

ORDINANCE #1402

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING PAYETTE MUNICIPAL CODE CHAPTER 6.08 OF TITLE 6, DOGS, BY AMENDING SECTION 6.08.010, DEFINITIONS, ADDING NEW AND AMENDING EXISTING DEFINITIONS; AMENDING AND RENUMBERING SECTION 6.08.020 LICENSE REQUIREMENTS AND LICENSE FEES; AMENDING SECTION 6.08.030 LICENSE TAGS; AMENDING SECTION 6.08.050, POLICE AUTHORITY, SUB-SECTION A, FRESH PURSUIT; AMENDING SECTION 6.08.060, OFFENSES AND NUISANCE CONDITIONS; AMENDING SECTION 6.08.070, VICIOUS DOGS, SUB-SECTIONS F AND AMENDING SUBSECTION N BY REPEALING SUBSECTIONS N 3, 4, 6, 7, 8 AND RENUMBERING SUBSECTION UNDER N; AMENDING SECTION 6.08.072, IMPOUNDING VICIOUS DOGS AND RENUMBERING TO A NEW SECTION 6.08.101, IMPOUNDING PROHIBITED BREED DOGS; ADDING A NEW SECTION 6.08.100, PROHIBITED BREEDS WHICH SECTION PROHIBITS THE KEEPING OF PROHIBITED BREEDS, BUT ALLOWS AN EXEMPTION FOR SERVICE DOGS, SETS LICENSING, CONFINEMENT, TEMPORARY ENTRY REQUIREMENTS, INSURANCE AND OFF PREMISES LEASH REQUIREMENTS FOR PROHIBITED BREED DOGS; AMENDING SECTION 6.08.108, DISPOSITION OF UNCLAIMED DOGS; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; ESTABLISHING A PENALTY.

Section 1. Section 6.08.010 of Title 6, Chapter 6.08 of the Payette Municipal Code is hereby amended to add new definitions “DNA Testing”, “DNA Test Evidence”, “Prohibited Breed”, “Prohibited Breed Service Animal” and amend the definitions of “Handler”, “Secure Pen or Enclosure”, “Secure Temporary Enclosure”, “Vicious Dog” and repealing “Vicious Dog Service Animal” to read as follows:

6.08.010: DEFINITIONS:

DNA (deoxyribonucleic acid) is the genetic blueprint that contains most of the genetic instructions for every canine’s body makeup (height, weight, size, etc.).

DNA TESTING: means a genetic analysis to identify key single-nucleotide polymorphisms marker locations (genetic markers) that may detect the breed, type and variety of a dog and may show the ancestral breed composition of a particular dog.

DNA TEST EVIDENCE: An owner may, at the owner’s expense, submit a DNA sample of a dog to a veterinarian or other professional to test for the genetic history of a dog. Such test should look for the genetic markers for the following breeds: pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso, or wolf hybrid. In order to be considered a prohibited breed, the DNA testing must demonstrate a genetic blueprint containing any element of the prohibited breed. The DNA test results shall constitute evidence which the court may consider in establishing that a dog is other than a breed banned by this section. DNA testing results shall override any subjective evidence including observational findings to the contrary. If an owner indicates to a judge that a DNA test will be performed, the court may issue appropriate orders as to the release of the dog with any additional conditions that the court believes will minimize any danger to the community during the pendency of the testing and obtaining the results.

HANDLER: ~~For purposes of this chapter,~~ means an individual with a disability who is utilizing a prohibited breed service dog, as that term is defined in this chapter, to do work or perform tasks

directly related to the individual's disability. If over the age of ~~twenty-one (21)~~ eighteen, the handler must also be the owner of the service dog. If under the age of ~~twenty-one (21)~~ eighteen the handler's legal guardian must be the owner of the service dog.

PROHIBITED BREED: prohibited breed shall mean any dog that is a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso, or wolf hybrid, or any dog which has sufficient characteristics so as to be identifiable as partially of the breed of a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso, or wolf hybrid as determined by dog owner or by qualified animal control officer, zoologist or veterinarian. It shall be prima facie evidence that a dog is a prohibited breed if a qualified veterinarian, zoologist, or animal control officer makes or provides a sworn statement that a particular dog exhibits distinguishing physical characteristics of a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso or wolf hybrid.

PROHIBITED BREED SERVICE ANIMAL: as any dog that meets the definition of a "prohibited breed", and which also qualifies as a service animal in accord with American Disabilities Act requirements.

SECURE PEN OR ENCLOSURE: ~~For the purposes of this chapter, shall mean~~ a six (6) sided structure designed to prevent entry of a child or escape of a vicious dog or prohibited breed service animal. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') per animal housed within and must have secure chain-link sides, a secure top and a secure bottom. 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 m~~). The enclosure must provide protection from the elements for the ~~dog~~ animal. All structures erected to house a vicious dog or prohibited breed service animal must comply with all zoning and building ~~ordinances and~~ regulations of the city and shall be kept in a clean and sanitary condition. The gate of the pen or enclosure shall be secured with a keyed or combination lock. 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~~ animal's file at the Payette police department.

SECURE TEMPORARY ENCLOSURE: A secure temporary enclosure used for purposes of transporting a ~~pit bull vicious dog, a prohibited breed, or a prohibited breed service animal,~~ 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 and secured with a keyed or combination lock that when the door is closed the ~~pit bull~~ animal cannot exit the enclosure on its own.

VICIOUS DOG:
A. Means any dog:

- ~~A dog with a propensity, tendency or disposition to attack, While at large, menaces, chases, causes injury, kills, displays threatening or aggressive behavior to cause injury~~ or to otherwise endanger the safety of human beings, domestic animals, or livestock; or,
- ~~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~~ Although not at large, bites or causes physical injury to any domestic animal or livestock or person; or

~~3. Any dog that is a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso, or wolf hybrid, or any dog which has sufficient characteristics so as to be identifiable as partially of the breed of a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso, or wolf hybrid as determined by dog owner or by qualified animal control officer, zoologist or veterinarian. It shall be prima facie evidence that a dog is a vicious dog if a qualified veterinarian, zoologist, or animal control officer makes or provides a sworn statement that a particular dog exhibits distinguishing physical characteristics of a pit bull dog, Canary dog, Dogo Argentina, American bulldog, Cane Corso or wolf hybrid;~~

~~43. Any dog which is kept with the intention of using its size, manner, disposition, training, or breeding to instill fear in others; or~~

~~54. Any dog which is bred, trained, owned, possessed, or kept for the purpose of dogfighting; or~~

~~5. Which is used as a weapon in the commission of a crime.~~

~~B. A vicious dog is "unconfined", as the term is used in this chapter, if such dog is not confined in a secure enclosure or secured pen or enclosure upon the premises of the person in possession of such dog, as the term "confined" is defined in this section. 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 a part of that dog's file at the Payette police department.~~

~~C. 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 the definition of "confined" and "secure pen or enclosure" in this section.~~

~~D~~C. A "vicious dog" shall not include the following:

- ~~1. A police dog that is being used to assist one or more law enforcement officers in the performance of their duties.~~
- ~~2. A dog that has caused injury to any person while such person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog, when at the time an injury or damage to any domestic animal or livestock or person was sustained, the precipitating cause constituted justified provocation as described in section 25-2810(3), Idaho Code.~~

~~VIGIOUS DOG SERVICE ANIMAL: For purposes of this chapter, is defined as any dog that meets the definition in subsection A3 of the definition of "vicious dog", and which also qualifies as a service animal in accord with the Animals Of America service and therapy animals requirements.~~

Section 2. Section 6.08.020 License Requirements, of Title 6, Chapter 6.08 of the Payette Municipal Code is hereby amended to add a new sub-section C, and sub-sections C, D and E are hereby re-lettered and amended to read as follows:

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 therefor, 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 not a **vicious prohibited breed** dog.

2. It shall be unlawful for any person to own or keep a vicious **or prohibited breed** dog within the city limits prior to the issuance of a city of Payette dog license. No license shall be issued to the owner of any vicious **or prohibited breed** 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. **Nonvicious Dog License** Fees: The city clerk, or a designee, is hereby authorized to issue a license to any **owner or** person **having charge of any dog over four (4) months of age within the City showing veterinary certification of rabies vaccination and** upon payment as set by resolution per head for each **nonvicious** dog. Owners presenting veterinary certification that the dog has been spayed or neutered will pay a fee as set by resolution. Persons who are at least sixty-two (62) years of age **as of January 1** will pay a fee as set by resolution per head to license their **nonvicious and** spayed/neutered dog(s). ~~Vicious dogs and~~ Dogs which have not been spayed or neutered are not eligible for a reduced license fee. All licenses issued will be valid from the date of issue and will expire on March 31 of each year.

C. **Vaccinations: Any owner or person having charge of any dog over four (4) months of age within the City shall be required to have the dog vaccinated for rabies and to keep such vaccinations current. If owner does not provide proof of such vaccination upon receiving a license, owner shall sign application for license under penalty of perjury that required rabies vaccinations are current for each dog licensed. This section does not apply to vicious dogs or prohibited breeds.**

~~D~~ **C. Vicious Dog License** 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 chapter, and upon payment as set by resolution per head for each vicious dog which is of any breed other than those that meet the definition of **pit-bull dog, Canary dog, Cane Corso, Dogo Argentina, American bulldog or wolf hybrid a Prohibited Breed.** Vicious dogs are not eligible for a reduced license fee. ~~Owners presenting veterinary certification that the dog has been spayed or neutered will pay as set by resolution per head.~~ All licenses issued will be valid from the date of issue and will expire on March 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.~~

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

F E. Penalty And Exceptions: If any license fee is not paid on or before April 1 of each year, the city clerk shall collect a penalty in addition to said license fee in the sum as set by resolution; provided, however, that any dog born subsequent to April 1 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 April 1 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.

Section 3. Section 6.08.030 of Title 6, Chapter 6.08, Sub-section A, of the Payette Municipal Code is hereby amended to read as follows:

6.08.030: LICENSE TAGS:

- A. Tag to Be Worn: Every owner shall be required to provide each dog, ~~or vicious dog,~~ 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. The absence of the license tag on a dog's collar shall be prima facie evidence that said dog has not been legally licensed. Show dogs, during showing, are exempted from wearing the collar and tag.

Section 4. Section 6.08.050 of Title 6, Chapter 6.08, Sub-section A, of the Payette Municipal Code is hereby amended to read as follows:

6.08.050: POLICE AUTHORITY:

- A. Fresh Pursuit: In the enforcement of any provision of this chapter, 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 at large,~~ vicious or prohibited breed dogs when in pursuit of any such dog at the time the dog goes onto private property.

Section 5. Section 6.08.060 of Title 6, Chapter 6.08, Sub-sections A, and C of the Payette Municipal Code are hereby amended to read as follows:

6.08.060: OFFENSES AND NUISANCE CONDITIONS:

- A. Running At Large Prohibited: It shall be unlawful for any "owner" ~~as defined in section 6.08.010 of this chapter~~ to permit any dog 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. Dogs Must Be Confined: 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. Nuisances: No person shall keep or harbor any animal in the city so as to create offensive odors, excessive noise or unsanitary conditions which are a menace to the health, comfort or safety of the public, or otherwise permit the commission or existence of a nuisance as defined hereafter. Any animal is hereby declared to be committing a nuisance if it:

1. Disturbances: It shall be unlawful for any "owner"; ~~as defined in section 6.08.010 of this chapter~~, to keep any dog within the city limits which by loud, continuous, frequent, or habitual barking, howling, whining, or yelping, 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.
2. Biting: Bites another person or domestic animal.
3. Unsanitary Conditions: Any animal which scratches, digs, urinates or defecates upon any lawn, tree, shrub, plant, building or any other public or private property, other than the property of the owner, keeper or harbinger of such animal, is hereby declared to be a nuisance. Where the owner, keeper or harbinger of such animal immediately removes all feces deposited by such animal and disposes of same in a sanitary manner, such nuisance shall be considered abated.
4. ~~Vicious-Dog Prohibited Breeds~~: Any "~~vicious-dog~~" ~~prohibited breed~~, as defined ~~in subsection A3 of the definition of "vicious dog"~~ in section 6.08.010 of this chapter, is hereby declared to be a public nuisance, which represents a threat to the health, safety and welfare of the public in all areas of the city, due to the inherent breed characteristics of exceptional aggression, athleticism, strength, viciousness, unpredictability and tenaciousness, such that dogs have the ability to rapidly and unpredictably inflict significant damage upon their victims.
5. 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.

Section 6. Section 6.08.070 of Title 6, Chapter 6.08, Sub-sections F is repealed and subsections F through N are hereby renumbered; and, subsection N (5), of the Payette Municipal Code is hereby amended, and sub-sections N 3, 4, 6, 7 and 8 are hereby repealed to read as follows:

6.08.070: VICIOUS DOGS:

~~F. The owner of the vicious dog shall provide proof of rabies vaccination and shall pay the annual vicious dog license fee as set by resolution.~~

GE. The owner of the vicious dog shall keep current the 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 an immediate family member of the holder of such license. A vicious dog 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 vicious dog by means of a secure collar or harness, and shall not be attached to any vicious dog other than the vicious dog for which the license was issued. If the vicious dog tag is lost or destroyed, a duplicate tag may be issued upon the payment of a fee as stated in this chapter. The owner must be at least twenty one (21) years of age as of the license issuance date.

HG. The owner shall present to the chief of police proof that the owner has procured liability insurance with an insurer authorized to write liability insurance in the state of Idaho providing

coverage in each occurrence in the amount of at least one million dollars (\$1,000,000.00) covering any damage or injury that may be caused by a vicious dog during the twelve (12) month period covered by the vicious dog 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 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.

- H.** The owner shall, at the owner's own expense, have the vicious dog spayed or neutered, and shall present to the chief of police documentary proof from a licensed veterinarian that this sterilization procedure has been performed.

- J.** The owner shall bring the vicious dog to a duly licensed veterinarian and shall cause a microchip ID tag (such as the Avid microchip) to be placed in the vicious dog. Certification of this procedure, along with the microchip ID number shall be provided to the chief of police. Vicious dogs 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. Vicious dogs 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 vicious dogs and names and addresses of the owners. The owner shall immediately notify the chief of police of any change of address.

- K.** At all times when a vicious dog is at the property of the owner, the owner shall keep the vicious dog "confined", as that term is defined in section [6.08.010](#) of this chapter. At all times when a vicious dog is away from the property of the owner, the owner shall keep the vicious dog either securely leashed and muzzled or in a "secure temporary enclosure", as that term is defined in section [6.08.010](#) of this chapter.

- L.** The owner shall not sell or otherwise transfer the vicious dog 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 (5) days in the event that the vicious dog 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 vicious dog puppy born after the date of publication of the ordinance codified herein that is more than eight (8) weeks old. Any vicious dog puppies kept contrary to the provisions of this subsection are subject to immediate impoundment and disposal pursuant to this chapter.

- M.** The owner shall have posted, at each possible entrance to the owner's property where the vicious dog is kept, a conspicuous and clearly legible vicious dog sign. Such vicious dog sign

must be at least eight inches by ten inches (8" x 10") in rectangular dimensions and shall contain only the words "VICIOUS DOG" in lettering not less than two inches (2") in height.

NM. Exceptions:

1. Any member of the city of Payette police department, ordinance officer, or other city official, may temporarily harbor and transport any vicious dog for purposes of enforcing the provisions of this chapter.
2. Any humane society operating an animal shelter which is registered and licensed by the city may temporarily hold any vicious dog that it has received or otherwise recovered, but only for so long as it takes to contact the city of Payette police department or ordinance officer and either turn the vicious dog over to these employees or receive permission to destroy or have destroyed the vicious dog pursuant to the provisions of section 6.08.108 of this chapter.
- ~~3. A person may temporarily transport into and hold in the city a vicious dog only for the purpose of showing such vicious dog 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 vicious dogs from escaping or injuring the public. The person who transports and holds a vicious dog for showing shall, at all times when the vicious dog is being transported within the city to and from the place of exhibition, contest, or show, keep the vicious dog confined in a "secure temporary enclosure" as defined in section 6.08.010 of this chapter.~~
- ~~4. Except as provided in this subsection N, the owner of a vicious dog may temporarily transport through the city a vicious dog 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 vicious dog is being transported either from a point outside the city or to a destination outside the city. At all times when the vicious dog is being transported within the city, it must be kept confined in a "secure temporary enclosure" as defined in section 6.08.010 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 vicious dog specified on the permit, and shall not be construed to permit any activity otherwise prohibited.~~
53. The owner of any "vicious dog" or the owner of a "prohibited breed" which as defined in ~~subsection A3 of the definition of "vicious dog"~~ in section 6.08.010 of this chapter, had been licensed pursuant to this chapter on or before the date of publication of the ordinance codified herein shall be allowed to keep such vicious dog or prohibited breed 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 vicious dog license for the dog on or before June 15, 2006. As a condition of issuance of a vicious dog 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 regulations in this section.
- ~~6. An owner of any "vicious dog" as defined in subsection A3 of the definition of "vicious dog" in section 6.08.010 of this chapter used as a service animal within the city of Payette shall apply for a vicious dog service animal license from the city clerk's office. Vicious dog service animal licenses shall be subject to approval by the chief of police or his designee~~

~~and to all provisions of this exception. The owner of a qualifying vicious dog who has applied for and received a vicious dog service animal license in accord with the terms of this section and who maintains the vicious dog service animal at all times in compliance with this section may keep a vicious dog service animal within the city upon compliance with the following provisions of the vicious dog service animal license requirements:~~

- ~~7. The owner of the vicious dog service animal shall maintain uninterrupted license currency. The vicious dog service animal license is not transferable or renewable except by the licensee or by a member of the immediate family of the licensee. A vicious dog service animal license tag shall be issued to the owner at the time the license is issued. The license tag shall be attached to the vicious dog service animal by means of a collar or harness which must be worn by the animal at all times. The license tag shall remain clearly visible and shall not be attached to any dog other than the vicious dog service animal for which the license was issued.~~
 - ~~8. At all times when a vicious dog service animal is away from the property of the owner, the owner shall keep the vicious dog service animal muzzled and either in a secure temporary enclosure or securely leashed with a leash no longer than four feet (4') in length held by someone eighteen (18) years of age or older who is capable of effectively controlling the dog. Extension style leashes may not be used. Leashes may not be attached to inanimate objects. In the event the handler, because of a disability, is not able to use a leash equal to or less than four feet (4') in length, or in the event the use of a muzzle or a leash no longer than four feet (4') in length would interfere with the service animal's safe, effective performance of work or tasks, the service animal must remain under the handler's complete control at all times when away from the owner's property, the manner of control to be fully described to the code enforcement and animal control officer at the time of licensing. This regulation and the means for controlling the vicious dog may be modified for service animals by the chief of police or designee as determined necessary and reasonable. Any such modification of the means of control set forth herein shall be memorialized in the licensing documentation upon issuance of said license.~~
- ~~c. The owner shall immediately notify the animal control division in the event that the vicious dog is loose, stolen, at large, unconfined, has mauled, bitten, attacked, threatened, or in any way menaced another animal or human, or has died.~~
- ~~d. No person applying for a vicious dog service animal license shall be granted a breeder's permit for such vicious dog service animal.~~
- ~~e. Failure to comply with any of these conditions shall result in a revocation of the license, impoundment and disposition pursuant to the following:~~
- ~~(1) Impoundment: The ordinance officer or designee is authorized to immediately impound any vicious dog service animal found within the city limits which does not qualify for the exception stated within this section, subject to all of the procedures and processes set forth in this subsection N6. If the dog is found not to be a pit bull as a result of DNA testing, evidence obtained at the owner's option and sole expense, or if the dog is determined to be a service animal, the dog shall be released to the owner, subject to full compliance with every requirement of this chapter. Notwithstanding a finding that the dog is not a vicious dog or a finding that the dog is a service animal, a dog may be impounded and the owner/handler may be held responsible for violations of this section or any other applicable state or local law.~~

Section 7. Section 6.08.072 of Title 6, Chapter 6.08, Impounding Vicious Dogs, of the Payette Municipal Code is hereby amended, renamed, renumbered to a new Section 6.08.101 to read as follows:

6.08.072101: IMPOUNDING VICIOUS PROHIBITED BREED DOGS:

- A. Whenever a "~~vicious dog~~" prohibited breed, as defined ~~in subsection A3 of the definition of "vicious dog"~~ in section 6.08.010 of this chapter is found within the city of Payette, the owner shall be notified in writing of the prohibitions contained in this chapter and of the procedure required to redeem the animal. Such notice shall be served upon the owner or, if the owner is not present, upon any person of suitable age and discretion residing at owner's residence. Whenever a vicious prohibited breed dog is found within the city of Payette, the animal may be impounded pursuant to section 6.08.105 of this chapter.
- B. If the vicious prohibited breed dog is not immediately impounded pursuant to section 6.08.105 of this chapter, the owner must permanently remove the vicious prohibited breed dog from the city of Payette within forty-eight (48) hours of issuance of the notice required by this section. Failure to remove a vicious prohibited breed dog within forty-eight (48) hours of such notice shall result in the immediate impoundment of the animal. Whenever any vicious prohibited breed dog is found within the city of Payette and the owner has previously had the notice required by this section, the dog shall immediately be taken up and impounded by such officer charged with the enforcement of this chapter. vicious Prohibited breed dogs impounded under this subsection may be redeemed or adopted pursuant to the provisions of sections 6.08.105 through 6.08.109 of this chapter.
- C. Notwithstanding the provisions of subsection 6.08.070N100 of this chapter, any vicious prohibited breed dog found running at large in the city of Payette which is not in the possession or control of its owner or owner's agent shall be immediately impounded by a Payette animal control officer or Payette police officer if the dog is:
1. not validly registered under section 6.08.070100 of this chapter,
 2. if the owner does not secure and maintain the liability insurance coverage required under section 6.08.070100 of this chapter,
 3. the dog is not maintained in the proper enclosure, or the dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under physical restraint of the responsible person. Such animal shall be redeemed, adopted or destroyed pursuant to the provisions of section 6.08.108 of this chapter.

D. Notwithstanding the provisions of PMC 6.08.100(B) or A, B and C above, any prohibited breed dog found running at large in the city of Payette which is not in the possession or control of its owner or owner's agent shall be immediately impounded by an animal control officer or Payette police officer. Any licensed prohibited breed service dog which is a vicious dog as defined in Chapter 6.08.010 of this code shall be handled according to Chapter 6.08.103 through 6.08.109. Such animal shall be redeemed, adopted or destroyed pursuant to the provisions of Chapter 6.08.105.

Section 8. A new Section 6.08.100, Prohibited Breeds, of Title 6, Chapter 6.08, of the Payette Municipal Code is hereby added to read as follows:

6.08.100: PROHIBITED BREEDS:

A. It is unlawful to keep, or harbor, own, sell or offer to sell, or in any way possess a prohibited breed dog within the city of Payette. Violation of this section is a misdemeanor. The minimum fine for a violation of this section shall be two hundred fifty dollars for the first offense and five hundred dollars for a second or subsequent offense, which fine shall not be suspended or

deferred. For purposes of this section, proof of a prior violation shall not require proof that the same prohibited breed dog is involved. Each day of violation shall be a separate offense.

B. The prohibition on possessing prohibited breeds within the city shall not apply to prohibited breeds which:

1. do not reside in the City of Payette,
2. are brought into the city for the purposes of participating in a dog show or canine sporting event for which the owner is able to show proof of entry,
3. otherwise meet the specific conditions of an exception to this prohibition in accord with subsection C of this section.

C. The prohibition on possessing prohibited breeds within the city shall not apply to the extent applicable in the specific exceptions set forth below.

1. Exceptions. The prohibited breed prohibition stated in subsection A of this section shall not apply to prohibited breed service animals and prohibited breed dogs within the city under the following circumstances. The failure of a person in possession of a prohibited breed dog within the city under the following exceptions to comply and remain in compliance with all of the following terms and conditions of this exception may subject the prohibited breed service dog to immediate impoundment and disposition.
 - a. An owner of any prohibited breed used as a service animal within the City of Payette shall apply for a prohibited breed service animal license from the city. Prohibited breed service animal licenses shall be subject to approval by the Chief of Police, or his designee, and to all provisions of this exception. The owner of a qualifying prohibited breed who has applied for and received a prohibited breed service animal license in accord with the terms of this section and who maintains the prohibited breed service animal at all times in compliance with the prohibited breed service animal license requirements of subsection (C)(3) of this section may keep a prohibited breed service animal within the city.
 - b. Any member of the city of Payette police department, ordinance officer, or other city official, may temporarily harbor and transport any vicious dog for purposes of enforcing the provisions of this chapter.
 - c. Any veterinarian while treating a prohibited breed, or holding such prohibited breed after treatment until claimed by the owner or released to any member of the city of Payette police department, ordinance officer, or other city official
 - d. The owner/handler of a prohibited breed service animal who has applied for and received a prohibited breed service animal license in accordance with subsection (C)(3) of this section, and who maintains the prohibited breed at all times in compliance with the prohibited breed service animal license requirements of subsection (C)(3) of this section, together with all other applicable requirements of this chapter, may keep a prohibited breed service animal within the city. If a city animal control officer or other authorized city code enforcement or law enforcement officer makes contact with an owner/handler of a prohibited breed not licensed pursuant to this section and the owner/handler asserts that his or her dog is a service animal, the owner/handler shall be informed of this section and

instructed to obtain a prohibited breed license pursuant to subsection (C)(3) of this section within seventy-two hours of the initial contact. Failure to obtain a prohibited breed license within the permitted period of time after receiving said advisement shall result in impoundment of the dog pursuant to subsection (C)(4) of this section.

- e. A nonresident owner/handler may temporarily transport into and hold in the city a prohibited breed that is the owner/handler's service animal for a period not exceeding two weeks. During such temporary transport or holding, the owner/handler shall keep the prohibited breed muzzled and securely leashed with a leash sufficient to control the dog, no longer than four feet in length and held by the owner/handler who requires the use of the service animal. In the event the handler, because of a disability, is not able to use a muzzle or leash no longer than four feet in length, or in the event the use of a muzzle or a leash no longer than four feet in length would interfere with the service animal's safe, effective performance of its service work or tasks, the service animal must be otherwise under the handler's absolute control at all times.
- f. A police dog that is being used to assist one or more law enforcement officers in the performance of their duties.

3. License. The owner of a prohibited breed service animal who has applied for and received a prohibited breed service animal license shall be allowed to keep said prohibited breed within the city. The owner of the prohibited breed service animal shall maintain uninterrupted license currency. The prohibited breed service animal license is not transferable or renewable except by the licensee or by a member of the immediate family of the licensee. As a condition of issuance of a prohibited breed service animal license, the owner shall, at the time of application, comply with or otherwise provide sufficient evidence to demonstrate to the Chief of Police or his designee that the owner is in compliance with all of the following regulations:

- a. The owner of the prohibited breed service animal shall provide proof of a current rabies vaccination.
- b. The owner of the prohibited breed service animal shall provide two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.
- c. The owner or handler must be at least eighteen years of age.
- d. The owner will describe on the licensing application what task or tasks the dog has been trained to perform.
- e. The owner shall, at the owner's expense, have the prohibited breed service animal spayed or neutered and shall present documentary proof from a licensed veterinarian that this sterilization has been performed.
- f. The owner shall, at the owner's expense, have a microchip containing an identification number, implanted into the prohibited breed and shall provide proof of such registration. The licensing department shall maintain a file containing the registration numbers and names of the prohibited breed service animals and the names and addresses of the owners. The owner shall immediately notify the licensing department of any change of address.

- g. A surety bond issued by a surety insurer authorized to write liability insurance in the state of Idaho in a form acceptable to the city attorney in the sum of at least two hundred fifty thousand dollars, payable to any person injured by the vicious dog; or, a policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified and authorized to write insurance in the State of Idaho in the amount of at least two hundred fifty thousand dollars (\$250,000.00), insuring the owner for any personal injuries inflicted by the prohibited breed dog. Such bond or policy shall contain a provision requiring the insurance carrier to notify the city 30 days in advance of any cancellation, termination or expiration of such liability insurance. Such insurance shall be renewed annually so as to provide continuous coverage and shall be subject to approval by the city attorney as to form.
- h. A prohibited breed service animal license tag shall be issued to the owner at the time the license is issued. The license tag shall be attached to the prohibited breed service animal by means of a collar or harness which must be worn by the animal at all times. The license tag shall remain clearly visible and shall not be attached to any prohibited breed other than the prohibited breed service animal for which the license was issued.
- i. Except as stated below and at all times when a prohibited breed service animal is at the owner's property, the owner shall keep the prohibited breed confined. When outdoors, all prohibited breed service animals shall be confined in a locked, secure pen or enclosure, or kept within the rear yard of the owner's property, said rear yard enclosed by a six-foot fence maintained in a manner to prevent the prohibited breed service animal from leaving the back yard without the owner's accompaniment. When away from the owner's property, the prohibited breed service animal shall be accompanied by its owner or an adult at least eighteen years of age at all times.
- j. At all times when a prohibited breed service animal is away from the property of the owner, the owner shall keep the prohibited breed service animal muzzled and either in a secure temporary enclosure or securely leashed with a leash no longer than four feet in length held by someone eighteen years of age or older who is capable of effectively controlling the dog. Extension-style leashes may not be used. Leashes may not be attached to inanimate objects. In the event the handler, because of a disability, is not able to use a leash equal to or less than four feet in length, or in the event the use of a muzzle or a leash no longer than four feet in length would interfere with the service animal's safe, effective performance of work or tasks, the service animal must remain under the owner or handler's complete control at all times when away from the owner's property, the manner of control to be fully described to the code enforcement and animal control officer at the time of licensing. This regulation and the means for controlling the prohibited breed may be modified for service animals by the Chief of Police or designee as determined necessary and reasonable. Any such modification of the means of control set forth herein shall be memorialized in the licensing documentation upon issuance of said license.
- k. The owner shall not sell or otherwise transfer the prohibited breed service animal to any person residing within the city.
- l. The owner shall immediately notify the Chief of Police or designee in the event that the prohibited breed is loose, stolen, at large, unconfined, has mauled, bitten,

attacked, threatened, or in any way menaced another animal or human, or has died.

- m. No person applying for a prohibited breed service animal license shall be granted a breeder's permit for such prohibited breed service animal.
- n. If a prohibited breed service animal poses a direct threat to the health or safety of others as determined under this chapter shall result in a revocation of the license, impoundment and disposition pursuant to subsection (C)(4) of this section.
- o. Failure to comply with any of these conditions shall result in a revocation of the license, impoundment and disposition pursuant to subsection (C)(4) of this section.

4. Impoundment. Any law enforcement officer or animal control officer is authorized to immediately impound any prohibited breed service animal found within the city limits which does not qualify for the exception stated within this section, subject to all of the procedures and processes set forth in PMC 6.08.100, 6.08.101 and 6.08.107. If the dog is found not to be a prohibited breed as a result of DNA testing, evidence obtained at the owner's option and sole expense, or if the dog is determined to be a service animal, the dog shall be released to the owner, subject to full compliance with every requirement of this chapter. Notwithstanding a finding that the dog is not a prohibited breed or a finding that the dog is a service animal, a dog may be impounded and the owner/handler may be held responsible for violations of this section or any other applicable state or local law.

Section 9. Section 6.08.108 of Title 6, Chapter 6.08, of the Payette Municipal Code is hereby amended to read as follows:

6.08.108: DISPOSITION OF UNCLAIMED DOGS:

All unclaimed dogs impounded shall be kept for ~~a maximum period of~~ three (3) days, or as required by Idaho Code. If possession of any dog, with the exception of a prohibited breed 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 if the dog remains in the City of Payette ~~and costs herein provided~~, by delivery to a third party humane shelter, or the dog may be destroyed in a humane manner.

Section 10. This Ordinance may be published in summary form allowed by Idaho Code.

Section 11. 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 12. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

Section 13. 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 14. Any violation of this Ordinance shall be a misdemeanor punishable by fine and/or imprisonment up to but not exceeding the maximum penalties set forth in Idaho Code § 50-302, as amended. Each day during which a violation takes place or is allowed to continue, shall constitute a separate violation of this chapter.

PASSED and APPROVED by the Mayor and City Council of the
City of Payette, Idaho this 1st day of August, 2016.

CITY OF PAYETTE, IDAHO

BY 

Jeffrey T. Williams, Mayor

ATTEST:



City Clerk