



CITY COUNCILNo. C0220-14

IN THE YEAR TWO THOUSAND AND FOURTEEN

A MEASURE REPLACING THE ANIMAL CONTROL ORDINANCES OF THE CITY OF EVERETT

/s/Fred Capone, as President

Be It Ordained: BY THE CITY COUNCIL OF THE CITY OF EVERETT, and by the authority of the same as follows:

CHAPTER 3
ANIMAL CONTROL

Articles and Sections:

I. REGULATION OF CONDUCT - DOGS

- 3-1 Authority and Purpose/Definitions
- 3-2 Restraint of Dogs (leash law).
- 3-3 Impoundment.
- 3-4 Removal and Proper Disposal of Dog Feces.
- 3-5 Prohibited Behavior.
- 3-6 Confinement or Muzzling.
- 3-7 Penalties and Enforcement.
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- 3-11 License Required; rabies vaccination.
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- 3-32 Live Fowl, Farm Animals.
- 3-33 Keeping of Hens/Poultry

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I. REGULATION OF CONDUCT - DOGS

- 3-1 Authority and Purpose/Definitions

This Article is adopted pursuant to the authority of M.G.L. c.140, §§136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this Article is to establish regulations for the keeping of dogs and the Control of Animals in the City of Everett. The definitions of all words and terms used herein shall be as set forth in M.G.L. c.140, §§136A to 137A unless the context requires otherwise:

"Adoption", the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

"Animal control officer", an appointed officer authorized to enforce sections 136A to 174E, inclusive.

"Attack", aggressive physical contact initiated by an animal.

"Commercial boarding or training kennel", an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under MGL section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

"Commercial breeder kennel", an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

"Commissioner", the commissioner of agricultural resources.

"Dangerous dog", a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

"Department", the department of agricultural resources.

"Domestic animal", an animal designated as domestic by regulations promulgated by the department of fish and game.

"Domestic charitable corporation kennel", a facility operated, owned or maintained by a domestic charitable corporation registered with the department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

"Euthanize", to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

"Hearing authority", the chief of police or the chief's designee.

"Keeper", a person, business, corporation, entity or society, other than the owner, having possession of a dog.

"Kennel", a pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

"License period", the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

"Licensing authority", the City Clerk.

"Livestock or fowl", a fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that "livestock or fowl" shall not include a dog, cat or other pet.

"Nuisance dog", a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

"Personal kennel", a pack or collection of more than 4 dogs, 3 months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.

"Research institution", an institution operated by the United States, the commonwealth or a political subdivision thereof, a school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory, a biomedical corporation, or biological laboratory or a hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school which, in connection with any of the activities thereof, investigates or provides instruction relative to the structure or function of living organisms or to the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

"Shelter", a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

"Veterinary kennel", a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

Added by St.1934, c. 320, § 1. Amended by St.1943, c. 111, § 1; St.1975, c. 706, § 283; St.1983, c. 631, §§ 2, 3; St.1985, c. 231, § 54; St.1987, c. 331, § 1; St.2012, c. 193, § 4, eff. Oct. 31, 2012.

3-2 Restraint of Dogs (leash law)

The owner, keeper, or person otherwise in control of a dog shall not suffer or allow it to run at large in any of the streets or public places in the City, or upon the premises of any person other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be on private property of another, unless specific permission has been granted. No dog shall be permitted in any public street or place within the City unless it is effectively restrained by a chain or leash not exceeding eight (8) feet in length.

3-3 Impoundment

Included within his/her authority to impound a dog, the Animal Control Officer has the authority to impound a dog found running at large in violation of Section 3-2. The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner, if known. If the owner of an impounded dog is known, such owner shall be given notice of the impounding. Such owner may reclaim the dog upon payment of a \$25.00 administrative fee, together with any unpaid license fees, late fees, and fines, as well as the reasonable costs incurred by the City for impounding and maintaining the dog.

3-4 Removal and Proper Disposal of Dog Feces

The owner, keeper or person otherwise in control of a dog shall immediately pick up and properly dispose of any feces left by such dog on any street, sidewalk, or other public area, or on any private property that is not owned or occupied by such person. Any person who takes a dog onto a street, sidewalk, or other public place shall carry a container, tool, implement or other device to be used for picking up and containing dog feces and the person shall dispose of said dog feces in a designated receptacle or otherwise properly. The provisions of this section shall not apply to a person who employs a "service dog" as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

3-5 Prohibited Behavior

The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

- (a) To be unrestrained as required by Section 3-2;
- (b) To be unlicensed when a license is required by law.
- (c) To be without current license and rabies vaccination tags when off the owner's property.
- (d) To bite, physically injure, assault or threaten any person, without legally-recognized justification or provocation.
- (e) To bite or physically injure any domestic animal, without legally recognized justification or provocation.
- (f) To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.

- (g) To be off the property where the dog resides, if subject to a confinement order.
- (h) To be off the property where the dog resides, un-muzzled, if subject to a muzzle order.
- (i) To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.
- (j) To be present on school or cemetery property.

3-6 Confinement or Muzzling

The Chief of Police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing that the dog has:

- (a) Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.
- (b) Bitten or physically injured any domestic animal, without legally recognized justification or provocation.
- (c) Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by Section 3-7. Nothing in this section shall preclude the Chief of Police from utilizing the procedure contained in M.G.L. c. 140, §57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute.

3-7 Penalties and Enforcement

The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this title as follows:

- (a) For a violation of Section 3-5(d) or (e):
 - (1) First offense:..... \$100
 - (2) Second offense:..... \$200
 - (3) Third and subsequent offense:..... \$500
- (b) For all other violations of Section 3-5:
 - (1) First offense: \$ 50
 - (2) Second offense: \$100
 - (3) Third and subsequent offense: \$150
- (c) For a violation of Section 3-4:
 - (1) First offense in any calendar year: \$50.00
 - (2) Second offense in any calendar year: \$100.00
 - (3) Third and subsequent offense in a \$150.00 a calendar year

In the case of a continuing offense, each day shall constitute a separate violation.

3-8 Unpaid Tickets – Municipal Charges Lien

The ACO shall maintain a record of all tickets issued which remain unpaid, and submit a quarterly report thereof to the Treasurer/Collector for inclusion in the list of municipal charges liens in the event the liable party owns real property in the City of Everett.

3-9 Non-Waiver of Statutory Remedies

The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c.140, §§136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this title shall deprive the City from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in §157 of c.140, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c.140, as provided in §§173 and 173A, as amended.

3-10 License Period

Any person owning, harboring or having custody (keeper) or control of a dog shall license said dog annually for the period beginning January 1 of each year. Renewal of licenses must be obtained by March 15th of the following year. If a dog

remains unlicensed after March 15, the owner shall be fined the sum of \$5.00 in addition to the original license fee.

3-11 License required; rabies vaccination.

The owner or keeper of a dog six months old or over shall cause it to be registered, numbered, described and licensed with the City Clerk. Proof of rabies vaccination shall be shown at the time of issuing the license.

3-12 License fees

Fees for licenses shall, except as otherwise provided, be as follows:

(a) The fee for every dog license shall be:

- (1) Ten dollars (\$10.00) for every spayed or neutered dog.
- (2) Fifteen dollars (\$15.00) for every intact (unspayed or unneutered) dog.

There shall be no licensing fee for "service dogs" as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Proof of spaying or neutering shall be shown at the time of licensing.

3-13 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.
- (b) 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.
- (c) Tags will be so designed that they may conveniently be fastened to the dog's collar or harness.
- (d) Dogs must wear identification tags at all times when the animal is off the premises of the owner.
- (e) The city clerk shall maintain a record of the identifying numbers and shall make this record available to the public.
- (f) The charge for replacing lost dog tags shall be \$10.00

3-14 Kennel licenses; fees

The fee for each kennel license shall be as follows:

- (a) Fifty dollars (\$50.00) for kennels with 4 dogs or less;
- (b) One hundred dollars (\$100.00) for kennels with 5 – 10 dogs;
- (c) Two hundred dollars (\$200.00) for kennels with 11 dogs or more, but not more than 25 dogs;
- (d) Three hundred [fifty] dollars (\$300.00) for kennels with 26 dogs or more.

3-15 Kennel Inspections

Regular kennel inspections shall be conducted no less than twice each year by the Animal Control Officer. All such inspection records shall be kept on file at the Everett Police Department.

3-16 Collection and Disposition of Fees

The City Clerk shall issue dog licenses and tags and the appropriate fees shall be deposited accordingly.

3-17. Adoption Requirements and Conditions/ Disposition

- (a) A dog which has been kept by the Animal Control Officer or its agent or designee for ten (10) days and remains unclaimed shall become available for adoption. A dog adopted from a pound or shelter may be sold for not less than \$25.00. Monies so received shall be paid forthwith to the Treasurer/Collector. A condition of sale, before delivery of any dog so sold, shall require the purchaser to license the dog and certify in writing the intention to spay or neuter the animal within ninety (90) days.
 - (b) Dogs not claimed by their owners within ten (10) days, or adopted shall be turned over to the shelter to provide services as they see fit. If the shelter determines that the dog must be disposed of, it shall do so in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.
 - (c) No animal impounded by the City of Everett shall be sold or given away for the purpose of experimentation or vivisection.
- (Ord. of 5-26-81)

3-18. Penalty and Enforcement

The Police Chief and his designee, including the Animal Control Officer, and any Everett Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with Section 1-8 of the Revised Ordinances of the City of Everett.

II. MISCELLANEOUS ANIMAL REGULATIONS

3-30 Feeding or baiting of migratory waterfowl

(a) No person, except the Director of the Division of Fisheries and Wildlife, or his agent, designee, as authorized pursuant to Chapter 131 of the General Laws, shall feed or bait any waterfowl or of the family of Anatidae (including, but not restricted to ducks, geese and swans) at any place within the City of Everett. As used in this paragraph, "feeding" and "baiting" shall mean placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such

birds a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

(b) Nothing in this ordinance shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in M.G.L. c.128, §1A on property owned or leased by him, or the feeding of waterfowl or other birds by propagators licensed under M.G.L.c.131, §23 when such waterfowl or other birds are confined in such a manner as may be required pursuant to said §23 and any Rules and Regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licensees of waterfowl lawfully kept as a pet by that person.

(c) Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife, or his agent, designee, may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the City Council thereof by first class mail.

3-31 Penalty and Enforcement

(a) Unless otherwise stated, any person who violates any provision of this ordinance shall be subject to a fine of in accordance with Section 1-8 of the Revised ordinances of the City of Everett.

(b) The Police Chief and his designee, including the Animal Control Officer, or any Everett Police Officer shall have authority to enforce the provisions of this article. Any alleged violation of this ordinance may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c.40, §21D.(amended 12/20/2012)

3-32 Live Fowl, Farm Animals.

No person shall keep any live fowl or other farm animals, except in accordance with these ordinances.

3-33 Keeping of Hens/Poultry

(a) Purpose

The purpose of this ordinance is to regulate the keeping of hens for the purposes of pets, home egg production, gardening, or similar purposes. This ordinance details the obligations of the hen keeper so as to prevent a nuisance to surrounding lots or any public health concerns, as well as the permit issuing process.

(b) Definitions

(1) Hen – a female chicken. "Chicken" may also be used to refer to hens.

(2) Henhouse or coop – a structure designed to house chickens.

(3) Pen or run – a completely enclosed outdoor area designed to allow chickens access to the outdoors while providing protection from predators.

(4) Predator – any creature that would seek to harm or consume chickens.

(5) Pests – any unwanted animal that would seek access to chicken feed, such as mice or rats.

(c) Nuisance Control

(1) Noise.

a. No roosters (male chickens) are permitted.

b. The number of hens shall be limited to 6.

c. Perceptible noise from chickens at the property boundary must conform to all existing noise ordinances.

(2) Odor

a. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

b. If possible, waste must be composted with carbonaceous material such as hay, bedding, or leaves. If the weather is too cold, or composting is otherwise not possible, waste must be stored in a sealed container until disposal.

- c. Weekly cleaning of henhouses is required, more frequent cleanings may be required as needed to prevent odor.
- d. The henhouse and attached pen must conform to all relevant property setbacks for accessory structures as specified in Appendix A – Zoning.

(3) Other

All chickens shall be confined to the permit holder's property at all times to prevent wandering and straying onto other properties.

(d) Predator and Pest Control.

- (1) Chicken feed must be stored securely in a rodent-proof container.
- (2) Chicken feed leftover from feeding may not remain past dusk in an area accessible to rodents or other pests.
- (3) Henhouse construction
 - a. Henhouse and attached pen must be constructed securely so as to exclude predators.
 - b. The pen must be completely enclosed, including aviary netting or other predator-proof material across the top of the pen.
 - c. Henhouse and food sources must be constructed and stored so as to exclude pests.
 - d. Necessary measures must be taken to prevent a buildup of pest or rodent populations due to the presence of hens on the property.

(e) Health & Disease Concerns

- (1) Hens must be enclosed and segregated from wild migratory fowl. They may only be allowed out of the enclosure into a securely fenced area when supervised.
- (2) All henhouses shall be located not less than 200 feet from the high water mark of any known source of drinking water supply or any tributary thereof, and not less than 50 feet from any well.
- (3) The Board of Health or its agent may order the removal of the chickens upon a determination that the chickens pose a health risk.
- (4) Chickens may not be slaughtered on a residential property within the border of the City of Everett.
- (5) If a chicken dies, it must be disposed of promptly in a sanitary manner.

(f) Humane Treatment

- (1) Chickens must be treated in a humane manner at all times, including access to fresh food, water and protection from the elements as needed.
- (2) Chickens shall not be subject to debeaking or forced moulting.
- (3) The henhouse must have a minimum interior floor surface of at least 2 square feet per bird.
- (4) A pen area is required and must have a minimum ground surface of at least 5 square feet per bird.

(g) Regulation and Permit Process

- (1) No person shall keep hens within the limits of the City of Everett, in any building, or on any premises of which he is the owner, lessee, tenant or occupant, without first obtaining an annual permit from the Board of Health.
- (2) In order to receive a permit the following must be completed:
 - a. A completed application form provided by the Board of Health;
 - b. A submitted plan drawn to scale which includes the following information: Size of entire lot with existing structures as well as the henhouse and pen, including fences; distance of henhouse and pen from all abutters;
 - c. A submitted written maintenance plan describing cleaning schedule, pest and predator control measures, and nuisance prevention measures.
 - d. Verification that all abutters have been notified, not more than thirty (30) but no less than fourteen (14) days in advance of the hearing before the Board or its Agent, of the applicant's intent. Such verification shall be in the form of a signed letter or receipt from the U.S. Post Office that a certified letter has been received by each abutter.
 - e. If the property where the hens are to be located is owned by multiple owners, written statements signed by all property owners granting permission.
- (3) Action by Health Department on Initial Permit
 - a. Upon receipt of a completed application as defined above, the Board or its Agent shall inspect the property;
 - b. The Board or its Agent shall provide a hearing for the applicant to speak regarding their application, and for abutters to express any concerns, questions, support or opposition to the application. The Board or its Agent may require the applicant to furnish additional information needed to make a determination whether to grant the permit.
 - c. The Board or its Agent(s) shall act on the completed application. Notice of the Board's or its Agent(s)' decision shall be mailed to the applicant within seven (7) working days of the decision and will include any conditions imposed by the Board or its Agent(s);
 - d. If the permit is issued, it shall be issued to the owner of the property or the tenant of the property with the written

permission of the property owners. If permission from the property owners is rescinded, the permit shall be valid until the end of its annual renewal period; and

e. The issuance of such permit does not in any way relieve the permittee of the necessity to comply with other laws and regulations concerning zoning and construction. A henhouse and attached pen is considered an accessory structure similar to a greenhouse for zoning purposes.

(4) An initial inspection fee or an annual renewal fee for a permit shall be set by the Board of Health. The appropriate fee shall be paid at the time the application is submitted for review. The fee shall not exceed the expected cost of processing the application.

(5) Fines may be charged for re-inspection or violations of this article, to cover the cost of any personnel time or expense. The amount of any fines may be set by the Board of Health; the amount of such fines shall be publicly known in a manner that is customary and consistent with other Board of Health processes.

(6) Any violation of the provisions of this article or of the permit shall be grounds for an order from a Code Enforcement Officer to revoke the permit, and remove the chickens and the chicken-related structures.

(h) Severability

(1) 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.

March 23, 2015

Passed in the City Council
10 yeas; 0 nays

April 13, 2015

Passed in the City Council
11 yeas; 0 nays

April 27, 2015

Signed: Mayor Carlo DeMaria, Jr.



A true copy attest

Michael Matarazzo, City Clerk