

CITY OF PALMER, ALASKA

ORDINANCE NO. 416

AN ORDINANCE AMENDING PALMER MUNICIPAL CODE, CHAPTER 6.04.110 D, RESTRAINT, CHAPTER 6.12, LICENSING, CHAPTER 6.14, DOG BITE AND ATTACK INCIDENTS, CHAPTER 6.16.020, IMPOUNDMENT FEES AND CHAPTER 6.20, RABIES CONTROL.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be of a permanent nature and shall become a part of the City of Palmer Code of Ordinances.

Section 2. Severability. If any provisions of this ordinance, or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 6.04.110 is amended to read as follows:

6.04.110 Restraint. "Restraint" means

A. Physical confinement, as by secure leash, chain, cable, fence or building; provided, if the confinement is by leash, chain or cable held by a person, the person must be physically able to control the dog by such means.

B. Under voice control by a competent person when the dog is engaged in a recognized dog activity, e.g., dog show, or form of training put on by an organized group where the training requires that the dog not be physically confined.

C. Under competent voice control of a person who is physically present with an animal when that animal is on the property of the owner.

D. A police dog under the competent voice control of a law enforcement officer, while the police dog is engaged in the performance of law enforcement activity.

Section 4. Section 6.12.010, 020 and 030 is amended to read as follows:

Chapter 6.12

LICENSING

Sections:

6.12.010 License required when--Application--Immunization--Term--License transfer.

6.12.020 Fees.

6.12.030 Tag and collar.

6.12.010 License required when--Application--Immunization--Term--License transfer. A. Application. Application for a license for a dog shall be to the police chief or his designated subordinate in accordance with this title, and shall state the name and address of the owner and the name, breed, color, age and sex of the dog.

B. Immunization. No license or tag for a dog shall be issued unless proof is shown that the rabies immunization for the dog is valid through the end of the term of the license. Such proof shall consist of a statement or receipt from a licensed veterinarian, showing the expiration date. The expiration date shall be noted by the person issuing the license. This notation will constitute the required proof during the effective period of the immunization.

C. Term. All licenses required by this chapter shall be issued for a term of one year.

D. License Transfer. No person shall use a dog license receipt or license tag issued for one dog on another dog.

6.12.020 Fees. The license fee shall be five dollars per year (or part of a year) for each dog over six months old and shall become due January 1st of each year. The fee shall be collected upon issuance of the license.

6.12.030 Tag and collar. A. Issuance. Upon complying with the provisions of Sections 6.12.010 and 6.12.020 of this title, there shall be issued to the owner for each dog a numbered receipt and a tag stamped with an identification number and the year for which issued.

B. Placement. A tag shall be issued for each dog. Every owner is required to see that the tag is securely fastened to the dog's choke chain, collar or harness, which must be worn by the dog at all times except when kenneled, fenced, in harness, in competition, in training or while hunting, except a law enforcement agency need not affix a license to a police dog.

C. Lost Tag. In the event that the license tag issued for a dog is lost, the owner may obtain a duplicate tag upon the payment of two dollars and fifty cents.

Section 5. Chapter 6.14 is amended to read as follows:

Chapter 6.14

DOG BITE AND ATTACK INCIDENTS

Sections:

- 6.14.010 Dog bite and attack incidents.
- 6.14.020 Redemption conditions.
- 6.14.030 Scope of hearings before the Animal Control Board.
- 6.14.040 Hearing procedure.
- 6.14.050 Animal Control Board.

6.14.010 Dog bite and attack incidents. A. The Chief of Police shall investigate each dog bite or attack incident which is reported. The Chief will decide whether each dog involved may be vicious, dangerous or neither.

B. If the dog meets these criteria and its actions are not excused under subsection C below, it shall be classified as follows:

1. Dangerous, meaning the dog has, without provocation, approached, in a threatening or terrorizing manner, any person in an apparent attitude of attack, where such approach was not made upon the premises to which the owner had the legal right of possession.

2. Vicious, meaning the dog

- a. has bitten, inflicted injury, assaulted otherwise attacked or endangered the safety of a human being; or
- b. has without provocation, bitten, inflicted injury, assaulted or otherwise attacked or endangered the safety of a domestic animal; or

c. has been found dangerous or vicious on a prior occasion by the Chief of Police or the Board; or

d. is in violation of a previous order of the Board wherein the dog was classified as a dangerous or vicious dog.

C. Notwithstanding the criteria set out in subsections B 1 and 2 above, no police dog is considered dangerous or vicious, if the approach, injury or damage occurred while the dog was engaged in the performance of law enforcement activity and no dog is considered dangerous or vicious if the approach, injury or damage caused by the dog was accidental or sustained by a person of sufficient age and understanding who,

1. at the time, was committing a willful trespass or other tort upon the premises to which the owner had the legal right of possession, or

2. was tormenting, abusing or assaulting the dog, or has in the past tormented, abused or assaulted the dog, or

3. was committing or attempting to commit a crime.

D. If the Chief decides the dog may be dangerous or vicious, the Chief will refer the matter to the Board to determine whether the dog is dangerous or vicious or neither and whether to impose any or all of the conditions set out in PMC 6.14.020. In addition, if the police officer on the case decides the dog exhibits or exhibited a propensity to cause further inexcusable harm, the officer may immediately impound the dog.

E. At any time, upon request of the owner, the Chief and owner may agree on a place to impound the animal other than the Mat-Su Borough Animal Shelter.

F. If the Chief determines that the owner (other than a law enforcement agency) has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning, the Chief will refer the matter to the Board even if the owner does not attempt to redeem the dog.

6.14.020 Determination and conditions. A. If the Chief of Police decides that a dog may be dangerous or vicious and has referred the matter to the Animal Control Board, the Board shall hold a hearing to determine whether the dog is dangerous or vicious, and if the Board so finds, the Board may order the owner to comply with some or all of the following conditions:

1. Registration. The Board may order the owner of a dangerous or vicious dog to register such dog with the Palmer Police Department. The application for such registration shall contain the name and address of the owner, the breed, age sex, color, and any other identifying marks of the dog, the location where the dog is to be kept if not at the address of the owner and for a registration fee of twenty-five dollars and two color photographs, three inch by five inch, clearly showing the color and approximate size of the dog. Each dog registered pursuant hereto shall be assigned an official registration number by the department. A certificate of registration shall be of such form and design and shall contain such information as the Chief shall prescribe and shall be issued to the owner upon payment of the registration fee and presentment of sufficient evidence that the owner has complied with all of the orders of the Chief as prescribed.

2. Confinement. The Board may order the owner of a dangerous or vicious dog to confine the dog, at all times, either indoors or if outdoors, in a proper enclosure for a dangerous or vicious dog up to and including one consisting of a securely enclosed and locked pen or structure, suitable to prevent the entry of young children or any part of their bodies or other foreign objects, and designed to prevent the animal from escaping. Such pen or structure shall have secure sides, prevent the dog from digging his way out through the bottom or escaping over the top. The pen or structure shall also provide the dog with protection from the elements. All pens and enclosures must comply with all zoning and building regulations of the City. The owner shall also display in a conspicuous manner a sign using the words "Beware of Dog" on the pen or structure or near the entrances to the residence where the dog is kept. At any time that the dog is not confined as required herein, the dog shall be muzzled in such a manner as to prevent it from escaping, biting or injuring any person, and kept on a leash no longer than four feet with the adult owner or some other responsible adult attending such dog.

3. Liability insurance. The Board may order the owner of a dangerous or vicious dog which has caused a injury to any person or severe injury to any animal to maintain, in full force and effect, a liability insurance policy issued by an insurance company authorized to sell insurance in Alaska or by an "eligible surplus line insurer," as defined in AS 21.34.900(3), in the amount of at least one hundred thousand dollars for coverage against any damage or injury that may be caused by the dog during the period for which licensing is sought, which shall contain a provision requiring the City be named as an additional insured for the sole

purpose of being notified by the insurance company of any cancellation, termination or expiration of the policy.

4. Spaying or neutering. The Board may order the owner of a dangerous or vicious dog to arrange for the alteration of such reproductive capacity through spaying or neutering of the dog. Such alteration shall be at the owner's expense.

5. Obedience class. The Board may order the humane destruction of any dog that has been found to be vicious.

B. In the event the dog has already been impounded and if the owner consents to the conditions as set by the Board, the dog, unless destroyed, shall be released to the owner upon compliance with the conditions of release, and payment of required fees. If the owner does not consent to the conditions, the Board may order the dog euthanized no sooner than ninety-six hour (Saturdays, Sundays and holidays excluded) after service upon the owner of the Board's decision. Oral notice to the owner at the hearing shall constitute one means of service.

C. If the Board determines that the owner has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning, the Board may require that the owner comply with any or all of the subsections contained in Subsection A above (other than A 6) as a condition to owning in the City any other dog. Such requirements may not extend beyond three years commencing with a determination and classification of the owner's dog as vicious.

6.14.030 Scope of hearings before the Animal Control Board.

A. The Board may hear and decide whether the dog is vicious, dangerous or neither. The evidence must show the Board that it is more likely than not that the actions of the dog fit one of the definitions set forth in PMC 6.14.010 B. If such showing is made, the owner must show the Board that the conditions in PMC 6.14.010 C existed.

B. If the Board determines that the dog is dangerous or vicious, then the Board is to determine whether to impose conditions of continued ownership in the City, and if so, what conditions to impose. In making these decisions, the Board will consider the following:

1. the observed and reported past and present behavior of the dog;
2. the circumstances of the incident and the extent of the injury to the attacked person or animal;
3. the reasonably foreseeable harm that could occur if no conditions are imposed;
4. the owner's past history of compliance with this title, including compliance with redemption conditions which the Board has previously imposed on the owner; and
5. the nature and location of any restraint or confinement system which the owner actually has in place at the time the Board makes the decision.

C. If the Chief of Police has referred the matter to the Board under PMC 6.14.010 F, the Board will determine whether the owner has trained or conditioned a dog to be vicious or allowed or permitted such training or conditioning. If the Board is so persuaded, it shall place such conditions as are appropriate upon the owner's owning another dog in the City.

6.14.040 Hearing procedure. A. The Board shall set a hearing date to be held within ten (10) days of referral of the matter by the Chief of Police and notice thereof to the owner.

B. A quorum shall consist of two members of the Board. If only two members of the Board are present, it will take a unanimous vote to uphold the decision of the Chief of Police.

C. The Board shall review the written decision of the Chief, hear any statements from the victim, owner and the Chief, and review any pertinent materials. Additional witnesses who observed the event shall also be heard, and the owner may present witnesses to testify to the general character or demeanor of the dog, subject to the Board's discretion to limit cumulative, redundant or irrelevant testimony. The Board, the Chief and the owner shall

have the opportunity to question witnesses. Formal rules of evidence will not apply.

D. An owner aggrieved by the decision of the Board may appeal to the superior court. Written notice of intent to appeal shall be delivered personally to the Chief within seventy-two (72) hours (Saturdays, Sundays and holidays excluded) of service upon the owner of the Board's decision. If the dog is impounded, the Chief shall demand advance for one month of room and board expense should the owner file a notice of intent to appeal to the superior court.

6.14.050 Animal Control Board. A. The Animal Control Board shall be composed of three members and one alternate, all appointed by the Mayor and subject to the confirmation by the Council. Except for the initial Board member, the terms shall be for three years with one member's term to expire each year. There shall be one member selected from each of the following groups to the extent practicable:

1. the general public, provided the person is not an employee or contractor of the City (initial term one year);
2. licensed veterinarians (initial term two years);
3. organized dog interest groups (initial term three years).

B. The members shall appoint annually a chairman and vice chairman.

C. The Board may establish rules of procedure; provided, however, Board meetings shall be open to the public and taped, and minutes shall be kept.

Section 6. Section 6.16.030 is amended to read as follows:

6.16.030 Impoundment fee. A. Any animal impounded under this section may be reclaimed as provided in this section upon payment by the owner to the chief animal control officer or designee of a fee in accordance with the following schedule in the case of each animal properly licensed under this title, or twenty-five dollars in the case of each animal not properly licensed under this title, plus the additional fee indicated for each day or part of a day such animal is kept. Fees set in this section shall be collected and retained by the borough to help defray the costs of keeping such animal for the period set forth in this chapter.

Impoundment Fees

Unlicensed dogs and other animals	\$25.00
Licensed dogs and other animals	15.00

Daily Board Fees

Dogs	5.00
Cats	3.00
Other animals	
weighing less than 15 pounds	5.00
weighing more than 15 pounds	25.00

Humane Destruction and Disposal

Small Animals	5.00
Large Animals	15.00

Impoundment Release 10.00

Daily Quarantine Fee 10.00

Any impounded animal which, by reasons of its size, strength dangerous propensities or any other physical or behavioral characteristics cannot reasonably be kept in the normal animal shelter facilities may be reclaimed upon payment of a twenty-five

dollar impoundment fee plus the actual cost reasonable incurred in transporting and keeping such animal.

Section 7. Section 6.20.010 is amended to read as follows:

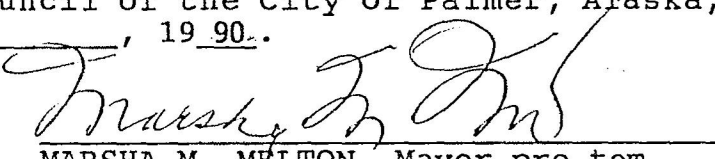
6.20.010 Quarantine procedure. A. Every animal (other than a police dog owned by a law enforcement agency) which bites a person shall be promptly reported to the police department and health officer and shall thereupon be securely quarantined at the direction of the health officer for a period of ten days and shall not be released from such quarantine except by permission of the health officer. In the discretion of the health officer such quarantine may be on the premises of the owner or at the shelter designated as the area animal shelter or any veterinary hospital of the owner's choice. In every event, quarantine shall be at the owner's expense. In case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the animal shelter.

Section 8. Publication and Effective Date. This ordinance shall become effective immediately upon its adoption. Publication shall be by posting a copy hereof on the City Hall bulletin board for a period of ten (10) days following its adoption, and further it shall be published by being printed and included in the Palmer Municipal Code at its next regular supplementation and printing. A notice of public hearing shall be given by such posting at least five (5) days before final passage.

First Reading: June 26, 1990

Public Hearing &
Second Reading: July 10, 1990

Adopted by the City Council of the City of Palmer, Alaska,
this 10th day of July, 1990.


MARSHA M. MELTON, Mayor pro tem

DAVID L. SOULAK
City Clerk