ORDINANCE NO. 19-0546

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EGDWOOD, PIERCE COUNTY, WASHINGTON, RELATING TO DANGEROUS AND POTENTIALLY DANGEROUS DOGS, ADOPTING DEFINITIONS, DESCRIBING THE PROCEDURE USED FOR DETERMINING A DOG TO BE POTENTIALLY DANGEROUS OR DANGEROUS, DESCRIBING THE PROCEDURE FOR APPEALING A DETERMINATION THAT A DOG IS POTENTIALLY DANGEROUS OR DANGEROUS, IDENTIFYING THE RESPONSIBILITIES OF THE OWNER OF A DANGEROUS OR POTENTIALLY DANGEROUS DOG, ESTABLISHING VIOLATIONS, DESCRIBING THE PROCEDURES FOR SEIZURE, IMPOUNDMENT, RELEASE OR EUTHANASIA OF SUCH DOGS, AMENDING SECTIONS 6.01.010 AND 6.01.020; ADOPTING A NEW CHAPTER 6.04 TO THE EGDWOOD MUNICIPAL CODE, PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on December 30, 2010, the City of Edgewood entered into an interlocal agreement with the Cities of Sumner and Puyallup, for Metro Animal Services to provide animal control and shelter services within the City of Edgewood; and

WHEREAS, according to the interlocal agreement, the City of Edgewood is required to "review its local laws regulating dangerous dogs, licensing and other animal related codes and to make amendments as needed to ensure that the regulations contain provisions similar to Sumner’s and Puyallup’s to ensure consistency in enforcement and to increase management efficiency (Section B under “Edgewood’s Responsibilities,” page 3); and

WHEREAS, the interlocal agreement provides that “Edgewood shall be responsible for any costs associated with enforcing or defending their ordinances related to potentially dangerous and dangerous dog declarations, impounds or additional costs associated with prosecution of criminal and civil cases, or other unforeseen costs that may arise from time to time” (Section E, under “Edgewood’s Responsibilities,” page 3); and
WHEREAS, the interlocal agreement provides that Edgewood is required to provide a minimum of fourteen days’ written notice of all code changes prior to adoption with regard to non-fee related changes (Section F under “Edgewood’s Responsibilities,” page 4); and

WHEREAS, in 2016, Edgewood adopted chapter 6.10 of the Sumner Municipal Code on Dangerous and Potentially Dangerous Dogs by reference; and

WHEREAS, on March 4, 2019, Sumner adopted Ordinance No. 2676, which repealed chapter 6.10 of the Sumner Municipal Code and adopted a new chapter 6.10 SMC on the same subject; and

WHEREAS, cities and counties without procedures for notification and appeal with regard to determining a dog to be dangerous as of June 13, 2002, were required to follow the procedure in RCW 16.08.080, and this statute also allows the city or county to impose additional restrictions on the owners of dangerous dogs; and

WHEREAS, pursuant to RCW 16.08.090(2), local jurisdictions may regulate potentially dangerous dogs without state law limits on the restrictions that may be placed on potentially dangerous dogs; and

WHEREAS, this Ordinance is exempt from SEPA, pursuant to WAC 197-11-800(19); and

WHEREAS, a final draft of this Ordinance was sent to the Sumner City Attorney’s Office on March 15, 2019; and

WHEREAS, the Edgewood City Council considered this draft Ordinance on April 2, 2019, in a study session; and

WHEREAS, the Edgewood City Council adopted this Ordinance on April 9, 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:
Section 1. Section 6.01.010 of the Edgewood Municipal Code is hereby amended to read as follows:

6.01.010 Adoption.

Pursuant to RCW 35A.12.140, the city hereby adopts by reference the following chapters of the Sumner Municipal Code (SMC) related to the control, regulation and licensing of animals, inclusive of any future amendments thereto:

SMC Chapter 6.04, Animal Control;

SMC Chapter 6.08, Dog Feces Removal;

SMC Chapter 6.10, Dangerous and Potentially Dangerous Dogs;

SMC Chapter 6.16, Exotic Animals.

Section 2. Section 6.01.020 of the Edgewood Municipal Code is hereby amended to read as follows:

6.01.020 References.

The following references as used in the SMC chapters adopted under EMC 6.01.010 as well as chapter 6.04 EMC, shall have the following meanings for purposes of this title:

“Animal control authority” shall mean Metro Animal Services, pursuant to the Interlocal agreement between Edgewood, Sumner and Puyallup dated December 30, 2010, the Edgewood police department.

“City of Sumner” shall mean the City of Edgewood.

“Director” shall mean the City of Edgewood Police Chief or his/her designee.

“Municipal Court” or “Pierce County District Court” shall mean the Pierce County District Court.

All other references to city of Sumner officials and/or terms as used in the adopted Sumner Municipal Code chapters shall be reasonably construed as meaning the most similar or equivalent city of Edgewood official and/or term.

Section 3. A new chapter 6.04 is hereby added to the Edgewood Municipal Code, which is attached hereto as Exhibit A, and incorporated herein as if fully set forth.

Section 4. 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 5. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of final passage.

PASSED BY THE CITY COUNCIL ON THE 9TH DAY OF APRIL 2019

Mayor Daryl Eldinger

ATTEST/AUTHENTICATED:

Rachel Pitzel, CMC
City Clerk

APPROVED AS TO FORM:

City Attorney, Carol Morris

Date of Publication: April 11, 2019
Effective Date: April 16, 2019
CHAPTER 6.04
POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS

Sections:

6.04.001 Purpose.
6.04.002 Definition of a potentially dangerous dog.
6.04.003 Procedure for determining a dog to be potentially dangerous.
6.04.004 Appeal of the potentially dangerous dog determination
6.04.005 Responsibilities of the potentially dangerous dog owner.
6.04.006 Definition of a dangerous dog.
6.04.007 Procedure for determining a dog to be dangerous.
6.04.008 Appeal of the dangerous dog determination.
6.04.009 Responsibilities of the dangerous dog owner.
6.04.010 Seizure, impoundment and/or euthanasia.
6.04.011 Violations and penalties.

6.04.001 Purpose. The City Council finds that potentially dangerous dogs and dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of the City of Edgewood because of unprovoked attacks which cause injury to persons and domestic animals. Such attacks are attributable in part to the failure of dog owners to confine, properly train and control their dogs. While state law (RCW 16.08.080 through 16.08.100) includes the regulations to be enforced by the City against dangerous dogs, the state does not limit the regulations that the City may impose on the owners of potentially dangerous dogs (RCW 16.08.090(2)). This chapter is therefore appropriate and necessary in order to impose uniform requirements on the owners of potentially dangerous and dangerous dogs, and to establish violations for failure to comply with these regulations.

6.04.002 Definition of a potentially dangerous dog.

A. “Potentially dangerous dog” means any dog that when unprovoked: (a) inflicts bites on a human or domestic animal or livestock either on public or private property, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or (c) any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to cause injury or otherwise to threaten the safety of humans or domestic animals or livestock.

B. Exclusions.

1. A dog 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.

2. The definition of "potentially dangerous dog" shall not apply to police dogs as defined in RCW 4.24.410.

6.04.003 Procedure for determining a dog to be potentially dangerous.

A. Issuance of Notice of Intent to Determining a Dog to be Potentially Dangerous.

1. The animal control authority may initiate the procedure in this Section for determining whether a dog's conduct falls within the definition of potentially dangerous dog in EMC 6.04.002(A) and whether the exclusions in EMC 6.04.002(B) do not apply, based upon:

   a. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of EMC Section 6.04.002(A); or

   b. Animal bite reports filed with the animal control authority; or

   c. Actions of the dog witnessed by an animal control officer; or

   d. Other substantial evidence.

2. If the animal control authority has probable cause to believe that the dog is potentially dangerous, it shall issue a Notice of Potentially Dangerous Dog, as provided in Subsection 6.04.003(C).

B. Seizure, Impoundment or Confinement of Dog While Notice is Pending. Once the animal control authority issues the Notice, it shall have the discretion to determine whether the dog that is the subject of a potentially dangerous dog Notice should be immediately impounded and held pending the outcome of the determination and any related appeals. If the dog is impounded, the owner is responsible for all boarding costs and other fees of the animal control authority, as may be required to humanely and safely keep the animal during this period of time.

   In the alternative, the animal control authority may determine that the dog which is the subject of a potentially dangerous dog Notice need not be impounded pending the outcome of determination and any related appeals, as long as the dog is confined and controlled as set forth in Section 6.04.005(C)(2) ("Confinement"), and the dog's owner provides the notification to the animal control authority required by Section 6.04.005(D) ("Notice").

C. Contents of Notice Seeking Declaration. The Notice seeking a declaration that a dog is potentially dangerous shall include, at a minimum, the following information:
1. A description of the dog, together with the dog owner’s name and address (if known);

2. The statutory basis for the proposed determination that the dog is potentially dangerous;

3. The reasons the animal control authority considers the dog to be potentially dangerous;

4. A recitation of the dog owner’s responsibilities and the controls that must be placed on the dog, if it is ultimately determined to be a potentially dangerous dog, as taken from EMC 6.04.005;

5. A statement that the owner is entitled, but is not required, to meet with the Edgewood Police Chief (or designee) prior to the animal control authority’s issuance of any final decision on whether the dog is potentially dangerous. The statement shall explain that the owner may request the meeting and use the opportunity to give the Police Chief (or designee), orally or in writing, any reasons or information as to why the dog should not be declared potentially dangerous. The date, time and location of this meeting (if requested) shall be identified in the Notice, and the date of the meeting must be scheduled prior to expiration of fifteen (15) calendar days following delivery of the Notice. If the Notice was not personally delivered, then the dog’s owner must request a meeting by submitting the written request to the animal control authority within fifteen (15) calendar days after the Notice was mailed to the dog owner or posted on the dog owner’s property. In the owner’s written request for this meeting, the owner may propose an alternative meeting date and time, but such meeting must still occur within the fifteen-day time period set forth in this subsection;

6. A statement of the proper procedure that the owner must follow in order to timely appeal a final determination finding the dog to be potentially dangerous (under EMC 6.04.004).

D. Service. The Notice shall be served on the dog’s owner by one of the following methods:

1. Regular and certified mail to the owner’s last known address. Service shall be deemed complete upon the third day following the day upon which the Notice was placed in the mail. If the third day falls on a Saturday, Sunday or legal holiday, then service shall be deemed complete on the next business day; or

2. By providing the Notice to the dog’s owner personally.

3. The animal control authority may, but is not required to post a copy of the Notice in a conspicuous place on the property of the dog’s owner.

E. Meeting with Police Chief (or designee in the event the Police Chief is unavailable).

1. If the dog’s owner timely requests a meeting with the Police Chief, the owner may present, verbally or in writing, the reasons that the owner believes that the dog should not be declared potentially dangerous.
2. The Police Chief shall deliberate on the information submitted by the owner, the
evidence provided by the animal control authority, the definition of “potentially dangerous dog”
in EMC Section 6.04.002 and all relevant facts, and issue a final decision as set forth in F(1)
below.

F. Issuance of Final Decision.

1. If meeting with Police Chief has been requested. Within fifteen (15) calendar days
after the meeting (or on the date set for the meeting if the owner fails to attend), the Police Chief
shall issue a final decision which either rescinds the Notice or determines the dog to be
potentially dangerous. If the Police Chief determines the dog to be potentially dangerous, the
decision shall include a recital of the authority for the action, a brief concise statement of the
facts that support the determination, and the Police Chief’s signature with the appeal period set
forth in (3) below.

2. If meeting with Police Chief has not been requested. If the dog owner does not
request a meeting with the Police Chief within fifteen (15) calendar days after service of the
Notice, animal control shall issue a Final Decision determining the dog to be potentially
dangerous with the appeal period set forth in (3) below.

3. Appeal period for Final Decision. Any decision which determines the dog to be
potentially dangerous shall also state that the dog’s owner may file a appeal of the decision to
the Pierce County District Court within twenty (20) calendar days of receipt of the decision, all
as provided in EMC Section 6.04.004. In addition, this decision shall be served on the dog’s
owner as provided in EMC Section 6.04.003(D) above.

6.04.004 Appeal of the Potentially Dangerous Dog Declaration.

A. Appeal Deadline. The owner of the dog may file a written appeal with the Pierce County
District Court within twenty (20) calendar days after the owner’s receipt of the Final Decision,
or, if the dog’s owner requested and attended a meeting with the Police Chief, any written appeal
must be filed within twenty (20) calendar days after the owner’s receipt of the Police Chief’s
Final Decision. A copy of the written appeal shall also be served upon the animal control
authority and the City Clerk within this twenty (20) calendar day appeal period.

B. Meeting with Chief Not Required for an Appeal. An appeal may be filed by the dog’s
owner regardless of whether the dog’s owner met with the Police Chief, as long as it is timely
filed, as provided above in EMC 6.04.004(A).

C. Dog Must be Confined After Notice issues and Throughout Appeal Process. Unless
seized by the animal control authority pursuant to EMC 6.04.003(B), the dog’s owner shall
comply with EMC 6.04.005(C)(2) (“Confinement”) while all court appeals are pending and until
final resolution of all such appeals.

D. Penalty for Failing to Keep Dog Confined During Appeal. It is unlawful for the owner
appealing a Notice or the Police Chief’s decision determining a dog to be potentially dangerous,
to allow or permit the animal to go beyond the owner’s premises unless such animal is securely
leashed, under the control of a competent adult and humanely muzzled or otherwise securely restrained. (See, EMC Section 6.04.011(A) for penalties.) Upon noncompliance with this subsection, the animal control authority is authorized to seize and impound the dog subject to the procedures in EMC 6.04.010.

E. **Burden on Appeal.** In the appeal, the City shall have the burden to show, by a preponderance of the evidence, that the dog is a potentially dangerous dog.

F. **Decision.** The District Court shall have the authority to enter the following finding:

1. Reverse the determination of potentially dangerous dog; or

2. Uphold the determination of potentially dangerous dog; or

3. Impose any necessary conditions upon the determination of potentially dangerous dog for a period not to exceed twelve (12) months, at which time the Court shall conduct a review hearing to determine if sufficient evidence supports the maintenance of the determination of potentially dangerous dog. During this period of time, the Court shall require that the owner comply with all of the provisions of EMC Section 6.04.005(C)(2) ("Confinement"). The owner is responsible for requesting a review hearing at the end of the conditional determination period. The conditional determination shall remain in effect until it is revised or rescinded by the Court.

G. **Appeal to Superior Court.** The dog’s owner may file an appeal of the Pierce County District Court’s decision in Superior Court within twenty (20) calendar days of issuance of the date of the Pierce County District Court’s decision. A copy of the appeal shall also be served on the City and the animal control authority within this twenty (20) calendar day time period.

**6.04.005 Responsibilities of a potentially dangerous dog owner.**

A. **Deadline for Compliance.** The owner of a dog that has been determined to be potentially dangerous shall continue to comply with EMC 6.04.005(C)(2), and is required to comply with the remainder of this Section on or before the following deadlines:

1. If the animal control authority issues a Notice of a potentially dangerous dog, and the dog’s owner does not request a meeting with the Edgewood Police Chief and no appeal of the Notice is filed, then the owner shall comply with the requirements of this Section within twenty-one (21) calendar days after service of the Notice upon him/her.

2. If the animal control authority issues a Notice of a potentially dangerous dog and the dog’s owner requests a meeting with the Edgewood Police Chief, but does not file an appeal of the Police Chief’s decision, then the owner shall comply with the requirements of this Section within thirty-one (31) calendar days after service of the Police Chief’s decision upon him/her.

3. If the animal control authority issues a Notice of a potentially dangerous dog and the dog’s owner requests a meeting with the Edgewood Police Chief, and files an appeal to the county of the Police Chief’s decision, then the owner shall comply with the requirements of this Section
within twenty-one (21) calendar days after issuance of the final court decision which resolves all appeals.

B. Permit Required. The owner of the potentially dangerous dog shall submit an application for a permit for such dog to the animal control authority showing compliance with all of the requirements below. If the dog’s owner presents sufficient evidence of all of the following, the animal control authority shall issue the potentially dangerous dog permit, which shall be renewed annually by the owner. In order to obtain the initial permit and any renewal of the permit, the owner shall:

1. Pay the fee for the permit/renewal;

2. Provide proof that the dog has been microchipped and the microchip number;

3. Provide a current, color, digital photographs in electronic format, each of the front and the profile/side of the dog (minimum 3” by 5” in size), for identification purposes;

4. Provide proof of current rabies vaccination;

5. Provide proof of that the policy of liability insurance (or surety bond) required by EMC 6.04.005(C)(4) has been obtained; and

6. Schedule an inspection of the dog owner’s premises within the deadline established in EMC Section 6.04.005(A) to obtain the animal control authority’s approval of the following permit requirements:
   a. The dog is confined in a proper enclosure as defined in EMC 6.04.005(C)(2);
   b. There is a conspicuously posted and clearly visible warning sign as defined in EMC 6.04.005(C)(3);
   c. The dog is wearing a current license tag; and
   d. Possession of a muzzle for the dog, as required by EMC 6.04.005(C)(2), which muzzle must be available at the time of inspection.

If the owner fails to pass an inspection, the owner will be charged a re-inspection fee per occurrence. The animal control authority shall set the date of the re-inspection, which may be not more than ten (10) calendar days of the original inspection. Future inspections may be performed by the animal control authority upon reasonable notice to the owner.

C. Restrictions. The animal control authority may impose any or all of the following restrictions upon the permit issued to the owner of a potentially dangerous dog:

1. Training. The owner of a potentially dangerous dog and the dog may be required to attend, compete and pay all costs associated with an obedience training class. The animal control authority shall pre-approve any choice of class by the owner of the animal, and proof of satisfactory completion of such training shall be provided to the animal control authority, even if similar training has been completed by the animal in the past.
2. **Confinement.** Every potentially dangerous dog must at all times be confined or controlled as follows:

   a. On the owner’s premises, within a proper enclosure, which means that dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have a locking door with a padlock, secure sides, a concrete floor, or, if the pen or structure has no bottom secured to the sides, then the sides must be embedded in the ground no less than one foot and a secure top attached to the sides, and shall also provide protection from the elements for the dog.

   b. In an area completely enclosed by a fence of sufficient height, substance and condition to prevent the escape of the dog while under the direct, in person supervision of a person 18 years or older, who is capable of preventing the escape of the dog from the fenced area; or

   c. If beyond the premises, then securely leashed and humanely muzzled while under the direct supervision of a person 18 years or older, who is capable of controlling the dog, and any other restrictions deemed necessary by the animal control authority. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

These restrictions apply while an appeal of the potentially dangerous dog declaration is pending.

3. **Warning.** The owner of a potentially dangerous dog shall be required to post clearly visible warning signs on the owner’s property. The warning sign shall be a clearly visible and conspicuously displayed sign containing words and a symbol (to inform children or others incapable of reading), warning that there is a potentially dangerous dog on the property.

4. **Liability Insurance.** The owner of a potentially dangerous dog shall be required to purchase a policy of liability insurance (such as homeowner’s insurance) issued by an insurer qualified under Title 48 RCW in an amount of at least One Hundred Thousand Dollars ($100,000.00) insuring the owner for any personal injuries inflicted by the potentially dangerous dog, or proof of 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 One Hundred Thousand Dollars ($100,000.00) and payable to any person injured by the potentially dangerous dog.

D. **Notice.** The owner of a dog that has been determined potentially dangerous shall immediately notify the animal control authority when such dog:

   1. Is loose or unconfined; or

   2. Has bitten or otherwise injured a human being or attacked another animal or livestock; or

   3. Is sold, given away or dies; or

   4. Is permanently relocated to another address; or
5. Is temporarily moved to another address for longer than thirty (30) days.

E. **Petition for Vacation of Potentially Dangerous Dog Determination.**

1. Where an owner has obtained a potentially dangerous dog permit and has been in compliance with the requirements of this Section for three (3) consecutive years, the owner may submit a written Petition to Vacate the potentially dangerous dog determination. The determination may be vacated if it is determined that the potentially dangerous dog determination is no longer appropriate as a result of a change in the dog’s behavior due to age, health, training and/or other factors. It is the owner’s burden to provide sufficient information in support of the vacation petition.

2. The procedure to vacate the potentially dangerous dog determination is as follows:
   a. The written petition shall be submitted to the animal control authority.
   b. Within thirty (30) calendar days, the animal control authority will forward the petition, along with the animal control authority’s comments, objections and recommendations, to the Police Chief.
   c. The Police Chief may, in his/her discretion, grant the petition where the dog owner demonstrates, by a preponderance of the evidence, that the potentially dangerous dog determination is no longer appropriate. In making this decision, the Police Chief may consider: (a) the age of the dog; (b) the dog and dog’s owner’s completion of an obedience training class; (c) evidence of aggressive behavior or lack thereof; and (d) any other relevant evidence. In order to evaluate the dog under the criteria in this Section, the Police Chief may require that the dog’s owner pay for the cost of hiring an animal behaviorist chosen by the Chief.
   d. The Police Chief shall issue a decision granting or denying the petition, which shall be served on the dog’s owner by regular mail and certified mail at the owner’s address on the petition. There is no appeal of this decision, but the dog’s owner may file another Petition to Vacate the potentially dangerous dog determination after three (3) years from the date of the Chief’s decision.

6.04.006 **Definition of a dangerous dog.**

A. “Dangerous dog” means any dog that (a) inflicts severe injury on or kills a human being without provocation on public or private property, (b) inflicts severe injury or kills a domestic animal without provocation while this dog is off the owner’s property, or (c) has been previously been found to be potentially dangerous because of injury inflicted on a human, the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans or other animals.

“Severe injury” means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

B. Exclusions.
1. 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.

2. This definition of “dangerous dog” shall not apply to police dogs as defined in RCW 4.24.410.

6.04.007 Procedure for determining a dog to be dangerous.

A. Issuance of Notice of Intent to Determining a Dog to be Dangerous.

1. The animal control authority may initiate the procedure in this Section for determining whether a dog’s conduct falls within the definition of dangerous dog in EMC 6.04.006(A) and whether the exclusions in EMC 6.04.006(B) do not apply, based upon:

   a. The written complaint of a citizen who is willing to testify that the dog has acted in a manner which causes it to fall within the definition of EMC Section 6.04.006(A); or

   b. Animal bite reports filed with the animal control authority; or

   c. Actions of the dog witnessed by an animal control officer; or

   d. Other substantial evidence.

2. If the animal control authority has probable cause to believe that the dog is dangerous, it shall issue a Notice of Dangerous Dog, as provided in Subsection 6.04.007(C).

B. Seizure, Impoundment or Confinement of Dog While Notice is Pending. Once the animal control authority issues the Notice, it shall have the discretion to determine whether the dog that is the subject of a dangerous dog Notice should be immediately impounded and held pending the outcome of the determination and any related appeals. If the dog is impounded, the owner is responsible for all boarding costs and other fees of the animal control authority, as may be required to humanely and safely keep the animal during this period of time.

   In the alternative, the animal control authority may determine that the dog that is the subject of a dangerous dog Notice need not be impounded pending the outcome of determination and any related appeals, as long as the dog is confined and controlled as set forth in Section 6.04.009(C)(2) (“Confinement”), and provides the notification to the animal control authority required by Section 6.04.009(D) (“Notice”).

C. Contents of Notice Seeking Declaration. The Notice seeking a declaration that a dog is dangerous shall include, at a minimum, the following information:

   1. A description of the dog, together with the dog owner’s name and address (if known);

   2. The statutory basis for the proposed determination that the dog is dangerous;
3. The reasons the animal control authority considers the dog to be dangerous;

4. A recitation of the dog owner’s responsibilities and controls that must be placed on the dog, if it is ultimately determined to be a dangerous dog, as taken from EMC 6.04.009;

5. A statement that the owner is entitled, but is not required, to meet with the Edgewood Police Chief (or designee) prior to the animal control authority’s issuance of any final decision on whether the dog is dangerous. The statement shall explain that the owner may request the meeting and use the opportunity to give the Police Chief (or designee), orally or in writing, any reasons or information as to why the dog should not be declared dangerous. The date, time and location of this meeting (if requested) shall be identified in the Notice, and the date of the meeting must be scheduled prior to expiration of fifteen (15) calendar days following delivery of the Notice. If the Notice was not personally delivered, then the dog’s owner must request a meeting by submitting the written request to the animal control authority within fifteen (15) calendar days after the Notice was mailed to the dog owner or posted on the dog owner’s property. In the owner’s written request for this meeting, the owner may propose an alternative meeting date and time, but such meeting must still occur within the fifteen-day time period set forth in this subsection;

6. A statement of the proper procedure that the owner must follow in order to timely appeal a final determination finding the dog to be dangerous (under 6.04.008).

D. **Service.** The Notice shall be served on the dog’s owner by one of the following methods:

1. Regular and certified mail to the owner’s last known address. Service shall be deemed complete upon the third day following the day upon which the Notice was placed in the mail. If the third day falls on a Saturday, Sunday or legal holiday, then service shall be deemed complete on the next business day; **or**

2. By providing the Notice to the dog’s owner personally.

3. The animal control authority may, but is not required to post a copy of the Notice in a conspicuous place on the property of the dog’s owner.

E. **Meeting with Police Chief (or designee, if the Police Chief is unavailable).**

1. If the dog’s owner timely requests a meeting with the Police Chief, the owner may present, verbally or in writing, the reasons that the owner believes that the dog should not be declared dangerous.

2. The Police Chief shall deliberate on the information submitted by the owner, the evidence provided by the animal control authority, the definition of “dangerous dog” in EMC Section 6.04.006 and all relevant facts and issue a Final Decision as set forth in F(1) below.

F. **Issuance of Final Decision.**

1. **If meeting with Police Chief has been requested.** Within fifteen (15) calendar days after the meeting (or on the date set for the meeting if the owner fails to attend), the Police Chief
shall issue a final decision which either rescinds the Notice or determines the dog to be dangerous. If the Police Chief determines the dog to be dangerous, the decision shall include a recital of the authority for the action, a brief concise statement of the facts that support the determination, and the Police Chief’s signature with the appeal period set forth in F.3 below.

2. *If meeting with Police Chief has not been requested.* If the dog’s owner does not request a meeting with the Police Chief within fifteen (15) calendar days after service of the Notice, animal control shall issue a Final Decision determining the dog to be potentially dangerous with the appeal period set forth in F.3 below.

3. *Appeal period for Final Decision.* Any decision which determines the dog to be dangerous shall also state that the dog’s owner may file an appeal of the decision to the Pierce County District Court within twenty (20) calendar days of receipt of the decision, all as provided in EMC Section 6.04.008. In addition, this decision shall be served on the dog’s owner as provided in EMC Section 6.04.007(D) above.

**6.04.008 Appeal of the Dangerous Dog Declaration.**

A. *Appeal Deadline.* The owner of the dog may file a written appeal with the Pierce County District Court within twenty (20) calendar days after the owner’s receipt of the Final Decision, or, if the dog’s owner requested and attended a meeting with the Police Chief, any written appeal must be filed within twenty (20) calendar days after the owner’s receipt of the Police Chief’s Final Decision. A copy of the written appeal shall also be served upon the animal control authority and the City Clerk within this twenty (20) calendar day appeal period.

B. *Meeting with Chief Not Required for an Appeal.* An appeal may be filed by the dog’s owner regardless of whether the dog’s owner met with the Police Chief, as long as it is timely filed, as provided above in EMC 6.04.008(A).

C. *Dog Must be Confined After Notice issues and Throughout Appeal Process.* Unless seized by the animal control authority pursuant to EMC 6.04.007(B), the dog’s owner shall comply with EMC 6.04.009(C)(2) while all court appeals are pending and until final resolution of all such appeals.

D. *Penalty for Failing to Keep Dog Confined During Appeal.* It is unlawful for the owner appealing a Notice or the Police Chief’s decision determining a dog to be dangerous, to allow or permit the animal to go beyond the owner’s premises unless such animal is securely leashed, under the control of a competent adult and humanely muzzled or otherwise securely restrained. *(See, EMC Section 6.04.011(A) for penalties.)* Upon noncompliance with this subsection, the animal control authority is authorized to seize and impound the dog subject to the procedures in EMC 6.04.010.

E. *Burden on Appeal.* In the appeal, the City shall have the burden to show, by a preponderance of the evidence, that the dog is a dangerous dog.

F. *Decision.* The District Court shall have the authority to enter the following finding:
1. Reverse the determination of dangerous dog; or

2. Uphold the determination of dangerous dog; or

3. Impose any necessary conditions upon the determination of dangerous dog for a period not to exceed twelve (12) months, at which time the Court shall conduct a review hearing to determine if sufficient evidence supports the maintenance of the determination of a dangerous dog. During this period of time, the Court shall require that the owner comply with all of the provisions of EMC Section 6.04.008(C)(2) (“Confinement”). The owner is responsible for requesting a review hearing at the end of the conditional determination period. The conditional determination shall remain in effect until it is revised or rescinded by the Court.

G. **Appeal to Superior Court.** The dog’s owner may file an appeal of the Pierce County District Court’s decision in Superior Court within twenty (20) calendar days of issuance of the date of the Pierce County District Court’s decision. A copy of the appeal shall also be served on the City and the animal control authority within this twenty (20) calendar day time period.

**6.04.009 Responsibilities of a dangerous dog owner.**

A. **Deadline for Compliance.** The owner of a dog that has been determined to be dangerous shall continue to comply with EMC 6.04.009(C)(2), and is required to comply with the remainder of this Section on or before the following deadlines:

1. If the animal control authority issues a Notice of a dangerous dog, and the dog’s owner does not request a meeting with the Edgewood Police Chief and no appeal of the Notice is filed, then the owner shall comply with the requirements of this Section within twenty-one (21) calendar days after service of the Notice upon him/her.

2. If the animal control authority issues a Notice of a dangerous dog and the dog’s owner requests a meeting with the Edgewood Police Chief, but does not file an appeal of the Police Chief’s decision, then the owner shall comply with the requirements of this Section within thirty-one (31) calendar days after service of the Police Chief’s decision upon him/her.

3. If the animal control authority issues a Notice of a dangerous dog and the dog’s owner requests a meeting with the Edgewood Police Chief, and files an appeal to the court of the Police Chief’s decision, then the owner shall comply with the requirements of this Section within twenty-one (21) calendar days after issuance of the final court decision which resolves all appeals.

B. **Permit Required.** The owner of the dangerous dog shall submit an application for a permit for such dog to the animal control authority showing compliance with all of the requirements below. If the dog’s owner presents sufficient evidence of all of the following, the animal control authority shall issue the dangerous dog permit, which shall be renewed annually by the owner. In order to obtain the initial permit and any renewal of the permit, the owner shall:

1. Pay the fee for the permit/renewal;
2. Provide proof that the dog has been microchipped and the microchip number;

3. Provide a current, color, digital photographs in electronic format, each of the front and the profile/side of the dog (minimum 3" by 5" in size), for identification purposes;

4. Provide proof of current rabies vaccination;

5. Provide proof of that the policy of liability insurance required by EMC 6.04.009(C)(4) has been obtained; and

6. Schedule an inspection of the dog owner’s premises within the deadline established in EMC Section 6.04.009(A) to obtain the animal control authority’s approval of the following permit requirements:

   a. The dog is confined in a proper enclosure as defined in EMC 6.04.009(C)(2);
   b. There is a conspicuously posted and clearly visible warning sign as defined in EMC 6.04.009(C)(3);
   c. The dog is wearing a current license tag; and
   d. Possession of a muzzle for the dog, as required by EMC 6.04.009(C)(2), which muzzle must be available at the time of inspection.

If the owner fails to pass an inspection, the owner will be charged a re-inspection fee per occurrence. The animal control authority shall set the date of the re-inspection, which may be not more than ten (10) calendar days of the original inspection. Future inspections may be performed by the animal control authority upon reasonable notice to the owner.

C. Restrictions. The animal control authority may impose any or all of the following restrictions upon the permit issued to the owner of a dangerous dog:

1. Training. The owner of a dangerous dog and the dog may be required to attend, compete and pay all costs associated with an obedience training class. The animal control authority shall pre-approve any choice of class by the owner of the animal, and proof of satisfactory completion of such training shall be provided to the animal control authority, even if similar training has been completed by the animal in the past.

2. Confinement. Every dangerous dog must at all times be confined or controlled as follows:

   a. On the owner’s premises, within a proper enclosure, which means that dog shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have a locking door with a padlock, secure sides, a concrete floor, or, if the pen or structure has no bottom secured to the sides, then the sides must be embedded in the ground no less than one foot and a secure top attached to the sides, and shall also provide protection from the elements for the dog.

   b. In an area completely enclosed by a fence of sufficient height, substance and condition to prevent the escape of the dog while under the direct, in person supervision of a
person 18 years or older, who is capable of preventing the escape of the dog from the fenced area; or

c. If beyond the premises, then securely leashed and humanely muzzled while under the direct supervision of a person 18 years or older, who is capable of controlling the dog, and any other restrictions deemed necessary by the animal control authority. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal.

These restrictions apply while an appeal of the dangerous dog declaration is pending.

3. **Warning.** The owner of a dangerous dog shall be required to post clearly visible warning signs on the owner’s property. The warning sign shall be a clearly visible and conspicuously displayed sign containing words and a symbol (to inform children or others incapable of reading), warning that there is a dangerous dog on the property.

4. **Liability Insurance.** The owner of a dangerous dog shall be required to purchase a policy of liability insurance (such as homeowner’s insurance) issued by an insurer qualified under Title 48 RCW in an amount of at least Five Hundred Thousand Dollars ($500,000.00), insuring the owner for any personal injuries inflicted by the dangerous dog, or proof of 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 Five Hundred Thousand Dollars ($500,000.00) and payable to any person injured by the dangerous dog.

D. **Notice.** The owner of a dog that has been determined dangerous shall immediately notify the animal control authority when such dog:

1. Is loose or unconfined; or

2. Has bitten or otherwise injured a human being or attacked another animal or livestock; or

3. Is sold, given away or dies; or

4. Is permanently relocated to another address; or

5. Is temporarily moved to another address for longer than thirty (30) days.

E. **Petition for Vacation of Dangerous Dog Determination.**

1. Where an owner has obtained a dangerous dog permit and has been in compliance with the requirements of this Section for three (3) consecutive years, the owner may submit a written Petition to Vacate the dangerous dog determination. The determination may be vacated if it is determined that the dangerous dog determination is no longer appropriate as a result of a change in the dog’s behavior due to age, health, training and/or other factors. It is the owner’s burden to provide sufficient information in support of the vacation petition.

2. The procedure to vacate the dangerous dog determination is as follows:
a. The written petition shall be submitted to the animal control authority.

b. Within thirty (30) calendar days, the animal control authority will forward the petition, along with the animal control authority’s comments, objections and recommendations, to the Police Chief.

c. The Police Chief may, in his/her discretion, grant the petition where the dog owner demonstrates, by a preponderance of the evidence, that the dangerous dog determination is no longer appropriate. In making this decision, the Police Chief may consider: (a) the age of the dog; (b) the dog and dog’s owner’s completion of an obedience training class; (c) evidence of aggressive behavior or lack thereof; and (d) any other relevant evidence. In order to evaluate the dog under the criteria in this Section, the Police Chief may require that the dog’s owner pay for the cost of hiring an animal behaviorist chosen by the Chief.

d. The Police Chief shall issue a decision granting or denying the petition, which shall be served on the dog’s owner by regular mail and certified mail at the owner’s address on the petition. There is no appeal of this decision, but the dog’s owner may file another Petition to Vacate the dangerous dog determination after three (3) years from the date of the Chief’s decision.

6.04.010 Seizure, Impoundment and/or euthanasia of potentially dangerous and dangerous dogs.

A. Seizure and Impoundment. The animal control authority may seize and impound a potentially dangerous or dangerous dog under the following circumstances:

1. 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 adult. This subsection also applies to any dog that is the subject of an appeal of a potentially dangerous or dangerous dog determination, while the appeal is pending;

2. After all appeals have been exhausted of a declaration of a potentially dangerous or dangerous dog:

a. The dog is not validly permitted by the deadline required in EMC 6.04.005(A) or 6.04.009(A);

3. The dog’s owner has not complied with one or more of the restrictions imposed by the animal control authority on the potentially dangerous or dangerous dog (as provided in EMC 6.04.005 or 6.04.009); and

(3) The dog attacks or bites a person, a domestic animal or livestock.

B. Notice to the Dog’s Owner of Impoundment.

1. Immediately after the dog has been impounded, the animal control authority shall serve the dog’s owner with written notice of the impoundment as follows:
a. In person; or

b. By service by regular mail and certified mail, return receipt requested.

2. The Notice shall state the reason for the impoundment of the dog; that the owner is responsible for payment of the costs of control; and that the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within twenty (20) calendar days.

C. Extensions of Time. The animal control authority may, but is not required to, grant the owner of the dog an extension of time to correct the violation(s) before destruction of the dog.

D. Release of Dog. If the dog’s owner complies with the deadline for the correction of the deficiencies, the animal control authority may release the dog. The dog’s owner shall be responsible to pay all costs of redemption, confinement, boarding and control, including any necessary veterinary fees, prior to release of the dog.

E. Euthanasia. The animal control authority will destroy the dog in an expeditious and humane manner if the animal control authority has provided notice to the dog’s owner as required by this Section, and the dog’s owner does not comply with the deadline for the correction of deficiencies. The dog’s owner shall be responsible to pay all costs of confinement, boarding, control and/or destruction of the dog, including any necessary veterinary fees.

6.04.011 Violations and penalties.

A. Violations. Any person found to be in violation of the following provisions of this chapter shall, upon conviction thereof, be found guilty of a gross misdemeanor punishable by imprisonment in jail of no more than 364 days or a fine of not more than five thousand dollars ($5,000) or both such imprisonment and fine:

1. It is unlawful for a person owning or having care of a potentially dangerous or dangerous dog to fail to timely obtain the permit required by EMC 6.04.005(A) and 6.04.009(A); fail to timely request inspection as required by the same code provisions, or fail to obtain timely renewal of the permit;

2. It is unlawful for a person owning or having care of a potentially dangerous or dangerous dog to fail to restrain or confine the potentially dangerous or dangerous dog (which includes the period while the potentially dangerous or dangerous dog determination Notice and/or appeal is pending), as required by EMC 6.04.003(B) or 6.04.007(B);

3. It is unlawful for a person owning or having care of a potentially dangerous or dangerous dog to fail to obtain the required liability insurance/surety bond for the potentially dangerous or dangerous dog, as required by EMC 6.04.005(C)(4) or EMC 6.04.004(C)(4);
4. It is unlawful for a person owning or having care of a potentially dangerous or
dangerous dog to fail to post and maintain warning signs as required by EMC 6.04.005(C)(3) or
EMC 6.04.009(C)(3);

5. It is unlawful for a person owning or having care of a potentially dangerous or
dangerous dog to fail to provide the animal control authority with the notice required by EMC
6.04.005(D) or EMC 6.04.009(D).

B. Additional Court Action. In addition to the above penalties, upon conviction, the court
may order the seizure, impoundment and/or forfeiture of any dog which is the subject of the
criminal proceedings. Any potentially dangerous or dangerous dog which attacks a human
being, domestic animal or livestock may be ordered destroyed when, in the court’s judgment,
such dog represents a continuing threat of serious injury to human beings or serious harm to
livestock and/or domestic animals. The court shall order any person convicted under this Section
to pay all costs of confinement, control and/or destruction of the dog, including any necessary
veterinary fees and daily boarding fees.