

0006.90000
WSS/gjz
1/6/03
R:1/17/03

ORDINANCE NO. 3451

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF CHAPTER 5.05 RELATING TO ANIMAL CONTROL, CONTAINING A SEVERABILITY CLAUSE, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City has adopted Chapter 5.05 in order to regulate the licensing of pets and problems attendant to the keeping of animals within the City, and

WHEREAS, the State Legislature has amended provisions of state law, changing and specifying certain provisions of State Statute with which the regulations of the City must comply, and

WHEREAS, the City Council deems it to be in the public interest to amend these provisions in order to bring the animal control ordinance of the City into compliance with state law, NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. The Edmonds City Code Chapter 5.05 Animal Control is hereby amended to read as follows:

**Chapter 5.05
ANIMAL CONTROL**

Sections:

<u>5.05.001</u>	Introduction and purpose.
<u>5.05.002</u>	Penalties – Infraction unless otherwise designated.

<u>5.05.010</u>	Definitions.
<u>5.05.020</u>	Dog licensing.
<u>5.05.025</u>	Cat licensing.
<u>5.05.030</u>	Fees authorized.
<u>5.05.040</u>	Animal bites to be reported.
<u>5.05.050</u>	Running at large prohibited.
<u>5.05.060</u>	Dogs on public grounds.
<u>5.05.070</u>	Animal waste.
<u>5.05.080</u>	Confining dogs in season.
<u>5.05.090</u>	Rabies notice.
<u>5.05.095</u>	Notice of “dangerous dog” declaration.
<u>5.05.100</u>	Dangerous dogs – Registration, prohibitions, etc.
<u>5.05.105</u>	<i>Repealed.</i>
<u>5.05.110</u>	Enforcement power.
<u>5.05.115</u>	Nuisances defined.
<u>5.05.120</u>	Nuisance – Notice and order to abate.
<u>5.05.121</u>	Contents of declaration of “dangerous dog” notice and order – Service thereof.
<u>5.05.122</u>	Appeal – Authority.
<u>5.05.123</u>	Appeal – Form.
<u>5.05.124</u>	Appeal – Procedures.
<u>5.05.125</u>	Failure to abate a nuisance – Penalty.
<u>5.05.126</u>	Impoundment.
<u>5.05.127</u>	Impound procedures.
<u>5.05.127.1</u>	Spay or neuter of owner-surrendered and stray animals required.
<u>5.05.127.2</u>	Animal benefit fund established.
<u>5.05.127.3</u>	Definitions and integration of initiative provisions.
<u>5.05.127.4</u>	Failure to spay or neuter; penalties.
<u>5.05.128</u>	Cruelty violations declared unlawful.
<u>5.05.128.1</u>	Use of domestic dogs and cats as bait.
<u>5.05.129</u>	Guard dogs.
<u>5.05.130</u>	Covered animal regulations.
<u>5.05.131</u>	Wild animals.
<u>5.05.132</u>	Inherently dangerous animal.
<u>5.05.133</u>	Miscellaneous regulations.
<u>5.05.134</u>	Stay of enforcement.
<u>5.05.135</u>	No duty created.
<u>5.05.140</u>	<i>Repealed.</i>
<u>5.05.141</u>	Additional enforcement.
<u>5.05.142</u>	Severability.
5.05.001	Introduction and purpose.

The purpose of this chapter is to provide for the reasonable regulation of animals as well as promote the public’s health, safety

and welfare. It is the specific intent of this chapter to place the responsibility and obligation of complying with its requirements upon the owners and keepers of animals.

5.05.002 Penalties – Infraction unless otherwise designated.

Unless otherwise set forth in this chapter, a violation of any provision of this chapter shall constitute a Class I civil infraction pursuant to Chapter 7.80 RCW. Issuance and disposition of infractions issued for violations of this chapter shall be in accordance with Chapter 7.80 RCW. The penalty for violation of a provision of this chapter shall be \$100.00. The penalty for a second or subsequent offense in violation of the provision of this chapter within two years shall be \$250.00.

5.05.010 Definitions.

A. "Animal control authority" means the person, association or corporation, appointed or authorized by the city of Edmonds and/or the chief of police or his designee to enforce the provisions of this chapter and all other ordinances of the city pertaining to animal control.

B. "Animal control officers" means officers employed by the animal control authority and includes police officers.

C. "At large" means off the premises of the owner and not under the immediate control of the owner, member of the owner's immediate family, or person authorized by the owner, by means of a leash, cord or chain no longer than eight feet.

D. "Covered animal" means hoofed animals usually found on farms, such as horses, ponies, mules, donkeys, bovine animal, sheep, goats and/or swine.

E. "Dangerous dog" means any dog that, according to the records of the animal control authority, has: (1) inflicted severe injury on a human being without provocation on public or private property; (2) killed a domestic animal without provocation while off the owner's property; or (3) 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 an animal shall not be considered a "dangerous dog" 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 was tormenting, abusing, or

assaulting 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.

F. “Domestic animal” means any animal that is usually tamed and bred by humans.

G. “Guard dog” means any member of the dog family which has been trained or represented as trained to protect persons and/or property by virtue of exhibiting hostile propensities and aggressiveness to unauthorized persons.

H. “Inherently dangerous animal” means any live member of the canidae, felidae, ursidae, and reptilia families, including hybrids thereof, which, due to its inherent nature, may be considered dangerous to humans. Inherently dangerous animals include but are not necessarily limited to:

1. Canidae, meaning and including any member of the dog family not customarily domesticated by man, or any hybrids thereof, but not including domestic dogs and wolf hybrids (cross between a wolf and a domestic dog).

2. Felidae, meaning and including any member of the cat family not customarily domesticated by man, or any hybrids thereof, but not including domestic cats.

3. Ursidae, meaning and including any member of the bear family, or any hybrids thereof.

4. Reptilia, meaning venomous and “devenomized” reptiles, including but not necessarily limited to all members of the following families: helodermidae (gila monster), viperidae (pit vipers), crotalidae (rattlesnakes), atractaspidae (mole vipers), hydrophiidae (sea snakes), and elapidae (coral snakes and cobras).

5. Colubridae snakes which are rear fanged, including, but not necessarily limited to dispholidus typus (boomslangs), thebtornis kirtlandii (African twig or vine snake), and rhabdophis (keelbacks).

6. Colubridae snakes which reach a length of 10 feet and over, including but not necessarily limited to green anaconda, reticulated pythons, Burmese python, albino Indian python, and African rock python.

7. Crocodilia, meaning and including crocodiles, alligators and caimans.

I. “Inhumane treatment” means every act or omission whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

J. “Own” means owning, keeping, leasing, possessing or harboring any animal. “Owner” means any person having an interest or right of possession to an animal or any person having control, custody or possession of an animal, or by reason of the animal being seen residing consistently at a location, shall be presumed to be the owner.

K. “Person” means any person, firm, corporation or association.

L. “Potentially dangerous dog” means any dog that when unprovoked: (1) inflicts bites on a human or a domestic animal either on public or private property; or (2) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or otherwise to threaten the safety of humans or domestic animals.

M. “Poultry” means domestic fowl normally raised for eggs or meat, and includes chickens, turkeys, ducks and geese.

N. “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 and locked pen or structure, suitable to prevent the entry of young children and designed 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.

O. “Severe injury” means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

P. “Vicious animal” means any animal other than a “dangerous dog” or “potentially dangerous dog” that endangers the safety of any person, or domestic animal by biting or attacking without provocation.

Q. “Wild animal” means any animal living in its natural state and native to the United States and not normally domesticated, raised or bred by humans.

5.05.020 Dog licensing.

A. License Required. It is unlawful for any person to own any dog over the age of three months within the city unless the owner has first procured a license required by this chapter.

B. Dogs Excluded from License Requirements. The licensing provisions of this section shall not apply to the following dogs:

1. Dogs whose owners are nonresidents temporarily within the city;

2. Dogs brought into the city for the purpose of participating in any dog show;

3. Seeing-eye guide and service dogs properly trained to assist blind or impaired persons, when such dogs are actually being used by a blind or impaired person, for the purpose of aiding them from place to place. Blind or impaired persons include but are not necessarily limited to persons who are blind, deaf, have limited mobility, or have psychological impairment; or

4. Dogs whose owner maintains them for the sole purpose of commercial breeding and/or training, hunting, or boarding, so long as the dogs are restricted within a building or fenced enclosure intended and designed only for the purpose of kenneling dogs and are not permitted to run at large.

C. License Tags Issued and Fees. The police department, or such other person, firm or entity authorized by the city council, shall issue a dog license upon the payment of a fee as provided for by this subsection. Upon issuance of a license, a metal tag corresponding to the number of the application shall be furnished to the applicant.

1. The applicant shall cause the same to be attached to the dog. Tags shall not be transferable from one dog to another.

2. The following fees shall be paid for licenses required under this chapter:

a. For spayed females or neutered males with a veterinarian certificate or signed affidavit – an annual license fee of \$5.00; provided, that a \$3.00 fee shall be charged to persons over the age of 65;

b. For dogs less than six months but over three months of age, temporary tags issued – a license fee of

\$5.00. Persons over the age of 65 shall receive a rebate of \$2.00 at the time of relicensing, upon certification by a veterinarian that the dog has been spayed or neutered;

c. Unspayed females and unneutered males over six months of age – \$18.00;

d. Replacement of metal tag – \$1.00.

3. An owner of an animal previously licensed for which a “permanent” license has been issued under the provisions of this section as the same existed prior to December 16, 1986, shall not be required to relicense or renew said license for such animal.

D. License Issuance – Nonresidents. Licenses shall be issued to nonresidents of the city of Edmonds who reside in proximity to the city and who desire to purchase an annual license for their dog for identification purposes. The annual fee shall be \$10.00 per year per dog. Upon payment of said fee, a tag shall be issued which shall be consistent with the tags issued annually by the city of Edmonds for dogs required to be licensed under this chapter. The dogs permitted to be licensed by this section shall not be eligible for temporary licenses. Nothing in this chapter shall require the obtaining of such license nor shall failure to obtain such a license as provided by this section subject any dog owner to the penalties provided for in this section; provided further, that nothing in this section shall be construed to relieve or otherwise excuse the owner of any dog from complying with all applicable rules and regulations imposed by any county, city or town having jurisdiction over the residence where the dog is harbored or maintained.

E. Fee Due Dates – Penalty.

1. All license fees shall be due and payable on or before the first business day of January in each year. If the license fees are not paid on or before March 1st of each year, the applicant shall pay the following late fees in addition to the regular fee set forth in subsection C of this section:

a. Unspayed and unneutered dogs: \$18.00;

b. Spayed and neutered dogs: \$10.00.

2. Whenever any person shall come into charge, care or control of any dog, the original license application and fee therefor shall become due and payable within 30 days of said date,

and the late fee provided above shall be imposed 60 days after the date said license fee and application become due and payable.

F. Fee Waiver – Blind and Disabled. Guide and service dogs, as defined in subsection (B)(3) of this section, certified to assist the impaired, and service dogs certified to assist the disabled may be issued a permanent license at no charge upon the request of a blind or otherwise impaired owner.

G. Enforcement Procedure. All dogs not licensed under this section, or who do not exhibit the metal identification tag provided for in subsection C of this section are declared to be public nuisances and shall be impounded as provided in ECC 5.05.126.

5.05.025 Cat licensing.

A nonmandatory lifetime cat license is available, upon request of the owner, for purposes of identification. The fee for such license shall be \$5.00.

5.05.030 Fees authorized.

A. In addition to the cost of publication of any notice as required by this Chapter, prior to the release of animals in the custody of the animal control authority, or its agents, to the registered owners of said animals, the animal control authority shall be entitled to charge fees under this chapter as follows:

- | | | |
|----|---|--|
| 1. | Impound: | \$20.00 |
| 2. | Board and room fees during the first 72 hours of custody: | \$15.00/day (or the actual cost incurred whichever is greater) |
| 3. | All other services: | Cost incurred. |

B. Prior to the adoption of animals in the custody of the animal control authority, or its agents, the animal control authority shall be entitled to charge fees under this section as follows:

- | | | |
|----|---|-----------------|
| 1. | Veterinary exam and spay/neuter fees for male or female canines or felines: (Refundable as provided in ECC 5.05.1271) | \$50.00 Deposit |
| 2. | Adoption Administration fee: (Non-refundable) | \$15.00 |

C. In addition, the contracted animal shelter provider shall be entitled to collect a reasonable room and board fee.

5.05.040 Animal bites to be reported.

Every animal which bites a person shall be promptly reported to the animal control authority and shall thereupon be securely quarantined at the direction of the animal control authority for a period of 10 days. At the discretion of the animal control authority, such quarantine may be on the premises of the owner, at the shelter designated as the city's animal shelter or, at the owner's option and expense, in a veterinary hospital of the owner's choice. When an animal's owner is unknown, such quarantine shall be at the shelter designated as a city animal shelter or at a veterinary hospital.

5.05.050 Running at large prohibited.

It shall be unlawful for the owner or person having charge, care, custody or control of any animal, with the exception of cats, to allow such animal to run at large during any hours of the day or night. This section shall not apply to dogs owned by the city or other law enforcement agencies and maintained as police K-9 units while under the custody and control of the trainer or keeper.

5.05.060 Dogs on public grounds.

A. It shall be unlawful for an owner to allow any dog to stray and/or enter with or without a leash or other means of restraint upon any school ground, playfield, park, beach, waterfront or other public property.

B. Notwithstanding the restrictions set forth in subsection A of this section, dogs accompanied by their owners may be walked or exercised while on leash in the following areas:

1. The Inner Trails of Yost Park, in the area commonly known as the Shell Valley area; and
2. Marina Beach Park, in the area south of the Union Oil loading terminal, such area being further described to be a walking strip of 50 feet in width at the entrance of and along the east end of Marina Beach Park South; and
3. The asphalted pathways in Sierra Park; and
4. The inner trails of Pine Ridge Park; and
5. All trails in Maplewood Park; and
6. The southeast wooded area of City Park; and

7. The turf area of Mathay-Ballinger Park; and
8. The asphalted pathways of Seaview Park.

C. All dogs permitted in the areas designated in subsection B of this section shall be on a leash except for dogs permitted in Marina Beach Park South.

D. Nothing herein shall be determined to require the posting of notices to exclude animals; provided, however, that such postings may be undertaken at the discretion of the manager of parks and recreation.

E. The regulations under ECC 5.05.070 relating to animal waste and the removal and proper disposal of said waste, will be strictly enforced.

5.05.070 Animal waste.

A. It shall be unlawful for the owner or person having charge of any animal to permit, either willfully or by failure to exercise due care, such animal to commit a public nuisance by defecating in any area of the city other than the premises of the owner or person having charge or control of the animal, unless said owner or person having charge takes immediate steps to remove and properly dispose of said feces.

B. It shall be unlawful for the owner or person having charge of any animal to take said animal off of the private property of said person without having in the possession of the owner or person having charge of the animal, a proper means of disposal for the feces of the animal.

C. Disposal is defined, for the purposes of this section, as the removal of feces by means of a bag, scoop or other device and an eventual disposal in a trash receptacle, by burying or by other means of lawful disposal.

5.05.080 Confining dogs in season.

The owner or person having charge of any unspayed female dog shall confine such dog in a building or enclosed area during the period such dog is in season.

5.05.090 Rabies notice.

A. If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be

confined on the owner's premises and shall be subject to examination and observation of a veterinarian at the expense of the owner for a period of 10 days. The owner shall notify the city of the fact that his animal has been exposed to rabies and the animal control authority is empowered to have such animal removed from the owner's premises to a veterinary hospital for observation for a period of up to 10 days at the owner's expense.

B. It is unlawful for any person knowing or suspecting an animal has rabies to allow such animal to be taken off the owner's premises without the written permission of the animal control authority. Every owner or other person, upon ascertaining an animal is rabid, shall immediately notify the animal control authority or a police officer, who shall either remove the animal to the designated shelter or summarily destroy it.

5.05.115 Nuisances defined.

A. All violations of this chapter are detrimental to the public health, safety and welfare and are declared to be public nuisances.

B. Nuisances are hereby defined to include:

1. Any animal which chases, runs after or jumps at vehicles using public streets and alleys;

2. Any animal which habitually snaps, growls, snarls, jumps upon or otherwise threatens persons lawfully using the public sidewalks, streets, alleys or other public ways;

3. Any animal which has exhibited vicious propensities and which constitutes a danger to the safety of persons or property off his premises or lawfully on his premises;

4. A vicious animal or animal with vicious propensities which runs at large at any time, or such an animal off the owner's premises not securely leashed on a line or confined and in the control of a person of suitable age and discretion to control or restrain such animal;

5. Any animal which howls, yelps, whines, barks or makes any noises in such a manner as to disturb any person or neighborhood to an unreasonable degree;

6. Animals kept, harbored or maintained and known to have a contagious disease, unless under the treatment of a licensed veterinarian;

7. Animals running in packs;
8. Any dog running at large within the city;
9. A female animal, whether licensed or not, while in season, accessible to other animals for purposes other than controlled and planned breeding;
10. Any animal which causes damage to property other than the property of the animal's owner or person having physical charge and control of the animal; or
11. Any animal maintained in violation of any provision of this chapter.

C. All nuisances under this chapter shall be abated as provided in this chapter. In addition, any owner or person having charge of any animal who fails to abate such nuisance shall be guilty of a misdemeanor with a maximum penalty of \$1,000 fine and/or 90 days in jail.

5.05.120 Nuisance – Notice and order to abate.

A. Notice – When Required. Whenever it shall be stated in writing by an animal control officer or by three or more persons having separate residences or regularly employed in any neighborhood that any animal is a nuisance as defined in EMC 5.05.115, the animal control authority shall serve a notice of violation and order of abatement upon the owner of the animal directing that the nuisance be abated.

B. Notice – Final Determination Unless Appealed. The service of a notice of violation and order of abatement shall, unless timely appealed, be a final determination that the animal is a nuisance and such nuisance must be immediately abated.

C. Notice - Contents. The notice of violation and order to abate a nuisance shall contain:

1. The name and address, if known, of the owner or person having physical charge and control of the animal if the identity of the owner cannot be reasonably ascertained;
2. The license number, if available, and description of the animal;

3. A statement that the animal control authority has determined the animal to be a nuisance and a description of the nuisance activity.

4. A statement that the nuisance activity must be immediately abated.

5. A statement that service of the notice of violation and order of abatement is a final determination unless appealed and that an appeal must be filed within five (5) days of service of the notice of violation and order of abatement.

6. A copy of EMC 5.05.123 regarding appeal procedures.

7. A copy of EMC 5.05.124 regarding disposition of seized and removed animals.

D. Notice – Service. Service of the Notice of Violation and Order of Abatement upon the owner of the animal may be made either by personal service to the owner, by posting such notice at the residence of the owner or by certified mail to the last known address of the owner.

E. Appeal. Appeal of Notice of Violation and Order of Abatement. An appeal of a notice of violation and order of abatement must be served upon the City of Edmonds Police Chief within five (5) days of service of the Notice of Violation and Order of Abatement. Appeals shall be heard by the Judge of the Edmonds Municipal Court and conducted in accordance with EMC 5.05.123.

F. Penalty. Any person who wilfully fails to comply with an order to abate a nuisance is a guilty of a misdemeanor

5.05.121 Potentially Dangerous Dogs

A. Declaration. Upon declaration by the animal control authority that a dog is a potentially dangerous dog as defined in EMC 5.05.010, the owner shall be served with a potentially dangerous dog declaration.

B. Declaration – Final Determination. The service of a potentially dangerous dog declaration shall be a final determination that the dog is a potentially dangerous dog. No appeal may be taken from a declaration of potentially dangerous dog.

C. Notice – Service. Service of the Potentially Dangerous Dog Declaration upon the owner of the animal may be made either by personal service to the owner, by posting such notice at the residence of the owner or by certified mail to the last known address of the owner.

5.05.122 Dangerous Dogs

A. Declaration. Upon declaration by the animal control authority that a dog is a dangerous dog as defined in EMC 5.05.010, the owner shall be served with a dangerous dog declaration.

B. Declaration – Final Determination Unless Appealed. The service of a dangerous dog declaration shall, unless timely appealed, be a final determination that the dog is a dangerous dog.

C. Notice - Contents of Dangerous Dog Declaration. A dangerous dog declaration shall contain:

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

2. The license number, if available, and description of the animal or dog;

3. A statement that the animal control authority has found the animal to be a dangerous dog as defined in EMC 5.05.010 and a concise description explaining why the declaration has been made.

4. A statement that service of the dangerous dog declaration is a final determination unless appealed and that an appeal must be filed within five (5) days of service of the dangerous dog declaration

5. A copy of EMC 5.05.123 regarding appeal procedures.

6. A copy of EMC 5.05.124 regarding disposition of seized and removed animals.

D. Notice – Service. Service of the Dangerous Dog Declaration upon the owner of the animal may be made either by personal service to the owner, by posting such notice at the residence of the owner or by certified mail to the last known address of the owner.

E. Appeal. An appeal of a dangerous dog declaration must be served upon the City of Edmonds Police Chief within five (5) days of service of the dangerous dog declaration. Appeals shall be heard by the Judge of the Edmonds Municipal Court and conducted in accordance with EMC 5.05.123.

F. Requirements for Dangerous Dogs. Strict compliance with each of the following conditions is required to keep a dangerous dog in the City of Edmonds:

1. In addition to any license required under the provisions of this chapter, all dog owners who are required to obtain a “certificate of registration” pursuant to the dangerous dog provisions of Chapter 16.08 RCW, and must obtain a “City of Edmonds Dangerous Dog Certificate of Registration.” The applicant shall apply for such certificate upon forms supplied by the city clerk and pay an annual fee of \$100.00, which shall not be prorated for any part of a year. A copy of a valid “certificate of registration” issued pursuant to Chapter 16.08 RCW shall be attached to the application. The “City of Edmonds Dangerous Dog Certificate of Registration” shall be issued upon completing the requirements of this section.

2. The owner of dangerous dog shall provide for proper enclosure of a dangerous dog. A dangerous dog may not be outside of the dwelling of the owner or outside of a proper enclosure of a dangerous dog unless muzzled and restrained by a substantial chain or leash and under the control of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal.

3. The owner of a dangerous dog shall secure liability insurance coverage or a surety bond as required by Chapter 16.08 RCW.

4. The owner of a dangerous dog shall be required to post the premises with a clearly visible warning sign 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.

F. Failure to Comply with Dangerous Dog Requirements. Any dangerous dog shall be seized and removed by animal control officer if:

1. The dog is not validly registered under this chapter and Chapter 16.08 RCW;

2. The owner does not secure liability insurance coverage or a surety bond as required by Chapter 16.08 RCW;

3. The dog is not maintained in a proper enclosure; or

4. The dog is outside of the dwelling of the owner or outside of a proper enclosure and not muzzled and restrained by a substantial chain or leash and under the control of a responsible person .

5. The owner has failed to post the property with warning signs as required.

G. Penalty. Failing to comply with any dangerous dog requirement is a gross misdemeanor. A dangerous dog seized and removed in violation of dangerous dog requirements shall not be released during investigation of or prosecution for failure to comply with dangerous dog requirements. Any person convicted of failing to comply with dangerous dog requirements shall make restitution to the City of Edmonds for all costs incurred in boarding and disposition of such dog and shall forfeit any interest in such dog.

H. The provisions of this section shall not apply to dogs used by law enforcement officials for police work.

5.05.123 Appeal

A. Filing. A notice of appeal, substantially in the form prescribed, shall be filed with the Edmonds Municipal Court and the chief of police not more than five (5) business days after service of the order to abate a nuisance or dangerous dog declaration. Failure to timely file a notice of appeal shall constitute a waiver of the right to appeal the determination of the order to abate a nuisance or declaration of dangerous dog.

B. Form. An appeal pursuant to this Chapter shall be written and shall conform substantially to the following requirements:

1. A caption reading: "Appeal of _____," giving the names of all appellants participating in the appeal;

2. A brief statement setting forth the legal interest of each of the appellants involved in the notice and order;

3. A brief statement in concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

4. A brief statement in concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside;

5. Signatures of all parties' named as appellants, and their official mailing addresses; and

6. Verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matter stated in the appeal.

C. Scheduling of Hearing. Upon receipt of a timely filed notice of appeal, a hearing shall be scheduled not more than 60 days from the date of the filing of the notice of appeal. Written notice of the date of the hearing shall be sent to the appellants at least 10 days prior to the scheduled hearing date. The failure of the appellant to appear at the hearing shall result in a denial of the appeal and upholding of the order to abate a nuisance or declaration of dangerous dog.

D. Enforcement Stayed During Pendency of Appeal. Unless otherwise determined by the hearing examiner, enforcement of the order to abate a nuisance or declaration of dangerous dog shall be stayed during the pendency of the appeal.

E. Presentation of Evidence. At the appeal hearing, the hearing examiner shall take evidence relevant to the order to abate a nuisance or dangerous dog declaration. Testimony may be provided in the form of a signed written statement pursuant to RCW 9A.72.085.

F. Decision of the Court. The Judge of the Edmonds Municipal Court may uphold, dismiss, or modify the order to abate nuisance or declaration of dangerous dog. A written order shall be prepared and signed by the Judge. The decision of the Judge of the Edmonds Municipal Court shall be a final administrative decision appealable to the Snohomish County Superior Court within 30 days of the final written order.

5.05.124 Disposition of Seized and Removed Animals – Bond Requirements.

Any owner whose domestic animal is seized and removed pursuant to EMC 5.05.128 (Animal Cruelty) or EMC 5.05.122 (Violation of

Dangerous Dog Requirements) shall, upon a finding of probable cause by the Edmonds Municipal Court, be required to post a bond or security within five (5) days of such probable cause finding in an amount sufficient to provide for the animal's care for a minimum of sixty (60) days from the seizure date. Failure to post such bond or security shall authorize the City of Edmonds or its agent to euthanize the animal or find a responsible person to adopt the animal. The City of Edmonds may euthanize severely injured, diseased, or suffering animals at any time.

5.05.126 Impound.

A. Authority. The animal control authority and its authorized representatives are authorized to apprehend and impound any animals in violation of this chapter.

B. Notice of Impound. When any licensed animal is impounded, the officer or department impounding such animal shall notify the owner of the impoundment and the reason therefor by mail, telephone or by leaving written notice at the address contained in the license application. It shall be the owner's responsibility to take such measures for redeeming such animal. Neither the city nor any officer or agent of the city shall be legally or financially responsible for failing to notify an animal owner under this chapter.

C. Redemption of Animals by Owner. Unless otherwise provided in this chapter, the owner of an impounded animal may redeem the animal at any time prior to the release for adoption or disposal by the city and shall be entitled to the possession thereof upon payment of all legal charges and expenses incidental to impound and keeping of said animal.

D. Adoption of impounded animals. If an impounded animal is licensed and known to belong to someone who has been unable to claim the animal within 72 hours the animal control authority may, at its discretion, extend the impound period for up to 10 days prior to release of the animal for adoption.

E. Disposition. Any animal not redeemed or adopted may be destroyed or otherwise disposed of by the animal control authority. The mayor is authorized to enter into contracts for disposal with appropriate agencies, not including vivisectionists.

F. Disposal of Certain Animals. It is lawful for any police officer or animal control officer to kill any dangerous or vicious

dog or other animal found at large which cannot, in their judgment, be safely taken up and impounded.

G. Impounding Sick or Injured Animals. When in the judgment of a licensed veterinarian or the animal control authority, an animal should be destroyed for humane reasons, such animal may not be redeemed. The animal control authority or its agents shall not be held liable for the destruction of said animal.

H. Hindrance to Impounding. No person shall willfully:

1. Prevent or hinder the impounding of any animal found in violation of this chapter;

2. Remove the animal from the designated shelter without the authority of the chief of police, the animal control authority or the officer in charge of the designated shelter;

3. Remove the animal from the designated shelter without paying all lawful charges against the animal; or

4. Resist or obstruct the animal control authority or its officers in the performance of its duties.

5.05.127 Impound procedures.

...

C. Adoption of impounded animals. If an impounded animal is licensed and known to belong to someone who has been unable to claim the animal within 72 hours the animal control authority may, at its discretion, extend the impound period for up to 10 days prior to release of the animal for adoption.

5.05.127.1 Spay or neuter of owner-surrendered and stray animals required.

A. Stray dogs and cats at least two months of age from the City's animal control service area that are placed at and retained by the City designated shelter, and dogs and cats owned by citizens residing within the City's animal control service area that are surrendered at the City's designated shelter, shall be spayed or neutered, and verification of said surgery shall be provided before animals are adopted.

B. The City's designated veterinarian(s) shall determine if said animals are appropriate candidates for surgery. Dogs and cats determined by the City's designated veterinarian to be permanently

inappropriate candidates for surgery may be adopted without surgery. Dogs and cats at least two months of age who are determined to be temporarily inappropriate candidates for surgery, and dogs and cats under two months of age, may be adopted without surgery, providing that the City's designated shelter shall collect and hold in trust for the City of Edmonds a \$50.00 deposit from the adopter. Said deposit shall be returned to the adopter upon receipt of written verification that the animal has been spayed or neutered within six months of adoption. If the spay or neuter surgery is performed by a City designated veterinarian, the basic surgical costs will be paid by the City as outlined in 5.05.127.2. If the animal is determined to be a permanently inappropriate surgical candidate, the surgery will not be required. In such cases the deposit shall be returned to the adopter, upon written verification by a veterinarian of the animal's inappropriate surgical candidacy. Failure to have the animal spayed or neutered within the specified time period will result in the forfeiture of the deposit and the deposit shall be placed in the City of Edmonds Animal Benefit Fund.

5.05.127.2 Animal Benefit Fund established.

A. There is hereby established an Animal Benefit Fund for the purpose of financially assisting low-income City of Edmonds residents in obtaining spay or neuter services for their dogs or cats, and providing for spay and neuter services for stray dogs and cats from the City's animal control service area that are placed at and retained by the City designated shelter, and dogs and cats owned by citizens residing within the City's animal control service area that are surrendered at the City designated shelter prior to their adoption back into the community. Application may be made to the City of Edmonds Animal Benefit Fund to effectuate this purpose.

B. The City may grant a Financial Assistance voucher to a resident in the amount of \$30.00 to be applied toward the costs of obtaining spay or neuter services for an animal by the City's designated veterinarian(s); PROVIDED, that, except in cases involving the spay or neuter of owner-surrendered or stray animals that will be returned to the City's designated animal shelter, proof of the animal owner's City of Edmonds residency, as well as a statement of financial need, shall be required as a prerequisite to receiving said Financial Assistance Voucher.

C. After performing the necessary spay or neuter surgery upon an animal, the City's designated veterinarian(s) may submit an invoice to the City of Edmonds requesting reimbursement. The

invoice will be paid at full cost of agreed-upon prevailing industry standards for spay and neuter services, for stray dogs and cats from the City's animal control service area that are placed at and retained by the City designated shelter, and dogs and cats owned by citizens residing within the City's animal control service area that are surrendered at the City designated shelter.

D. After performing the necessary spay or neuter surgeries upon an animal, the City's designated veterinarian(s) may submit an invoice for \$30.00 for the Financial Assistance Voucher. For the Financial Assistance Voucher, the invoice shall be submitted with a photocopy of said voucher attached, shall be signed by a veterinarian, and shall contain the following information:

1. Identification of the animal.
2. Identification of the person requesting the spay or neuter services for the animal.
3. Identification of the specific type of spay or neuter services performed.
4. Date of performance of the spay or neuter services.

E. Within 30 days of receiving an invoice for spay or neuter services performed by the City's designated veterinarian(s) the City shall provide payment to the designated veterinarian in the amount of \$30.00 per Financial Assistance Voucher or paid at full cost of agreed upon prevailing industry standards for spay and neuter services for stray dogs and cats from the City's animal control service area that are placed at and retained by the City designated shelter, and dogs and cats owned by citizens residing within the City's animal control service area that are surrendered at the City designated shelter. Said amount shall be drawn exclusively from the City's Animal Benefit Fund.

5.05.127.3 Definitions and integration of initiative provisions.

ECC Sections 5.05.127.1 and 5.05.127.2 have been adopted pursuant to a citizens initiative. The initiative's provisions utilize terms which are not defined and in some cases are different than terms utilized in these ordinances and/or in the day to day administration of the City's animal control system.

A. Definitions: When used in ECC 5.05.127.1 and 5.05.127.2, these terms shall have the following definitions:

1. “Designated shelter” shall mean the location designated by ordinance or contract for the custody of stray or other animals by the animal control system of the City and shall include terms such as “designated kennel.”

2. “Designated veterinarian(s)” shall mean the veterinarian(s), entity or organization with whom the City has contracted to perform the services required under this chapter.

3. “Deposit” shall mean that portion of the adoption fee which is refundable upon proof of spaying/neutering of the adopted animal. The term does not include administrative fees, fines, or other charges established by this chapter or other City ordinance.

4. “Agreed upon prevailing industry standards for spay and neuter services” shall be determined by reference to the rate established by ordinance or a contract with the designated veterinarian(s).

B. Integration. The provisions of ECC 5.05.127.1 and 5.05.127.2 have been adopted pursuant to initiative (hereinafter “initiative provisions”). Initiatives are prohibited by state law from imposing administrative detail or from exercising powers delegated specifically to the City Council. In the event of ambiguity or conflict regarding the provisions of Sections 5.05.127.1 or 5.05.127.2 ECC, the following rules of interpretation shall apply:

1. With respect to the interpretation of any term or concept of the initiative provisions relating to the adoption of dogs or cats from the City’s designated shelter, any ambiguity or conflict relating to adoption shall be interpreted to require or encourage the spaying or neutering of dogs or cats adopted from the City’s animal control system.

2. With respect to ambiguities or conflicts between the initiative provisions and administrative provisions of City Code, or any contract approved by the City Council, the administrative provisions of City Code or a contract shall control.

3. With respect to ambiguity or conflict between the initiative provisions and any exercise of a power delegated to the legislative power of the City Council by statute or the Washington State Constitution, the exercise of the City Council’s legislative power shall control.

4. Any attempt by the initiative provisions, including Section 3 of Ordinance 3435 to exercise a power in excess of powers

available through the initiative process and/or to exercise a power which is unavailable to the City shall be void and interpreted in a manner consistent with the scope of initiative powers.

5.05.127.4 Failure to spay or neuter; penalties.

A. Any person who fails to spay or neuter an animal adopted from the City's designated shelter shall be guilty of an infraction.

B. Penalties:

1. First infraction: punishable by a fine of \$25;

2. Second infraction: punishable by a fine of \$50;

3. Third and subsequent infractions: punishable by a fine of \$100;

4. If an animal is taken up by animal control while running at large in violation of ECC 5.05.050, the fines established above shall be double.

5. All fines set forth herein shall be in addition to any other fine or deposit forfeiture otherwise provided by City ordinance.

5.05.128 Animal Cruelty.

1. A person is guilty of animal cruelty if the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

2. An owner of an animal is guilty of animal cruelty if the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) Abandons the animal.

3. Animal cruelty is a misdemeanor.

4. In any prosecution for animal cruelty, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

5. If a law enforcement officer or animal control officer has probable cause to believe that an owner of a domestic animal has committed animal cruelty, the officer may authorize, with a warrant, the seizure and removal of the animal to a suitable place for feeding and care. An animal may be seized and removed without a warrant only if the animal is in an immediate life-threatening condition.

6. Upon conviction for animal cruelty, the defendant shall make restitution to the City of Edmonds for all veterinary and kennel expenses incurred by the City.

7. Any animal seized and removed from an owner pursuant to this section shall not thereafter be released to the owner during investigation of or prosecution for animal cruelty. Upon conviction for animal cruelty the owner shall forfeit any interest in the seized and removed animal.

5.05.128.1 Use of domestic dogs and cats as bait.

Chapter 226, Section 1, Laws of 1990, including all future amendments, is hereby adopted by reference.

5.05.129 Guard dogs.

Guard dogs shall be kept contained within a building or on a leash under the control of a person, or enclosed within a solid or chain-link fence of sufficient height to prevent the dog from reaching persons off the property. The owner shall restrain the guard dog in such a manner that the dog is unable to reach those persons using the normal ingress and egress to and from the property. The owner shall post signs in two conspicuous places on the property, warning that a guard dog is on the premises. The owner must indicate at the time of obtaining a dog license that the dog is a guard dog.

5.05.130 Covered animal regulations.

A. Required Open Space and Minimum Dimensional Requirements for Pasturing. There shall be not less than 12,000 square feet of open space for maintaining and pasturing the first covered animal on any parcel of property, and an additional 8,000 square feet shall be required for each additional covered animal. In addition, the following minimum dimensional requirements for open space and pasturing purposes shall be provided:

1. The pasture area shall have a minimum width of 80 feet.

2. The stable housing the covered animal shall be set back at least 30 feet from any side, rear and front property lines.

3. In the event the covered animal gives birth, thereby exceeding the number of covered animals allowed by the minimum set forth in this subsection, the owner of said animals and/or the occupier of the premises shall conform to the number of said animals or the dimensional requirements within one year of the birth of said animals.

B. Fencing. The owner and/or tenant or other occupier of the premises upon which any covered animal is maintained for more than seven consecutive days within the city limits shall provide adequate fencing in a good state of repair to guarantee the confinement of said animal within said fence, which fence shall completely enclose an area describing at least the minimum area of open space and pasturing, including the minimum dimensional requirements.

C. Waste Disposal. The owner of each covered animal and the owner and/or occupier of the premises upon which said animal is maintained within the city limits shall guarantee and, at all times, maintain the premises upon which the covered animal is maintained in a sanitary and neat condition, including, but not limited to, disposal of manure or other waste material from said animal. An unreasonable accumulation of flies or other insects or pests within the property on which said animal is maintained, and/or noxious or offensive odors, or the unreasonable accumulation of flies, insects or other pests transcending into neighboring or vicinal real property, shall be presumed to be inadequate sanitary conditions.

D. Riding on Sidewalks. It is unlawful for any person to ride or lead a covered animal on any sidewalk within the city limits, unless otherwise specifically designated by the city's engineer for such use. No person shall ride or lead two or more covered animals abreast on any city street.

E. Public Parks, Beaches and/or Playgrounds. Unless otherwise directed by the director of parks and recreation, it is unlawful for any person to ride, lead or otherwise permit any covered animal to be within or on any public park, beach or playground within the city of Edmonds, whether owned by, leased or otherwise under the direct supervision of the city, or to ride, lead or permit any said animal to be within or on the private property of another, without the consent of the owner of said property; provided, however, the director of parks and recreation is

authorized to post a notice or notices of specific areas in any particular public park, beach or playground within the city of Edmonds where said animals may be permitted under such circumstances as may be required by the director of parks and recreation. Said notices shall be placed in a conspicuous place or places at each drive-in or pedestrian access provided by the city to such public parks, beaches and/or playgrounds. In the event the director of parks and recreation so determines and posts notices as provided in this subsection, he shall maintain a list of said parks, beaches and/or playgrounds, shall file a copy of the same with the city clerk, and said list shall be open and available for public inspection at all business hours of the office of the city clerk.

F. Business Area. No person shall leave any covered animal unattended, whether tethered or untethered within any area of the city zoned for commercial use by the city zoning code.

G. Areas of Maintenance – Zoning and Related Ordinances. Areas wherein covered animals may be maintained or pastured within the city limits are those set forth by the zoning code. In the event of conflict between any dimensional requirements set forth in this section and the requirements set forth in the zoning code, the regulation requiring the greatest open space or other dimensional requirement shall prevail. In the event any other provision of Edmonds City Code is in conflict with this section relative to said animals, the terms of this section shall prevail.

H. Variances. Where there may be structures of less than the minimum dimensional requirements which existed prior to September 6, 1977, the owner of the premises may apply to the planning/zoning departments' hearing examiner for a variance from the strict requirements of this section.

5.05.131 Wild animals.

No person shall own any wild animal unless he has obtained a permit from the State Game Department and/or Federal Fish and Wildlife Service; provided, that the animal control authority may allow a person to temporarily care for an infant or injured wild animal native to this area which is homeless while the person acquires the necessary state and/or federal permits. Any person who violates this section shall be guilty of a misdemeanor, punishable by up to 90 days in jail and up to a \$1,000 fine or both.

5.05.132 Inherently dangerous animal.

It is unlawful for any person to possess or maintain an inherently dangerous animal within the city of Edmonds. Any person who violates this section shall be guilty of a misdemeanor, punishable by up to 90 days in jail and up to a \$1,000 fine or both.

5.05.133 Miscellaneous regulations.

A. Duty When Striking Domestic Animal with Motor Vehicle. Any person who, while operating a motor vehicle, strikes a domestic animal shall stop at once, render reasonable assistance, and shall immediately report such injury or death to the animal's owner. In the event the owner of said animal cannot be ascertained and located, such person shall at once report the accident to the animal control authority. This subsection shall in no way be construed as requiring the person striking the animal with a motor vehicle to be financially responsible for any injury or death of the animal.

B. Animal Pens – When Prohibited. Whoever shall keep, use or maintain, within the city, any pens, stable, lot, place or premises in which any animal or fowl may be confined, in such manner as to be nauseous, foul or offensive, or which shall from any cause become an annoyance to any person, family or community, shall be deemed to be maintained a nuisance and be subject to the penalties prescribed in ECC 5.50.020.

C. Slaughtering of Animals. It should be unlawful for any person to kill or slaughter, within the city, any animal or animals, the flesh of which is intended to be sold or offered for sale.

5.05.135 No duty created.

Nothing contained in this chapter is intended to be, nor shall be construed to create or form any special duties or relationships with specific individuals or otherwise constitute 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 commission with the implementation or enforcement of this chapter on the part of the city by its officers, employees, or agents. This chapter has been enacted for the welfare of the public as a whole, and not for any specific group or class.

5.05.140 Penalties.

Repealed by Ord. 2853 10, 1991.

5.05.141 Additional enforcement.

Notwithstanding the existence or use of any other remedy, the director of the animal control authority may seek legal or equitable relief to enjoin any acts or practices and abate any conditions which constitute a violation of this code or other regulations herein adopted.

5.05.142 Severability.

If any section, subsection, clause, phrase or word of this chapter, or any provision adopted by reference in this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

Section 2. Severability. If any section, subsection, clause, phrase or word of this chapter, or any provision adopted by reference in this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter.

Section 2. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR GARY HAAKENSEN

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
W. SCOTT SNYDER

FILED WITH THE CITY CLERK:	04/18/2003
PASSED BY THE CITY COUNCIL:	04/22/2003
PUBLISHED:	04/27/2003
EFFECTIVE DATE:	05/02/2003
ORDINANCE NO. <u>3451</u>	

SUMMARY OF ORDINANCE NO. 3451

of the City of Edmonds, Washington

On the 22nd day of April, 2003, the City Council of the City of Edmonds, passed Ordinance No. 3451. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF CHAPTER 5.05 RELATING TO ANIMAL CONTROL, CONTAINING A SEVERABILITY CLAUSE, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 23rd day of April, 2003.

CITY CLERK, SANDRA S. CHASE