

ORDINANCE NO. 002/2011

AN ORDINANCE OF THE CITY OF MONROE,
WASHINGTON, RELATING TO ANIMAL CONTROL;
AMENDING CHAPTER 8.04 OF THE MONROE MUNICIPAL
CODE, PROVIDING FOR SEVERABILITY, ESTABLISHING
FEES, AND FIXING A TIME WHEN THE SAME SHALL
BECOME EFFECTIVE.

WHEREAS, chapter 8.04 of the Monroe Municipal Code sets forth City regulations in connection with animal control, including provisions relating to potentially dangerous and dangerous dogs; and

WHEREAS, the City further desires to amend the code to add "scoop" requirements; and

WHEREAS, the City further desires to update the chapter to comply with amendments to RCW 16.08.080 relating to bonding and insurance requirements for dangerous dogs; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 8.04.020 of the Monroe Municipal Code - Amended. Subsections 8.04.020(H) and (P) of the Monroe Municipal Code, Definitions, are hereby amended to read as follows:

H. "Dangerous dog" means (1) any dog that has inflicted severe injury or death on a human without provocation, (2) one that has killed a domestic animal without provocation while off the owner's property, (3) aggressively bites, attacks, or endangers the safety of humans or (4) when previously declared a potentially dangerous dog chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack. Dogs shall not be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime. In the event of a declaration of dangerous dog as a result of 8.04.020(H)(4), an owner may have the dangerous dog declaration removed if the owner of the dog can show that since the incident or action giving rise to the declaration, the owner has enrolled in and successfully completed the American Kennel Club's Canine Good Citizen® (CGC) Program, or a comparable course or program addressing dog ownership responsibilities offered by a similarly recognized entity, which alternate course or program and/or entity shall be

approved by the city. In order to be eligible for such reversal of declaration, the owner must show proof of registration for the Program or approved comparable course no more than 30 days after the declaration. This provision for reversal of declaration shall not apply in instances where a dangerous dog declaration has been previously reversed because such training was given to the same owner for this or any other dog, or to any other person involving the same dog.

P. "Potentially dangerous dog" means any dog which inflicts minor bites on a human or bites a domestic animal, or chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack.

Section 2. Section 8.04.030 of the Monroe Municipal Code - Amended. Subsection 8.04.030(F) of the Monroe Municipal Code is hereby amended to read as follows:

F. To investigate incidents or information about dogs that may qualify as dangerous or potentially dangerous. After providing an opportunity for the owner of the dog to be heard as required by RCW 16.08.080, the animal control officer may issue an order declaring the dog to be dangerous or potentially dangerous.

The animal control officer will notify the animal owner of the appeal process in accordance with RCW 16.08.080. The appeal body shall be the Monroe Hearings Examiner.

G. To issue a certificate of registration to the owner of a dangerous dog if the owner presents to the animal control officer sufficient evidence of:

1. A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog,

2. A surety bond issued by a surety insurer qualified under Chapter 48.28 RCW in a form acceptable to the animal control authority in the sum of at least two hundred fifty thousand dollars, payable to any person injured by the dangerous dog, or

3. A policy of liability insurance, such as homeowner's insurance, issued by an insurer qualified under RCW Title 48 in the amount of at least two hundred fifty thousand dollars, insuring the owner for any personal injuries inflicted by the dangerous dog.

Section 3. Section 8.04.040 of the Monroe Municipal Code - Amended. Section 8.04.040 of the Monroe Municipal Code is hereby amended by repealing Section 8.04.040(C) and replacing it with "reserved" and by repealing Section 8.04.040(K) and replacing it with the following new subsections:

K. It shall be unlawful for the owner or person having charge of any animal to permit, either willfully or by failure to exercise due care, such animal to commit a public nuisance by defecating in any area of the city other than the premises of the owner or person having charge or control of the animal, unless said owner or person having charge takes immediate steps to remove and properly dispose of said feces.

L. It shall be unlawful for the owner or person having charge of an animal to tether or confine said animal in such a manner or in such a place as to cause injury or pain to an animal, or to endanger an animal, or that is injurious to the animal due to inadequate protection from heat or cold, or that is of insufficient size to permit the animal to move about freely.

M. The owner leaving an animal unattended in a motor vehicle shall:

1. ensure the animal is restrained in a manner that prevents contact between the animal and any member of the public;
2. ensure the animal has suitable ventilation; and
3. not leave an animal unattended in a motor vehicle if the weather conditions are not suitable for containment of an animal.

N. The owner of an animal shall ensure dogs shall be under control at all times.

- (a). Except as provided in subsection (b) of this section, it is unlawful for the owner or custodian of any dog to cause, permit, or allow such dog to roam, run, stray or be away from the premises of such owner or custodian and to be on any public place, any public property or the private property of another unless such dog be controlled by a leash, such control to be exercised by such owner or custodian or other competent and authorized person. This section shall not apply to dogs owned by the city or other law enforcement agencies and maintained as police K-9 units while under the custody and control of the trainer or handler.
- (b). Dogs may be off-leash in park areas designated for that purpose by the parks director as authorized by MMC 9.28.065.

Section 4. Section 8.04.060 of the Monroe Municipal Code - Amended. Section 8.04.060(G) of the Monroe Municipal Code is hereby amended as follows:

G. Any dangerous dog, declared dangerous by Monroe or any other municipality, shall be immediately confiscated by an animal control authority if:

1. The dog is not validly registered under MMC 8.04.040; or
2. The owner does not secure the liability insurance coverage required under MMC 8.04.05; or

3. The dog is not maintained in the proper enclosure; or
4. 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.

Violation of this subsection 8.04.060(G) constitutes a gross misdemeanor subject to a fine of not more than five thousand dollars plus costs, penalties, assessments and/or jail for up to three hundred sixty-five days. The animal control authority shall destroy the confiscated dangerous dog in an expeditious and humane manner if any deficiencies required by this subsection are not corrected within twenty days of notification.

Section 5. Section 8.04.100 of the Monroe Municipal Code - Amended. Section 8.04.100 of the Monroe Municipal Code is hereby amended by adding the following new section (C) and redesignating subsections (C) through (E) to (D) through (F), respectively:

C. If two or more dogs jointly engage in any conduct meeting the definition of dangerous/potentially dangerous dog, then regardless of the degree of participation by the individual dog, all dogs shall be deemed dangerous/potentially dangerous dogs.

Section 6. Section 8.04.110 of the Monroe Municipal Code - Amended. Section 8.04.110 of the Monroe Municipal Code is hereby amended to read as follows:

A. A violation of any of subsections 8.04.040(B), (D) - (H) and (K) - (N) of this chapter shall constitute an infraction subject to the penalties set by resolution adopted by the City Council. In the absence of a penalty set by resolution, the default civil penalty shall be \$100. In the case of any ambiguity the lesser amount shall apply.

B. Upon conviction of any person for any violation of the provisions of this chapter not listed in subsection 8.04.110(A), or if a person has committed more than two infractions under subsection 8.04.110(A), that person shall be guilty of a gross misdemeanor and be punished by a fine of not more than five thousand dollars plus costs, penalties, assessments and/or jail for up to three hundred sixty-five days. Any conflicting state criminal penalties shall supersede the criminal penalties set by this chapter.

C. Each day any person shall be in violation of this chapter shall be deemed a separate offense.

D. If a dangerous dog of an owner with a prior conviction under this chapter, to the extent the conviction implements Chapter 16.08 RCW, attacks or bites a person or another domestic animal, the dog's owner is guilty of a class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

E. The owner of any dog that aggressively attacks and causes severe injury or death of any human, whether the dog has been previously declared potentially dangerous or dangerous, shall be guilty of a class C felony, punishable in accordance with RCW 9A.20.021. In addition, the dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

F. Chapter 16.08 RCW as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein. Chapter 16.08 RCW supersedes Chapter 8.04 of the Monroe Municipal Code if a conflict occurs between Chapter 16.08 RCW and Chapter 8.04 of the Monroe Municipal Code to the extent that the City is precluded by state law from having conflicting provisions.

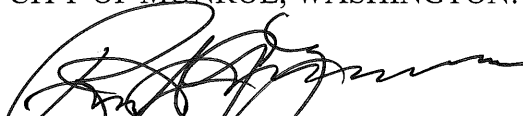
Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This ordinance shall take effect five (5) days after publication. Interim Ordinance No. 039/2008 shall be repealed on the effective date of this ordinance.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 18th day of January 2011.

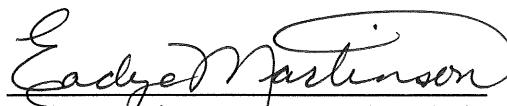
1st Reading: 1/18/11
Published: 1/25/11
Effective: 1/30/11

CITY OF MONROE, WASHINGTON:



Robert G. Zimmerman, Mayor

ATTEST/AUTHENTICATED:



Eadye Martinson, Deputy City Clerk

APPROVED AS TO FORM:



J. Zachary Lell, City Attorney