

POSSIBLE MOTION

I MOVE TO approve Ordinance 2015-50 on second and final reading.

P O L I C E

DEPARTMENT

MEMO

City and Borough of Sitka

To:	City Administrator Mark Gorman
From:	Chief Sheldon Schmitt
Subject:	Animal Control Ordinance Revision
Date:	October 7, 2015

This past year we were notified by the State Court system that the State had identified some clarification necessary to Sitka General Code Title Eight, Chapter four entitled "Animal Protection and Control".

Essentially the current ordinance doesn't say that "fines are amendable to disposition". The State says City code must have language that gives people the option to pay the fine to dispose of the citation. Anything not on the fine schedule is a mandatory court appearance (if we want the violator to go to court, it shouldn't be on the fine schedule).

Currently, if a violator doesn't pay a citation, the court looks at our code, does not see a fine schedule referenced, and therefore makes the assumption that all animal control minor offenses have mandatory court appearances and are fined at the maximum amount allowed by current code (\$500).

The City has been functioning as if the code said this already. People have been allowed to pay their citation and not appear in court. However, in the event that someone doesn't pay their fine, and the citation goes to collections, in the eyes of the court that defendant has also failed to appear in court and they will be fined at the maximum amount allowed by code (\$500). As a result, a number of citations are being held in default by the Court and are not being sent to collections.

This change will allow these citations to be sent to collections and the defendant to be held responsible for the appropriate citation amount. Passing this ordinance will better articulate the actual intent of City Code and bring it in line with current practice.

FINE SCHEDULE FOR ANIMAL CONTROL OFFENSES

SGC 8.04.210

A defendant charged with one of the offenses below may dispose of the charges as provided in AS 12.25.195-.230, without court appearance, by paying the fine amount listed in the fine schedule below, plus the applicable state surcharge required by AS 12.55.039 and AS 29.25.074.

Ordinance	Offense Description	1 st	2 nd	3 rd	4 th and subsequent offenses
8.04.020	Licensing	\$25	\$50	\$100	\$300
8.04.030	Failure to display	\$25	\$50	\$100	\$300
8.04.031(A)	Running at Large	\$25	\$50	\$100	\$300
8.04.031(C)	Dog in open truck	\$25	\$50	\$100	\$400
8.04.033(A)(1)-(A)(11)	Off-leash area rules	\$25	\$50	\$100	\$300
8.04.070	Dog in season	\$25	\$50	\$100	\$400
8.04.080(A)	Objectionable dog – barking	\$25	\$50	\$100	\$300
8.04.080(B)	Objectionable dog – defecate, dig or damage property	\$25	\$100	\$200	\$400
8.04.080(C)	Objectionable dog – snap, chase, menace	\$25	\$50	\$100	\$300
8.04.080(D)	Objectionable dog – disturb wildlife	\$25	\$50	\$100	\$300
8.04.080(E)	Objectionable – other animal running at large	\$25	\$50	\$100	\$300
8.04.080(F)	Objectionable dog – bite	\$50	\$100	\$200	\$400
8.04.081	Potentially dangerous and dangerous dogs	\$50	\$100	\$200	\$400
8.04.084	On-premises confinement	\$50	MCA		
8.04.085	Off-premises confinement	\$50	MCA		
8.04.086	Notification of change of status	\$50	MCA		
8.04.087	Signs for potentially or dangerous dog	\$50	MCA		
8.04.088	Dangerous tag displayed	\$50	MCA		
8.04.092	Sanitary disposal requirements	\$50	\$100	\$200	\$400
8.04.093	Use of dog park	\$50	\$100	\$200	\$400
8.04.100	Immunization for rabies	\$50	\$100	\$200	\$400
8.04.110	Dead animals	\$50	\$100	\$200	\$400
8.04.160	Keeper of domestic animal in public building	\$50	\$100	\$200	\$400
8.04.170	Owner of public building	\$50	\$100	\$200	\$400
23.30.020(G)(1)	Moller Park fenced ball field	\$300	\$350	\$400	\$500
23.30.020(G)(2)	Lower Moller and Kimsham (Krueger) Multiuse Fields	\$100	\$200	\$300	\$500
23.30.020(G)(3)	Sports fields at Kimsham Rec Center	\$100	\$200	\$300	\$500
23.30.020(G)(4)	Municipal playgrounds	\$100	\$200	\$300	\$500

If the offense is not listed on this table, then a court appearance is mandatory.

Effective Date: October XX, 2015.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-50

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING THE PENALTY SECTION OF SITKA GENERAL CODE AT TITLE 8, CHAPTER 4, ENTITLED "ANIMAL PROTECTION AND CONTROL" THAT WOULD ALLOW INDIVIDUALS TO DISPOSE OF ANIMAL CONTROL VIOLATIONS THROUGH A BAILABLE FINE SCHEDULE OR HAVE THE OPTION TO APPEAR BEFORE A JUDICIAL OFFICER IN A COURT PROCEEDING

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code ("SGC").

2. SEVERABILITY. If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. PURPOSE. The purpose of this ordinance is to amend SGC 8.04.210 entitled "Penalties" to clarify an individual's rights when issued citations for animal control offenses. A person is allowed to dispose of the citation by paying the fine and surcharge as established by the fine schedule for animal control offenses or the individual has the right to appear before a judicial officer of the Alaska Court System to dispute the violation. In addition, ordinance 2010-25 that modified penalty provisions of SGC was passed by the Sitka assembly on September 14, 2010, inadvertently omitted information to the public advising where the fine schedule can be reviewed. This ordinance will allow the public to access that information.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that SGC Chapter 8.04 is amended as set out below (new language underlined; deleted language stricken):

Title 8

Chapter 8.04 Animal Protection and Control

8.04.210 Penalties.

A. The maximum penalty for violation of the provisions of this chapter is five hundred dollars. ~~Standard penalties shall be determined by the chief of police in consultation with the animal hearing board.~~

B. The chief of police shall establish a fine schedule for the offenses in this chapter and include offenses and/or additional penalties as listed in SGC 23.30.020.

1. The fine schedule shall be entitled "Fine Schedule for Animal Control Offenses," and shall include the effective date of the fine schedule.

49 2. The Fine Schedule for Animal Control Offenses shall list the number of the ordinance
50 that defines the offense, the name of the offense and the amount of the fine for the offense. The
51 fine must be a specific dollar amount. It cannot be a range of amounts.
52

53 3. The Fine Schedule for Animal Control Offenses shall be published on the Sitka Police
54 Department website under the tab for "Animal Control", and copies shall be posted at the Sitka
55 Animal Shelter and Sitka Police Department.
56

57 4. If a citation has been issued for an offense listed on the Fine Schedule for Animal
58 Control Offenses, a person has the option to state, in writing, on a copy of the citation or a form
59 provided by the court system, that they want to:

- 60 a. dispose of the citation without court appearance by paying the fine amount plus the
61 state surcharge as provided in AS 12.25.195 -.230, AS 12.55.039 and AS 29.25.074.
62 The total amount of fine and state surcharge will be listed on the citation, as well as
63 the date the payment is due; or
- 64 b. appear in court for a hearing or trial.
65

66 5. The fines under this subsection may not be judicially reduced.
67

68 C. If a citation has been issued for an offense not listed on the fine schedule, the defendant
69 must appear in court to answer to the charges.
70

71 DB. The court shall have the power to review all actions under this chapter and to fashion
72 remedies in accordance with it.
73

74 ~~C. A keeper and/or custodian of a dog at sports field or municipal playground as defined in~~
75 ~~Section 23.30.020(I) who fails to immediately remove all fecal matter left by the dog on such~~
76 ~~property shall be subject to a fifty dollar fine for the first offense, one hundred dollars for the~~
77 ~~second offense and mandatory court appearance for the third and subsequent offenses subject to~~
78 ~~maximum penalty of five hundred dollars.~~
79

80 E. For purposes of this section, prior offenses must be within the previous five years and shall
81 be charged to the keeper and/or custodian and not a particular animal.
82

83 **5. EFFECTIVE DATE.** This ordinance becomes effective the date after passage.
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85 PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of
86 Sitka, Alaska this 27th day of October, 2015.
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89 _____
Mim McConnell, Mayor

90 **ATTEST:**

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92 _____
93 Sara Peterson, MMC
94 Municipal Clerk