

CITY OF BINGEN

ORDINANCE NO. 2017-04-675

AN ORDINANCE AMENDING BMC 6.04, DOGS

WHEREAS, the City Council has considered the effectiveness of Chapter 6.04 of the Bingen Municipal Code

WHEREAS, the City Council has determined that it is in the best interest of the City to revise the provisions of Chapter 6.04:

NOW, THEREFORE, the City Council of the City of Bingen do ordain as follows:

Section 1. Chapter 6.04 of the Bingen Municipal Code (BMC) is incorporated here by reference and by such reference set forth at full length.

Section 2. Chapter 6.04 as currently written is repealed and hereafter shall read as follows:

Chapter 6.04

DOGS*

Sections:

- 6.04.010 Definitions.
- 6.04.020 License required.
- 6.04.030 Tag specification, fees, duration and exceptions.
- 6.04.035 Rabies vaccination required.**
- 6.04.040 Failure to license.
- 6.04.050 Licensing enforcement procedure.
- 6.04.060 City clerk to keep records.
- 6.04.070 Barking declared a nuisance.
- 6.04.080 Dog waste.
- 6.04.090 Running at Large.
- 6.04.100 Nuisances.
- 6.04.110 Nuisance-Notice and order to abate.
- 6.04.113 Dangerous dogs – Incorporation of RCWs.**
- 6.04.115 Dangerous dogs – Banned.**

- 6.04.120 Potentially dangerous dogs – Compliance with state law required – Registration Fees
- 6.04.123 Potentially dangerous dogs – Identification
- 6.04.125 Potentially dangerous dogs – Requirement for restraint.
- 6.04.126 Dogs not declared dangerous or potentially dangerous.
- 6.04.127 Dangerous or potentially dangerous dogs – Confiscation – Conditions.
- 6.04.129 Potentially dangerous dogs – Notification of removal or death.
- 6.04.130 Appeal Penalties for owners of dogs which attack – Entry in dog fights.
- 6.04.140 Authorization to impound.
- 6.04.150 Impoundment procedures.
- 6.04.160 Impounded Dogs-Hearing-Effect or Judgment.
- ~~6.04.170 Dangerous dogs-Incorporation of RCW's.~~
- ~~6.04.180 Dangerous dogs-Banned.~~
- 6.04.190 Redemption fees and charges.
- 6.04.200 Contract, animal control authority, authority.
- 6.04.210 Interference with impounding prohibited.
- 6.04.220 Right of self-help.
- 6.04.230 Severability.

6.04.010 Definitions.

The following words and phrases used or referred to in this chapter shall have the following meanings unless a different meaning is evident from the context:

- A. “Abatement” means the removal, stoppage, extinguishment or destruction of that which causes the nuisance.
- B. “Animal control authority” means a person, association or corporation, appointed or authorized by the City of Bingen 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.
- C. “Animal control officers” means officers employed by the animal control authority and, in addition, includes police officers.
- D. “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.
- E. “Dangerous dog” means any dog that **according to the records of the animal control authority** (a) **has inflicted inflicts** severe injury on a human being without provocation on public or private property, (b) **kills has killed** a domestic animal without provocation while the dog is off the owner's property, or (c) has been previously found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans. (i.e., RCW 16.070.080 (2) or as hereafter amended).

- F. “Own” means owning, keeping, leasing, possessing or harboring a dog. “Owner” means any person having an interest in, or right of possession to, a dog, or any person having control, custody or possession of a dog, or by reason of the dog being seen residing consistently at a location, the person or persons resident at that location.
- G. “Person” means any person, firm, corporation or association.
- H. “Potentially dangerous dog” means any dog that when unprovoked: (a) Inflicts bites on a human or a domestic animal either on public or private property, or (b) 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 to cause injury or otherwise to threaten the safety of humans or domestic animals. (i.e., RCW 16.070.080 (1) or as hereafter amended).
- I. “Public places” for the purposes of this chapter, shall mean any public building, public roads, streets and highways, public rights of way, city parks, school bus stops, and all commercial establishments wherein the public is invited to do business unless the proprietor has elected to allow a dog or dogs on those commercial premises and exhibits a sign approved by the City stating there may be a dog at large on the premises.
- J. “Secure enclosure” means a structure that prevents the dog from reaching a public sidewalk, easement, right-of-way, road or adjoining property and must be located where the animal does not interfere with legal access to the owner’s property.
- K. “Tag” means a numbered metal or plastic identification license sold by the city to an owner/custodian for a specific dog. Rabies identification or other identification may not be substituted or accepted in lieu of a license tag. (Ord. 557 § 2, 2009).

6.04.020 License required.

From the time the ordinance codified in this chapter is adopted and thereafter, until repealed or amended, it shall be unlawful for any person, firm, or corporation to own, keep, or maintain any dog over the age of six months in the incorporated areas of the City of Bingen without paying the license fee and obtaining a license from the city clerk and keeping said license attached to the dog. (Ord. 557 § 2, 2009).

6.04.030 Tag specification, fees, duration and exceptions.

The dog license referred to above shall be an annual license and shall expire at midnight on the 31st day of December of the year in which the same was issued. It shall be a metal or plastic tag bearing an identification number and the words “City of Bingen.” The tag shall be attached to a dog collar to be worn by the dog at all times. Effective January 1, 2010, the fee for such license shall be twenty-five dollars (\$25.00) per year and, in the event the owner provides proof of a

neutered or spayed animal, the fee shall be reduced to ten dollars (\$10.00). Proof of rabies shot must be shown prior to purchase of tag. (Ord. 557 § 2, 2009).

6.04.035 Rabies vaccination required.

A. All dogs over the age of six months shall have a current rabies vaccination administered by a licensed veterinarian. The owner is required to attach a tag to a collar showing that the dog has been properly vaccinated. A current certificate of vaccination must be on file at the Bingen city clerk's office.

B. Any dog that does not have a valid certificate of rabies vaccination and that has bitten any person which resulted in the person bleeding shall be immediately impounded for a period of at least ten days. No dog under such impoundment shall be released from the impoundment without approval of the animal control authority. The location of such impoundment shall be determined by the animal control authority and shall be at the sole expense of the owner/custodian of the impounded dog.

C. If the owner/custodian of any such dog refuses to produce the dog, the owner/custodian shall be subject to immediate arrest by a police officer if probable cause exists to believe that the dog (1) does not have a valid rabies vaccination certification, (2) has bitten a person, and (3) the owner/custodian willfully refuses to produce the dog on demand for impound by the animal control authority. Such arrested person shall be taken, as soon as practicable, before the judge of the municipal court who may order immediate production of the dog for impoundment.

D. Any person who either willfully fails or refuses to produce a dog that does not have a valid certificate of rabies vaccination and that has bitten any person which resulted in the person bleeding, or destroys such dog is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars (\$1,000) or incarceration of not more than ninety (90) days, or by both such fine and imprisonment.

E. If any dog under the impoundment as described above in subsection (B) dies, the animal control authority shall take immediate action to obtain a pathological examination of the dog. If the dog is found to be rabid, the animal control authority shall notify the county public health office of any reports of human contact with the dog. Any dog which has not been vaccinated against rabies and known to have been bitten by a rabid animal shall be immediately and humanely destroyed.

6.04.040 Failure to license.

Any person, firm, or corporation failing to license a dog and failing to keep the license attached to the dog as required in Section 6.04.020, or to annually renew that license, may receive a citation from the animal control authority or the Bingen-White Salmon Police Department or other City designee, charging said person, firm, or corporation with failure to license said dog. Thereafter, said person, firm, or corporation shall have ten days within which to license said dog

and failure to do so within that period of time will subject the owner to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). (Ord. 557 § 2, 2009).

6.04.050 Licensing enforcement procedure.

All dogs not licensed under this section, or who do not exhibit the identification tag provided for in BMC 6.04.020 are declared to be public nuisances and may be impounded as provided in this BMC Chapter, including BMC 6.04.140 – 6.04.210. (Ord. 557 § 2, 2009).

6.04.060 City clerk to keep records.

The Bingen city clerk shall keep a record of all dog licenses, showing the number of each license, the name, address and telephone number, if any, of the applicant or owners, and the sex and general description of each dog so licensed. (Ord. 557 § 2, 2009).

6.04.070 Barking declared a nuisance.

Every person, persons, firm, partnership or corporation having the ownership or control of any dog, either by itself or by its agent, who permits such dog to howl, yelp, whine, bark, or makes any noise in such a manner as to disturb any person or neighborhood to an unreasonable degree; shall be guilty of a nuisance; and any person so affected by such nuisance may file a complaint with the Bingen-White Salmon Police Department against said person, persons, firm, partnership or corporation, or agents of same, having control of such dog, whereupon the owner, person, persons, firm, partnership or corporation shall be subject to issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars. Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). (Ord. 557 § 2, 2009).

6.04.080 Dog waste.

- A. It shall be unlawful for the owner or person having charge of any dog to permit, either willfully or by failure to exercise due care, such dog to defecate in any area of the city other than the premises of the owner or person having charge or control of the dog, unless said owner or person having charge takes immediate steps to remove and properly dispose of said feces.
- B. “Disposal” is defined, for the purposes of this section, as the removal of feces by means of a bag, scoop or other device and eventual disposal in a trash receptacle, ~~by burying or by other means of lawful disposal.~~
- C. A violation of this section will subject the violator to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be

one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). (Ord. 557 § 2, 2009).

6.04.090 Running at large.

- A. Any owner or custodian of a dog running loose or being at large upon any public place, or upon private property owned by a person or persons other than the owner or custodian of the dog, unless such dog is confined and controlled by a leash, rope, device or cord not exceeding eight (8) feet in length, shall be in violation of this section.
- B. Any person who does not or cannot control a dog or dogs upon any public street, highway, or public place, or upon private property owned by a person or persons other than the owner or custodian of the dog, regardless of whether the dog is on a leash, rope, device or cord complying with the requirements of this chapter, shall be in violation of this section.
- C. Any leash, rope, device or cord used to control or confine a dog must be of such material and of such size to ensure that the dog will be controlled and restrained at all times. Failure to use such a leash, device or cord shall be a violation of this section.

The first violation of this section within a six-month period will subject the violator to the issuance of a notice of infraction. Upon a finding that the infraction has been committed, the base fine shall be one hundred dollars (\$100.00). Infractions shall be enforced in accordance with Chapter 7.80 Revised Code of Washington (RCW) and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). Second and subsequent violations of this section within a six-month period shall be a misdemeanor and each shall be punishable by a maximum penalty of \$1,000 fine and/or 90 days in jail. (Ord. 557 § 2, 2009).

6.04.100 Nuisances.

- A. All violations of this chapter are detrimental to public health, safety and welfare and any violation may be declared to be public nuisances. Such declaration shall be at the sole discretion of the city and may be declared as set forth on BMC 6.04.110 below or by the City's mayor or designee.
- B. Such violations are not limited to but may include:
 - 1. Any dog which chases runs after or jumps at vehicles using public streets and alleys;
 - 2. Any dog, and especially a dangerous or potentially dangerous dog, running at large within the city pursuant to Bingen Municipal Code 6.04.090;

3. Any dog which howls, yelps, whines, barks, or makes any noises in such a manner as to disturb any person or neighborhood to an unreasonable degree as set forth in Bingen Municipal Code 6.04.070;
 4. Any dog kept, harbored, or maintained and known to have a contagious disease, unless under the treatment of licensed veterinarian;
 5. A female dog, whether licensed or not, while in season, accessible to other dogs for purposes other than controlled and planned breeding;
 6. Any dog which causes damage to property, other than the property of the dog's owner or person having physical charge and control of the dog; or
 7. Any dog in or maintained in violation of any provision of this chapter.
- C. All nuisances under this chapter may be abated as provided in Bingen Municipal Code 6.04.110. In addition, any owner or person having charge of any dog 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. (Ord. 557 § 2, 2009).

6.04.110 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 in separate residences, or regularly employed **individual** in any neighborhood, that any dog is a nuisance as defined in BMC 6.04.100, the animal control authority or the Bingen-White Salmon Police Department or other City designee, shall serve notice of violation and order of abatement upon the owner of the dog directing that the nuisance be abated.
- B. Notice – Final determination unless appealed. Unless timely appealed, a notice of violation and order of abatement, upon effective service of same, shall be a final determination, that the dog 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 dog if the identity of the owner cannot be reasonably ascertained;
 2. The license number, if available, and description of the dog;
 3. A statement that the animal control authority or other City designee has determined the dog 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 notice of violation and order of abatement is a final determination unless appealed and that an appeal must be filed not more than five business days after effective service of the notice of violation and order of abatement;
 6. A copy of BMC 6.04.130 regarding appeal procedures.
- D. Notice – Service. Service of the notice of violation and order of abatement upon the owner of the dog may be made either by personal service to the owner, by posting such notice at the residence of the owner and, if known, by certified mail and regular mail to the last known address of the owner. Service is affected at the time of personal service or posting. If there is no owner known to the City and no residence upon which to post notice, service may be affected by posting notice at the Bingen post office and the City Clerk’s office. Service is effective upon such posting.
- E. 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 clerk of the City of Bingen not more than five business days after service of the notice of violation and order of abatement. Appeals shall be heard by the Bingen Municipal Court and conducted in accordance with BMC 6.04.130 and RCW 7.80.100 (1)-(4) or as amended.
- F. Penalty. Any person who willfully fails to comply with an order to abate a nuisance is guilty of a misdemeanor and shall be subject to a fine of \$1,000 and 90 days in jail or both. (Ord. 557 § 2, 2009).

6.04.120 — Potentially dangerous dogs.

- ~~A. Declaration. Upon determination by the animal control authority that a dog is a potentially dangerous dog as defined in BMC 6.04.010 (H), the owner shall be served with a potentially dangerous dog declaration.~~
- ~~B. Declaration — Final determination unless appealed. Unless timely appealed, a potentially dangerous dog declaration, upon effective service of same, shall be a final determination that the dog is a potentially dangerous dog.~~
- ~~C. Notice — Contents of a potentially dangerous dog declaration. A potentially dangerous dog declaration shall contain:~~
- ~~1. The name and address, if known, of the owner of the dog;~~
 - ~~2. The license number, if available, and description of the dog;~~

3. ~~A statement that the animal control authority has found the dog to be a potentially dangerous dog as defined in BMC 6.04.010 (H), and a concise recitation explaining why the declaration has been made;~~
 4. ~~A statement that the potentially dangerous dog declaration is a final determination unless appealed and that an appeal must be filed not more than five business days after service of the aggressive dog declaration;~~
 5. ~~A copy of BMC 6.04.120 and a copy of BMC 6.04.130 regarding appeal procedures;~~
- ~~D. Notice Service. Service of the potentially dangerous dog declaration upon the owner of the dog may be made either by personal service on the owner, by posting such notice at the residence of the owner and, if known, by certified and regular mail to the last known address of the owner. Service is affected at the time of personal service or posting. If there is no owner known to the City and no residence upon which to post notice, service may be affected by posting notice at the Bingen post office and the City Clerk's office. Service is effective upon such posting.~~
- ~~E. Appeal. An appeal of a potentially dangerous dog declaration must be served upon the City of Bingen not more than five business days after service of the potentially dangerous dog declaration. Appeals shall be heard by the judge of the Bingen municipal court and conducted in accordance with BMC 6.04.130.~~
- ~~F. Requirements for Potentially Dangerous Dogs. Strict compliance with each of the following conditions is required to keep a potentially dangerous dog in the city of Bingen:~~
1. ~~In addition to any license required under the provisions of this chapter, all owners of a dog declared a potentially dangerous dog must obtain a city of Bingen potentially 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. The City of Bingen potentially dangerous dog certificate of registration shall be issued upon completing the requirements of this section.~~
 2. ~~A potentially dangerous dog whenever outside the owner's dwelling and not on a leash, shall be restrained in a secure enclosure. A potentially dangerous dog shall not be off the owner's property unless muzzled and restrained by chain, leash or cord no longer than eight feet, adequate to contain the animal, and under the control of a person 18 years of age or older and physically able to restrain and control the animal. 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 potentially dangerous dog shall secure liability insurance coverage issued by an insurer qualified under Title 48 RCW in the amount of at least \$100,000, insuring the owner for any personal injuries inflicted by the dog. Proof of such coverage must be provided to the City upon request.~~

~~4. The owner of a potentially dangerous dog shall be required to post its premises with a clearly visible sign warning that there is a 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 potentially dangerous dog.~~

~~G. Failure to comply with potentially dangerous dog requirements. Any potentially dangerous dog may be seized and removed by an animal control officer or other City designee if the owner fails to comply with any requirement for a potentially dangerous dog as set forth in BMC 6.04.120 F., as well as any of the following:~~

~~1. The dog is not validly registered under this chapter; or~~

~~2. The owner does not secure liability insurance coverage as required by this chapter; or~~

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

~~4. The owner refuses to allow inspection of the secure enclosure by the City's designee or animal control authority; secure enclosures for dangerous and potentially dangerous dogs shall be subject to inspection at any time; or~~

~~5. The dog is outside of the dwelling of the owner or outside of a secure enclosure and not muzzled and restrained by a substantial chain or leash and under the control of a person 18 years of age or older and physically able to restrain and control the animal; or~~

~~6. The owner has failed to post the property with warning signs as required by this chapter; or~~

~~7. The owner of a dog that has been declared dangerous or potentially dangerous dog fails to immediately notify the City or the animal control authority when such dog is sold or is given away or moves to another address; or~~

~~8. The owner of a dangerous or potentially dog that has moved to a new address within the City of Bingen fails to immediately notify the City or the animal control authority of the new address and, if applicable, the new owner.~~

~~H. — Penalty. Failing to comply with any potentially dangerous dog requirement is a gross misdemeanor, punishable by a fine of up to \$5,000 and one year in jail or both. A potentially dangerous dog seized and removed in violation of potentially dangerous dog requirements may not be released during investigation or prosecution for failure to comply with the potentially dangerous dog requirements. Any person convicted of failing to comply with the potentially dangerous dog requirements shall make restitution to the city of Bingen for all costs incurred in boarding and disposition of such dog and shall forfeit any interest in such dog.~~

~~I. — The provisions of this section shall not apply to dogs used by law enforcement officials for police work. (Ord. 557 § 2, 2009).~~

6.04.113 Dangerous dogs – Incorporation of RCWs.

The City adopts, by incorporation, those portions of RCW 16.08.070, 16.08.080, 16.08.090 and 16.08.100, as those statutes may be amended, that apply in any manner to dangerous dogs. This incorporation is for clarification and not to diminish or expand those statutes or the City’s responsibility regarding those statutes.

6.04.115 Dangerous dogs – Banned.

No person, firm, corporation, organization, or department may possess, harbor, keep, or have in custody in the City of Bingen, a dangerous dog as dangerous dog is defined in BMC 6.04.010 (E). This prohibition shall not apply to any such dog temporarily housed at the place of business of a licensed veterinarian of any such dog designated dangerous in the City and properly certified and in compliance with the requirements of keeping a dangerous dog on and before March 3, 2009.

6.04.120 Potentially dangerous dogs – Compliance with state law required – Registration – Fees.

It is unlawful for any person to own or harbor a dangerous dog or potentially dangerous dog, except in conformance with Chapter 16.08 RCW, or as amended, and in conformance with this chapter.

A. It is unlawful for an owner to have a potentially dangerous dog in the city without a certificate of registration issued under this section. The registration for potentially dangerous dogs shall be in addition to the registration and tag fees required in Section 6.04.020. This section shall not apply to dogs used by law enforcement officials for police work.

B. The animal control authority shall issue a certificate of registration to the owner of a potentially dangerous dog upon payment of the annual registration fee of one hundred dollars.

C. The animal control authority shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner presents to the animal control authority sufficient evidence of:

1. A proper enclosure to confine a potentially dangerous dog. For purposes of this chapter, a proper enclosure means, while on the owner's property, a potentially dangerous dog shall be securely confined indoors or in a secure enclosure suitable to prevent the dog from escaping and shall also provide protection from the elements for the dog;

2. Posting of the owner's property with a clearly visible sign warning that there is a 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 potentially dangerous dog; and

3. One of the following:

a. A surety bond issued by an insurer qualified under Chapter 48.28 RCW, in a form acceptable to the animal control authority, in the sum of at least one hundred thousand dollars (\$100,000), payable to any person injured by the potentially dangerous dog, or

b. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of one hundred thousand dollars (\$100,000), insuring the owner for any personal injuries inflicted by the potentially dangerous dog;

6.04.123 Potentially dangerous dogs – Identification.

Any dog declared by the animal control authority to be a potentially dangerous dog shall be identified in the following manner:

A. Microchip.

1. Any potentially dangerous dog shall be required to be injected with a microchip for electronic identification as directed by the animal control authority;

2. Such microchip will be a type for use by the animal control authority. The owner shall provide the microchip number to the animal control authority; and

3. Such microchip shall be applied to the dog at the expense of the owner or keeper of the dog.

B. Collar

1. Any potentially dangerous dog shall be required to wear a distinctive collar provided by the city, denoting classification of the dog as required by the animal control authority.

2. Lost collar replacement fee shall be twenty (\$20) dollars.

6.04.125 Potentially dangerous dogs – Requirement for restraint.

It is unlawful for an owner of a potentially dangerous dog to permit the dog to be outside the proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash not more than four feet in length, and under physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

6.04.126 Dogs not declared dangerous or potentially dangerous.

Dogs shall not be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing willful trespass or other tort upon the premises occupied by the owner of the dog, or in the past has been observed or reported to have tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

6.04.127 Dangerous or potentially dangerous dogs – Confiscation – Conditions.

A. Confiscation of Potentially Dangerous Dogs.

1. Any potentially dangerous dog shall be immediately confiscated by the animal control authority if the:

a. Dog is not validly registered under chapter; or

b. Owner does not maintain the liability insurance or bond required under this chapter; or

c. Dog is:

i. Not kept in the proper enclosure; or

ii. Outside of the dwelling of the owner, or outside the proper enclosure, and not muzzled and under physical restraint of the responsible person; or

d. Dog is not wearing a potentially dangerous dog collar; or

e. Dog has not received a microchip and supplied the microchip number to the animal control authority.

2. In addition, the owner shall be guilty of a gross misdemeanor.

B. Compliance Required for Return. Any potentially dangerous dog confiscated pursuant to this section shall be returned to the owner upon the owner's compliance with Section 6.04.120 and 6.04.123. However, if the owner of a potentially dangerous dog does not comply with the requirements of Sections 6.04.120 and 6.04.123 within seventy-two (72) hours following confiscation of the potentially dangerous dog, the dog shall be destroyed in an expeditious and humane manner.

C. Animal Control Authority Declaration of Dog as Dangerous or Potentially Dangerous. The animal control authority shall have the authority to declare and restrict a dog as dangerous or potentially dangerous if the animal control authority has probable cause to believe that the dog falls within one of the definitions set forth in Section 6.04.010. If the animal control authority determines that any dog is dangerous or potentially dangerous as defined in Section 6.04.010, it shall prepare a written notice of declaration. The notice of declaration shall include, but is not limited to, the statutory authority for the declaration, a description of the dog, the name and address of the owner of the dog, if known, a brief summary of the facts upon which the declaration is based, a statement of the penalties for further violations, and a statement of the owner's rights and the procedure to appeal the notice of declaration. This notice of declaration shall include the right of the owner to meet with the animal control authority to give, orally or in writing, any reasons or information as to why the dog should not be declared dangerous or potentially dangerous. If the owner requests such a meeting, it shall be held within fifteen days following the notice. After the meeting, if the animal control authority determines the animal to be dangerous or potentially dangerous, it shall issue a final declaration containing the same information required in the notice of declaration.

D. Service of Declaration. The animal control authority shall serve the notice of declaration and the final declaration, if any, personally on the owner or person keeping or maintaining the dog or send the notice of declaration or final declaration by regular and certified mail to the owner's last known address. If mailed, service shall be deemed received on the third day following the date upon which the declaration was placed in the mail.

E. Appeal of the Notice of Declaration to Klickitat County West District Court. The owner of the dog declared dangerous or potentially dangerous shall have ten days from receipt of the notice of declaration or final declaration to file a written appeal with the Bingen Municipal Court (Klickitat County West District Court). No fee shall be charged for this appeal. The owner must also serve a copy of the written appeal upon the animal control authority. A hearing shall be had as expeditiously as possible and the animal shall remain in the custody of the animal control authority pending the outcome thereof. At the appeal hearing, the animal control authority shall have the burden of proving that the dog is dangerous or potentially dangerous by a preponderance of the evidence. If the notice of declaration is sustained by the court, the costs of maintain the dog in custody shall be borne by the owner.

F. Appeal of the Klickitat County West District Court's Decision. Either the owner of the dog or the animal control authority may appeal the decision of the Klickitat County West District Court to the Klickitat County Superior Court. Any such appeal shall be filed within 10 days.

6.04.129 Potentially dangerous dogs – Notification of removal or death.

A. The owner of a potentially dangerous dog shall notify the animal control authority prior to moving the animal from its registered address.

B. If the potentially dangerous dog is deceased, the owner must notify the animal control authority within seventy-two (72) hours.

6.04.130 Penalties for owners of dogs which attack – Entry in dog fights.

A. If a potentially dangerous dog of an owner with a prior conviction under this chapter attacks or bites a person or another domestic animal, the dog's owner is guilty of a misdemeanor punishable up to 90 days in jail and a fine of one thousand dollars (\$1,000). In addition, the potentially dangerous dog shall be immediately confiscated by the animal control authority for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

B. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether or not the dog has been declared dangerous or potentially dangerous, shall be guilty of a gross misdemeanor punishable up to 364 days in jail and a fine of five thousand dollars (\$5,000). In addition, the dog shall be immediately confiscated by the animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

C. Any person entering a dog in a dog fight is guilty of a gross misdemeanor punishable up to 364 days in jail and a fine of five thousand dollars (\$5,000).

6.04.130 Appeal.

A. Filing. A notice of appeal, substantially in the form prescribed below, shall be filed with the Bingen municipal court and the Bingen City Administrator not more than five business days after service of the order to abate a nuisance or potentially 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 potentially dangerous dog declaration.

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 Order to Abate Nuisance" or "Appeal of Potentially Dangerous Dog Declaration," as applicable, 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. ~~Signature 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 facts 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 potentially dangerous dog declaration.~~
- D. ~~Enforcement stayed (suspended) during pendency of appeal. Unless otherwise ordered by the Bingen Municipal Court pursuant to petition by the City, enforcement of the order to abate a nuisance or potentially dangerous dog declaration shall be stayed (suspended) during the pendency of the appeal~~
- E. ~~Presentation of evidence. At the appeal hearing, the court shall take evidence relevant to the order to abate a nuisance or potentially 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 Bingen municipal court may uphold, dismiss, or modify the order to abate nuisance or potentially dangerous dog declaration. A written order shall be signed by the judge. The decision of the judge of the Bingen municipal court shall be a final administrative decision appealable to the Klickitat County superior court within 30 days of the final written order. (Ord. 557 § 2, 2009).~~

6.04.140 Authorization to impound.

Any person designated by the City of Bingen as a animal control officer, or any deputy sheriff of Klickitat County or City of Bingen-White Salmon police officer, or any person contracted with for such services, or any other City designee, is authorized to impound any dog in violation of any of the sections of this chapter, including running at large, and whether or not in violation of any other provisions of this chapter and whether or not said dog is licensed as provided for herein.

Further, any person authorized above to impound any dog is also authorized to issue a citation for failure to license, as referred to in Sections 6.04.020 and 6.04.040. (Ord. 557 § 2, 2009).

6.04.150 Impoundment procedures.

Whenever any dog is impounded under the authority of this chapter, written notice shall be sent to the owner or custodian of such dog if such owner or custodian is known. Such owner or custodian shall have five days after the mailing of such notice to reclaim the dog and if he fails to do so within such time and pay the fees provided for herein, such dog may be sold or humanely disposed of at the expiration of such period. If the dog owner is unable to reclaim the dog within five days, he may notify the City Hall or police to retain that dog for up to two additional days, provided the owner pays all impounding fees in advance, at which time the officer will then instruct the pound to hold the dog up to a total of seven additional days.

Any dog impounded for having bitten any person shall not be released and shall be securely quarantined at the direction of the animal control authority or the City for a period of no less than 10 days. At the discretion of the animal control authority or the City, such quarantine may be on the premises of the owner or 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 a dog's owner is unknown, such quarantine shall be at the shelter designated as the city animal shelter or at a veterinary hospital.

Whenever a dog is impounded and the owner or custodian thereof is unknown, a notice shall forthwith be posted in the area post office where the dog is found and placed on file at the city clerk's office and the city police office. The notice shall contain a general description of the impounded dog, showing the probable breed, sex, color, and place where the dog was picked up and the date and place where the described dog shall be sold or otherwise disposed of unless sooner claimed and redeemed. Such date shall be not less than three days after impounding of the dog.

If no claim or redemption by the owner or custodian of the described dog is made within the time fixed by the notice, such dog shall be sold or humanely disposed of at the expiration of such period. (Ord. 557 § 2, 2009).

6.04.160 Impounded dogs-Hearing-Effect or judgment.

- A. Whenever any dog is impounded under the authority of this chapter and it is not appropriate for the owner to appeal pursuant to BMC 6.04.130 by virtue of BMC 6.04.110 or BMC 6.04.120., the owner or custodian of any impounded dog may file with the City of Bingen prosecutor a written notice for hearing before the expiration of the time provided for reclaiming the dog as provided in BMC 6.04.150. The form of such notice conform substantially to the following requirements:
1. A caption reading: "Appeal of Impoundment", 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 as to why the impoundment was improper, together with any material facts claimed to support the contentions of the appellant;
 4. Signature of all parties named as appellants, and their official mailing addresses; and
 5. Verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the facts stated in the appeal.
- B. Scheduling of hearing. Upon receipt of a timely filed notice for hearing, the hearing shall be scheduled not more than 60 days from the date of the filing of the notice of hearing. 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 an order upholding of the impoundment.
- C. Dog to remain impounded. Unless otherwise appropriate at the City's discretion, or the court determines otherwise, the dog shall remain impounded while the appeal is pending.
- D. Presentation of evidence. At the hearing, the court shall take evidence relevant to the impoundment. Testimony may be provided in the form of a signed written statement pursuant to RCW 9A.72.085.
- E. Decision of the court. The judge of the Bingen municipal court may uphold, reverse or modify the impoundment. A written order shall be signed by the judge. The decision of the judge of the Bingen municipal court shall be a final administrative decision appealable to the Klickitat County superior court within 30 days of the final written order. (Ord. 557 § 2, 2009).

6.04.170 — Dangerous dogs — Incorporation of RCWs.

~~The City adopts, by incorporation, those portions of RCW 16.08.070, 16.08.080, 16.08.090 and 16.08.100, and as those statutes may be amended, that apply in any manner to dangerous dogs. This incorporation is for clarification and not to diminish or expand those statutes or the City's responsibility regarding those statutes. (Ord. 557 § 2, 2009).~~

6.04.180 — Dangerous dogs — Banned.

~~No person, firm, corporation, organization, or department may possess, harbor, keep, or have in custody in the City of Bingen, a dangerous dog as dangerous dog is defined in BMC 6.04.010 (E). This prohibition shall not apply to any such dog temporarily housed at the place of business of a licensed veterinarian or any such dog designated dangerous in the City and properly certified and in compliance with the requirements of keeping a dangerous dog on and before March 3, 2009. (Ord. 557 § 2, 2009).~~

6.04.190 Redemption of fees and charges.

Any dog impounded under authority of this chapter may, if otherwise appropriate, be released to the owner or custodian thereof upon payment of the following fees and charges:

- A. A basic redemption fee of fifty dollars (\$50.00) will be charged for each impounding.
- B. For the second impounding of the same dog, belonging to the same person, the redemption fee shall be one hundred twenty-five dollars (\$125.00), on a third impounding, the redemption fee shall be one hundred seventy-five dollars (\$175.00), on a fourth impounding the redemption fee shall be two hundred twenty-five dollars (\$225.00) and all subsequent redemption fees shall increase at the rate of fifty dollars (\$50.00) per occurrence.
- C. In addition to the above redemption fee, the dog's owner or custodian shall pay the dog's board bill for the time the dog has been impounded as well as the license fee as fixed herein if the dog has not been licensed for the current year. (Ord. 557 § 2, 2009).

6.04.200 Contract, impounding, animal control authority, authority.

The City of Bingen may enter into a contract with any other person, firm, or corporation, to provide a place for the care of impounded dogs. The animal control authority and/or his agents are authorized to impound said dogs in the name of the city and to retain or dispose of the same until all fees and expenses as provided in Section 6.04.180 and 6.04.190 have been paid in full. In addition, the City may contract with the animal control authority to assist in enforcement of this chapter. (Ord. 557 § 2, 2009).

6.04.210 Interference with impounding prohibited.

It shall be unlawful for any person to interfere in any way with any police officer, or any other authorized person who is engaged in seizing or impounding any dog under authority of this chapter, and the penalty for any such conduct shall be a misdemeanor and a fine not exceeding one thousand dollars and imprisonment for not more than ninety days may be imposed, or any part thereof.

6.04.220 Right of self-help.

This chapter shall not affect the rights of owners of property, or others, to use self help for the protection of their property, domestic animals, or persons, which they now have by virtue of state law; but this chapter shall be cumulative rather than in limitation of said rights.

6.04.230 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid; the remainder of this Chapter or the application of the provisions to other circumstances is not affected.

Section 3. This Ordinance shall take effect and be in force five (5) days after its publication according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BINGEN, at a regular meeting thereof and approved by the Mayor 20th day of June, 2017.

ATTEST:



Mayor Betty J. Barnes



Jan Brending, City Clerk

Approved as to form only:



Christopher R. Lanza
City Attorney