animal control officer in order that a person or

¹ *Prior legislation: Ords. 168, 249, 294, 334, 389, 471 and 507.

persons presumed to be the owner of an animal comply with this chapter.

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

D. "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals, and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

E. "Animal Control Authority" means any person, firm, association or corporation appointed or authorized by the Mayor to enforce or assist in the enforcement of the provisions of this title. The term shall specifically include, but not necessarily be limited to, any designated animal control officers, police officers, and employees of the animal shelter.

F. "Bail" means money or its equivalent deposited by the defendant to secure his appearance for an animal control ordinance offense.

G. "Confined" means being confined indoors, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping, or in a securely fenced yard with a locked gate.

H. "Dangerous dog" means any dog that

1. Inflicts severe injury on a human being without provocation on public or private property, or
2. Kills a domestic animal without provocation while the dog is off the owner's property, or
3. Has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans.

I. "Dogs Not Declared Dangerous" means a dog that is not to be declared a dangerous dog because the threat, injury or damage was sustained by a person who at the time was:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog; or was
2. Tormenting, abusing, or assaulting the dog, or has done so in the past; or was
3. Committing or attempting to commit a crime

J. "Dog" means any mammal of the canine family.

K. "Dog license" means a required license issued annually to each individual dog pursuant to the provisions of this chapter.

L. "Dog running at large" means any dog off or outside the premises of the owner not restrained by a rope, line, leash, chain, or other similar means. If a dog is not restrained by a tether of some kind, not engaged in supervised training, or not a

working dog in the field, that dog shall be deemed at large.

M. "Guard dog" means any dog which has been trained and is used for the purpose of protecting persons or property by exhibiting hostile and aggressive propensities or which attack on signal or command.

N. "Kennel" means the operation of any business in which four or more dogs of more than four months of age are kept on the premises, or the structure operated or contracted by the city in which impounded dogs are kept.

O. "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control, custody or possession of an animal or by reason of the animal being seen residing consistently at a location, shall be presumed to be the owner

P. "Person" means an individual, partnership, company, association, or any other legal entity.

Q. "Pet shop" means any person regularly engaged in the business of breeding or selling animals of any species.

R. "Potentially dangerous dog" means any dog 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 upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

S. "Public nuisance" means any dog which molests any passerby, bites a person or animal, habitually chases vehicles or persons, habitually attacks other animals traveling upon public grounds, damages or destroys property of persons other than the owner of the dog, scatters garbage and tips over garbage cans, habitually runs at large, disturbs the peace, comfort, health, or repose of any person of reasonable sensitivity by making loud, long, unnecessary or continuous noises.

T. "Quarantine means secured at the direction of the animal control authority

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

V. "Veterinarian" means a practicing veterinarian licensed pursuant to the laws of the state to perform any of the acts set forth in RCW 18.92.105.

W. "Veterinary hospital" means any business established, maintained and operated by a veterinarian which is operated for the diagnosis and treatment of diseases or injuries of animals.

6.04.020 Animal Control Officer – Powers and duties.

The Animal Control Officer shall:

A. Have police power in the enforcement of all provisions of this chapter relating to the licensing and impounding of dogs and the citation of persons for violation of this chapter.

B. Establish a place where all dogs subject to impoundment may be kept and held safely and provided with proper and sufficient food, water and shelter.

C. Impound and keep safely any dog which is found doing any of the acts set forth in SMC [6.04.010](#), or any dog which is apparently abandoned.

D. Issue uniform animal control ordinance citations pursuant to this chapter and citations in complaints within the city, to appear as witnesses, and to perform all other acts necessary for enforcement of this chapter.

E. Investigate reports of biting dogs, animal neglect or abuse as set forth by this chapter. (Ord. 590, 1993)

6.04.030 Prohibited activities.

It is unlawful for any person to:

A. Interfere with or hinder an Animal Control and/or police officer while in the exercise of his duties.

B. Remove any detained animal from the city kennel, contract facility or a department vehicle without the consent of the police department or Animal Control Officer.

C. Refuse to allow an Animal Control or police officer to properly impound an animal.

D. Fail to prevent any animal from running at large or to allow an animal to be unleashed on public premises, property or right-of-way except in those areas specifically designated to permit animals.

E. Own a dangerous dog in contravention of this Chapter.

F. Own a dog that is deemed a public nuisance by being involved in three incidents within one year's time.

G. Own any animal affected with a contagious disease who runs at large or is exposed in any public place whereby the health of man or beast may be affected, except that such animal may be removed from the premises for the owner or other person by a veterinarian, Animal Control Officer or police officer.

H. Own an animal not vaccinated with a modified live-virus vaccine for rabies within the past two years.

I. Own any animal for which he has failed to display a licence upon such animal when it is off the owner's property, if such license is required under SMC [6.04.070](#).

J. Use or permit another to use an animal license or license identification not issued to

such person for the specific animal.

K. Remove a license identification from any animal without the owner's permission.

L. Make a false or misleading statement or representation regarding the ownership or right to custody or control of an animal.

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

N. Fail to keep every female animal in heat confined in a manner that such female animal cannot come into contact with another animal except for planned breeding.

O. Allow an animal in a posted prohibited area.

P. Knowingly or negligently commit acts of cruelty to animals:

1. Under circumstances not amounting to first degree animal cruelty not defined under state law general acts of cruelty include but are not limited to:

a. To subject any animal under a person's ownership, custody or control to neglect, defined as confinement without proper food, water and shelter.

b. To kill without legal privilege any animal under the ownership, custody, or control of another person.

2. For any person to overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate or cruelly kill or cause or procure any such cruel treatment of any animal while having the charge or custody of any such animals as owner or otherwise, or for any owner or person having the charge or custody of any animal to permit the animal to be subjected to any of the above acts.

3. Confine an animal within or on a motor vehicle at any location under such conditions as may endanger the health or well being of the animal, including but not limited to, extreme temperatures, lack of food, water or attention, or confinement with a dangerous animal.

4. For any person owning, having charge or custody of any animal, to deprive any such animal of necessary and adequate food for more than 36 hours and/or water for more than 24 hours.

5. For any person having charge, or custody of any animal, to deprive such animal of necessary, adequate, sanitary, and humane shelter from the elements.

6. Abandon an animal.

7. Failing to report striking an animal with a motor vehicle whether accidental or negligently.

Q. Allow the excessive accumulation of animal feces in any open area, run, cage or yard wherein animals are kept and to fail to remove or dispose of feces.

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

S. Fail to have in his/her possession the means necessary to remove his/her animal's

fecal matter when accompanied by said animal on public property or public easement.

T. Be in possession of property and knowingly permit frequent, continuous, and/or repetitive barking or noise made by any animal, which originates from the property and which unreasonable disturbs or interferes with the peace, comfort and repose of property owners or possessors.

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

V. Fail to make an appearance in court pursuant to a uniform animal control complaint and the provisions of this chapter or fail to appear pursuant to an order of the court in such matter under this chapter. (Ord. 590, 1993)

W. Violation of any of the provisions of this section shall constitute a misdemeanor under Section 6.04.160(E)

6.04.032 Community event restrictions.

A. It shall be unlawful for an owner to allow any dog, other pets, or other domestic animals to stray and/or enter with or without a leash or other means of restraint upon any street right-of-way, park, playfield, water front or other property designated by the city by resolution as a community event. The resolution shall set out the name of the community event, its dates, and times and the area where dogs, other pets or other domestic animals may not stray or enter.

B. Notwithstanding the restrictions set forth in subsection (A) of this section, it shall not be unlawful for dogs, pets, or domestic animals to enter in the following circumstances:

1. As service or seeing-eye dogs;
2. As certified canine enforcement teams;
3. As parade day or community event participants in an organized activity of the parade of community events between the hours of 8:00 a.m and 1:00 p.m.;
4. As animals used by community event vendors approved by the city and event organizers that provide animal rides, animal performances, or attractions.

C. Notices. Nothing herein shall be determined to require the posting to exclude any dogs, other pets, or other domestic animals; provided, however, that such postings be undertaken at the discretion of the city. (Ord. 844-04 §§ 1, 2)

6.04.040 Right of entry and inspection.

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

B. An Animal Control Officer or police officer may enter the private property of another in the absence of the owner or occupant when in their judgement an animal on such premises needs immediate assistance or to prevent its death or serious injury.

C. An Animal Control Officer or police officer may enter the private property of another to enforce this chapter with a search warrant or when otherwise authorized by law.

D. An Animal Control Officer or police officer is authorized to remove any animal from a motor vehicle, at any location, when they reasonably believe it is confined in such conditions which endanger the health and well being of the dog. The animal shall be removed and impounded with the removing officer leaving written notice of the removal and impound, and the officer's name, in a secure and conspicuous location or inside the vehicle.

E. An Animal Control Officer or 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.

F. An Animal Control Officer or police officer may enter the private property of another and remove a dog which is creating a public nuisance. (Ord. 590, 1993)

G. An Animal Control Officer or police officer may enter the private property of another and remove a dog acting as a dangerous or potentially dangerous dog.

6.04.050 Biting dogs.

A. Any owner of a dog, any person who is bitten by a dog or any doctor, veterinarian or hospital which has information that a person has been bitten by a dog shall immediately report such bite, giving the name and address of the bitten person if known to him.

B. The owner of a dog alleged to have bitten a person must produce valid certification of a current rabies vaccine or be quarantined as described in this chapter for a period of at least 10 days. Such dog may not be transported outside the city limits without the written permission of the police department. (Ord. 590, 1993)

6.04.060 Declaration of potentially dangerous dog or dangerous dog -- Procedure and notification requirements.

A. The animal control officer shall identify and classify potentially dangerous dogs and dangerous dogs. The agency may find and declare an animal potentially dangerous or dangerous if the animal control officer has probable cause to believe that the animal falls within the definitions set forth in SMC 6.04.010(G) or SMC 6.04.010(H). Probable cause may be based upon:

1. The written statement of a citizen who is willing to testify that he or she witnessed the animal acting in a manner which causes it to fall within the definition of SMC 6.04.010(G) or SMC 6.04.010(H); or

2. Actions of the dog witnessed by any animal control officer or law enforcement officer; or

3. Other substantial evidence.

B. Upon declaring a dog potentially dangerous or dangerous under subsection (1) of this section, the animal control officer shall prepare a written notice that the dog is dangerous or potentially dangerous. At a minimum, the notice shall state:

1. A description of the dog including breed, color, sex and license number, if known;

2. The name and address of the owner, if known;

3. The location of the animal if not in the custody of the owner;

4. The facts upon which the notice is based;

5. The requirements for containment and restraint of the dog, if applicable, as determined by the animal control officer, that the requirements for containment and restraint shall be complied with immediately upon receipt of the notice and that failure to comply with the requirements of containment and restraint shall result in the immediate confiscation and impoundment of the dog, pursuant to SMC 6.04.067;

6. The criminal penalty for violation of the requirements for containment and restraint imposed by the animal control officer, including a statement advising that if the requirements are not timely met, the animal control officer shall have the authority to issue a criminal citation or report such noncompliance to the office of the prosecuting attorney, which shall also have authority to issue a criminal citation, and that if the dog is declared potentially dangerous, similar incidents in the future could result in the dog being declared dangerous pursuant to Section 6.04.010(U); and

7. A statement advising:

(a) that the notice may be appealed to the city hearing examiner as specified in SMC 2.02.125; and

(b) that the failure to file a timely and complete appeal will constitute a waiver of all rights to an appeal under city code; and

8. A statement that the notice constitutes a final determination that the dog is either potentially dangerous or dangerous.

C. The notice shall be served on the owner by one of the following methods:

1. Certified mail to the owner's last known address. The service shall be deemed complete upon the third day following the day upon which the notice was placed in the mail; or

2. Personal service. If the declaration is personally served, proof of personal service of the declaration shall be made by a written declaration under penalty of perjury executed by the person effecting service, declaring time, date and manner in which service was made; or

3. If the owner cannot be located as provided in paragraph (1) or (2) of this subsection, by publication in a newspaper of general circulation. The service shall be deemed complete 14 days following the day upon which the notice was published.

6.04.061 Appeal of notice of potentially dangerous or dangerous dog.

A. Any owner of a dog which has been declared potentially dangerous or dangerous by the animal control officer pursuant to SMC 6.04.060 may appeal the declaration to the Sultan city hearing examiner pursuant to the provisions of SMC 2.02.125.

B. The enforcement stay contained in SMC 2.02.125(3) shall not apply to the declaration that a dog is potentially dangerous or dangerous, except that no dog declared potentially dangerous or dangerous shall be destroyed as provided by this chapter during the pendency of an appeal as provided herein.

C. At the hearing, the animal control officer shall have the burden of proving the dog declared dangerous or potential dangerous falls within the definition of SMC 6.04.010(H) and (G), which burden shall be met by a preponderance of the evidence.

D. The decision of the hearing examiner shall be final and conclusive with an optional right of reconsideration as provided in SMC 2.02.167 and may then be reviewable by an action for writ of review filed in Snohomish County superior court as provided in chapter 2.02 SMC.

6.04.062 Certification of registration of a dangerous dog required.

A. It shall be unlawful for a person or persons to keep, own or otherwise maintain a dangerous dog in the City without a certificate of registration issued under this section.

B. Following the declaration of dangerous dog, the owner of a dangerous dog must obtain a certificate of registration for the dog with the licensing authority within fifteen days as provided in this section.

C. The licensing authority is authorized to issue a certificate of registration to the owner of a dangerous dog upon payment of a \$200 registration fee and if the owner presents sufficient evidence of the following:

1. A proper enclosure of a dangerous dog;
2. Either:
 - (a) a surety bond issued by a surety insurer qualified under chapter 48.28 RCW and in a form acceptable to the licensing authority in the sum of at least \$250,000, payable to any person injured by the dangerous dog; or
 - (b) a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under Title 48 RCW and in a form acceptable to the licensing authority in the amount of at least \$250,000, insuring the owner for any personal injury inflicted by the dangerous dog;
3. That the dog has been microchipped;
4. That the dog has been licensed; and
5. That the dog has been neutered or spayed.

6.04.063 Term of certificate of registration.

The term for a certificate of registration issued pursuant to SMC 6.04.062 is one year from the date of issuance or until the dog is moved to another address, whichever is less. Renewal applications for the certificate of registration must contain sufficient evidence of the information required in SMC 6.04.062 as well as payment of the application fees.

6.04.064 Potentially dangerous dog -- Confinement on and off premises of owner.

It shall be unlawful for the owner of a potentially dangerous dog:

A. To suffer or permit the dog to be on the property where the owner resides and outside the owner's dwelling unless the dog is contained by a secure fence or under control; or

B. To suffer or permit the dog to leave the property where the owner resides unless the dog is under control and securely muzzled. The muzzle shall be worn in a manner which will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

6.04.065 Dangerous dog -- Confinement off premises of owner.

It shall be unlawful for the owner of a dangerous dog to suffer or permit the dog to be outside the proper enclosure of a dangerous dog unless the dog is securely muzzled and under control. The muzzle shall be worn in a manner which will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

6.04.066 Duty of owner to notify animal control officer of change in status of potentially dangerous or dangerous dog.

A. The owner of a potentially dangerous or dangerous dog shall immediately notify the animal control officer when the dog:

1. Is loose or unconfined off the premises of the owner;
2. Has bitten or injured a human being or another animal;
3. Is sold, given away, or moved to another address; or
4. Dies.

B. If a potentially dangerous or dangerous dog is sold, given away, or moved to another location, the owner shall provide the name, address, and telephone number of the new owner, or the address and telephone number of the new location, to the animal control officer prior to moving the dog, whether within or outside of the City. All requirements of this chapter must be met by the new owner prior to moving the dog if the

dog remains within the City. If the dog is retained by the same owner, but moved to another address, the requirements of this chapter must be met prior to moving the dog.

C. If a potentially dangerous or dangerous dog dies, the owner shall supply to the animal control officer within 30 days of death, a veterinarian certificate of death or other proof that the dog has died.

6.04.067 Potentially dangerous and dangerous dog -- Confiscation -- Conditions -- Penalties for owners of dogs that attack -- Dog Fights, penalty.

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

1. The dog is either not contained by a secure fence or under control while on the property where the owner resides and outside of the owner's dwelling; or
2. The dog is off the property where the owner resides, and the dog is either not under control or not securely muzzled. In addition, the owner shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

B. Any dangerous dog shall be immediately confiscated by the animal control officer if:

1. The dog is not validly registered pursuant to SMC 6.04.062;
2. The owner does not maintain continuous liability insurance coverage or surety bond required under SMC 6.04.062; or
3. The dog is not in a proper enclosure of a dangerous dog and either not under control or not securely muzzled. In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021.

C. If a dog is confiscated under section (A) or (B) above, the animal control officer must serve notice pursuant to this chapter upon the dog owner within **seventy-two hours** of the confiscation, specifying the reason for the confiscation of the potentially dangerous or dangerous dog, that the owner is responsible for redemption of the dog pursuant to **SMC 6.04.120**, and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within fifteen calendar days of the receipt of the notification. The animal control officer shall destroy the confiscated potentially dangerous or dangerous dog in an expeditious and humane manner if any deficiencies required by the notice are not corrected within fifteen days of service of the notification.

D. Any dog which threatens the safety of any animal or person, whether designated as potentially dangerous or dangerous, may be immediately confiscated by the animal control officer prior to a notice being served pursuant to SMC 6.04.060. Within seventy-two hours of the confiscation, the animal control officer shall serve notice under SMC 6.04.060 on the owner. If the requirements included in the notice are satisfied and the dog is redeemed pursuant to **SMC 6.04.120**, the dog shall be released. The animal control officer shall destroy the confiscated dog in an expeditious and humane manner if the

requirements included in the subsequent notice are not satisfied or the dog is not redeemed within **fifteen calendar days** of the notification.

E. If a potentially dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or a domestic animal, the dog's owner is guilty of a misdemeanor, punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that he or she was in compliance with the requirements for ownership of a potentially dangerous dog pursuant to this chapter and the person or domestic animal attacked or bitten by the defendant's dog trespassed on the defendant's real or personal property or provoked the defendant's dog without justification or excuse.

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

G. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has previously been declared potentially dangerous or dangerous, shall be guilty of a class C felony punishable in accordance with RCW 9A.20.021. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the human severely injured or killed by the defendant's dog:

1. Trespassed on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of small children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog; or

2. Provoked the defendant's dog without justification or excuse on the defendant's real or personal property which was enclosed by fencing suitable to prevent the entry of small children and designed to prevent the dog from escaping and marked with clearly visible signs warning people, including children, not to trespass and to beware of dog. In such a prosecution, the state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in this chapter. The state may not meet its burden of proof that the owner should have known the dog was potentially dangerous solely by showing the dog to be a particular breed or breeds. In addition, the dog shall be immediately confiscated by the animal control officer, quarantined, and upon conviction of the owner destroyed in an expeditious and humane manner.

H. Any person entering a dog into a dog fight is guilty of a **class C felony** punishable in accordance with RCW 9A.20.021.

6.04.070 Animal license – Required.

Any person owning a dog or cat shall procure a license for each and such animal each fiscal year or any part thereof and pay a fee as required by the city's adopted fee resolution or ordinance.

Such license shall be procured within 30 days after the date a dog or cat is brought by the owner into the city, or any dog or cat four months of age kept for more than 30 days within the city limits. (Ord. 590, 1993)

6.04.080 Animal – Rabies inoculations.

It shall be the duty of the owner of any dog or cat which is more than four months of age kept in the city to have such dog or cat inoculated against rabies with a modified live virus type vaccine, and no license shall be issued for any dog unless the applicant exhibits a certificate of such inoculation by a veterinarian or, in the case of dogs owned by a kennel or pet shop, a statement of such inoculation signed and sworn to by the owner of that kennel or pet shop.

The certificate of inoculation or sworn statement must demonstrate that such vaccination is valid for immunity against rabies for the entire period for which the license is issued; however, if a veterinarian certifies to some physical condition of a dog which would prevent such inoculation for any period, no inoculation shall be required for the dog, and the license may be issued for that dog. (Ord. 590, 1993)

6.04.090 Issuance – Contents – Tags – Duplicates.

A. Upon payment to the City Clerk or designee of the required license fee as set by fee resolution or ordinance, the City Clerk or designee shall issue to the person a license and metal tag bearing the word "Sultan" and having thereon the year and number corresponding to that of the license and the stub.

B. The City Clerk or designee shall keep a record of each license which may be in the form of a stub upon which shall be recorded the essential facts of the license; the name, address and phone number of the owner. The sex, name sufficient information to identify the animal, the date and any other data deemed necessary or desirable to carry out the general purpose of this chapter. Licenses are for a specific animal to a specific owner and are not transferable between owners or animals.

C. If a license tag is lost, an owner may secure a duplicate tag from the City Clerk or designee on satisfactory proof of loss. (Ord. 590, 1993)

6.04.100 Fees.

A. Fees for the annual license for each shall be set by resolution. All charges and penalties paid in accordance with the terms of this chapter shall be paid to the Sultan City Clerk or designee.

B. All licenses shall expire on the first day of the following year in which the license is issued.

6.04.110 Impounding animals – When authorized.

Whenever any animal is found performing any of the activities described in this chapter, or has bitten any person or animal, an Animal Control Officer, police officer, any owner or any private person may impound it by immediately delivering such animal to the place designated for such impoundment.

The Animal Control Officer, upon receiving any animal, shall make a complete registry, entering the breed, color and sex of such animal and whether licensed. If licensed, they shall enter the name and address of the owner, and the number of the license tag..

Not later than two working days after the impounding of any animal at a City of Sultan facility, the owner shall be notified, or if the owner of the animal is unknown, written notice shall be posted for three days at the Sultan City Hall and/or Sultan Post Office describing the animal and the place and time of taking. The owner of any animal so impounded may reclaim such animal upon payment of the license fee, if unpaid, and all costs and charges incurred by the city for impounding and maintenance of the animal. (Ord. 590, 1993)

6.04.120 Redemption, destruction or adoption of unlicensed animals.

Unless an unlicensed animal or impounded animal is redeemed by its owner from a City of Sultan facility within three working days after impoundment in a manner consistent with SMC [6.04.110](#), the animal may be destroyed or adopted in a manner consistent with SMC [6.04.130](#). If such animal has been impounded because of the biting of a person and does not have a vaccination which is valid for immunity against rabies at such time, such animal shall be kept in impoundment and quarantine for such period of time as is necessary to observe said dog for the required 10-day quarantine period commencing after the biting of a person. (Ord. 590, 1993)

The owner of any animal impounded at a City of Sultan facility may reclaim such animal upon payment of the license fee, if unpaid, and all costs and charges incurred by the city for impounding and maintenance of the animal.

6.04.130 Impounded animals – Adoption conditions.

The decision of whether to release an animal to an individual for the purposes of adoption shall be discretionary with the Animal Control Officer or his/her designee. In making the determination the Animal Control Officer or his/her designee shall base his decision on what is in the best interest of the animal and what is in the best interest of public safety. Factors which shall be considered include, but are not limited to, the age of the individual requesting adoption, the premises where the animal will be kept, condition, size and/or temperament of the animal. Dogs which have been declared dangerous under the provisions of Chapter 6.04 of this code or Chapter 16.08 RCW, or potentially

dangerous under the provisions of Chapter 6.04 of this code, will not be available for adoption.

An animal may be redeemed by persons other than the owner only if the following qualifications are met:

- A. That the animal is in good health, or that adequate provisions for medical care of the animal will be taken;
- B. That the animal is not dangerous;
- C. That the animal is immunized against rabies prior to adoption;
- D. That the animal is licensed upon adoption if the owner lives within the city;(Ord. 590, 1993)
- E. The adoptive owner agrees to furnish proper care to the animal in accord with this chapter:
- F. Payment of required fees, including any medical care costs incurred during impoundment:
- G. The adoptive owner agrees to spay or neuter the animal if medically feasible prior to completion of the adoption process.

6.04.140 Impounded animals — Return to owner – Claiming impounded animals.

A. Any impounded animal at a City of Sultan facility shall be released to the owner upon payment of impoundment, care and license fees unless in the discretion of the Animal Control Officer or his/her designee there is an ongoing investigation of a violation of this chapter or state law. The Animal Control Officer or his/her designee may release the animal to the owner's authorized representative; full identification of the owner and their authorized representative must be provided to animal control prior to release.

B. The owner of any animal impounded at a City of Sultan facility may reclaim such animal upon payment of the license fee, if applicable, and all costs and charges incurred by the impound facility for the keeping and maintenance of the animal and may be subject to an impound fee payable to the city of Sultan as set by resolution of the city council whether or not the owner claims or retakes possession of the animal. (Ord. 919-06 § 1; Ord. 590, 1993)

C. The owner of any animal impounded pending legal action pertaining to violations of this chapter and/or other judicial actions or hearings, pertaining to his/her ownership/responsibilities regarding the animal, shall be liable for all fees prescribed by fee schedule, upon conviction.

6.04.150 Charges for impound.

Charges for impounds will be established by resolution by the Sultan city council. (Ord. 703-99; Ord. 590, 1993)

6.04.160 Violation – Penalties generally.

A. Violations of or noncompliance with any provisions of this chapter is an offense which may result in the issuance of a citation by the Animal Control Officer or police officer, notwithstanding other charges or costs and/or remedies under this chapter.

B. Each day any person is in violation of this chapter is a separate offense.

C. The first two citations issued within a one-year period shall be an infraction. Any subsequent citation issued within the one-year period shall be deemed a misdemeanor.

D. The fine for an infraction shall be in the amount of \$50.00. The process for contesting the citation is as designated on the back of the citation.

E. The penalty for a misdemeanor shall be set at a maximum of \$1,000 and 90 days in jail.

F. In addition to any penalty imposed as provided by subsection (C) of this section, a court may order the impoundment and/or destruction of any dog found to be dangerous.

G. The citation shall be issued to the owner as defined in this chapter. (Ord. 638, 1995; Ord. 605, 1994; Ord. 590, 1993)