

MASON COUNTY ANIMAL ORDINANCE
ORDINANCE NO 84-98
AMENDS ORDINANCE 39-90 (Dangerous Dog)
AMENDS ORDINANCE 54-89 (section 12) Public Disturbance Noise

Sections

001. Title
002. Definitions
003. Public Nuisance--Owner Responsibility
004. Public Nuisance--Exceptions
005. Potentially Dangerous Dogs
006. Dangerous Dogs
007. Penalties and transfer of ownership -- Potentially and Dangerous Dogs
008. Rabies and Disease Control
009. Rabies Control--Quarantine and Disposal
010. Habitual Violator
011. Enforcement
012. Impoundment
013. Impoundment Register
014. Notice of Violation--Penalties
015. Legal or equitable relief
016. Redemption
017. Immunity
018. Severability

Section 001: Title

This chapter may be cited as the Mason County Animal code, to be codified as _____

Section 002: Definitions

For the purpose of this chapter, the words and phrases shall be defined as follows:

- A. "Abandon" means the act of knowingly leaving an animal;
 - 1. Without food, water, or care for twenty-four hours or more.
 - 2. In a situation where conditions present an immediate, direct, and serious threat to life, safety or health of the animal.
- B. "Abatement" means the termination of any violation by reasonable and lawful means determined by the animal control authority in order that an owner or a person presumed to be the owner shall comply with this ordinance.
- C. "Animal" means any mammal, bird, reptile or amphibian.
- D. "Animal Control Authority" means Mason County, Mason County's designee, acting alone or in concert with other local government units for enforcement of the animal control laws of Mason County or the State of Washington.
- E. "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 another law or ordinance relating to the licenser of animals, or seizure or impoundment of animals, and included any state or local law enforcement officer or other employee whose duties in whole or part include assignments that cover the seizure and impoundment of any animal.
- F. "Animal Shelter" means a facility which is used to house or contain stray, homeless, impounded, abandoned or unwanted animals, and which is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection and humane treatment of animals.
- G. "At Large" means an animal off or outside the premises belonging to its owner or keeper and not in the company of and under direct control of its owner or keeper.
- H. "Dangerous Dog" means any dog that according to the records of the appropriate authority:
 - (1) Has inflicted severe injury upon a human being without provocation; or
 - (2) Has killed a domestic animal without provocation while off the owner's property; or
 - (3) Has been previously found to be potentially dangerous, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or domestic animals; provided, however that dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.

- I. "Domestic Animal" means any animal kept for amusement, companionship, or for household, farm and/or agricultural purposes.
- J. "Livestock" means horses, sheep, cattle, mules, burros, goats, llamas, domesticated hares, rabbits, swine and poultry and any other hybrids' of animals being raised for it's agricultural purposes..
- K. "Owner" means any person, firm, corporation, organization possessing, harboring, keeping, having an interest in, or having control or custody of an animal.
- L. "Person" means any individual, firm, association, partnership, political subdivision, government agency, public or private corporation, or any other entity.
- M. "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 while off the owner's property in a menacing fashion or apparent attitude of attack, or
 - (3) any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or otherwise threaten the safety of humans or domestic animals.
- N. "Poultry" means all domesticated fowl and all game birds which are legally held in captivity.
- O. "Proper enclosure of a dangerous dog" means while on the owner's property, a dangerous dog shall be securely confined indoors or in a securely enclosed or locked pen or structure, suitable to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog.
- P. "Property" means anything of value, whether tangible or intangible, real or personal.
- Q. "Severe Injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- R. "Stray" means any animal impounded or in the custody of the Animal Control Authority, it's employees or agents which may or may not have an identifiable owner.
- S. "Trespass" means the unlawful entrance upon the property of any person by any animal or other person without the authorization of the lawful occupant.

Section 003. Public Nuisance--Owner Responsibility

It shall be a public nuisance, and therefore unlawful, for any person to permit their animal(s) to:

- A. Damage or destroy the property of another person; or
- B. Cause injury to a person or domestic animal; or
- C. Chase, run after, jump at or upon any pedestrian or other domestic animal while off the owner's property; or
- D. Chase, run after, jump at or upon any vehicle or person on a bicycle lawfully on any public sidewalk, roadway, trail or path; or

- E. Willfully or negligently allow livestock to run at large off the property of the owner; or
- F. Annoy or disturb a neighborhood or the quiet and repose of one or more persons by habitually howling, barking, yelping or other prolonged sounds as determined by an enforcement officer; or

Section 004. Public Nuisance--Exceptions

The provisions of this chapter relating to public nuisance do not apply if an animal;

- A. Causes injury to a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog or has been observed to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.
- B. Is emitting reasonable animal noises, as determined by an enforcement officer.

Section 005. Potentially Dangerous Dogs

- A. The animal control authority may find and declare an animal potentially dangerous if it has probable cause to believe that the animal falls within the definition set forth in Section 002(M). The finding must be based upon:
 - (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of potentially dangerous dog; or
 - (2) Dog bite reports filed with the animal control authority as required by this chapter or state law; or
 - (3) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (4) Other substantial evidence admissible in court.
- B. The declaration of potentially dangerous dog shall be in writing, shall be served on the owner in one of the following methods.
 - (1) Certified mail to the owner or keeper's last known address, if known; or
 - (2) Personally or to other person of suitable age residing at the owner's residence; or
 - (3) Posting of the notice at the owner or keeper's last known address; or
- C. The declaration shall state at least:
 - (1) A description of the animal
 - (2) The name and address of the owner or keeper of the animal, if known;
 - (3) The whereabouts of the animal if it is not in the custody of the owner;
 - (4) The facts upon which the declaration of potentially dangerous dog is based.
 - (5) The availability of a hearing in case the person objects to the declaration, if a request is made within five calendar days.
 - (6) The restrictions placed on the animal as a result of the declaration of potentially dangerous dogs;
 - (7) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment

- or fining of the owner.
- D. If the owner of animal wishes to object to the declaration of potentially dangerous dog:
- (1) The owner may, within five days of receipt of the declaration request a hearing before the district court by submitting a written request to the clerk of the court.
 - (2) If the court finds that there is insufficient evidence to support the declaration, it shall be rescinded and the restrictions imposed thereby annulled;
 - (3) If the court finds sufficient evidence to support the declaration it may impose court costs on the appellant, and may impose additional restrictions on the animal or owner.
 - (4) In the event the court finds that the animal is not a potentially dangerous dog, no court costs shall be assessed against the county or the animal control authority or officer.
- E. Following service of a declaration of potentially dangerous dog the animal control authority may if circumstances require impound the animal at the owner's expense, pursuant to the provisions of this chapter, until a court orders either its redemption or destruction.
- F. The animal control authority (County Sheriff) shall issue a potentially dangerous dog license to the owner of a potentially dangerous dog if the owner presents to the animal control authority sufficient evidence of:
- (1) Proper confinement for the potentially dangerous dog.
 - (2) A micro-chip identification tag placed into the animal by a licensed veterinarian.
 - (3) A current photograph of the animal.
- G. The license fee for each potentially dangerous dog to be licensed under this section is fifty dollars. The annual renewal fee for each potentially dangerous dog licensed under this section is twenty five dollars and shall be due no later than January 31st of each year. All owners of potentially dangerous dogs shall purchase a potentially dangerous dog license from the animal control authority within five days of receipt of the declaration of potentially dangerous dog (if no proper appeal has been filed).
- H. The County Sheriff shall be responsible for the declaration of potentially dangerous dogs, and the licensing of potentially dangerous dogs under this section.

Section 006. Dangerous Dogs

- A. The animal control authority may find and declare an animal dangerous if it has probable cause to believe that the animal falls within the definition as previously set forth. The finding must be based upon:
- (1) The written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of dangerous dog.
 - (2) Dog bite reports filed with the animal control authority as required by this chapter or state law; or
 - (3) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
 - (4) Other substantial evidence admissible in court.
- B. The declaration of dangerous dog shall be in writing, shall be served on the owner in one of the following methods.
- (1) Certified mail to the owner or keeper's last known address, if known; or
 - (2) Personally or to other person of suitable age residing at

- owner's residence.
- (3) Posting of the notice at the owner or keeper's last known address.
- C. The declaration shall state at least:
- (1) A description of the animal
 - (2) The name and address of the owner or keeper of the animal, if known;
 - (3) The whereabouts of the animal if it is not in the custody of the owner;
 - (4) The facts upon which the declaration of dangerous dog is based.
 - (5) The availability of a hearing in case the person objects to the declaration, if a request is made within five calendar days.
 - (6) The restrictions placed on the animal as a result of the declaration of dangerous dog;
 - (7) The penalties for violation of the restrictions, including the possibility of destruction of the animal, and imprisonment or fining of the owner.
- D. If the owner of animal wishes to object to the declaration of dangerous dog:
- (1) The owner may, within five days of receipt of the declaration request a hearing before the district court by submitting a written request to the clerk of the court.
 - (2) If the court finds that there is insufficient evidence to support the declaration, it shall be rescinded and the restrictions imposed thereby annulled;
 - (3) If the court find sufficient evidence to support the declaration it may impose court costs on the appellant, and may impose additional restrictions on the animal or owner.
 - (4) In the event the court finds that the animal is not a dangerous dog, no court costs shall be assessed against the county or the animal control authority or officer.
- E. Following service of a declaration of dangerous dog the animal control authority may if circumstances require impound the animal at the owner's expense, pursuant to the provisions of this chapter, until a court orders either its redemption or destruction.
- F. The animal control authority shall issue a dangerous dog license to the owner of a dangerous dog if the owner presents to the animal control authority sufficient evidence of:
- (1) A proper enclosure to confine a dangerous dog and the posting of the premises with clearly visible signs that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.
 - (2) A surety bond issued by a surety insurer qualified under RCW Chapter 48.28 in a form acceptable to the animal control authority in the sum of at least fifty thousand dollars, payable to any person injured by the dangerous dog; or
 - (3) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.

- (4) A micro-chip identification tag placed into the animal by a licensed veterinarian.
- (5) A current photograph of the animal.
- G. The license fee for each dangerous dog to be licensed under this section is one hundred dollars. The annual renewal fee for each dangerous dog licensed under this section is fifty dollars and shall be due no later than January 31st of each year. All owners of dangerous dogs shall purchase a dangerous dog license from the animal control authority within five days of receipt of the declaration of dangerous dog (if no proper appeal has been filed).
- H. The County Sheriff shall be responsible for the declaration of dangerous dogs, and the licensing of dangerous dogs under this section.

Section 007. Penalties and transfer of ownership -- potentially and dangerous dogs.

- A. It is unlawful for an owner of a potentially dangerous dog to permit the dog to be at large at anytime.
- B. Any owner of a potentially dangerous dog who fails to obtain a license or renewal for such dog as described in Section 005 in addition to criminal sanctions shall be assessed a civil penalty in the amount of two hundred fifty dollars and the animal shall be immediately confiscated by the animal control authority. No such civil penalty shall be assessed until five days have elapsed from the date such owner is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been complete, whichever is later.
- C. Any owner of a dangerous dog who fails to obtain a license or renewal for such dog as described in Section 006 in addition to criminal sanctions shall be assessed a civil penalty in the amount of five hundred dollars and the animal shall be immediately confiscated. No such civil penalty shall be assessed until five days have elapsed from the date such owner is notified by the animal control authority that such a license or renewal for such dangerous dog is required, or until any appeal brought under that section has been complete, whichever is later.
- D. Any potentially dangerous or dangerous dog for which a license or renewal has not been obtained by its owner pursuant to sections 005 and 006 is subject to being impounded by the animal control authority. The owner of any potentially dangerous or dangerous dog so impounded shall be subject to a civil penalty in the amount of ten dollars per day for each day such dog remains impounded with the animal control authority. Any potentially dangerous or dangerous dog impounded due to the failure of the owner of such dog to obtain the required license or renewal and which remains impounded for a period of at least ten days due to the failure of the owner to obtain such license or renewal may be destroyed in an expeditious and humane manner by the animal control authority and the owner shall be assessed an additional civil penalty in the amount of fifty dollars for the cost of destroying the animal. A civil penalty in the amount of ten dollars per day shall be assessed against the owner of each potentially dangerous or dangerous dog impounded by the animal control authority under this section.
- E. It is unlawful for the owner of a dangerous dog to permit the dog to be outside the proper enclosure unless the dog is

muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. Any owner who violates this provision in addition to criminal sanctions shall be assessed a civil penalty of two hundred fifty dollars for each violation thereof.

- F. Any dangerous dog shall be immediately confiscated by an animal control authority if the:
- (1) Dog is not validly licensed; or
 - (2) Owner does not secure the liability insurance; or
 - (3) Dog is not maintained in a proper enclosure; or
 - (4) Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not muzzled and under restraint of the responsible person.

In addition, the owner shall be guilty of a gross misdemeanor punishable in accordance with RCW 9A.20.021. The owner of any dog confiscated under this subsection may recover such dog from the animal control authority upon the payment of a civil fine which shall be in the amount of two hundred fifty dollars plus ten dollars per day for each day said dog has been in control of the animal control authority; provided however, that in the event the owner has not picked up the dangerous dog within ten days of being notified by the animal control authority that such dog is under the control of such authority, the dog shall be destroyed in an expeditious and humane manner and the owner shall be assessed an additional civil penalty in the amount of fifty dollars for the cost of destroying such dangerous dog.

- G. If a dangerous dog of an owner with prior convictions 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. In addition, the dangerous dog shall be immediately confiscated by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. The owner of any dangerous dog confiscated and destroyed pursuant to this subsection shall be assessed a civil penalty in the amount of ten dollars per day for each day such dangerous dog is quarantined with the animal control authority and in an amount of fifty dollars for the cost of destroying such dangerous dog.
- H. Owners of potentially and dangerous dogs who sell or otherwise transfer the ownership, custody, or residence of the dog shall within (10) days inform the Mason County Sheriff's Office, in writing, the name, address, and telephone number of the new owner and the name and description of the dog. The owner shall, in addition, notify the new owner in writing the details of the dog's record, terms and conditions of the maintenance and provide the Mason County Sheriff's Office with a copy thereof containing an acknowledgment by the owner of his/her receipt of the original.

Section 008. Rabies and Disease Control

The Mason County Health District Officer, or his/her designee, shall have the responsibility for administering the rules and regulations of the Washington State Board of Health relating to rabies and disease control

in Mason County.

Section 009. Rabies Control--Quarantine and Disposal

- A. Any animal which bites a person and that bite breaks the skin shall be quarantined for 10 days as may be ordered by the Animal Control Authority or the Mason County Health District Officer. During quarantine, the animal shall be securely confined and kept from contact with any other animal or person except for the primary caretaker of the animal. The quarantine may be permitted on the premises of the owner if the owner can show proper quarantine confinement to the animal Control Authority. If the Animal Control Authority requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or veterinary hospital at the expense of the owner.
- B. No enforcement officer or any other person shall knowingly, except in the reasonable effort to protect himself or others, kill, or cause to be killed, any animal suspected of being rabid; provided if a veterinarian, after a thorough diagnosis, determines possible rabies in any animal in quarantine, the animal shall be humanely killed and the head of the animal sent to the state laboratory for pathological examination and confirmation of the diagnosis.

Section 010. Habitual Violator

- A. In addition to any legal remedy available under the provisions of this chapter, the Animal Control Authority will notify and direct in writing the owner of any animal which is guilty of three notices of violation, pursuant to Section 003 of this ordinance, in any 12 month period to abate and remove said animal from the county within 72 hours from the date of said notice, or in the alternative to abate and transfer ownership and possession of the animal to another person not living at the same place of residence. Such notice to abate shall state the method of appealing the order except that any appeal must be filed before the closure of the Animal Control Authority's office on the second business day following service of the notice.
- B. The owner of any animal that has been served with an order of abatement, pursuant to section 010(A) may appeal such order by requesting a hearing before the district court by submitting a written request to the clerk of the court. Any appeal must be filed before the closure of the Animal Control Authority's office on the second business day following service of the notice.
- C. If said owner of animal is found in violation of the abatement notice after 72 hours have elapsed from the date of notice and no timely appeal is filed, said animal shall be impounded and removed by the Animal Control Authority, subject to all impound procedures; provided however, the animal may not be returned to the same residence or property from which it was impounded or resided.

Section 011. Enforcement

- A. The Animal Control Authority is hereby authorized to take such lawful action as may be required to enforce the provision of this ordinance and the laws of the state of Washington pertaining

to animal cruelty, shelter, welfare and control and as amended. Such action may include, but not be limited to the issuance of warning notices or citations to owners of animals found to be a public nuisance and/or apprehension and impoundment of animals.

- B. The Animal Control Authority while pursuing any animal observed to be in violation of this chapter may enter upon any public or private property, except any private building, for the purpose of abating the animal violation being pursued. Entry into a building designated for and used for private purposes may be accomplished upon the issuance of a proper search or arrest warrant by a court of competent jurisdiction.

Section 012. Impoundment

- A. The Animal Control Authority may apprehend any animal found doing or involved in acts defined as a public nuisance and/or being subjected to cruel treatment as defined by law. If it is not reasonably possible to return the animal to its owner, the Animal Control Authority shall notify the owner of the animal within a reasonable time by telephone, mail, direct personal contact or posting at the residence of the owner that the animal has been impounded and if appropriate may be redeemed at the designated animal shelter. Any animal impounded pursuant to this Title shall be held for the owner for at least two business days commencing with apprehension. Any animal not redeemed by its owner during the prescribed period, or which is suffering from a serious injury or disease as determined by a licensed veterinarian, may be humanely destroyed at the expense of the owner.
- B. Animals that are removed from the possession of a person in the custody of a law enforcement officer shall be held for the period described in this section. An impoundment receipt shall be delivered to the person in custody from whom the animal was taken.
- C. An impoundment receipt shall cite redemption requirements and shall serve as the notice to the owner required herein. The above return and notification requirements shall not apply to any animal that is deemed abandoned under the provisions of Chapter 16.54 RCW, or as defined in this ordinance.
- D. Any potentially or dangerous dog may be impounded at the expense of the owner pending proper appeals.

Section 013. Impoundment Register

The impounding authority shall maintain a register of all animals impounded pursuant to this chapter, and such register shall show the species and breed of the animal, a description of the animal by coloring and marking, the time and date of impoundment, the name of Animal Control Officer impounding the animal, the area in which the animal was picked up, the method and time of notifying the owner if known, of redemption procedures, and the disposition of the animal and the date and time thereof.

Section 014. Notice of Violation--Civil Penalties

- A. Unless another penalty is expressly provided for, all acts, conduct, and events prohibited or declared unlawful in this Ordinance shall constitute civil infraction.

B. Whenever an Animal Control Officer has reasonable grounds to believe an animal is violating or being maintained in violation of this chapter, he/she shall be authorized to issue the owner a notice of violation. The penalties assessed within any twelve month period shall be as follows:

Public nuisance violation as defined in Section 003:

| | |
|-----------------------|---------------------------|
| First violation..... | warning notice |
| Second violation..... | \$100.00 civil infraction |
| Third violation..... | \$250.00 civil infraction |
| Fourth violation..... | Misdemeanor |

Dogs declared to be potentially dangerous or dangerous:

In addition to any license requirements the following shall apply:

| | |
|------------------------------------|---------------------------|
| Potentially dangerous dog..... | \$250.00 civil infraction |
| Dangerous dog..... | \$500.00 civil infraction |
| Potentially dangerous dog at large | \$250.00 civil infraction |

Quarantine:

Any person permitting an animal to violate a quarantine order shall be subject to the following penalties:

| | |
|---|---------------------------|
| Failure to quarantine and/or failure to control quarantined animal..... | \$250.00 civil infraction |
|---|---------------------------|

If any owner cited under this ordinance destroys or transfers the ownership of the said animal it does not relieve the owner of his/her responsibility to pay any and all civil or criminal fines or penalties as the result of the infraction or citation.

Section 015. Legal or equitable relief The Animal Control Authority in addition to the use of any other remedy herein, may seek legal or equitable relief to enjoin acts or practices and abate any conditions which constitute a violation of this chapter or other regulations hereafter adopted.

Section 016. Redemption The redemption fee for an animal includes the cost of apprehension and transportation and the costs of impoundment and care of the animal including veterinary fees and shall be paid to and retained by the Animal Control Authority. Any civil penalties due and owing shall be in addition to the redemption fee. The redemption fee shall be set in accordance with the schedule provided by the impoundment facility;

- A. Daily Care:
For each 24 hour period or portion thereof, from the time of impoundment:
- | | |
|--|---------|
| 1) Dog or cat | \$10.00 |
| 2) Other small animal weighing less than 50 pounds | \$10.00 |
| 3) Any livestock weighing 50 pounds or more | \$20.00 |

- B. Veterinary costs:
Actual costs incurred from emergency medical care, other extraordinary costs incurred to apprehend and/or impound the animal may be charged by the Animal Control Authority.

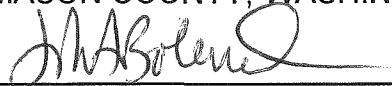
Section 017. Immunity
The county, the county's designee, the animal control authority, and the animal control officer shall be immune from any and all civil liability for any actions taken pursuant to this chapter, or for any failure to take action to enforce the provisions of this chapter. This chapter has been enacted for the welfare of the public as a whole.

Section 018. Severability

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid, the same shall not effect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

Signed this 28th day of July, 1998. To BE EFFECTIVE 8-29-98.

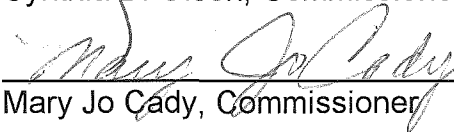
BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON



John A. Bolender, Chairperson

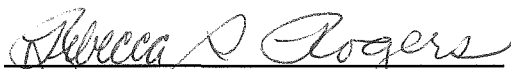


Cynthia D. Olsen, Commissioner



Mary Jo Cady, Commissioner

ATTEST:



Rebecca S. Rogers, Clerk of the Board

APPROVED AS TO FORM:



Chief Deputy Prosecuting Attorney
Michael Cliff