

If this item should be pulled from the consent agenda the following motion would be in order.

POSSIBLE MOTION

I MOVE TO approve Ordinance 2015-16 on first reading.





City & Borough of Sitka
Municipal Clerk's Office
100 Lincoln Street, Sitka AK 99835
Telephone: 907-747-1811 Fax: 907-747-4004



Memorandum

To: Mayor and Assembly
From: Municipal Clerk Colleen Ingman
Date: March 18, 2015
Subject: **Ordinances resulting from Legal Analysis**

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

We considered doing a single "clean-up" ordinance but quickly learned that one clean up ordinance that addressed all the recommendations would be extremely bulky and difficult to follow. It is still our intent to bring forward as few ordinances as possible, but at the same time keep the amendments concise enough that they can be easily understood. We will combine amendments whenever possible.

The attached is an ordinance that resulted from the legal analysis and has been shared with the impacted departments, which have approved that it be moved forward.

Please see the purpose section of the ordinance for clarification.

It is my intent to have all clarifying ordinances passed by the final meeting in April. I have placed them on the Consent Agenda for first reading as the majority will be fairly straight forward, plus we are not required to take public testimony until second reading.

Attachment: Ordinance: 2015-14, 15, 16, 18, 19 & 20



Colleen Ingman

From: sheldons@sitkapd.com
Sent: Wednesday, March 18, 2015 11:52 AM
To: Colleen Ingman
Subject: Re: FW: Clarifying Ordinances

The ordinances look fine.

Chief Sheldon Schmitt
304 Lake St, Sitka AK 99835
(907) 747-3349 or 747-3245

*Animal Control Officer
Nancy Buckmaster also reviewed
3/18/15 OKD*

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CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2015-16

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA
PROPOSING TO CLARIFY THE SITKA GENERAL CODE BY AMENDING
SECTIONS 8.04.020 LICENSING (ANIMALS), 8.04.080 OBJECTIONABLE ANIMALS,
AND 10.52.010 UNLAWFUL ACTS (DANGEROUS DOG)

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

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 circumstances shall not be affected.

3. **PURPOSE.** As found in Alaska Statute 29.25.050, the municipal clerk is responsible for ensuring that the municipal code is kept current. Sitka's municipal clerk sought legal analysis from Code Publishing Company for a review of the Sitka General Code for state and federal constitutional issues and apparent conflicts. These clarifying changes are derived from that review and further analysis.

Amending these three sections help clarify animal offenses. In Section 8.04.020, the ordinance is rewritten to clarify that the city and borough does not intend to keep people from bringing dogs in, but does stipulate that the animals must be licensed within a given time frame. Because the language in Section 8.04.080 is vague, it is a difficult ordinance to enforce. The objective guidelines help citizens identify what frequent and prolonged noises means. In Section 10.52.010, it is clarified that there are certain circumstances where a dangerous dog may be kept, as described in 8.04.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the following section of the Sitka General Code is hereby amended to read as follows:

**Title 8
ANIMALS**

8.04.020 Licensing.

A. No person shall own or keep ~~keep or bring~~ any dog over six months old within one-quarter mile of the city and borough road system unless such dog is licensed, ~~as herein provided~~. Application for such license shall be made to the animal control officer **within ninety days of getting the dog** and shall state the name and address of the owner and the name, breed, color, age and sex of the dog. The license fee shall be paid at the time of making application, a numbered receipt given to the applicant and a numbered metallic tag for the dog shall be issued to the owner. No license or tag shall be issued unless it is shown by a veterinarian's statement, in writing, that the dog for which the license is sought has received an immunization for rabies which shall remain effective for the licensing period. Such proof may consist of, but shall not be limited to, a statement or receipt from a veterinarian showing such immunization and the period of protection.



52 **8.04.080 Objectionable animals.**
53 A. The keeper of any animal shall not allow the animal to disturb a
54 neighborhood or any number of persons by frequent or prolonged barking,
55 howling or other noises on a repeated basis. **If an animal barks, whines, howls**
56 **or makes similar sounds for more than thirty minutes on at least three**
57 **different days within a ten-day period or for more than fifteen minutes**
58 **during at least three different nights between 10:00pm and 7:00am within a**
59 **ten-day period, this is a violation of this ordinance. The fine for violating**
60 **this law is \$25.**

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62 Title 10
63 PUBLIC PEACE, SAFETY AND MORALS
64 V. Offenses Against the Public Peace
65 Chapter 10.52 Disorderly Conduct
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67 **10.52.010 Unlawful Acts.**
68 O. Harbor, keep or maintain a vicious animal, **except as provided in various**
69 **Sections of SGC 8.04.**

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72 5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after
73 the date of its passage.

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75 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough
76 of Sitka, Alaska this 14th day of April 2015.
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81 Matt Hunter, Deputy Mayor

82 **ATTEST:**

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86 Colleen Ingman, MMC
87 Municipal Clerk
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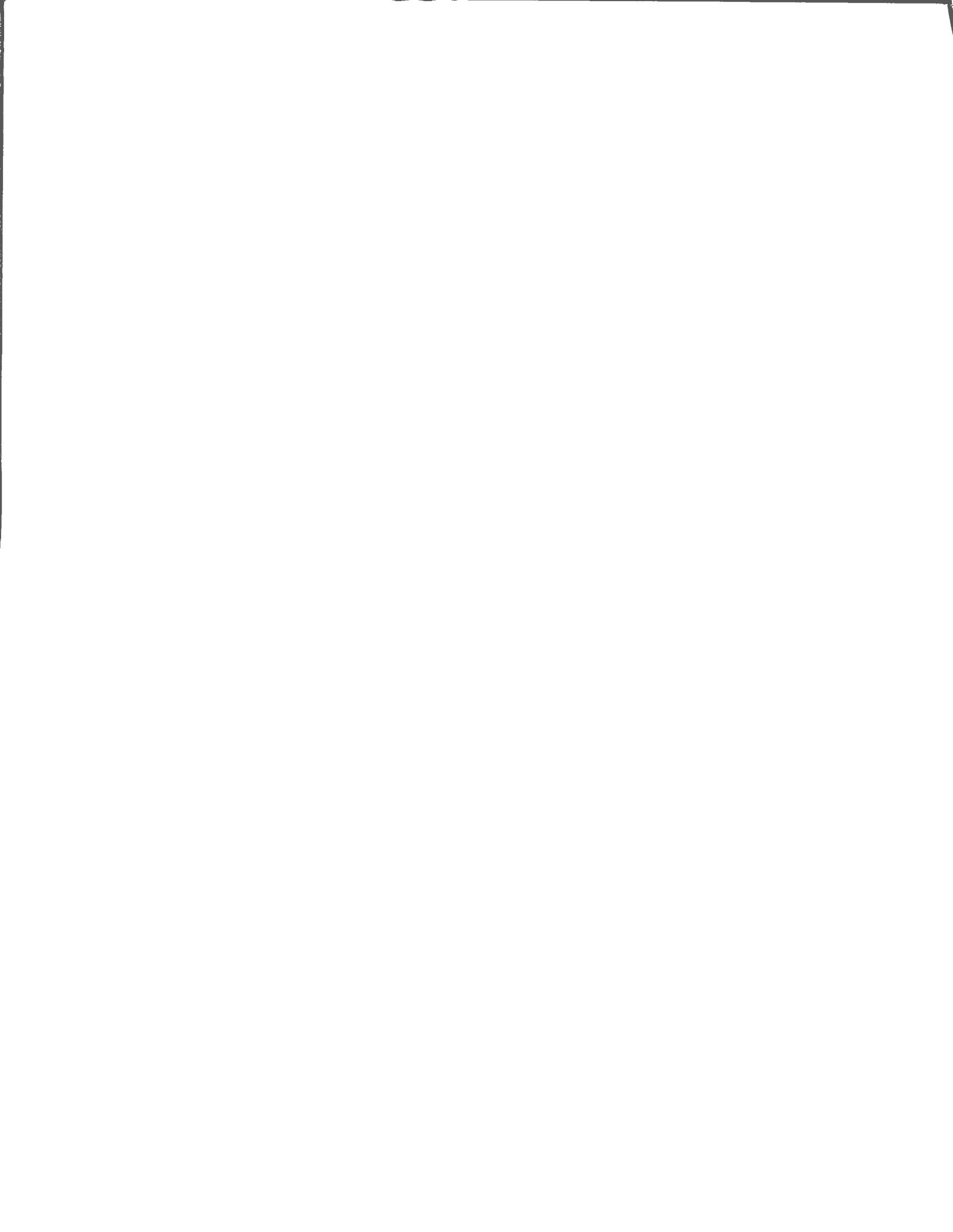


DOG VIOLATIONS

FINES

<u>Offense</u>	<u>Statute/Regulation</u>	<u>1st</u>	<u>2nd</u>	<u>3rd</u>	<u>4th</u>
No Dog License	8.04.020(a)	Correctable			
Failure to Display	8.04.030(b)	\$25	\$50	\$100	\$300
RAL	8.04.031(a)	\$25	\$50	\$100	\$300
Dog in Open Truck	8.04.031(b)	\$25	\$100	\$200	\$400
Dog in Season	8.04.070	\$25	\$100	\$200	\$400
Objectionable Dog	8.04.080				
A. Barking		\$25	\$50	\$100	\$300
B. Defecate		\$25	\$100	\$200	\$400
C. Snap, Chase, Menace		\$25	\$50	\$100	\$300
D. Disturb Wildlife		\$25	\$50	\$100	\$300
E. Other Animals RAL		\$25	\$50	\$100	\$300
F. Bite-human/animal		\$50	\$100	\$200	\$400
Potentially Dangerous	8.04.081				
1. Approaches in Threatening Manner		\$50	\$100	\$200	\$400
2. Threaten the Safety of Human/Animal		\$50	\$100	\$200	\$400
Dangerous Dog	8.04.081				
1. Physical Injury		\$50	\$100	\$200	\$400
2. Killed a Domestic Animal		\$50	\$100	\$200	\$400
3. Violation of Potentially Dangerous		\$50	\$100	\$200	\$400
On-premises Confinement		\$50	MCA		
Off-premises Confinement		\$50	MCA		
Signs		\$50	MCA		
Dangerous Tag Displayed		\$50	MCA		
Sanitary Disposal-Container		\$50	\$100	\$200	\$400
Sanitary Disposal-removal		\$50	\$100	\$200	\$400
Cruelty	8.08.010				
1. Neglect	8.08.010(a)	MCA			
2. Physical Abuse	8.08.010(b)	MCA			
3. Kill or Injure	8.08.010(c)	MCA			
4. Abandon	8.08.010(d)	MCA			
5. Fighting	8.08.010(e/f)	MCA			

	Title 8, Animals	Action
30.	<p>8.04.020 Licensing. Subsection (A) states that “No person shall...bring any dog over six months old within one-quarter mile of the city and borough road system unless such dog is licensed as herein provided.” Given that the license is obtained within the city, it seems extraordinarily difficult to follow this law unless licensing is available greater than one-quarter mile outside the city and borough road system. As phrased, if someone were to stay in Sitka for one night, they would have to get a dog license, even if offices were closed for the entire stay in Sitka. Additionally, in the distance between encountering the road system and where a license may be obtained, visitors would violate this ordinance. In other words, unless animal control offices are open 24/7 and at every entry point to the road system, getting a license probably involves breaking the law.</p> <p>Recommendation: Amending (A) by ordinance to state a time frame after which someone in the City and Borough with a dog must obtain a license might be a better approach to licensing. Ultimately, anything that takes the focus off “bring[ing]” a dog and places it more on “own[ing]” or “keep[ing]” a dog will be more useful.</p>	<p>SPD O</p>
31.	<p>8.04.080 Objectionable animals. Subsection (A) is vague and therefore difficult to enforce, as it has no objective guidelines to put citizens on notice as to what “frequent” or “prolonged” barking might be. Giving an hour range, e.g., barking on average 30 minutes an hour for 3 hours or barking intermittently for 3 hours for 4 straight days, would give better guidance to dog owners so that this law’s interpretation is not up to annoyed individuals.</p> <p>Recommendation: Any change to this section requires an amending ordinance.</p>	<p>SPD O</p>



BARKING DOGS: WHAT DO YOU DO?

Why All The Racket?

Barking is one of the ways that dogs communicate. It can signify anything from playfulness to danger. Dogs also bark from situations that cause discomfort. Examples are:

- Chained to a fixed point without enough room to move
- Long periods of time alone without any attention
- Kept in a space which is too small
- Provoked (deliberately or unintentionally) by people or roaming dogs
- Lack of exercise
- Lack of socialization
- Sick or injured
- Hunger, thirst, or the wrong diet
- Stress
- Separated from their pack (you) or other family members



Barking excessively should not be part of a dog's life. **Barking** can be the signal of a distressed animal and chronic excessive barking is considered a nuisance. **Barking** continually may be interpreted as a sign of a poorly cared for and/or trained dog. **Barking** excessively may also be viewed as cruelty by some people.

Changing Barking Behaviors

Making situational changes, and investing a little time and training can eliminate most excessive barking. Examples are:

1. Provide enough space for your dog to move freely within your enclosed backyard.
2. Exercise your dog regularly and adequately for its breed and size.
3. Take your dog to a dog trainer, who specializes in barking dog problems, and/or go to obedience training and spend some time bonding.
4. Purchase a bark collar. There are different variations, so do some research and talk to the retailer who sells them.
5. Purchase a "Scarecrow Motion Activated Sprinkler". Retailers sell a few variations that work with a garden hose. When your dog gets near the "stimulation" that triggers his barking (e.g., fence line), the motion detector is activated and the dog is shot with a burst of water.
6. Hire a dog walker or take your dog to doggie daycare. This will give them regular exercise and socialization, which will help with any anxiety.
7. Make them part of the pack. Dogs are pack animals and when they are left outside all the time, they feel alienated from the pack and become vocal. They want and need your affection. Both you and your dog will benefit from time together.

Your Dog and The Law

Marion County Ordinance 1236 section 5 states the keeper of the dog commits a civil infraction if the keeper's dog(s) commits any of the following acts:

- Runs at large.
- Disturbs a person by prolonged or frequent noise.
- Scatters garbage.
- Trespasses on private property of others.
- Damages or destroys property of others.
- Chase vehicles on roadway.
- Female in heat at large.

Marion County Ordinance 1236 section 5 describes a disturbing dog noise as barking, whining, howling or similar sounds. If a dog(s) barks, whines, howls or makes similar sounds for more than fifteen minutes on at least three different days within a ten-day period or for more than five minutes during at least three different nights between 10:00pm and 7:00am within a ten-day period this is a violation of this ordinance. The fine for violating this law is \$250. There are many noise nuisance issues and dogs barking is just one kind. Marion County encourages neighbors to communicate with dog owners to resolve barking issues. Marion County offers **mediation assistance** to aid neighbors with solutions to dog barking issues, including Neighbor-2-Neighbor mediation. Their contact information is: 503-585-0651 or 503-375-6269, or via email at n2nmediation@gmail.com.



Marion County Dog Control
3550 Aumsville Hwy SE
Salem OR 97317
Phone: 503-566-6988
Website: www.mcdogs.net

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