

## **Chapter 3 ANIMALS**

### **ARTICLE I. IN GENERAL**

**Section 1-20. Reserved.**

### **ARTICLE II DOGS**

***Section 3-21. Purpose.***

The purpose of this article is to protect the health, safety and welfare of all the persons and property in the city. It is further the purpose of this article to prevent the needless health hazards caused by dog feces upon public and private properties.

(Ord. of 10-11-77, § 5(1))

***Section 3-22. Definitions.***

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Animal shelter means any premises designated by the mayor for the purpose of impounding and caring for animals held under authority of this article.
- (b) Canine control officer means any person appointed by the mayor as the dog officer or officers under the provisions of chapter 140, sections 151 and 151A of the General Laws to carry out the provisions of this article. In the absence or vacancy in the office or unavailability of the control officer, the city's inspector of animals or his deputy shall perform the duties of the canine control officer.
- (c) Humane officer means any person designated by the humane society as a law enforcement officer and who qualifies to perform such duties under the laws of the Commonwealth.
- (d) Humane society means any organization for the prevention of cruelty to animals incorporated under the laws of the Commonwealth.
- (e) Leash means a chain or line no longer than six (6) feet long.
- (f) Owner means any person, having reached the age of majority, owning, keeping or harboring dogs.
- (g) Restraint means that a dog shall be deemed to be under restraint if on the premises of its owner or, if outside the premises of the owner, it is accompanied by a person who shall have the dog under control by holding it firmly on a leash.
- (h) Veterinary hospital means an establishment maintained and operated by a licensed veterinarian for the boarding of animals or the diagnosis and treatment of diseases

and injuries of animals. (Ord. of 10-11-77, § 5(2)) Cross reference(s)--Definitions and rules of construction generally, § 1-3.

***Section 3-23. Identification tag required.***

- (a) Every owner issued a license in accordance with the provisions of chapter 140, section 137 of the General Laws for a dog owned or kept within the city will also receive an identification tag from the city clerk's office.
  - (1) The identification tag shall be a durable tag stamped with an identifying number and of a particular color to signify the specific year of issuance.
  - (2) Tags will be so designed that they may conveniently be fastened to the dog's collar or harness.
  - (3) Dogs must wear identification tags at all times when the animal is off the premises of the owner.
  - (4) The canine control officer shall maintain a record of the identifying numbers and shall make this record available to the public.
  
- (b) Any dog unrestrained and without an identification tag shall be apprehended by the Canine Control Officer, and shall not be released until properly licensed.
  
- (c) If not properly licensed at the expiration of ten (10) days of confinement, such dog shall be disposed of as set forth in sections 3-24 and 3-25.  
(Ord. of 10-11-77, § 5(3))

***Section 3-24. Restraint of dogs.***

No person shall own, keep or harbor in the city, outside the confines of the owner's property, any dog, which is not held firmly on a leash by a person who shall have control of such a dog. (Ord. of 10-11-77, § 5(4))

***Section 3-25. Impoundment of unrestrained dogs.***

Unrestrained dogs may be taken by police, the canine control officer or a humane officer and impounded in an animal shelter, and there confined in a humane manner. If by an identification tag or by other means the owner can be identified, the canine control officer shall immediately upon impoundment notify the owner of the impoundment of the animal. Impounded dogs shall be kept for ten (10) days, unless reclaimed by their owners. Dogs not claimed by their owners within ten (10) days, or placed in suitable new homes, may be humanely euthanized by the canine control officer or by an agency delegated by him to exercise that authority. (Ord. of 10-11-77, § 5(5))

***Section 3-26. Sale or disposition of dogs held by city for purpose of experimentation or vivisection prohibited.***

All dogs kept in restraint by the canine control officer in the city dog pound shall not be sold or given away for the purpose of experimentation or vivisection. (Ord. of 5-26-81)

***Section 3-27. Impoundment fees.***

An owner reclaiming an impounded dog shall pay an administrative fee of ten dollars (\$10.00), plus four dollars (\$4.00) boarding charge for each day, up to a maximum of ten

days, that the dog has been impounded, to a total maximum payment of fifty dollars (\$50.00). (Ord. of 10-11-77, § 5(6))

***Section 3-28. Female dogs in heat.***

Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. (Ord. of 10-11-77, § 5(7))

***Section 3-29. Nuisances.***

No owner shall fail to exercise proper care and control of his animals to prevent the animal from becoming a public nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, habitually attacking people or other domestic animals, trespassing upon school grounds, or trespassing upon private property in such manner as to damage property, shall be deemed a nuisance. (Ord. of 10-11-77, § 5(8))

State law reference(s)--Barking dogs, M.G.L.A. c. 140, § 157.

***Section 3-30. Using animals as prizes.***

No person shall give away any live vertebrate animal as a prize for or as an inducement to enter any contest, game or other competition or as an inducement to enter a place of amusement; or offer such vertebrate animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.(Ord. of 10-11-77, § 5(9))

***Section 3-31. Quarantining of biting dog.***

Any dog, which bites a person, shall be quarantined for ten (10) days if ordered by the inspector of animals. During quarantine the dog shall be securely confined and kept from contact with any other animal. At the discretion of the inspector of animals, the quarantine may be on the premises of the owner. If the inspector of animals requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital. (Ord. of 10-11-77, § (10))

***Section 3-32. Animals suspected of being rabid.***

No police officer or other person shall kill, or cause to be killed, any animal suspected of being rabid, except after the animal has been placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian diagnoses rabies in an animal in quarantine then the animal shall be humanely killed and the head of such animal sent to a laboratory for pathological examination and confirmation of diagnosis. (Ord. of 10-11-77, § (11))

***Section 3-33. Dog soiling prohibited.***

- (a) It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his-her dog on any sidewalk, street or other public area in the city, or on any private property neither owned nor occupied by said person, under the following conditions:
  - (1) Duty to dispose. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his-her dog.
  - (2) Duty to possess means of removal. No persons who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park

or other public area without the means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls such dog shall appear with such dog on any private property neither owned nor occupied by said person without the means of removal of any feces left by said dog.

- a. Method of removal and disposal. For the purposes of this regulation, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces, unexposed to said person or the public.
  - b. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of canine feces, or as otherwise designated as appropriate by the board of health.
- (b) Enforcement. Violation of this by-law shall be enforced in accordance with law, provided, however, that, if simultaneously with the issuance of a complaint hereunder, a complaint is issued pursuant to M.G.L. c. 40, s. 21D, and that complaint is disposed of pursuant to said act, the complaint issued hereunder shall be deemed disposed of.
- (c) Exemption. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his-her handicap, is physically unable to comply with the requirements of this section, or to any individual who utilizes a guide dog.
- (d) Severability. The provisions of this section are severable; and if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Ord. of 10-11-77, § 5(12); Ord. of 4-22-96)  
Cross reference(s)--Health and sanitation, Ch. 10.

***Section 3-34. Dog van, Canine Control Officer***

- (a) The city shall supply a dog van and such dog van shall have printed on both sides in bold print "Dog Control Van" with the telephone number of the Everett Police Station, or other appropriate telephone number.
- (b) The Canine Control Officer shall be provided with a proper uniform and badge identification.
- (c) It shall be the duty of the Canine Control Officer to keep in close communication with the police station to receive notification of complaints. (Ord. of 10-11-77, § 5(13))

***Section 3-35. Issuance of tickets.***

Whenever the facilities under the control of a Canine Control Officer for harboring apprehended dogs has no more room, then the dog officer is empowered to issue tickets

to the owners of dogs running about unrestrained, identification obtained through dog tag or otherwise. (Ord. of 10-11-77, § 5(14))

**Section 3-36. Hindering enforcement.**

- (a) Any canine control officer or humane officer shall have police power in the enforcement of this article.
- (b) No person shall interfere with or hinder, molest or abuse any canine control officer or humane officer in the exercise of such powers. (Ord. of 10-11-77, § 5(15))

**Section 3-37. Fine for dogs biting persons.**

Any owner of a dog, which has bitten a person, shall be fined fifty dollars (\$50.00) for each offense and in accordance with the continuing violations section of section 2-38 of this chapter whenever such offense occurs on public property. (Ord. of 10-11-77, § 5(17))

**Section 3-38. Penalties for violation.**

Any person violating any provision of this article shall be deemed guilty of a violation and shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 5-23-77; Ord. of 10-11-77, § 5(16); Ord. of 12-26-78; Ord. of 11-10-86; Ord. of 7-24-95; Ord. of 04-08-2004)

**Section 3-39. Regulation of Pit Bulls**

(a) Purpose and Intent

This ordinance is established because of the perceived and demonstrated danger to life, health and safety of humans and animals posed by so-called Pitt Bull dogs. Because such animals are, by experience, unpredictable and unprovoked in their violence, the City of Everett establishes this policy with the intent of controlling such animals notwithstanding the past or present disposition, nature or character of any particular animal.

(b) Definitions

As used in this ordinance, the following definitions shall apply:

- (1) **Pitt Bull:** any canine whether full or mixed breed, of the following breeds: American Staffordshire Terrier, American Staffordshire, Staffordshire Pitt Bulls, American Stafford Terrier, American Pitt Bull Terrier, Bull Terrier or Pitt Bull.
- (2) **Muzzle:** A device constructed of metal or other material sufficiently strong that it will prevent the dog from biting any person or animal.

(c) Sale of Pitt Bulls

Sale or facilitation of sale of Pitt Bulls with the City of Everett is prohibited.

(d) Restraint of Pitt Bulls

Except as hereinafter provided, no person shall keep a Pitt Bull in the City of Everett unless said Pitt Bull is registered by the law and kept within or upon the principle residential premises of the person to whom said animal is registered.

- (1) The owner of a Pit Bull must take adequate care and precaution to prevent said animal from gaining egress from said property at which the dog is registered.
- (2) The premises at which any Pitt Bull is registered shall be enclosed by a fence and said animal shall be chained at all times so as to prevent it from gaining access beyond the premises.

(e) Exceptions

A Pitt Bull may be beyond the premises at which it is registered only if it is securely muzzled and leashed or chained when leaving premises at which it is registered. Adequate care and precaution must be taken to prevent the animal from leaving except under the control or supervision of the owner, keeper, person in control or in charge.

(f) Penalties

Violation of any subsection of this ordinance shall be punishable by a fine of \$50.00 and may result, after a hearing under General Laws, Chapter 140, section 157, in disposal of the animal.

- (1) Violations of this ordinance may also be enforced in the manner provided for under General Laws, Chapter 40, section 21D.

***Section 3-40 Vicious dogs***

(a) Definitions:

- (1) Vicious dog means any dog that has:

- a. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- b. Killed a domestic animal without provocation while on the owner's property;
- c. Been found to be potentially dangerous, and after the owner has noticed that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

- (2) Potentially vicious dog means any dog that:

- a. When unprovoked, inflicts bite(s) on human or domestic animals on public or private property;
- b. When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- c. Has known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) Declaration of Vicious Dog

To consider declaring a dog vicious or potentially vicious, the animal control officer will call a special hearing to consider any evidence collected. The animal control officer shall notify the owner of the dog by certified letter of such hearing. The owner may attend and

have an opportunity to be heard. At this hearing the animal control officer will determine whether to declare such dog vicious or potentially vicious.

If the dog is declared vicious or potentially vicious the owner of the dog shall notify other tenants on the property, his or her abutter next door and across the street, and the property owner if different of such finding by certified mail return receipt requested at the owner's sole expense. A copy of the certified mail notices shall be delivered to the Chief of Police. The dog owner must also notify the property owner if different. The dog owner must also notify any tenants who live on the property where the dog resides. If a dog owned by a resident of the City of Everett has been found to be vicious, the ownership of the dog cannot be transferred. If the owner chooses not to build the dog a secure enclosure or if the dog is found on the property not owned or controlled by its owner, or not restrained in the secure area, an order that the dog be euthanized will be issued. No dog shall be declared vicious or potentially vicious if the threat, injury, or damage was sustained by a person committing a crime, or was provoked by a person cruelly abusing the dog.

Any person under whose name a vicious dog is licensed, shall at all times that he or she possesses the dog, maintain in full force and effect, a liability insurance policy of at least one hundred thousand dollars (\$100,000.00) for the benefit of the public safety. Such a person shall provide to the city clerk's office proof of such liability insurance. Such insurance shall name the city as co-insured solely for the purpose of notice of cancellation of the policy.

***(c) Order to Secure***

If the dog is declared vicious or potentially vicious, the owner will have a two-week period in which to have a secure enclosure constructed to house the dog when it is in the owners yard. During such period, the dog will be publicly impounded at an animal shelter or a private veterinary hospital until the secure enclosure is constructed before the dog is released. The effectiveness of the secure enclosure shall be subject to periodic inspections by such officer, as deemed necessary. The fee for the inspection shall be seventy-five dollars (\$75.00). If the owner is found violating the secure enclosure requirements, the animal control officer shall take immediate public impoundment of the dog(s) during the time the violation continues to exist. The owner shall bear all costs for such public impoundment. The fine for such violation shall be fifty dollars (\$50.00) per day or part of the day the violation is allowed to exist.

In addition to this section's requirement that a vicious dog must be contained in a secure enclosure, the animal control officer may order that the owner place such a vicious dog on a leash within the secure enclosure. Such a leash shall prevent the vicious dog from being located within five feet of any public way open to pedestrian traffic.

***(d) Violation of Order to Secure***

If the owner of a vicious or potentially vicious dog does not have a secure enclosure constructed during the two-week period, the dog may be destroyed unless, during the same two-week period, the owner files an appeal with the Chief of the Everett Police Department or designee. If such an appeal is filed, it will be heard within three weeks of the appeal. The determination of the Chief of the Everett Police Department or designee shall be final and binding subject to appeal only under the provisions of Chapter 30A of the General Laws.

(e) Costs

Any and all costs for the impounding of the dog involved will be borne by the owner unless determined otherwise by the Chief of the Everett Police Department or his or her designee or the court of final appeal.

Any costs of impoundment will be borne by the owner absent a contrary decision by the chief of police or designee or the courts. This provision shall not apply if the threat, damage or injury was sustained by a person committing a crime, or was provoked by a person cruelly abusing the dog.

Any costs of impoundment shall be borne by the owner absent a contrary decision by the chief of the Everett police or designee.

(f) Attacks

If a vicious or potentially vicious dog bites or attacks a person, the dog shall be impounded and quarantined for the proper length of time for rabies observation.

Confinement of the animal may be accomplished at the owner's home, an animal shelter, or at a private veterinary hospital and any charges incurred shall be the responsibility of the owner. In addition, an administrative fee shall be twenty-five dollars (\$25.00). A summons shall be issued to the owner of such dog. The dog may be destroyed within ninety (90) days unless, an appeal is taken by the owner involved to the chief of police or designee within thirty (30) days of the impoundment. Any determination by the chief of police or designee shall be final and binding subject to appeal only under the provisions of Chapter 30A of the General Laws.

Any dog, whether or not it has been declared vicious, which attacks a person and thereby causes death or serious bodily injury will be impounded and quarantined for the proper period of time for rabies observation. A summons shall be issued to the owner of such dog. The dog must be destroyed within ninety (90) days unless, an appeal is taken by the owner involved to the chief of police within thirty (30) days of the impoundment. Any determination by the chief of police or his or her designee shall be final and binding subject to appeal only under the provisions of Chapter 30A of the General Laws.

(g) Transporting of Vicious/Potentially Vicious Dog within City Limits

An owner may transport a vicious dog within city limits for medical or veterinary care provided the animal is properly restrained by being both muzzled and leashed, with a leash not to exceed the length of six feet. A dog, which has been declared to be a vicious dog pursuant to this chapter additionally, must wear a muzzle, which will identify it as a dangerous dog.

(h) Penalties

The owner of a vicious dog, if the animal is found on property not owned or controlled by its owner, or not restrained in a secure area per subsection B of this section, shall be subject to a fine of fifty dollars (\$50.00), and the animal shall be forever banned from within the limits of the City of Everett and the license of such dog cannot be transferred from the City of Everett to another city or town.

Owners of vicious dogs found within the City of Everett and not properly licensed shall be subject to a fine of fifty dollars (\$50.00), and the animal shall be forever banned from within the limits of the city of Everett and cannot be transferred from the city of Everett to another city or town.

Each day or part of a day there exists a violation of any of the provisions of this chapter shall constitute and be punishable as a separate offense.

(i) Exceptions

The provisions shall not apply if the threat, damage, or injury was sustained by a person who was committing a crime, or was provoked by a person cruelly abusing the dog.

Compliance with the requirements of this chapter shall not be a defense to an order of disposal for a vicious dog pursuant to Chapter 140, Section 157 of the General Laws. (A0024-10)