

**CITY OF PAYETTE, IDAHO**  
**ORDINANCE NO. 1270**

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, REPEALING CHAPTER 6.08 OF TITLE 6, SECTIONS 6.08.010 THROUGH SECTION 6.08.140 OF THE PAYETTE CITY CODE AND REPLACING IT WITH A NEW CHAPTER IN TITLE 6 WHICH SHALL BE DESIGNATED AS CHAPTER 6.08 SECTIONS 6.08.010 THROUGH SECTION 6.08.110; DEFINITIONS; LICENSE REQUIREMENTS; FEE REQUIREMENT; KENNEL LICENSE; REQUIREMENTS; POLICE AUTHORITY; PROHIBITING DISTURBANCES; REQUIRING INSPECTIONS; ALLOWING SEIZURE OF NON COMPLIANT ANIMALS; EXCEPTING GUARD DOGS; ALLOWING THE KEEPING OF GUARD DOGS UNDER DEFINED CIRCUMSTANCES; REQUIRING INSURANCE; REQUIRING IDENTIFICATION PHOTOS; PROHIBITING PIT BULLS; ALLOWING EXCEPTIONS TO THE PROHIBITION; ESTABLISHING FINANCIAL RESPONSIBILITY FOR DOG OWNERS; SETTING AN EFFECTIVE DATE; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; ESTABLISHING A PENALTY

WHEREAS, a revision of sections 6.08.010 through Section 6.08.140 of Chapter 6.08 of Title 6 of the Payette City Code is necessary to implement the legitimate governmental purpose of protecting the health and safety of the city's residents; and

WHEREAS, the breeds of dogs known as "pit bulls" include any American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, English Pit Bull, or any breed of Pit Bull, or any dog displaying sufficient physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds; and

WHEREAS, the breeds of dogs known as "pit bulls" have been selectively bred for the purpose of dog fighting; and

WHEREAS, the characteristics selectively bred into or otherwise commonly found in those dogs include;

- 1) A strong fighting instinct, together with a low level of fighting inhibitions which make pit bulls a hazard to humans as well as other animals;
- 2) A strong chase instinct which, experts believe causes pit bulls to be a danger around running children;
- 3) A tendency to attack even those who exhibit no provocative behavior;
- 4) A diminished tendency to bark, growl, or otherwise warn their prey of an intent to attack;
- 5) A tendency to fight to the death and never quit a fight once engaged, which results in more severe injuries than those inflicted by other breeds;

- 6) The ability to withstand great pain, which makes it difficult for a person or animal to fight off a pit bull attack;
- 7) Powerful jaws capable of crushing bones and hanging on to victims even while the animal withstands infliction of injury or pain;
- 8) A tendency to tear flesh, which has resulted in grotesque injuries to human victims; and
- 9) A combination of agility, stamina, and strength, together with a genetic predisposition to aggressiveness, that makes pit bulls uniquely dangerous, even to their owners, among all breeds of dogs, especially where improperly raised or trained; and

WHEREAS, there has been an alarming increase in attacks by pit bulls against humans nationwide; and

WHEREAS, other cities have found that pit bulls are so dangerous to humans and other animals that special legislation restricting or prohibiting their ownership has been enacted; and

WHEREAS, the City of Payette has experienced numerous recent incidences of violent pit bull attacks; and

WHEREAS, the mere possession of pit bulls poses a significant threat to the health, welfare and safety of Payette citizens; and

WHEREAS, current methods of control by pit bull owners, judging by the large number of incidents involving pit bulls, have proved to be insufficient in protecting the public; and

WHEREAS, the Council believes it is necessary to prohibit, subject to certain exceptions with certain restrictions, pit bulls in order to protect human health, welfare and safety within the City of Payette;

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAYETTE, IDAHO:

Section 1: Sections 6.08.010 through Section 6.08.140 of Chapter 6.08 of title 6 of the Payette City code are hereby repealed.

Section 2: There is hereby created a new Chapter 6.08 in Title 6 of the Payette City Code, which Chapter shall consist of Sections 6.08.010 through 6.08. 110 which sections shall read as follows:

6.08.010: Definitions:

1. An "owner" is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, feeds, waters, transports, or sells an animal or one who assists another in possession, sale, transport, harboring, feeding, watering or

maintenance thereof. An owner need not have any pecuniary, proprietary or economic interest in a dog.

2. A "pit bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, English Pit Bull, English Staffordshire Terrier, or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, English Pit Bull, English Staffordshire Terrier, or having characteristics so as to be identifiable as partially of the breed of American Pit Bull, English Pit Bull, Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the City Clerk of The City of Payette.

3. The term "guard dog" shall mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler. No person shall possess any pit bull for use as a guard dog.

4. "Confined" means keeping an animal within an enclosure that cannot be opened by any person other than the owner or with the owner's assistance or consent and from which an animal cannot escape.

5. "Ordinance Officer" is that person employed by the City of Payette who has as their primary responsibility the enforcement of all city ordinances including all animal control ordinances.

6. "Vicious dog" means:

a. A dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings, domestic animals, or livestock; or

b. Any dog which bites or attacks a human being, domestic animal, or livestock, without provocation or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated; or

c. Any dog that is an American Pit Bull, American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, English Pit Bull, English Pit Bull Terrier, English Staffordshire Terrier, Pit Bull, Presa Canario, Canary Island Dog, Cane Corso, Russian Wolf Hound, Wolf Hybrid, Mountain Dog or any dog exhibiting those distinguishing characteristics which substantially conform to the

standards established by the American Kennel Club or United Kennel Club for any of the above breeds, if any, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull, American Pit Bull Terrier, Pit Bull, American Staffordshire Terrier, Staffordshire Bull Terrier, English Pit Bull, English Pit Bull Terrier, English Staffordshire Terrier, Presa Canario, Canary Island Dog, Cane Corso, Russian Wolf Hound, Mountain Dog or Wolf Hybrid, or any dog which has sufficient characteristics so as to be identifiable as partially of the breed of American Pit Bull Terrier, American Staffordshire Terrier, Pit Bull, English Pit Bull, English Pit Bull Terrier, English Staffordshire Terrier, Staffordshire Bull Terrier, Presa Canario, Canary Island Dog, Cane Corso, Russian Wolf Hound, Wolf Hybrid or Mountain Dog; or

d. Any dog which is kept with the intention of using its size, manner, disposition, training, or breeding to instill fear in others; or

e. Any dog which is bred, trained, owned, possessed, or kept for the purpose of dog fighting.

f. A Wolf Hybrid is any dog which has Gray Wolf (Canus Lupis), Timber or Eastern Timber Wolf (Canus Lupis Lycaon), Great Plains Wolf (Canus Lupis Nubilus), or any animal identified as part of the afore described animals as a part of its breeding.

7. "Vicious Animal" shall mean any other animal, that without intentional provocation, bites or attacks humans or other animals; or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated.

8. A vicious dog is "unconfined" as the term is used in this Chapter if such dog is not securely confined in a securely enclosed and locked pen or structure upon the premises of the person in possession of such dog as defined in section 6.08.010 4 above. At a minimum a pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two feet (2')(0.6096 meters). Said pen or structure shall be sufficiently secure to keep unauthorized persons from releasing the enclosed animal. Said pen shall also be sufficiently secure to keep the animal from releasing itself. A list of approved building materials for such structures will be maintained by the Chief of Police and made available upon request. All such structures shall be constructed in such a manner, and of such materials, as approved by the Payette City Building Inspector and the Chief of Police or his appointed representative. A certificate of inspection of the structures shall be made apart of that dog's file at the Payette Police Department.

9. A vicious dog is "confined" as the term is used in this Chapter if such dog is securely confined in a securely enclosed and locked pen or structure upon the premises of the person in possession of such dog in a manner described in section 6.08.010 4 above.

At a minimum such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two feet (2')(0.6096 meters). Said pen or structure shall be sufficiently secured with redundant locking mechanisms to prevent unauthorized persons from releasing the enclosed animal. Said pen shall also be sufficiently secure to keep the animal from releasing itself. A list of approved building materials for such structures will be maintained by the Chief of Police and made available upon request. All such structures shall be constructed in such a manner, and of such materials, as approved by the Payette City Building Inspector and the Chief of Police or his appointed representative. A certificate of inspection of the structures shall be made a part of that dog's file at the Payette Police Department.

10. A "secure temporary enclosure", for purposes of this Chapter, is a secure enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a door for removal of the animal. Such enclosure shall be of such material and of such construction that when the door is closed the pit bull cannot exit the enclosure on its own.

#### 6.08.020 LICENSE REQUIREMENTS:

##### A. License Required:

1. Any person who shall own or keep any dog within the City limits without having first obtained a license therefore or without being in compliance with this Chapter, shall be guilty of a misdemeanor;

A. Provided, however, that the provisions of this Section shall not apply to any person visiting in the City for a period not exceeding thirty (30) days, any nonresident of the City not maintaining a dog within the City limits, or the owner of any dog under four (4) months of age where the dog is neither a Pit Bull, Presa Canario, Canary Island Dog, Cane Corso, Mountain Dog, Russian Wolf Hound, a wolf hybrid nor a vicious dog.

2. It shall be unlawful for any person to own or keep a pit bull or any other vicious dog within the city limits prior to the issuance of a City of Payette dog license. No license shall issue to the owner of any pit bull or other vicious dog prior to complete compliance with all sections of this Chapter. Compliance with this Chapter shall be verified by the Chief of Police, or his designee.

##### B. Non-Vicious Dog Fees:

The City Clerk, or a designee, is hereby authorized to issue a license to any person showing veterinary certification of rabies vaccination and upon payment of **twenty** dollars (\$ **20.00**) per head for each non-vicious dog. Owners presenting veterinary certification that the dog has been spayed or neutered will pay ten dollars (\$**10.00**).

Persons who are at least 62 years of age as of January 1 will pay six dollars (\$6.00) per head to license their non-vicious and spayed/neutered dog(s). Vicious dogs and dogs which have not been spayed or neutered are not eligible for this reduced license fee. All licenses issued will be valid from the date of issue and will expire on December 31 of each year.

C. Vicious Dog Fees:

The City Clerk, or a designee, is hereby authorized to issue a license to any person showing veterinary certification of rabies vaccination, compliance with all requirements of this ordinance, and upon payment of one hundred dollars (\$100.00) per head for each vicious dog which is of any breed other than those that meet the definition of pit bull, Presa Canario, Canary Island Dog, Cane Corso, Mountain Dog, Russian Wolf Hound or wolf hybrid. Owners presenting veterinary certification that the dog has been spayed or neutered will pay seventy-five dollars (\$75.00) per head. All licenses issued will be valid from the date of issue and will expire on December 31 of each year.

(1) The owner of a vicious dog shall keep the current license for such vicious dog through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A license tag will be issued to the owner at the time the license is issued.

D. Pit Bull Fees:

The City Clerk, or any designee, is hereby authorized to issue a license to any person showing veterinary certification of rabies vaccination, and showing compliance with all sections of this Chapter as verified by the Chief of Police, or a designee, and upon payment of five hundred dollars (\$500.00) per head for each pit bull. Owners presenting veterinary certification that the pit bull has been spayed or neutered will pay four hundred seventy five dollars (\$475.00) per head. All licenses so issued will be valid from the date of issuance and will expire on December 31 of each year.

(1) The owner of the pit bull shall keep the current license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee. A license tag will be issued to the owner at the time the license is issued.

E. Due Date: Such license fees shall be due and payable on January 1 of each year, except as hereinafter provided.

F. Penalty and Exceptions: If any license fee is not paid on or before January 31 of each year, the City Clerk shall, collect a penalty in addition to said license fee in the sum of ten dollars (\$10.00); provided, however, that any dog born subsequent to January 31 of any year shall be licensed by the payment of the appropriate license fee, without penalty, within four (4) months after its birth, and thereafter the penalty shall

be added as hereinbefore set forth, and any dog brought into the City subsequent to January 31 of any year shall be licensed by the payment of the appropriate license fee, without penalty, within thirty (30) days after being brought into the City, and thereafter the penalty shall be added as hereinbefore set forth.

6.08.030: LICENSE TAGS:

A. Tag to be Worn: Every owner shall be required to provide each dog, vicious dog, or pit bull, a collar or harness to which the license tag must be securely affixed, and shall ensure that the collar and the tag are constantly worn. Show dogs, during showing, are exempted from wearing the collar and tag.

B. Lost Tag: A duplicate or replacement tag shall be issued by the City Clerk upon payment of Five dollars (\$5.00) for each tag so issued to replace the original tag which was lost or destroyed.

C. Unlawful to Remove: No person shall remove or cause to be removed the collar or tag from any licensed dog without consent of the owner, keeper or harbinger thereof.

6.08.040: KENNEL LICENSE:

A. It shall be unlawful to keep, maintain, harbor or possess upon any one premise more than three (3) dogs, unless the owner or person in charge thereof has first obtained a kennel license. Application for a kennel license shall be made to the City Clerk and shall be accompanied by an application fee of seventy-five dollars (\$75.00). The kennel license shall not become effective until it is reviewed and approved by the City Council sitting in banc.

B. Dog kennels shall be maintained in accordance with this Section. The kennels shall be sufficiently soundproof so that noises from within cannot be heard by adjoining landowners. No kennel shall be built or constructed, nor shall any building be remodeled into a kennel until all required building permits are obtained and written consent is obtained from the property owner.

C. All kennels will be maintained in such a manner that there shall be no odor emanating from the kennels that can be detected by any adjoining landowners. Sanitation shall be such that the kennel shall not become a breeding area for flies, vermin or insects. All animals kept within the kennel shall be properly fed and sanitarly housed. No animal kept in a kennel shall be mistreated.

D. The permit issued by the City Council shall be a license and may be revoked upon a showing that any requirement of the City Ordinance is not being fulfilled. It shall be in effect for a period of one year from date of issuance and shall expire without notice of any kind. A kennel license will be renewed every year.

E. Whenever any kennel is maintained in such manner as to be offensive on account of noise or odors, or otherwise, any person may make a complaint to the City Council. Upon

filing of such complaint, the City Council shall immediately notify the owner or keeper of such kennel to appear before the Council to show cause why the kennel license should not be revoked. Such hearing shall not be less than five (5) days nor more than twenty eight (28) days from the date of filing such complaint, and the notice shall be served not less than seven (7) days before hearing. After hearing, the Council will have the following options: (1) Revoke or cancel the license; (2) Put the license on probation and subject to immediate revocation in the event of any additional violations, subject to the terms and conditions as the Council may deem appropriate; (3) Dismiss the complaint.

**6.08.050: POLICE AUTHORITY:**

A. Fresh Pursuit: In the enforcement of any provision of this Article, any peace officer, police officer, ordinance officer or other public officer, is authorized to enter the premises of any person to take possession of licensed or unlicensed roaming, fierce, dangerous, or vicious dogs when in pursuit of any such dog at the time the dog goes onto private property.

B. Exhibit License: It shall be unlawful for any owner or person keeping or harboring a dog for which a license is required by this Article to fail or refuse to exhibit the license or tag upon demand by a police officer, ordinance officer, or other designated City official.

C. Interference with Police: Any person who shall molest, interrupt, hinder or prevent the Chief of Police, or any peace officer, ordinance officer, or other public officer, in the discharge of his duty herein prescribed, shall be guilty of a misdemeanor.

D. In the enforcement of any provision of this Article, any police officer, ordinance officer, or other public officer, is authorized to enter the premises of any person to take possession of any unlicensed or licensed, roaming, dangerous, or vicious dogs, whether or not in pursuit of any such dog, if the dog is in plain view of the officer from a public area.

**6.08.060: OFFENSES AND CONDITIONS:**

A. Running at Large Prohibited: It shall be unlawful for any owner as defined in section 6.08.010: 1 above, to permit the same to be, remain, or run at large, off or away from the premises of the owner, possessor, or keeper thereof, unless: (1) upon the private premises of another with the consent of the person in possession of such premises; or (2) such dog be under the direct and immediate care and control of a person and controlled by a leash not exceeding six feet (6') in length; or (3) such dog be confined in a motor vehicle.

B. A dog shall be confined upon the premises of the owner, possessor, or keeper, in such a way as to keep the dog out of all public rights-of-way.

C. Any dog found running at large may be immediately seized, captured or taken up and impounded and such dog may be so taken without the necessity of filing a complaint. Such dog shall be impounded and disposed of in accordance with provisions in this Title. Any dog which is found at large that cannot be safely taken up and impounded, may be slain forthwith. Any action taken by a police officer, ordinance officer, or other designated City employee, in the performance of his duties, that requires the death, injury, or destruction of a dog found running at large, shall not be considered to be cruel or inhumane treatment of the animal.

D. Disturbances: It shall be unlawful for any owner as defined in section 6.08.010:1 above, to keep any dog within the City limits which by loud, continuous, frequent, or habitual barking, howling, whining, or yelping, which annoys or disturbs any neighborhood or person. When none of the residents who reside at the place where the offending dog is being kept are at home at the time a dog is making such noises which give rise to a complaint, such absence shall create a rebuttable presumption that the dog's barking, howling, whining, or yelping was unlawful. Any dog, which has persistently created the noises referred to in this section, as demonstrated by two (2) or more convictions of the owner thereof for violating this section, is declared to be a public nuisance and may be impounded.

E. Sanitary Conditions: Every person who shall keep, maintain or harbor a dog shall maintain his premises, including but not limited to, dog pens or runs, in a clean and sanitary condition so that they shall not be offensive, a harborage for vermin, or a health hazard.

F. Inspection: When ever any person applies for and is granted a license to maintain a vicious dog, the application is permission from the applicant for the Chief of Police, or his designee, to make whatever inquiry is deemed necessary, including but not limited to, entry onto the applicant's property to ensure ongoing compliance with all provisions of this Title. Any entry shall be limited to the purpose of compliance inspections of the licensed premises and the licensed animal, and will be made in the presence of the owner whenever practical.

G. Seizure of non-compliant animal: Any peace officer, police officer, ordinance officer, or other public officer is hereby empowered to seize and impound any vicious animal whose owner fails to comply with the provisions in this Title.

(a). In the event that the owner of the animal refuses to surrender the animal to the officer, said officer may request a search warrant from a magistrate of the district court and to seize and impound the animal upon execution of the warrant.

(b). Animals which can not be safely seized may be immediately slain.

#### 6.08.070: Harboring of Vicious Dogs:

A. Prohibited: It shall be unlawful for any person to keep or harbor a fierce or

vicious animal or dog without first complying with the terms of this Chapter. It shall be an affirmative defense to charges under this Section if the actual or intended victim of any attack has made an unlawful entry into the dwelling of the owner.

B. No owner, as defined in section 6.08.010:1 above, of a vicious dog shall suffer or permit such animal to go unconfined on the premises of such person.

C. No owner, as defined in section 6.08.010:1 above, shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled. When on leash, the leash shall consist of a short high-tensile strength material with a maximum length of 3 feet (0.9144 meters). A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club or United Kennel Club show.

C. It shall be unlawful to possess, harbor, and keep within the City limits a Presa Canario, Canary Island Dog, Cane Corso, a Russian Wolf Hound, a Mountain Dog or a Wolf Hybrid.

#### 6.08.080: GUARD DOGS EXCEPTED:

A. Guard Dogs Excepted: Dogs maintained as guard dogs, as defined in Section 6.08.010:3 and in compliance with this chapter shall not be included under this Section. No person shall keep as a guard dog any pit bull, Presa Canario, Canary Island Dog, Cane Corso, **Mountain Dog, Russian Wolf Hound or wolf hybrid** or any dog which is bred, trained, owned, possessed, or kept for the purpose of dog fighting.

#### 6.08.090: KEEPING GUARD DOGS:

It shall be unlawful for any person to place or maintain guard dogs in any area for the protection of persons or property unless the following provisions are met:

A. The dogs shall be confined to an enclosed area adequate to insure they will not escape; or

B. They shall be under the absolute control of a handler at all times when not securely enclosed; and

C. In either instance of A or B above, the owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such dog is on the premises. At least one such sign shall be posted at each driveway or entranceway to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty feet (50'), whichever is less, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty four (24) hours a day; and

D. Prior to the placing of a guard dog on any property, the person or persons responsible for the placing shall inform the Police Chief, Ordinance Officer, the Fire Department and any utilities who have personnel that come upon premises or any business that is invited to come or send employees upon the premises, in writing, of their intention to post said dog or dogs, the number of dogs to be posted, the location where said dog or dogs will be posted, the approximate length of time said dog or dogs will be guarding the area, the daily hours said dog or dogs will be guarding the area, the breed, sex, age and rabies tag number of said dog or dogs. Such notice must be renewed every six (6) months.

#### 6.08.100: INSURANCE:

All owners of vicious dogs as defined in section 6.08.010:1 shall, within ten (10) days of the effective date of this Section, provide proof to the Payette City Clerk of public liability insurance in a single incident amount of no less than one million dollars (\$1,000,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. This policy shall include the City of Payette as an additional named insured, with minimum limits of coverage of one million dollars (\$1,000,000.00), and shall have the effect of saving harmless and defending the City of Payette and its officers, agents and employees from all suits, claims, demands or actions at law or in equity arising directly or indirectly as the result of injury to persons or damage to property occasioned by the maintenance of the vicious dog by the owner. The policy shall contain a provision requiring the insurance company to provide written notice to the Chief of Police not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.

#### 6.08.101: IDENTIFICATION PHOTOGRAPHS:

All owners, keepers or harborers of vicious dogs must within ten (10) days of the effective date of this Section provide to the Police Department two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.

#### 6.08.102: PIT BULLS PROHIBITED:

1. Except as provided for in this Chapter, it shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, buy or sell a pit bull within the city limits.

##### A. Exceptions:

(a) Any member of the City of Payette Police Department, Ordinance Officer, or other city official, may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this Chapter.

(b) Any humane society operating an animal shelter which is registered and licensed by the City may temporarily hold any pit bull that it has received or otherwise recovered, but only for so long as it takes to contact City of Payette Police Department or Ordinance Officer and either turn the pit bull over to these employees or receive permission to destroy or have destroyed the pit bull pursuant to the provisions of subsection 6.08.101:2.

(c) A person may temporarily transport into and hold in the City a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by the American Kennel Club or United Kennel Club. However, prior to any showing, the sponsor of the exhibition, contest, or show must receive written permission from the Chief of Police, must obtain any other permits or licenses required by City ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, keep the pit bull confined in a "secure temporary enclosure" as defined in section 6.08.010.

(d) Except as provided in subdivision (c) above, the owner of a pit bull may temporarily transport through the City a pit bull only if such owner has obtained a valid transport permit from the Chief of Police. Upon request, the Chief of Police shall issue such permits only upon a showing by the owner that the pit bull is being transported either from a point outside the City to a destination outside the City. At all times when the pit bull is being transported within the City, it must be kept confined in a "secure temporary enclosure" as defined in section 6.08.010:10 of this Chapter. In all cases before issuing a transport permit, the Chief of Police must find that the transport would not constitute an unnecessary or undue danger to the public health, welfare or safety, and shall not issue the permit if he cannot so find. All transport permits issued shall only be valid for the time, date and pit bull specified on the permit, and shall not be construed to permit any activity otherwise prohibited.

(e) The owner of any pit bull which had been licensed pursuant to this Chapter on or before the date of publication of the ordinance enacting this Section, shall be allowed to keep such pit bull within the City upon compliance with the licensing and insurance requirements set forth herein, but only if the owner applies for and receives an annual pit bull license on or before June 15, 2006. As a condition of issuance of a pit bull license, the owner shall at the time of application comply with or otherwise provide sufficient evidence that the owner is in compliance with all of the following regulations:

(1) The owner of the pit bull shall provide proof of rabies vaccination and shall pay the annual pit bull license fee as stated in this Chapter.

(2) The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by an immediate family member of the holder of such license. A pit bull license tag will be issued to the owner at the time of issuance of the

license. Such license tag, along with the current rabies tag, shall be attached to the pit bull by means of a secure collar or harness, and shall not be attached to any pit bull other than the pit bull for which the license was issued. If the pit bull tag is lost or destroyed, a duplicate tag may be issued upon the payment of a fee as stated in this Title. The owner must be at least twenty-one (21) years of age as of the license issuance date.

(3) The owner shall present to the Chief of Police proof that the owner has procured liability insurance in the amount of at least one million dollars (\$1,000,000.00) covering any damage or injury that may be caused by a pit bull during the twelve-month period covered by the pit bull license. This policy shall include the City of Payette as an additional insured, with minimum limits of coverage of one million dollars (\$1,000,000.00), and shall have the effect of saving harmless and defending the City of Payette and its officers, agents and employees from all suits, claims, demands or actions at law or in equity arising directly or indirectly as the result of injury to persons or damage to property occasioned by the maintenance of the pit bull by the owner. The policy shall contain a provision requiring the insurance company to provide written notice to the Chief of Police not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.

(4) The owner shall, at the owner's own expense, have the pit bull spayed or neutered, and shall present to the Chief of Police documentary proof from a licensed veterinarian that this sterilization procedure has been performed.

(5) The owner shall bring the pit bull to a duly licensed veterinarian and shall cause a microchip ID tag (such as the Avid Microchip) to be placed in the pit bull. Certification of this procedure, along with the microchip ID number shall be provided to the Chief of Police. Pit bulls that have previously had a microchip ID tag placed in them shall have that chip verified by a duly licensed veterinarian and provide the microchip ID number to the Chief of Police. Pit Bulls bearing identification tattoos are not exempt from the microchip provision. The Chief of Police shall maintain a file containing the microchip ID numbers and names of the pit bulls and names and addresses of the owners. The owner shall notify the Chief of Police of any change of address.

(6) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull "confined", as that term is defined in this Title. At all times when a pit bull is away from the property of the owner, the owner shall keep the pit bull either securely leashed and muzzled or in a "secure temporary enclosure", as that term is defined in section 6.08.010:10.

(7) The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who will then become the owner and will be subject to all of the provisions of this Section. The owner shall notify the Chief of Police within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Payette Animal Shelter for destruction, or permanently remove the puppies from Payette and provide sufficient evidence of such removal, by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Payette a pit bull puppy born after the date of publication of

this ordinance that is more than eight (8) weeks old. Any pit bull puppies kept contrary to the provisions of this subdivision are subject to immediate impoundment and disposal pursuant to subsection (e) of the Section.

(8) The owner shall have posted, at each possible entrance to the owner's property where the pit bull is kept, a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight inches by ten inches (8" x 10") in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two inches (2") in height.

2. Notwithstanding the provisions of this chapter, the Chief of Police is authorized to immediately impound, or cause to be impounded, any pit bull found in the City of Payette which does not fall within the exceptions listed in section 6.08.101: A above, and may house or dispose of such pit bull in such manner as the Chief of Police may deem appropriate, except as the procedures below otherwise require.

3. When Chief of Police has impounded any pit bull dog pursuant to this Section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the Chief of Police for a hearing concerning such classification no later than seven (7) days after impoundment. Such petition shall include the name and address, including matting address, of the petitioner. The Chief of Police will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. Where the Chief of Police receives no written request from the owner for a hearing within seven (7) days of impoundment, the pit bull shall be destroyed.

4. The hearing, if any, will be held before the Chief of Police or a hearing officer designated by the Chief of Police. Any facts which the petitioner wishes to be considered shall be submitted under oath or affirmation either in writing or orally at the hearing. The petitioner shall bear the risk of non-persuasion. The Chief of Police or hearing officer shall make a final determination whether the dog is a pit bull as defined in section 6.08.010: 2. of this Chapter. Such final determination shall be considered a final order of the Chief of Police subject only to judicial review.

5. If the dog is found to be a pit bull, it shall be destroyed, unless the owner produces evidence deemed sufficient by the Chief of Police that the pit bull is to be permanently taken out of Payette and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner. The procedures in this section shall not apply and the owner is not entitled to such a hearing with respect to any dog which was impounded as the immediate result of an attack or bite as defined in this Title. In those instances, the dog shall be handled and the procedures governed by the provisions of ~~Article VIII~~ of this Chapter.

6. The official standards of the American Kennel Club and United Kennel Club for the breeds referred to in this ordinance are on file in the office of the Clerk of the City of Payette.

#### 6.08.103: RESPONSIBILITY:

Owners of dogs shall be liable for any damage done by their dogs to any person, domestic animal, livestock, or property, or for any costs incident to taking up and keeping their dog. Additionally, the owners of any dog which shall bite any person while such person is on or in a private place, including the property of the owner, shall be liable for such damages as may be suffered by persons bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

A person is lawfully upon private property of such owner within the meaning of this Act when he or she is on such property in the performance of any duty imposed upon him by the laws of this State or by the laws of postal regulations of the United States, or when he or she is on such property upon invitation, expressed or implied, of the owner thereof; or when he or she is on such property in the performance of a duty relative to public safety, which shall include policemen, firemen, or other authorized members of boards or agencies of City government; provided, however, no owner of any dog shall be liable for any damages to any person or his property when such person shall mischievously or carelessly provoke or aggravate the dog inflicting such damage.

#### 6.08.104: Action for Damages

If any vicious animal shall, when unprovoked, kill or wound, or assist in killing or wounding any sheep, goat, lamb, cattle, horse, hog, swine, fowl, or other domestic animal, belonging to or in the possession of any person, or shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious animal, or while otherwise, on or off the property of the owner whether or not such vicious animal was on a leash and securely muzzled or whether the vicious animal escaped without fault of the owner or keeper, the owner or keeper of such animal shall be liable to the person aggrieved as aforesaid, for all damage sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious animal in violation of this chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner of such vicious animal knew that such vicious animal possessed the propensity to cause such damage or that the vicious animal had a vicious nature. Upon such attack or assault, the Chief of Police or his designee is hereby empowered to confiscate and destroy such vicious animal, if the conduct of such vicious animal or its owner constituted a violation of the provisions of this chapter, punishable by the confiscation and destruction of the animal.

#### 6.08.105: Impounding and Destruction:

When a vicious dog is impounded and held for more than three days the owner shall pay a fee of ten dollars (\$10.00) per day for each 24 hour period, or portion thereof that the dog is impounded.

#### 6.08.106: Restrictions

No vicious dogs, as defined in this section, are to be held for, or engage in, fighting or breeding. No sales or distribution of the offspring of any vicious dog is permitted.

Vicious dogs are to remain on the licensed premises except as required for veterinary care, participation in a sanctioned American Kennel Club or United Kennel Club show, surrender, or to comply with the order of a police officer, ordinance officer, or Chief of Police.

#### 6.08.107: IMPOUNDMENT PROCEDURES:

A. Impounding: Any dog found running at large contrary to the provisions of this Title may be apprehended by any designated City employee and shall be impounded; provided, however, that if any dog so found at large that cannot be safely taken up and impounded, such dog may be slain forthwith.

Any action taken by a police officer, ordinance officer, or other designated City employee, in the performance of his duties, that requires the death, injury, or destruction of dangerous or vicious dog found running at large, shall not be considered to be cruel or inhumane treatment of the animal.

B. Any dog which bites any person and causes a break in the skin of that person, regardless if the bite is provoked or unprovoked, or is suspected of having rabies, shall be seized and impounded for a period often (10) days as required by Idaho State Law. The Chief of Police and Health Department shall be so notified and the animal disposed of only under their direction. A complete registry shall be kept of every dog so impounded, entering the breed, color and sex of such dog, whether licensed, and time and place of taking. If licensed, the name and address of the owner and the number of the license tag shall be entered.

C. Impoundment Fees: For the first occurrence of impounding a dog running at large, the owner thereof shall pay to the City a fee of thirty dollars (\$30.00) for the taking up of such animal; for the second occurrence of impounding a dog running at large, the owner thereof shall pay to the City a fee of fifty dollars (\$50.00) for the taking up of such animal. For the third or any subsequent occurrence of impounding a dog running at large, the owner thereof shall pay the City a fee of seventy five (\$75.00) for the taking up of such animal for each such occurrence. Said impoundment fees shall be paid to the City Clerk's office.

Prior to the release of any dog impounded for running at large, the owner shall provide proof that he has possession of a current City of Payette license tag for said dog.

D. Care of Impounded Animals: Any animal impounded under the provisions of this Article shall be provided with proper care, food, and water while so confined.

E. All dogs impounded and held for more than three days as required by state law, or this Title, will require the owner to pay a fee ten dollars (\$10.00) per day for each 24 hour period, or portion thereof, that the dog is impounded.

**6.08.108: DISPOSITION OF UNCLAIMED DOGS:**

All dogs impounded shall be kept for a maximum period of three (3) days. If possession of any dog is not recovered as above set forth, the dog may be disposed of by delivery to any person who will pay the license fee and costs herein provided, by delivery to a third party humane shelter, or the dog may be destroyed in a humane manner.

**6.08.109: OWNERS TO PAY COSTS:**

The owner or representative of the owner of any dog which may be taken up and impounded under the provisions of this Article, may recover possession of such dog upon payment to the City the impoundment fees, license fee, and other costs herein provided together with payment to the appropriate animal shelter, if any, unless such dog is of a prohibited class of dog or subject to a court order to the contrary.

**6.08.110: PENALTIES:**

1. Violations and Penalties: Any person who violates any of the provisions of this Section, Article, or Chapter, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than one hundred eighty (180) days, or both for each offense. In addition, any dog which is prohibited by this ordinance, or which attacks a human being, any domestic animal, or any livestock, may be ordered destroyed when, in the court's judgment, such dog represents a continuing threat of harm to human beings, domestic animals, or livestock. In addition, the judge may order any dog destroyed which habitually creates a nuisance to any neighborhood or person. The conviction of an owner for a second or subsequent offense of allowing a dog to bark or create noise which is a nuisance to the neighborhood or another person, shall be sufficient to establish that a dog habitually creates a nuisance.

2. Any person found guilty of violating this Chapter shall pay all expenses, including shelter, food, any veterinary expenses for identification or certification of the breed of the animal, boarding and veterinary expenses necessitated by the seizure of the dog for the protection of the public, and such other expenses as may be required for the care or destruction of any such dog.

Section 3. This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

Section 4. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

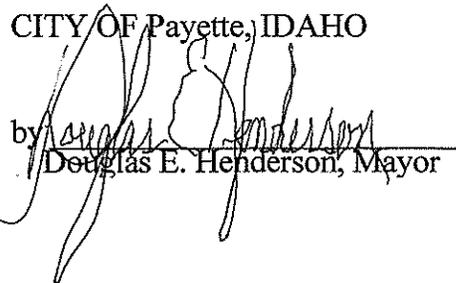
Section 5. If any portion of this Ordinance should be found to be unconstitutional or

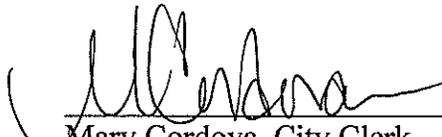
unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

Section 6. This ordinance may be published in summary form as allowed by the statutes of the State of Idaho.

Section 7. Any violation of any portion of this ordinance shall be a misdemeanor punishable in accordance with the misdemeanor statutes of the State of Idaho.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 3<sup>rd</sup> day of October, 2006.

CITY OF Payette, IDAHO  
by   
Douglas E. Henderson, Mayor

ATTEST:  
  
Mary Cordova, City Clerk

SUMMARY OF ORDINANCE 1270

Ordinance 1270 is an ordinance of the City Of Payette, Idaho, adopted October 3, 2006. The ordinance may be descriptively known as the Payette City Vicious Dog Ordinance. Ordinance 1270 repeals chapter 6.08 of title 6, sections 6.08.010 through section 6.08.140 of the Payette City code and replaces that chapter with a new chapter in title 6 which is designated as chapter 6.08 sections 6.08.010 though section 6.08.110; The ordinance contains definitions of various breeds of dogs and defines vicious dogs; The ordinance defines Presa Canario, Canary Island Dogs, Cane Corso, Mountain Dogs, Russian Wolf hounds and wolf hybrids as vicious dogs; The ordinance prohibits the keeping of Pit Bulls within the city limits unless the dog was present in the city prior to the ordinance and only after compliance with the ordinance; The ordinance sets out license requirements for dogs and requires the payment of licensing fees; The ordinance requires a kennel license for more than 3 dogs; It sets out the authority of police officers when attempting to catch dogs and it prohibits disturbances by dogs; The ordinance requires inspections and allows seizure of non compliant animals; The ordinance excepting guard dogs and allows the keeping of guard dogs under defined circumstances; It requires insurance on permitted Pit Bulls or vicious dogs and it requires identification photos. Ordinance 1270 provides that violations of the chapter are a misdemeanor punishable by a \$1,000.00 fine or by imprisonment for six months in the Payette county jail, or both; The Ordinance provides a severability clause, provides for publication by summary, sets an effective date, establishes a repealer and establishes a penalty in the event of a violation.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1270 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 4th day of October, 2006.



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Bert L. Osborn