

ORDINANCE NO. 821

AN ORDINANCE FOR THE LICENSING, VACCINATING, AND REGISTRATION OF DOGS, PROHIBITING DOGS FROM RUNNING AT LARGE WITHIN THE CORPORATE LIMITS OF THE CITY OF SPRAGUE OR CREATING A PUBLIC NUISANCE BY BARKING, DEFINING DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS, AUTHORIZING THE IMPOUNDMENT AND DESTRUCTION OF DOGS, PROVIDING FOR CIVIL PENALTIES, AND SUPERSEDING ALL OTHER ORDINANCES IN CONFLICT HEREWITH.

THE CITY COUNCIL OF THE CITY OF SPRAGUE DOES ORDAIN AS FOLLOWS:

SECTION I

DEFINITIONS:

- A. **DOG** shall mean both male and female of the species including hybrids.
- B. **OWNER** shall mean any person or persons, firm, association or corporation owning, keeping, having an interest in, having control or custody of, or harboring a dog.
- C. **AT LARGE** shall mean off the premises of the owner and not in the owner's control by leash or confined safely within a vehicle.
- D. **LEASH** shall mean a cord, chain or rope used to restrain a dog
- E. **POTENTIALLY DANGEROUS DOG** shall mean any dog that when unprovoked:
1. Inflicts injury on a human or 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
 3. 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.
- F. **DANGEROUS DOG** means any dog that:
1. Inflicts severe injury on a human being without provocation on public or private property, or
 2. Kills a domestic animal without provocation while off the owner's property, or
 3. Has been previously found to be potentially dangerous because of injury inflicted on a human or domestic animal, the owner having received notice of such finding, and the dog again bites, attacks, or endangers the safety of humans.
- G. **ANIMAL CONTROL AUTHORITY** means any person, association, or corporation, appointed or authorized (including contractual authorization) by the mayor of the city to carry out the duties of the animal control officer and enforcement under this chapter.
- H. **ANIMAL CONTROL OFFICER** means
1. Any individual employed, contracted with, or appointed by the mayor or the animal control authority for the purpose of aiding in the enforcement of this ordinance or any other law relating to the licensure, control, or seizure and impoundment of the animals, including;
 - a. Any state or local law enforcement officer, or
 - b. Any other official whose duties in whole or in part include the seizure and impoundment of any animal.
- I. **DOMESTIC ANIMAL** means an animal that is usually tamed and bred for the use of humans.
- J. **PROVOCATIONS** mean taunting, striking or screaming at a dog, or unlawful entry onto the premises where the dog is kept.

- K. **WILD ANIMAL** means an animal living in its natural state and native to the United States and not normally domesticated, raised or bred by humans.
- L. **SEVERE INJURY** means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

SECTION II

LICENSE REQUIRED AND FEES:

- A. All dogs owned, kept and harbored or maintained within the corporate limits of the City of Sprague shall be licensed by the time the animal is twelve (12) weeks of age and shall be vaccinated against rabies with proof of the vaccination.
- B. All new dogs in the city must be licensed within thirty days (30) from the time of arrival at the fee set below in section C. If such dog is not licensed within thirty days (30), the fee shall be as set forth in Section F.
- C. A dog license shall be issued by the City Clerk's office upon payment of a license fee of fifteen dollars (\$15.00) for each neutered/spayed dog and twenty dollars (\$20.00) for each dog that is not neutered/spayed. For a dangerous dog or potentially dangerous dog, a license fee of five hundred dollars (\$500.00) shall be paid with proof of address, phone number and that the owner for the dangerous dog or potentially dangerous dog is in compliance with Section VIII of this document.
- D. The owner shall state at the time of making application for such license, the owner's name, a description of the dog to be licensed in such manner that the dog may be identified with reasonable certainty, the name to which the dog answers, the address where the dog will live, the owner's mailing address, and a contact telephone number.
- E. Each license issued under the provisions of this ordinance shall be valid until and including the thirty-first day of December of the year for which it was issued, and shall be renewed annually upon payment of the fees provided herein. Renewal of existing licenses shall be due before or on the last day of February each year.
- F. The license fee for renewals made on or after the first day of March will be doubled making the cost thirty dollars (\$30.00) for each neutered/spayed dog, and forty dollars (\$40.00) for each dog that is not neutered/spayed.
- G. Citations will be issued after the first day of March to dog owners who have not licensed their dogs. The fine shall be one hundred fifty dollars (\$150.00) for each unlicensed dog.
- H. There shall not be more than three (3) dogs per residence/address/household. Owners licensing four (4) dogs at the time of the passing of this ordinance may continue to license those same four (4) dogs as long as the those same four (4) dogs remain in the owner's possession.

SECTION III

TAG AND COLLAR:

- A. Upon payment of the annual license fee and presentation of proof of vaccination against rabies, the City Clerk's office shall issue to the owner a tag for each dog so licensed.
- B. Each owner shall provide each dog with a collar to which the tag must be affixed and shall see that the collar and tag are constantly worn by the dog. In case a dog tag is lost or destroyed, a replacement tag will be issued by the clerk's office upon application by the owner and payment of two dollars (\$2.00) for each replacement.
- C. Dog tags shall not be transferable from one dog to another. No refund shall be made on any dog license fee because of the death of the dog, the owner leaves the City of Sprague, or the dog leaves the City of Sprague before expiration of the license period.

SECTION IV

DOGS AT LARGE, DOGS WITHOUT LICENSE:

- A. Any dog found without a license, not wearing a tag, or at large, is in violation of the provisions of this ordinance and may be captured by any animal control officer and impounded in any suitable place. The officer impounding any dog shall record a description of the dog, and whether or not licensed, in a book kept for that purpose.
- B. Dogs at large recognized by the animal control officer that cannot be caught or impounded are subject to a fine of one fifty hundred dollars (\$150.00).

SECTION V

TO BE AT LARGE DECLARED A PUBLIC NUISANCE:

- A. No owner or keeper of any dog shall cause or permit the dog to be at large within the corporate limits of the City of Sprague at any time. In public, the dog must be:
 - 1. Restrained by a sufficient collar or harness and on a leash, and in the control of a person of suitable age and discretion; or
 - 2. Confined safely within a vehicle.
- B. Any dog at large within the city is declared a public nuisance and in addition to the penalties hereinafter provided, may be caught and impounded and disposed of as herein provided. If a dog is observed at large by any animal control officer and recognized, a running at large fee may be issued as prescribed in Section IV, B.

SECTION VI

PUBLIC NUISANCE ANIMAL WASTE:

- A. It shall be unlawful for the owner or person having charge of any dog or animal to permit such animal to defecate 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 dog or other animal to take said dog or animal off of the private property of said person without having in the possession of the owner or person having charge of the dog or animal proper means of disposal for the feces of the dog or other 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.
- D. The owner or person in charge of an animal allowed to violate this section shall have committed a civil infraction subject to a fine of fifty dollars (\$50.00).

SECTION VII

CREATING A PUBLIC NUISANCE BY BARKING PROHIBITED:

- A. It is hereby declared to be a public nuisance for an owner, keeper or harbinger of a dog to, at any time, allow the dog to create a public nuisance by habitually barking, howling, yelping, whining, or making other oral noises while on or off the premises of such owner, keeper or harbinger.

- B. Unreasonable barking, howling, yelping or whining after ten (10:00) P.M. and before six (6:00) A.M. shall be presumed a public nuisance and cited accordingly.
- C. The penalty for a violation of this section is a warning for the first offense, fifty dollars (\$50.00) for the second offense, and one hundred dollars (\$100.00) for the third or subsequent offense occurring within 12 months.

SECTION VIII

DOG IMPOUND:

The person authorized and given the authority by the mayor to maintain a suitable pound for the purpose of carrying out the provisions of this ordinance may utilize any suitable and appropriate dog pound, whether or not maintained by the City of Sprague, for the purpose of carrying out the provisions of this ordinance.

- A. The owner of any dog impounded may reclaim such dog upon:
 - 1. The payment of the impound fee of thirty-five dollars (\$35.00), and a twenty dollar (\$20.00) daily maintenance fee that will be charged after the first 24 hours. The City will send out a notice to the dog's owner to the address given on the licensing form, and the notice will be posted at the City Hall for two business days. These notices will be posted and mailed within 48 hours of impoundment and will state the incurred fines and licensing fee.
 - 2. The payment of any other charges incurred by the City of Sprague for impounding and keeping said dog, including mileage at the city allowed rate if the dog is transported for any purpose.
- B. Any charges incurred at the pound shall be paid by the owner before release, and the pound shall not release the dog without proof that all charges have been paid that are owed to the City of Sprague.
- C. The officer impounding any dog shall record a description of the dog, and whether or not licensed, in a book kept for that purpose.

CIVIL PENALTIES:

It is hereby declared to be a civil offense for any person to permit a dog to run at large within the corporate limits of the City of Sprague in violation of the provisions of this ordinance. It shall also be a civil offense for any person owning a dog within the corporate limits of the City of Sprague to fail to have said dog licensed.

- A. For violation of this ordinance the owner shall be fined not less than one hundred fifty dollars (\$150.00) for the first offense, two hundred dollars (\$200.00) for the second offense, four hundred dollars (\$400.00) for the third or subsequent offense thereafter occurring within twelve (12) months of the first offense.
- B. All costs incurred by the City of Sprague in attempting to enforce compliance of this ordinance, including court costs, reasonable attorney fees and the collection of fines, shall be borne and assumed by the offending dog owner.

FAILURE TO PICK UP DOG FROM IMPOUNDMENT:

If any owner fails to claim, pick up and pay fees for the impoundment of their dog within 72 hours from the date of impound and/or notification the City of Sprague has the right to take the dog to a pet rescue of its choice for the proper vaccination, handling, adoption or disposal. If the owner is known, they will be fined the cost of upkeep and shots for the dog while in impound at the city impound facility.

If the dog is licensed and wearing a license tag when apprehended, the officer shall cause written notice of the impounding to be posted in the office of the City Clerk. Such notice shall be kept posted for a period of two (2) business days. If the dog is wearing a license tag when apprehended, the officer shall cause a copy of such notice to be mailed or delivered to the registered owner.

SECTION IX

REGULATION OF DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS:

Section 1. WHEN A DOG IS NOT A DANGEROUS DOG:

Dogs shall not be declared dangerous 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 premise occupied by the owner or keeper 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, RCW 16.08.090.

Section 2. ANIMAL CONTROL OFFICER: The animal control officer shall be appointed by the City of Sprague.

Upon receipt of a complaint that a dangerous or potentially dangerous dog is present within the City of Sprague, the animal control officer will investigate any complaints. The animal control officer will also investigate any reports of violations of this ordinance and report his findings to the appropriate local, county or state officials.

Section 3. ANIMAL CONTROL AUTHORITY: The animal control authority of the City of Sprague shall consist of the Mayor and the City Council, which will;

A. On receipt of an application for a certificate of registration for a dangerous or potentially dangerous dog, to assure themselves that the requirements and conditions therefore are met, and if so, to issue such registration.

B. Upon receipt of a complaint that a dangerous or potentially dangerous dog is present within the City of Sprague, to cause the animal control officer to investigate, and on his report determine whether the animal is a dangerous dog or potentially dangerous dog; provided that if the animal control officer is a member of the animal control authority he shall not take part in this determination.

C. Upon receipt of an application for a certificate of registration for a dangerous or potentially dangerous dog, the animal control authority shall furnish the owner with a copy of the requirements for confinement and control set forth herein, and on receipt of the annual fee therefore shall issue the registration certificate.

Section 4. REGISTRATION AND MAINTENANCE OF DANGEROUS DOGS AND POTENTIALLY DANGEROUS DOGS:

A. Any person possessing, harboring, keeping or maintaining a dangerous or potentially dangerous dog within the City of Sprague shall obtain a certificate of registration on application to the animal control authority.

B. The animal control authority shall issue a certificate of registration to the owner of such animal if the owner presents to the animal control authority sufficient evidence of:

(1) A proper enclosure to confine a dangerous or potentially dangerous dog and the posting of the premises with clearly visible warning signs that there is a dangerous or potentially 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 or potentially dangerous dog.

(2) A surety bond issued by a surety insurer qualified under RCW 16.08.080 in a form acceptable to the animal control authority in the sum of two hundred fifty thousand dollars (\$250,000.00) payable to any person injured by the dangerous dog; or

(3) A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW 16.08.080 in the amount of at least two hundred fifty thousand dollars (\$250,000.00) insuring the owner for liability for any personal injury inflicted by the dangerous dog.

C. The annual fee for the registering of a dangerous or potentially dangerous dog in the City of Sprague shall be the sum of five hundred dollars (\$500.00) to be paid to the City prior to the issuance of a certificate of registration.

D. If a dangerous or potentially dangerous dog is taken off the property of the owner it shall be restrained by a substantial chain or leash, and shall be under the control of a responsible person who shall be able to maintain sufficient discipline. The dog shall have a proper fitting muzzle so as not to allow the dog to bite a human or another animal. The muzzle shall not interfere with the dogs' vision or respiration.

Section 5. PROPER ENCLOSURE OF A DANGEROUS DOG OR A POTENTIALLY DANGEROUS DOG: means:

1. That while on the owner's property a dangerous dog or potentially dangerous dog is 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;
2. Posting of a sign with a warning symbol that informs people of the presence of a dangerous dog or a potentially dangerous dog, and a sign with a warning symbol that informs children of the presence of a dangerous dog.
3. Such pen or structure shall have a minimum dimension of five feet by ten feet and have secure sides and a secure top. If it has no bottom secured to the sides, the sides shall be imbedded into the ground no fewer than two feet. The enclosure shall also provide protection from the elements for the dog.

Section 6. PROCEDURE FOR DETERMINATION, APPEALS OR DUE PROCESS:

A. Upon receipt of a complaint that a dangerous or potentially dangerous dog is present within the City of Sprague, the animal control authority shall cause the animal control officer to investigate such complaint, and on receipt of his report, schedule a hearing. The hearing will be scheduled within fifteen days of the receipt of the animal control officer's report. The owner may request a different hearing date and time, provided that it is within the fifteen day time period. The Animal Control Authority shall send the owner a notice in writing stating:

1. The date, time and location of the hearing
2. The hearing is the opportunity for the owner to dispute the animal control officer's report
3. The owner may present written or oral testimony at the hearing
4. Include a copy of the animal control officer's report.

The Animal Control Authority shall examine all evidence and make their determination, by a preponderance of the evidence, whether the animal is a dangerous or potentially dangerous dog. The Animal Control Authority shall notify the owner of the dog of the determination, either by in-hand delivery or by mail, both regular and certified, return receipt requested to the last known address of the owner. The owner shall confine the dog immediately upon receipt of the determination, which shall be deemed to be three days after mailing of the notice of determination. The notification of determination shall notify the owner that he has twenty days to appeal the determination of the Animal Control Authority as set forth in section B, and that if he chooses not to appeal, he has twenty days to properly register the animal or dispose of it or cause its removal from the City.

B. The determination of the Animal Control Authority shall be final unless appealed to the District Court of the State of Washington in and for Lincoln County at Davenport, Washington within twenty days.

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON IN AND FOR LINCOLN COUNTY

IN RE THE DETERMINATION OF)
THE CITY OF SPRAGUE)
ANIMAL CONTROL AUTHORITY)
RE:)
)
)
)
)
Name and description of animal:)
)
OWNED BY: _____)
_____)

NO. _____

APPEAL OF DETERMINATION
OF POTENTIALLY DANGEROUS/
DANGEROUS DOG

I, the owner of the above-described dog, appeal the determination of the City of Sprague Animal Control Authority that the dog is a potentially dangerous/dangerous dog.

I understand that if I fail to appear on the date and at the time set by the Court for hearing that the determination of the City of Sprague Animal Control Authority shall be deemed upheld.

DATED this ____ day of _____, 20__.

Owner's Signature

Owner's Name printed

Owner's address

Owner's phone number

C. Persons that violate the dangerous dog provisions above are subject to conviction or violation of similar provisions under Chapter 16.08 RCW of a class C felony. Notwithstanding any other provisions of this ordinance, nothing herein is intended to conflict with state law or subject any person to conviction of a crime by the City of Sprague for violations of said dangerous dog ordinance.

SECTION X

REPEAL OF CONFLICTING ORDINANCES:

This ordinance repeals all other previous dog ordinances including Ordinances No. 787 and No. 798.

SECTION XI

SEVERABILITY: If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SECTION XII

EFFECTIVE DATE:

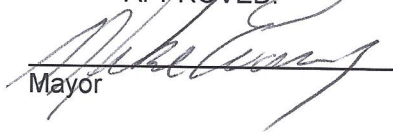
This ordinance shall take effect and be in full force five days after its passage, approval and publication in summary form. Passed by the City of Sprague Council this 19th day of September 2012.

ATTEST:



Clerk/Treasurer

APPROVED:



Mayor

APPROVED AS TO FORM:

City Attorney