

ORDINANCE NO. 1560

AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON relating to animal control, amending chapter 8.16 DMMC to update the dangerous dog and potentially dangerous dog appeal procedures and licensing requirements.

WHEREAS, the City Council finds potentially dangerous dogs and dangerous dogs need to be regulated to reduce the danger posed to members of the public, and

WHEREAS, the City Council has previously adopted appeal procedures and licensing requirements for dogs that have been designated to be potentially dangerous or dangerous, and

WHEREAS, updates are needed in order to bring the appeal procedures up to date with current case law, and

WHEREAS, updates to the licensing requirements will promote public safety, increase the City's ability to monitor and control dangerous and potentially dangerous dogs, and reduce the cost borne by the City for regulation; now, therefore

THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:

Sec. 1. DMMC 8.16.020 and section 2(B) of Ordinance No. 948 are each amended to read as follows:

Certificate - Issuance upon compliance. A certificate of registration shall be issued by the City upon a showing of compliance with the following:

(1) Placement of a proper enclosure on the owner's or keeper's property to confine the dog and the posting on the premises where the dog is harbored of a clearly visible warning sign that there is a potentially dangerous or dangerous dog on the property; and

(2) A conspicuously displayed sign on the premises where the dog is harbored with a warning symbol that informs children or adults who cannot read of the presence of a potentially dangerous or dangerous dog; and, either

(3) For potentially dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$100,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$100,000, insuring the owner or keeper for personal injuries inflicted by the dog(s); or

(4) For dangerous dogs: A surety bond issued by a surety insurer qualified under chapter 48.28 RCW in a sum of not less than \$250,000 payable to a person injured by the dog(s); or a policy of liability insurance issued by an insurer qualified under Title 48 RCW in an amount not less than \$250,000, insuring the owner or keeper for personal injuries inflicted by the dog(s);

(5) A certificate issued to satisfy the insurance requirements of this chapter shall provide for written notice to the City within 30 days of cancellation, reduction of limits, or termination of coverage.

(6) Any unaltered dog may not be redeemed by any person or issued a certificate of registration until the dog is spayed or neutered. In all cases, the veterinarian fee shall be paid prior to the redemption of the dog by the dog's owner or keeper.

Sec. 2. DMMC 8.16.060 and section 2(F) of Ordinance No. 948 are each amended to read as follows:

Declaration - Appeal - Hearing - Procedure.

If the owner or keeper of the animal wishes to contest the declaration, the following procedures shall apply:

(1) The owner or keeper shall, within five days of receipt of the declaration, or within

five days of the publication of the declaration pursuant to DMMC 8.16.040(3), request a hearing before the Municipal Court of the City. Failure to exhaust this administrative appeal process shall be a bar to further action in superior court. Any appeal taken from the decision of the Des Moines Municipal Court shall be in accordance with the Rules for Appeal of the Decisions of Courts of Limited Jurisdiction as presently constituted or as may be subsequently amended and designated.

(2) If the Des Moines Municipal Court finds by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be affirmed.

(3) If the Des Moines Municipal Court does not find by a preponderance of the evidence that the animal is dangerous or potentially dangerous, the declaration shall be rescinded, and the restrictions imposed thereby annulled.

(4) If the Des Moines Municipal Court finds that the animal is not a potentially dangerous or dangerous dog, no costs shall be assessed against the City or the animal control authority or officer.

Sec. 3. DMMC 8.16.090 and section 3(B) of Ordinance No. 948 are each amended to read as follows:

Special license requirements - Information required. The owner or keeper of a dog that is subject to a special license shall furnish the following information along with the appropriate special license fee:

(1) The animal's age, weight, coloring, breed, and any other special identifying characteristics;

(2) Two 3" x 5" color photographs of the animal;

(3) Proof of placement of a tattoo or micro chip, consisting of the owner's or keeper's Social Security number or current contact information, in a location as deemed fit by a licensed veterinarian.

(4) Proof of current rabies vaccination for the animal; and, either

(5) For potentially dangerous dogs: a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or

(6) For dangerous dogs: a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.

Sec. 4. DMMC 8.16.140 and section 3(G) of Ordinance No. 948 are each amended to read as follows:

Immediate impoundment - Conditions warranting.

(1) Any dangerous dog shall and any potentially dangerous dog may be immediately impounded by an animal control authority if:

(a) The dog is not validly registered under this chapter; or

(b) The owner or keeper does not secure or maintain the liability insurance coverage required under this chapter; or

(c) The dog is not maintained in a proper enclosure; or

(d) The dog is outside of the dwelling of the owner or keeper, or outside of the

proper enclosure, and not muzzled or under proper physical restraint by the responsible person; or

(e) The dog is otherwise in violation of registration or licensing provisions of this chapter.

(2) In addition to such impound, the owner or keeper of such animal shall be deemed guilty of a criminal offense and assessed a civil penalty or shall be guilty of a gross misdemeanor in accordance with DMMC 8.16.200; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner or keeper is notified by the animal control authority that such license or renewal for such potentially dangerous dog is required, or until any appeal brought under that section has been completed, whichever is later. The owner or keeper of any dog impounded under this subsection may redeem such dog from the animal control authority only upon proof of a valid special license and registration, proof that all required conditions under this chapter have been met, and payment of \$ 20.00 per day for each day such dog has been in the control of the animal control authority; provided, however, that in the event the owner or keeper has not redeemed such dog within 10 days of being notified of the impound, the dog shall be destroyed in an expeditious and humane manner and the owner or keeper shall be assessed an additional civil penalty in the amount of \$50.00 for the cost of destroying such dog.

Sec. 5. DMMC 8.16.150 and section 3(H) of Ordinance No. 948 are each amended to read as follows:

Impoundment for biting. If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane

manner. Any such animal which is deemed uncatchable by the animal control authority may be killed by such official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death. The owner or keeper of any dangerous dog impounded and destroyed pursuant to this subsection shall be assessed, in addition to the actual costs of the quarantine, a civil penalty in the amount of \$ 20.00 per day for each day such dangerous dog is quarantined by the animal control authority and in the amount of \$50.00 for the cost of destroying such dangerous dog.

Sec. 6. DMMC 8.16.170 and section 4 of Ordinance No. 948 are each amended to read as follows:

Limitations on ownership of potentially dangerous dogs and dangerous dogs - Reporting requirements.

(1) It is unlawful for an owner or keeper of a potentially dangerous dog or dangerous dog to permit such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied or tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dangerous dogs and potentially dangerous dogs shall wear a bright orange collar, not less than two inches in width, at all times.

(2) It is unlawful for any person under the age of 18 years to own or keep a potentially dangerous or dangerous dog within the City limits.

(3) It is unlawful for any person to own or keep more than one potentially dangerous or dangerous dog within the City limits.

(4) It is unlawful to transfer ownership of a potentially dangerous or dangerous dog within the City limits unless the recipient has complied with the registration and licensing requirements of this chapter for such animal.

(5) It is unlawful to keep or maintain the offspring of a dangerous dog within the City for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs under this chapter.

(6) It is unlawful for the owner or keeper of any animal which is subject to any licensing requirements of the City to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.

(7) It is unlawful for any owner or keeper of any dangerous or potentially dangerous dog to fail to immediately notify the animal control authority in writing of:

(a) The removal from the City or death of any dog registered under this chapter, including the address and contact information for the relocation of the dog outside the City limits; or

(b) The birth of offspring of any dog licensed under this chapter; or

(c) The new address of the owner or keeper of any dog registered under this chapter should such person move within the City limits.

(8) Failure to Comply. Any person who fails to comply with the mandatory or prohibitory provisions of this section shall be subject to the penalties as provided in DMMC 8.16.200.

Sec. 7. DMMC 8.16.180 and section 5 of Ordinance No. 948 are each amended to read as follows:

Potentially dangerous dog, dangerous dog, special license fees.

(1) The special license fee for each potentially dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each potentially dangerous dog licensed under this section is \$100.00.

(2) The special license fee for each dangerous dog to be licensed under this chapter is \$250.00. The annual renewal fee for each dangerous dog licensed under this section is \$100.00.

Sec. 8. Severability - Construction.

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

Sec. 9. Effective date. This ordinance shall take effect and be in full force thirty (30) days after its passage and approval in accordance with law.

PASSED BY the City Council of the City of Des Moines this 13th day of December, 2012 and signed in authentication thereof this 13th day of December, 2012.



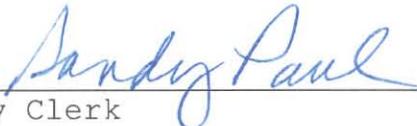
M A Y O R

APPROVED AS TO FORM:



Assistant City Attorney

ATTEST:



City Clerk

Published: December 18, 2012

Effective Date: January 12, 2013

LEGAL NOTICE
SUMMARY OF ADOPTED ORDINANCE
CITY OF DES MOINES

ORDINANCE NO. 1560, Adopted December 13, 2012.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to animal control, amends chapter 8.16 DMMC to update the dangerous dog and potentially dangerous dog appeal procedures and licensing requirements.

The full text of the ordinance will be mailed without cost upon request.

Sandy Paul
City Clerk

Published: December 18, 2012