

**ORDINANCE NO. 2019-13**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to animal control; amending Title 6 of the Bainbridge Island Municipal Code (BIMC) to update the City's Animal Control Code to incorporate best practices recommended by the City's animal control authority.

**WHEREAS**, on December 12, 2017, the City Council authorized the City Manager to enter into a contract with Kitsap Humane Society for animal control services for a new three-year term beginning on January 1, 2018; and

**WHEREAS**, on January 2, 2018, the City and the Kitsap Humane Society executed a contract for animal control services for a three-year term ending on December 31, 2020; and

**WHEREAS**, under the terms of the contract, the City has designated the Kitsap Humane Society to act as the Animal Control and Impounding Authority for the City in accordance with Title 6 BIMC; and

**WHEREAS**, the Kitsap Humane Society has previously performed these services for the City and performs similar services for other municipalities in Kitsap County; and

**WHEREAS**, one of the City Council's top priorities for 2018 was code enforcement; and

**WHEREAS**, on June 4, 2018, the Kitsap Humane Society provided the City with a number of recommended changes to the City's Animal Control Code; and

**WHEREAS**, such recommendations were provided as part of a larger City-wide effort to evaluate what improvements related to code enforcement could be made to the City Code; and

**WHEREAS**, on September 18, 2018, the City Council first considered the Kitsap Humane Society's recommendations as part of a larger code enforcement discussion; and

**WHEREAS**, on March 12, 2019, representatives from the Kitsap Humane Society presented the recommendations to the City Council and the City Council directed staff to prepare an ordinance to adopt the Kitsap Humane Society's recommendations; and

**WHEREAS**, on June 11, 2019, the City Council first considered and discussed proposed Ordinance No. 2019-13.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** Subsection 6.04.010.6 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

6. ~~“Animal rescue league~~ Animal welfare organization” means any association or nonprofit corporation which routinely obtains unwanted dogs or cats, the primary goal of which is to place the dogs or cats into adoptive homes, as long as the dogs or cats are neutered.

**Section 2.** Subsection 6.04.050.F of the Bainbridge Island Municipal Code is hereby amended to read as follows:

F. Hearing Before Director of Animal Control or Designee. Upon receiving the written notice of appeal, the director of animal control, or her or his designee, shall promptly schedule an appeal hearing and provide written notice of the hearing to the appellant. At the hearing, the animal control authority shall have the burden of proving that the animal is potentially dangerous by a preponderance of the evidence. The director of animal control, or her or his designee, shall issue a written decision to the appellant which either sustains or reverses the animal control authority’s declaration. The decision shall be the final decision of the animal control authority. If the declaration is sustained, the appellant shall be notified of the right to an appeal.

**Section 3.** Section 6.04.050 of the Bainbridge Island Municipal Code is hereby amended to include a new Subsection 6.04.050.L to read as follows:

L. Reconsideration of Potentially Dangerous Animal Declaration.

1. No sooner than 24 months from the date that the animal was declared to be potentially dangerous, any owner of a potentially dangerous animal may request that the animal control authority reconsider the potentially dangerous animal declaration. Such a request shall be submitted in writing to the animal control authority and shall include facts and the specific steps that the owner has taken to effectively and safely manage the animal. Within 60 days of the request, the animal control authority shall respond to the owner in writing and take one of the following actions:

- a. Deny the request for reconsideration; or
- b. Rescind the potentially dangerous animal declaration; or
- c. Reclassify the potentially dangerous animal to a different level, as described in BIMC 6.04.050.A.

2. A owner of a potentially dangerous animal cannot make a request under BIMC 6.04.050.L.1 more than once every 12 months.

3. The animal control authority may, on its own initiative, rescind a potentially dangerous animal declaration for good cause.

**Section 4.** Subsection 6.04.053.A of the Bainbridge Island Municipal Code is hereby amended to read as follows:

A. ~~Violation~~ Failure to Control an Animal Declared Potentially Dangerous.

1. Misdemeanor. When an animal has been declared potentially dangerous pursuant to BIMC 6.04.050, the owner of the potentially dangerous animal shall be guilty of a misdemeanor, in accordance with BIMC 6.04.140, if such animal is thereafter found:

a. At large;

b. To have, when unprovoked, inflicted a bite upon a human, pet, or livestock either on public or private property;

c. To have chased or approached a person upon the streets, sidewalks, or any other public grounds in such a manner as to significantly threaten the safety of humans, pets, or livestock; or

d. To have caused injury to or otherwise threatened the safety of humans, pets, or livestock.

This section shall not preclude immediate criminal prosecution under RCW 16.08.100 in a first bite situation causing severe injury or death of any human.

~~After an animal is declared potentially dangerous pursuant to this chapter, the owner of the potentially dangerous animal shall be guilty of a violation of this chapter if the animal runs at large, chases or approaches a person upon the streets, sidewalks or other public grounds in a menacing fashion or apparent attitude of attack, causes injury to or otherwise threatens the safety of a human or domestic animal, or bites a human or domestic animal. This section shall not preclude criminal prosecution under RCW 16.08.100(3) in a first bite situation causing severe injury or death to a human.~~

2. Failure on the part of any owner of a potentially dangerous animal to abide by the restraints placed upon the owner(s) or their animal by the animal control authority or municipal court may result in impoundment of

the potentially dangerous animal by the animal control authority pursuant to Chapter 6.12 BIMC.

**Section 5.** Subsection 6.04.053.F of the Bainbridge Island Municipal Code is hereby amended to read as follows:

F. Hearing Before Director of Animal Control or Designee. Upon receiving the written notice of appeal, the director of animal control, or her or his designee, shall promptly schedule an appeal hearing and provide written notice of the hearing to the appellant. At the hearing, the animal control authority shall have the burden of proving that the animal is dangerous by a preponderance of the evidence. The director of animal control, or her or his designee, shall issue a written decision to the appellant which either sustains or reverses the animal control authority's declaration. The decision shall be the final decision of the animal control authority. If the declaration is sustained, the appellant shall be notified of the right to an appeal.

**Section 6.** Chapter 6.04 of the Bainbridge Island Municipal Code is hereby amended to include a new Section 6.04.065 to read as follows:

**6.04.065 Animal bites.**

A. It is unlawful to own a pet or livestock that bites a person while such person is on public property or lawfully on private property.

B. For the purposes of this section, the term "livestock" means animals including, but not limited to, all equine (horse, mule), bovine (cattle), porcine (swine), caprine (goats), ovine (sheep), camelid (camel, llama, alpaca), ratitae (ostrich, emu, rhea), domesticated poultry, game birds and waterfowl (as authorized by the state of Washington), or federally permitted fowl and other pen raised fowl, or other animals raised primarily for use as food or fiber for human utilization or consumption.

C. For the purposes of this section, the term "pet" means any animal maintained by a person or entity for the primary purpose of personal enjoyment, exhibition, companionship, or service including, but not limited to, domesticated animals, such as cats and dogs, and non-domesticated animals suitable to living in companionship with humans, such as some birds and mammals.

**Section 7.** Chapter 6.04 of the Bainbridge Island Municipal Code is hereby amended to include a new Section 6.04.085 to read as follows:

**6.04.085 Pets Chasing Livestock.**

A. It is unlawful for any owner of a pet to permit that animal to harass or chase another owner's livestock, when not engaged in the specific work of herding approved by the owner of the livestock.

B. For the purposes of this section, the term “pet” shall have the same meaning as provided in BIMC 6.04.065.C.

C. For the purposes of this section, the term “livestock” shall have the same meaning as provided in BIMC 6.04.065.B.

**Section 8.** Section 6.04.113 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.04.113 Selling animals from puppy or kitten mills prohibited.**

A. Definitions. To supplement the definitions found at BIMC 6.04.010, for the purposes of this section the following words shall have the following meanings unless the context indicates otherwise. If there is a conflict between a definition in this section and a definition in BIMC 6.04.010, the definition in this section shall control for the purposes of this section:

1. “Offer for sale” means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away, or otherwise dispose of a dog or cat.
2. “Pet shop” means a retail establishment where dogs and cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal shelter or ~~animal rescue league, as defined~~ animal welfare organization.

B. Restrictions on the Sale of Animals.

1. A pet shop may offer for sale only those dogs and cats that the pet shop has obtained from or displays in cooperation with an animal shelter or an ~~animal rescue league~~ animal welfare organization.
2. A pet shop shall not offer for sale a dog or cat that is younger than eight weeks old.

C. Record Keeping and Disclosure. A pet shop shall maintain records stating the name and address of the animal shelter or ~~animal rescue league~~ animal welfare organization that each cat or dog was obtained from for at least two years following the date of acquisition. Such records shall be made available, immediately upon request, to the city or animal control authority. Each pet shop shall display on each cage a label stating the name and address of the animal shelter or ~~animal rescue league~~ animal welfare organization of each animal kept in the cage.

**Section 9.** Chapter 6.04 of the Bainbridge Island Municipal Code is hereby amended to include a new Section 6.04.127 to read as follows:

**6.04.127 Failure to Provide Adequate Care.**

A. It is unlawful for any owner of a pet or livestock to fail to:

1. Provide adequate food and water for any pet or livestock.
2. Provide adequate shelter for any pet or livestock, except as may be appropriate for short term medical requirements or generally accepted livestock husbandry practices such as swine farrowing;
3. Provide appropriate habitat and medical care; or
4. Maintain facilities housing pets in a healthful, sanitary, and safe manner.

B. For the purposes of this section, the term “pet” shall have the same meaning as provided in BIMC 6.04.065.C.

C. For the purposes of this section, the term “livestock” shall have the same meaning as provided in BIMC 6.04.065.B.

**Section 10.** Chapter 6.04 of the Bainbridge Island Municipal Code is hereby amended to include a new Section 6.04.128 to read as follows:

**6.04.128 Sale, Barter, or Other Transfer of Pets in Public Places**

A. It is unlawful to sell, barter, or otherwise transfer for the purpose of changing ownership any pet in an area open to the public, except sales or transfers of pets by an animal welfare organization or by an animal shelter.

B. For the purposes of this section, the term “pet” shall have the same meaning as provided in BIMC 6.04.065.C.

**Section 11.** Section 6.08.010 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.08.010 License – Required for dogs and cats – ~~Optional for cats.~~**

To facilitate reuniting pets with their owners, it is unlawful for any person to own, keep, or have control of any dog or cat over the age of six months within the city unless the person has procured a license for the dog or cat as provided in this chapter. ~~The owner of a cat over the age of six months may procure a license for the cat as provided in this chapter.~~

**Section 12.** Subsection 6.08.032.J of the Bainbridge Island Municipal Code is hereby amended to read as follows:

J. Exemption. An ~~animal rescue league~~ animal welfare organization foster home which has been issued a permit under BIMC 6.08.034 shall be exempt from hobby kennel license requirements; provided that all personally owned animals shall be licensed in accordance with this chapter.

**Section 13.** Subsections 6.08.034.A and B of the Bainbridge Island Municipal Code are hereby amended to read as follows:

A. Permit Required. A person must obtain a foster home permit from the animal control authority or a designee of the animal control authority, which may be an ~~animal rescue league~~ animal welfare organization.

B. Standards. The animal control authority shall establish standards for foster homes and shall consider recommendations for such standards submitted by an ~~animal rescue league~~ animal welfare organization operating in the city.

**Section 14.** Section 6.08.090 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.08.090 Violation – Penalty.**

A. ~~Any person who refuses, fails to comply with, or violates, Section 6.08.010 of this chapter, is guilty of a civil infraction, and shall upon conviction be fined in an amount not to exceed \$300.00.~~ Any person violating any of the provisions of this chapter shall be guilty of a Class 1 civil infraction under RCW 7.80.120 and shall, upon conviction, be fined in an amount not to exceed \$250.00.

B. In addition to any civil penalty that may be imposed, ~~Any~~any person who refuses, fails to comply with, or violates, Sections 6.08.031, 6.08.032, or 6.08.033 of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than ninety 90 days, or by both such fine and imprisonment.

**Section 15.** Section 6.12.050 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.12.050 Redemption of a licensed dog or cat ~~dog, cat or other animal~~.**

A. The owner of a licensed dog or cat ~~dog, cat or other animal~~ impounded pursuant to this chapter may redeem the licensed dog or cat ~~dog, cat or other animal~~ within ~~96 hours~~ seven days from the time of impounding by paying to the animal control authority a redemption fee together with any unpaid applicable license fee. An additional charge per day or part thereof may be imposed.

B. If an impounded licensed dog or cat ~~dog, cat or other animal~~ is not redeemed by the owner within ~~96 hours~~ seven days of the time of impoundment, the licensed dog or cat ~~dog, cat or other animal~~ may be adopted by another person or ~~ethanized~~ ethanized.

~~C. An animal so impounded which is less than two months of age may be adopted or ethanized at any time after animal control at the discretion of the animal control authority.~~

**Section 16.** Chapter 6.12 of the Bainbridge Island Municipal Code is hereby amended to include a new Section 6.12.055 to read as follows:

**6.12.055 Redemption of an unlicensed dog or cat, or other domestic animal.**

A. The owner of an unlicensed dog or cat, or other domestic animal, impounded pursuant to this chapter may redeem the unlicensed dog or cat, or other domestic animal, within 72 hours from the time of impounding by paying the animal control authority a redemption fee together with any unpaid applicable license fee. An additional charge per day or part thereof may be imposed.

B. If an impounded unlicensed dog or cat, or other domestic animal, is not redeemed by the owner within 72 hours of the time of impoundment, the unlicensed dog or cat, or other domestic animal, may be adopted by another person or euthanized.

C. An animal so impounded which is less than two months of age may be adopted or euthanized at any time at the discretion of the animal control authority.

D. If a feral cat is not redeemed within 24 hours from the time of impounding, then the animal control authority may give or adopt the feral cat to an animal welfare organization, animal shelter, or qualified person, or, alternatively, euthanize the animal. For the purposes of this subsection, “feral cat” means any cat that has no apparent owner or identification and is apparently wild, untamed, unsocialized, unmanageable, and unable to be approached or handled.

**Section 17.** Section 6.12.060 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.12.060 Redemption of horse, cow, goat, or other livestock domestic animal.**

The owner of a horse, cow, goat, or other livestock domestic animal impounded pursuant to this chapter may redeem the animal within 48 hours from the time of impoundment by paying the animal control authority a fee for each day or part thereof that the animal is detained, plus an impound fee which shall include costs of care and feeding the animal for the days impounded. An additional fee shall be paid to the animal control authority for transportation of animals requiring the use of special equipment for impounding.

**Section 18.** Section 6.12.070 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.12.070 Sale of unclaimed horse, cow, goat, or other livestock.**

A horse, cow, goat, or other livestock not claimed and released upon required payment shall at the expiration of 48 hours be sold at a public auction upon five days notice. The notice shall be published in the city’s official newspaper and shall state the time and place of the public auction, and the name of the owner, if known, and if the name of the owner is not known, a statement to that effect. A copy of the notice shall be served upon the owner, if the identity of the owner is known to the animal control authority and the owner can be found in the city, at least one day prior to the public auction. The animal control authority shall deduct from the proceeds of sale all expenses of feeding and caring for the animal and all expenses of advertising and selling the animal, and shall retain the balance in reserve for six months from the date of the sale. If the balance is unclaimed at the expiration of six months, the balance shall revert to the animal control authority for operation of the animal shelter. No such money shall be paid any claimant except upon proof satisfactory to the animal control authority that the claimant is entitled to the same. As an alternative to selling the animal at public auction, the animal control authority may give or adopt the animal to an animal welfare organization, animal shelter, or qualified person or, alternatively, may euthanize the animal.

**Section 19.** Section 6.04.140 of the Bainbridge Island Municipal Code is hereby amended to read as follows:

**6.04.140 Violation – Penalty.**

A. ~~In addition to any civil penalty that may be imposed, Any~~any person violating Sections 6.04.050, 6.04.053, 6.04.055, or 6.04.110 of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$1000 or by imprisonment of not more than 90 days ~~for a period not to exceed one year~~, or by both such fine and imprisonment. For each violation of this chapter of a continuing nature, each day of violation may be considered a separate offense.

B. Any person violating any of the provisions of this chapter, or who creates, keeps, or maintains a nuisance as defined in this chapter, is guilty of a Class 1 civil infraction under RCW 7.80.120; and ~~shall~~, upon conviction, shall be fined in an amount not to exceed \$250.00.~~\$300.00~~; ~~provided, that the violation of Sections 6.04.050, 6.04.053, 6.04.055, and 6.04.110 constitute criminal offenses.~~

**Section 20.** This ordinance shall take effect and be in force five (5) days from its passage and publication as required by law.

PASSED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Kol Medina, Mayor

ATTEST/AUTHENTICATE:

\_\_\_\_\_  
Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NUMBER:

2019-13