

AN INITIATIVE TO THE PEOPLE
AMENDING THE SEATTLE MUNICIPAL CODE
RELATING TO FIGHTING BREED DOGS

I. PREAMBLE.

WHEREAS five million Americans are bitten by dogs each year, with two breeds accounting for nearly 70% of the bites that end in fatality and 64% of the bites that result in maiming; and

WHEREAS it has been noticed that the breeds developed for dog fighting have been involved in serious attacks on humans, pets and/or property in the City and in other jurisdictions; and

WHEREAS the ordinances and literature reviewed, including studies, reports, news accounts, and similar documents, there are legitimate public concerns about the dangers associated with certain breeds of dogs, especially when contrasted with other breeds; and

WHEREAS fighting breeds have historically been specifically developed for the purpose of fighting and killing, and thus carry genetic characteristics well-suited to those purposes, including, but not limited to: powerful instincts for dominance which naturally results in a proclivity for fighting; a strong prey drive, which enhances the natural chase instinct, often resulting in aggressive pursuit of human children and domestic animals; a stubbornness that often results in sustained, unyielding aggressiveness once an attack begins; powerful jaws capable of crushing bones and hanging onto victims; a resistance to pain that allows the animal to continue to attack even while its victim attempts to end the attack by inflicting injury or pain; reduced inhibition to aggression that will sometimes cause the animal to attack another dog that has already acknowledged the fighting breed dog as the alpha dog; and gameness; and

WHEREAS it is recognized that other dog breeds also attack humans and animals, but it is also recognized that the strength and physical and behavioral characteristics of fighting breed dogs pose a greater risk of serious injury or death to humans, especially children, than an attack by a non-fighting breed dog;

WHEREAS fighting breed dogs pose a danger to Animal Control officers and police officers, thereby imposing extra burdens on the limited resources of those departments, and escalating violence in arrests and other confrontations with the owners or possessors of fighting breed dogs; and

WHEREAS it is standard practice in the home insurance industry to decline liability coverage under homeowners' insurance policies for fighting breed dogs, and many owners of fighting breed dogs possess insufficient assets to adequately compensate dog-attack victims, thus shifting the burden of medical and veterinary bills to those victims and to the public; and

WHEREAS bona fide service dogs for the physically disabled are vulnerable to attacks by fighting breed dogs; and

WHEREAS the City does not currently regulate the ownership of fighting-breed dogs and therefore they can be used as a weapon and are often used to protect contraband and illegal activities, particularly drug trafficking and gang activity, causing Washington courts to recognize that such a dog can be

considered a “deadly weapon” if used in an assault, *see State v. Hoeldt*, 139 Wash. App. 225, 160 P.3d 55 (2007); and

WHEREAS the City has an interest in encouraging pedestrian traffic in order to reduce carbon emissions and in order to reduce obesity in the human population, and fighting breed dogs pose a real threat to pedestrians in certain neighborhoods, thus deterring people from walking for their own health and the health of our natural environment; and

WHEREAS in the interest of urban sustainability the City has legalized certain urban livestock, such as chickens and pygmy goats, and such livestock are very vulnerable to being attacked by dogs; and

WHEREAS the market value of neighboring real property can be negatively effected by the presence of an improperly restrained fighting breed dog; and

WHEREAS many fighting breed dogs end up in no-kill shelters with no hope of ever being adopted, constituting an undue burden on those shelters; and

WHEREAS other cities, such as Yakima, Washington; Auburn, Washington; Boston, Massachusetts; Toledo, Ohio; Denver, Colorado; and San Francisco, California have passed similar legislation, and such ordinances have been held constitutional because the evidence shows that such measures bear a rational relation to the governmental objective of preserving public health, public safety, and public welfare, most recently in *City of Toledo v. Tellings*, 871 N.E.2d. 1152 (Ohio, August 1, 2007), *reconsideration denied*, 873 N.E.2d 1317 (Ohio, September 26, 2007), *certiorari denied*, *Tellings v. City of Toledo*, --- U.S. ---, --- S.Ct. --- (No. 07-8545, February 19, 2008); and

WHEREAS studies and ordinances of other jurisdictions relating to fighting breed dogs have been reviewed; and

WHEREAS the Centers for Disease Control of the United States Department of Health and Human Services have identified that pit bull attacks resulted in more than twice as many human deaths as their nearest statistical competitor over a 27-year period; and

WHEREAS among the studies, reports, and related documents, information, even information coming from groups, associations, and entities favorable to fighting breed dogs, warn of allowing such dogs to be able to interact with other dogs in uncontrolled environments; and

WHEREAS in light of the other resources, materials, studies, and literature reviewed in connection herewith, a review of the current code provisions of the Seattle Municipal Code relating to Animal Control revealed a need to enhance the enforcement tools to more effectively control the proliferation of fighting breed dogs in the City and place the burden of properly treating and restraining such dogs on those who choose to own them, and to improve the City’s ability to penalize an owner for failing to properly restrain such dogs; and

WHEREAS it has been noticed that persons who publicly support or vote for legislation to control fighting breed dogs are often subjected to intimidation, harassment, and threats, and thus the public initiative process is well-suited to addressing this problem as providing a degree of protection to City legislative and executive employees;

II. NOW THEREFORE, Chapter 25 of Title 9 of the Seattle Municipal Code is amended as follows.

- A. **Seattle Municipal Code (hereinafter “SMC”) 9.25.020 (G)(4)** is amended to delete the language “The breed of a dog shall not be considered in any determination whether a dog is a “dangerous animal” under this section”;
- B. **SMC 9.25.020** is amended to add or amend the following terms and to renumber the subsections as necessary:

“Animal control authority” or “Animal Control” means the persons and entities responsible for enforcement of the animal control laws of the city, or such person as is designated by the mayor, whether acting alone or in concert with other responsible persons and/or local governmental units;

“Crime of violence” means (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;

“Drug-trafficking crime” means any felony punishable under the federal Controlled Substances Act (21 U.S.C. 801 et seq.), the federal Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), the federal Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), or the state Uniform Controlled Substances Act (Chapter 69.51 RCW).

- C. **SMC 9.25.021** is amended to add or amend the following terms and to renumber the subsections as necessary:

“Fighting breed dog” means an animal in the taxonomic classification *Canis Familiaris* (also referred to as the common household dog), not owned by a government agency, that is known by the owner or should reasonably be known by the owner to be an Akita, American Pit Bull Terrier, American Staffordshire Terrier, Bull Terrier, Cane Corso, Dogo Argentino, Dogue de Bordeaux, Kuvasz, Pit Bull Terrier, Presa Canario, Staffordshire Bull Terrier, or Tosa Inu, or breed of any dog, or any mix of dog breeds which contains as an element of its breeding any of the above-listed breeds, as to be identifiable of or partially of such breed(s), and any breed designated by the Director pursuant to this chapter as a “fighting breed”.

“Harboring” means allowing any animal to remain, be lodged, fed, or sheltered on the property one owns, occupies or controls, for more than twenty-four (24) hours.

“Home enclosure” means the house and fenced yard, conforming to the restraint provisions of this title, in which a fighting breed dog may be held. For the purposes of this title, the common areas of a multifamily housing unit are not part of the “home enclosure”.

“Intimidation” means any behavior which the target of such behavior perceives to threaten violence to or unlawful interference with the target’s personal safety, property, or financial or business interests, or that of the target’s family or other associates, where a reasonable person would perceive the behavior to threaten such violence or unlawful interference.

D. SMC 9.25.022 is amended to add or amend the following terms and to renumber the subsections as necessary:

“Multifamily housing unit” means a building or townhouse having more than one dwelling unit, designed for residential occupancy, but does not include a single-family dwelling that includes an accessory dwelling unit. For the purposes of this chapter, “multifamily housing unit” includes condominiums, duplexes, and triplexes.

“Muzzle” means a restraining appliance made of metal, plastic, leather, cloth, or a combination of these materials that, when fitted and fastened over a dog’s head, nose, and mouth, prevents the dog from biting but allows the dog to breathe or pant.

“Off-leash area” means an area designated in subsection B of Section 18.12.080 of this Code, where dogs, and no other animal, shall be allowed to run at large.

“Owner” means any person, firm, corporation, organization, or department who harbors, keeps, causes or permits an animal to be harbored or kept, or who has an animal in his/her/its possession, control, or custody, or who permits an animal to remain on or about his/her/its premises, or who has legal title to an animal.

E. SMC 9.25.023 is amended to add or amend the following terms and to renumber the subsections as necessary:

“Possess” or “be in possession” means to have an animal in one’s custody or control, and may be either actual or constructive. Actual possession occurs when the animal is in the actual physical custody of a person. Constructive possession occurs when there may be no actual physical possession but there is dominion and control over the animal. Constructive possession includes, but is not limited to, living or staying in the same household as the owner of an animal. Similarly, “possessor” means one who possesses.

“Public park” means all parks and bodies of water contained therein, squares, drives, parkways, boulevards, trails, golf courses, museums, aquaria, zoos, beaches, playgrounds, playfields, botanical gardens, greenbelts, parking lots, community centers, and other park, recreation and open space areas and buildings and facilities comprising the parks and recreation system of the City under the management and control of the Superintendent of Parks and Recreation or a “city park zone” as defined in SMC 18.12.030.

“Service animal” means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. The definition of “service animal” in this chapter is intended to conform to that set forth in Title 28, Code of Federal Regulations (CFR) section 36.104, in effect on the date of this enactment. See 28 C.F.R. § 36.104 for the definition of “individual with a disability”.

“Threat” or “threaten” means to communicate, directly or indirectly, the intent to do any act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships.

III. AND NOW, THEREFORE, the following new chapter is hereby incorporated into Title 9 of the Seattle Municipal Code:

Chapter 9.26 Fighting Breed Dogs.

9.26.010 Purpose and Policy.

- A. It is the purpose of this chapter to control hazards to the physical and mental health of the public caused by dogs bred for fighting and attacking, to prevent cruelty to animals, to discourage and prevent illegal dogfighting, and to respond to the growing health-care crisis, by establishing strict standards of ownership and control and by reducing the numbers of these dogs within the City;
- B. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the owners and possessors of such dogs.
- C. Nothing contained in this chapter is intended to be, nor shall be construed to create or form the basis for, any liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of any person to comply with the terms of this chapter, or by reason or in consequence of any omission in connection with the implementation or enforcement of this chapter on the part of the City by its officers, employees or agents.
- D. Animals owned by the Seattle Police Department, King County Sheriff, Seattle Fire Department, Washington State Patrol, or any federal agency, and used to assist in law enforcement and the carrying out of such agencies' duties, shall be exempt from the provisions of this chapter.
- E. Nothing contained in this chapter is intended to be, nor shall be construed to be, a restriction on the Director's authority to enforce other animal-control provisions of the Seattle Municipal Code.

9.26.020 Definitions.

As used in this chapter, except where a different meaning is plainly apparent from the context, the definitions in Seattle Municipal Code Title 9 Chapter 25 apply.

9.26.030 Authority of the Director

- A. The Director is authorized to:
 - 1. Make rules for the interpretation and implementation of this chapter, pursuant to the Administrative Code;

2. Accept the surrender of fighting breed dogs to the City Animal Shelter;
 3. Direct immediate humane disposal of, or placement in a no-kill secure shelter of: (a) any fighting breed dog surrendered to the City for humane disposal, (b) any “fighting breed dog” determined by the Seattle Municipal Court or any other court of law to be a nuisance, (c) any “fighting breed dog” involved in a court proceeding in which the owner pled guilty or was found to be guilty of violation of this chapter or of any crime in which the “fighting breed dog” was used in furtherance of that crime, (d) any “fighting breed dog” unclaimed after the expiration of a holding period, or (e) any “fighting breed dog” found in the City of Seattle after removal pursuant to this chapter or SMC 9.25.035A(3); or (f) any “fighting breed dog” impounded as a result of a violation of this chapter.
 4. Appoint agents for the collection of “fighting breed dog” license fees and other fees or civil monetary penalties established by this chapter, including past-due fees and penalties;
 5. Investigate violations of this chapter, find facts, and make orders as to the disposition of a dog and as to any civil monetary penalties under this chapter;
 6. Represent the City in any administrative appeal from the Director’s decisions regarding the disposition of a dog and the imposition of penalties under this chapter;
 7. Refer violations of this chapter to the City Attorney for criminal prosecution;
 8. Designate additional dog breeds as “fighting breed dogs” for the purposes of this chapter, in addition to the breeds designated in the definition of “fighting breed dog”, pursuant to the rulemaking procedures in Title 3, Chapter 2 of this Code; provided, however:
 - a. In exercising this rulemaking authority, the Director shall consult experts in the field.
 - b. The Director may not designate a breed as a “fighting breed” unless the Director finds that fighting or baiting other dogs or large animals was a primary goal in the dog breed’s creation, or that the dog breed was developed to be used as a weapon against human beings. Breeds such as Rottweilers, Doberman Pinschers, Boxers, and German Shepherds, or other working breeds whose historical purpose has not been to fight or bait, shall not be designated as “fighting breed dogs”.
- B. The Director shall keep records of the handling and licensure of fighting breed dogs in the City.
- C. Nothing herein prohibits the Police Department from enforcing provisions of this chapter, and the Seattle Police Department is affirmatively required to enforce provisions of this chapter when necessary to protect the public safety.

9.26.031 *Duty of individuals to report violations.*

- A. Every employee or contractor of the Parks and Recreation Department, Animal Control Department, Police Department, and Seattle School District, while on duty, shall be responsible for ensuring the enforcement of this chapter by immediately reporting alleged violations to the Animal Control department or Police Department. The knowing failure of such an employee or contractor to report a violation of this chapter shall constitute grounds for discipline.
- B. Every person within the City who has knowledge of aggressive behavior by a fighting breed dog has an affirmative duty to report such to the animal control authority. The animal control authority shall immediately report any intimidation, harassment, or threats resulting from such a complaint or report to the Seattle Police Department for investigation of the intimidation, harassment, or threats.

9.26.032 *Summary impoundment of animal during investigation.*

In addition to any penalties imposed by this chapter, for any violation of SMC 9.26.040 through .070, the animal control authority shall immediately impound the fighting breed dog concerned, pending investigation of the violation. Fighting breed dogs impounded under this provision shall be taken to a secure no-kill shelter at the owner's expense.

9.26.033 *Penalties for violation of this chapter.*

In addition to any criminal penalties provided for in this chapter, violation of this chapter shall subject the owner or possessor of a fighting breed dog to a monetary civil penalty not exceeding \$1000 per violation, or permanent forfeiture of the fighting breed dog involved, or both.

9.26.040 *Restrictions on ownership and possession of fighting breed dogs.*

- A. No person under the age of eighteen may own or be in sole possession of a fighting breed dog.
- B. No person who is already the registered owner of a fighting breed dog may, after the enactment of this chapter, purchase, adopt, or otherwise acquire an additional fighting breed dog. In the case of a puppy born to a fighting breed dog after the enactment of this chapter, such puppy shall be lawfully sold or otherwise adopted out to a person allowed under this chapter to own a fighting breed dog, or shall be lawfully sold or otherwise adopted out to a person outside the geographic jurisdiction of the City of Seattle, within eight weeks of such puppy's birth, or as soon thereafter as the puppy is weaned from its mother.
- C. No person who has been convicted of any crime of violence or any drug-trafficking crime, as defined in this chapter, shall own or possess a fighting breed dog. No person who has been convicted of any crime in which a dog was used in furtherance of such crime or to intimidate another person in connection with the commission of such crime, shall own or possess a

fighting breed dog. Upon the effective date of this chapter, any fighting breed dog found to be in the ownership or possession of a person prohibited by this subsection from owning or possessing such a dog shall be impounded and released only to a no-kill shelter.

- D. No person who has previously had an animal seized under the dangerous dog provisions of SMC 9.25.035 or its successor ordinance shall own or be in possession of a fighting breed dog.
- E. Within seven days of the effective date of this chapter, any person who is barred pursuant to this chapter from owning a fighting breed dog in the City of Seattle shall surrender such dog to a designated secure shelter or to the City of Seattle for placement in a shelter.
- F. No fighting breed dog owned by a person who is not a resident of the City of Seattle shall be brought into the City of Seattle, unless such dog is kept at all times in a locked car and muzzled.
- G. Ownership or possession of a fighting breed dog by a person who is barred by this chapter from such ownership or possession is a gross misdemeanor.

9.26.050 Licensing of fighting breed dogs.

- A. At the time of issuing or renewing a license for any dog, the authority issuing the license shall provide the owner with written notification of (1) the definition of a “fighting breed dog” under this chapter, (2) the requirements for restraining a “fighting breed dog” under this chapter, and (3) the owner’s duty to register a “fighting breed dog” under this chapter; provided, that the issuing authority’s failure in a particular case to provide such materials is not a defense to any violation under this chapter and may does not subject the City to any civil liability whatsoever.
- B. Before renewing a license for a “fighting breed dog,” the licensing authority shall obtain from the owner a declaration, sworn under penalty of perjury, that the owner has reviewed the requirements for restraint and registration of fighting breed dogs, and that the owner has in his or her possession a proper muzzle and harness leash as required by this chapter, and that the property on which the dog will be housed is outfitted with the proper fencing and warning signs as required by this chapter.
- C. Within fourteen days of the enactment of this chapter, every owner of a fighting breed dog shall obtain a weatherproof vest to be securely attached to the dog’s back, which vest shall feature the dog’s license number in digits at least three inches in height and rendered in a reflective medium to allow clear reading after dark. The owner shall ensure that the vest is on the dog at all times when it is outside its home enclosure. Failure to license a fighting breed dog constitutes a misdemeanor. Failure to license a fighting breed dog constitutes grounds for impounding the fighting breed dog.
- D. Immediately upon the enactment of this chapter, the issuing authority shall cease issuing new licenses for fighting breed dogs, but shall only renew existing licenses, and it shall continue to be a violation of this chapter to own an unlicensed fighting breed dog within the City of Seattle.
- E. It is a gross misdemeanor to own or possess, within the City of Seattle, a fighting breed dog that

has not been duly licensed pursuant to this chapter.

9.26.060 – Fighting breed dog registration – Surety bond or proof of insurance – Implantation of microchip – Sterilization – Penalties.

- A. All fighting breed dogs licensed under this chapter shall be implanted with a microchip in order to enable positive identification.
- B. Within seven days of the effective date of this chapter, any fighting breed dog owned or possessed in the City of Seattle shall be sterilized, with the exception of immature dogs. Immature females must be spayed within thirteen weeks of birth and immature males must be neutered within nine weeks of birth.
- C. It is unlawful for an owner to have a fighting breed dog in the city without a certificate of registration issued pursuant to this section. There shall be no fee charged for such registration. Failure to comply with this provision shall constitute a violation of this chapter, punishable as a gross misdemeanor.
- D. In addition to the dog licensing requirements, as set forth in this chapter and in SMC 9.25.051 or its successor ordinance, the owner of a fighting breed dog shall file with Director a registration application for a fighting breed dog according to the form which shall be promulgated by the Director and made available to the public in the City Clerk’s office and all City shelters. Such application shall include, in addition to the sworn statements listed below, the full legal name of the owner, the full street address of the property where the dog will be kept, and the dog’s microchip identification number. The animal control authority shall issue a certificate of registration to the owner of a fighting breed dog if the owner presents to the Director or his/her designated representative a completed registration application along with a statement sworn under penalty of perjury that the owner has accomplished all of the following:
 - 1. That the owner has created a proper enclosure, which is a fenced yard or similar restraint reasonably designed to prevent the dog from running free and unrestrained, reasonably designed to prevent the unauthorized entry of children, and reasonably designed to prevent release of the dog by unauthorized persons, and the posting of the premises with a clearly visible warning sign that there is a fighting breed dog on the property. The responsibility for creating a proper enclosure rests with the owner of the dog, and a failure of the enclosure, including unauthorized release of the dog, constitutes a violation of this chapter. In addition, the owner shall conspicuously display a sign with a warning symbol reasonably calculated to inform children who cannot read of the presence of a dangerous dog;
 - 2. That the owner has obtained a surety bond issued by a surety insurer qualified under Chapter 48.28 RCW (or its successor statute) in a form acceptable to the animal control authority in the sum of at least \$250,000 per dog that is subject to this chapter, payable to any person injured or killed by the fighting breed dog or such person’s estate, or such surety bond that otherwise meets the requirements of RCW 16.08.080 or its successor statute; or 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 \$250,000, insuring the

owner for any personal injuries or death inflicted by the fighting breed dog, or such liability insurance that otherwise meets the requirements of RCW 16.08.080;

3. That the dog has been implanted with microchip identification by a veterinarian;
 4. That the dog has been spayed or neutered by a veterinarian;
 5. That the owner has completed a course of dog obedience or owner education, which programs shall be vetted and pre-approved by the Director, that impresses upon owners of fighting breed dogs their responsibilities to properly socialize, supervise, and care for their dog, and which teaches them practical knowledge and tools to help their dog be a good canine citizen; and
 6. That the owner has in his or her possession a proper harness leash eight (8) feet or less in length, sufficiently strong to allow the owner or possessor to properly restrain the dog when outside the dog's home enclosure, and possession by the owner of a proper muzzle, sufficiently strong to restrain the dog's jaws from biting.
- E. Nothing in this section shall be construed to exempt the owner of a fighting breed dog from the otherwise applicable general dog licensing requirements or the guard or attack dog licensing requirements. The owner of a fighting breed dog that is also classified as an "attack dog" or "guard dog" and required to be registered as such under the provisions of SMC 9.25.054 is also required to register as a fighting breed dog under this chapter.

9.26.070 *Restraint of fighting breed dogs.*

- A. It is unlawful under any circumstances for any person to bring a fighting breed dog within the boundaries of a public park, unless the dog is actively working as a service dog as defined by this chapter.
- B. It is unlawful under any circumstance for any person to bring a fighting breed dog within the boundaries of any off-leash area.
- C. It is unlawful under any circumstance for any person to bring a fighting breed dog within the boundaries of any school property, unless the dog is actively working as a service dog as defined by this chapter.
- C. It is unlawful for an owner of a fighting breed dog to allow such dog outside its home enclosure as defined in this chapter, including onto a public street or into a public place, unless such dog is muzzled with a muzzle that is reasonably designed to restrain the dog's jaws from biting, and unless the dog is securely fastened to a harness leash that is no longer than eight (8) feet. Provided, however, that a dog that is a service dog as defined by this chapter need not be muzzled if such muzzling would interfere with the service function that the dog provides to a person with a disability, and the dog is acting within its service capacity at the time.
- D. It is unlawful for an owner of a fighting breed dog to bring such dog into the common areas of a multifamily housing unit, hotel, or motel unless it is muzzled with a muzzle that is reasonably

designed to restrain the dog's jaws from biting, and unless the dog is securely fastened to a harness leash that is no longer than eight (8) feet. Provided, however, that a dog that is a service dog as defined by this chapter need not be muzzled if such muzzling would interfere with the service function that the dog provides to a person with a disability, and the dog is acting within its service capacity at the time.

- E. It is unlawful for any person to leave a fighting breed dog unattended while tethered, whether in a public place or on private property. A fighting breed dog shall be attended by its owner or a responsible person designated by the owner at all times while outside its home enclosure, unless it is held for less than thirty (30) minutes in a locked automobile. If left in a locked automobile, the dog shall remain muzzled.
- F. It is unlawful for any person to bring a fighting breed dog into any public building or retail establishment within the City, including stores selling pets and pet supplies, within the City, except veterinarian, dog day care, and dog boarding facilities, unless the dog is actively working as a service dog as defined by this chapter. Provided, however, that fighting breed dogs may be brought into bus and train stations if they are muzzled and confined to a securely fastened crate.
- G. It is unlawful for anyone to transport within the City a fighting breed dog in the open bed of a truck or open convertible car.
- H. It is unlawful for an owner of a fighting breed dog to permit the dog to run free and unrestrained or off leash or not otherwise under physical restraint of a responsible person, except that the dog may be free and unrestrained within the proper fenced enclosure required by this chapter or within the owner's home, subject to other provisions of this chapter.
- I. An owner of a fighting breed dog shall take all reasonable measures to ensure that the dog does not escape the restraints required by this chapter, the failure of which responsibility shall constitute a violation of this chapter, punishable as a gross misdemeanor. The failure of the owner of a fighting breed dog to comply with the requirements for registration shall also constitute a violation of his chapter punishable as a gross misdemeanor.
- J. It is a gross misdemeanor to leave a minor under the age of fourteen unattended with one fighting breed dog, unless such dog is securely muzzled. It is a gross misdemeanor to leave a minor under the age of eighteen unattended with two or more fighting breed dogs, unless such dogs are securely muzzled. It is unlawful to allow a fighting breed dog to be walked outside the proper enclosure by anyone under the age of eighteen (18) years.
- K. In the event that an owner of a fighting breed dog knows that any other person will be entering the property where the dog is located when the owner will not be present, including, but not limited to, real estate agents, cleaning service workers, building contractors, inspectors, and landlords, the owner shall either muzzle the dog or securely restrain it within a crate. Failure to comply with this provision constitutes a violation of this chapter punishable as a gross misdemeanor.

9.26.200 Enforcement action and appeal thereof

- A. During the pendency of any appeal or hearing process authorized under this chapter, the fighting breed dog(s) at issue shall remain impounded.
- B. During the pendency of any appeal or hearing process authorized under this chapter, the animal control authority has an affirmative duty to report immediately any intimidation, harassment, or threats toward witnesses in such a hearing to the Seattle Police Department or jurisdictional law enforcement authority, and to immediately inform the witness of any threat.

9.26.210. Notice of Violation of this chapter – Disposition – Right to meeting.

- A. The Director, upon the petition of any person shall conduct, or on his or her own initiative may conduct, an investigation, and if the findings of the investigation indicate that a violation of this chapter has occurred, the Director shall issue a Notice of Violation informing the owner or possessor of a fighting breed dog that he or she is in violation of this chapter. When such a Notice is issued, the Director shall immediately impound the dog pending resolution of the violation. The Director shall refer any violation designated herein as a criminal offense to the City Attorney for possible prosecution.
- B. The Notice of Violation shall contain a clear and concise statement of the facts giving rise to the violation, and shall state which subsection(s) of this chapter have been violated. The Notice of Violation shall state that if the finding of a violation is sustained, the animal may be impounded and sent at the owner's expense to a secure animal shelter, and that the owner is responsible for paying all fees owed to the City for the care of the animal. The Notice of Violation shall inform the owner that he or she may request that the Director order the dog removed permanently from the City of Seattle in lieu of placement in a shelter. The Notice and Order The Notice of Violation shall state that the Director will make a final determination after the expiration of twenty (20) days following service of the notice, or, if sent by certified mail, within twenty (20) days after the date of delivery as shown on the returned receipt. In addition, the notice shall inform the owner that he or she will be provided an opportunity to meet with the Director, at which meeting the owner may give, orally or in writing, any reasons or information as to why the owner believes a violation of this chapter did not occur. The notice shall state the date, time and location of the meeting, which will occur prior to the expiration of twenty (20) days following delivery of the notice. The notice shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner at the owner's last address known to the Director.
- C. The Director will consider directing that a fighting breed dog be removed from the city permanently, in lieu of placement in a secure shelter, only upon the request of the owner. The owner shall bear the burden to establish that a home is available to the dog outside of the City of Seattle that complies with all animal control requirements of the jurisdiction in which the new home is located, that the home will accept the dog, that such placement will not pose a danger to the community in which the dog will be placed, and that the owner is willing and able to pay all expenses for transporting the dog.

- D. In the event the Director finds the violation to be sustained, after notice and an opportunity to be heard have been afforded the owner, and the Director directs disposition of the animal and any monetary penalty under this chapter, the directive shall be in writing in the form of an Order, and shall include a recital of the authority for the action, a brief and concise statement of the facts that supports the disposition, and shall contain the Director's signature. A copy of the order, including notice of the right to appeal, shall be sent by regular and certified mail, return receipt requested, or delivered in person to the owner.
- E. Prior to releasing a fighting breed dog for removal from the City of Seattle under this chapter, the Director shall require (1) proof that all conditions required Chapter 16.08 RCW and all other conditions required by state or local law for maintaining a dangerous animal or fighting breed dog or potentially dangerous dog have been met; (2) proof that the animal control authority in the jurisdiction to which the dog is being moved has been informed of the relocation; and (3) agreement by the animal's owner to indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, liabilities, causes, suits or action of any kind or nature whatsoever relative to past or future care and custody of the dog and to the dog's future behavior.

9.26.220. Appeal of Director's determination.

- A. Availability of Appeal. An owner may appeal a final Order of the Director finding a violation of this chapter and ordering the disposition of a fighting breed dog and any monetary penalties under this chapter by filing a notice of appeal and written request for a hearing with the Hearing Examiner by five (5:00) p.m. on the tenth calendar day after the date of delivery of the Director's order. The date of delivery of the Director's order shall be the date evidenced by a signed returned receipt, an affidavit of service, or three (3) days after the date of mailing as shown in a declaration of mailing. When the last day of the appeal period falls on a Saturday, Sunday, or City holiday, the period shall run until five (5:00) p.m. on the next business day.
- B. The owner's appeal is subject to the following requirements:
 - 1. An appeal shall conform to the requirements of Hearing Examiner Rule 3.01(d) in that it must be in writing, and contain the following:
 - a. A brief statement as to how the owner is significantly affected by or interested in the decision of the Director;
 - b. A brief statement of the owner's issues on appeal, noting owner's specific exceptions and objections to the Director's Determination and Order;
 - c. The relief requested, such as reversal of the Director's Order;
 - d. Signature, address, and phone number of the owner, and name and address of owner's designated representative, if any.
 - 2. The Hearing Examiner shall summarily dismiss an appeal without hearing which the Hearing Examiner determines to be without merit on its face, frivolous, or brought

merely to secure a delay.

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

- C. **Standard of Review.** Appeals shall be considered de novo. The City shall have the burden of proving by a preponderance of the evidence that the Director's decision was correct. However, the owner shall have the burden of proving that a reasonable alternative disposition to that ordered by the Director is available.

9.26.300 *Effective date.*

This chapter becomes effective immediately upon certification of the general election in which the citizens' initiative proposing it receives a majority of the public vote, or immediately upon enactment by the Seattle City Council.

9.26.310 *Severability.*

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