

CHAPTER 3 DOGS

5-3-1: TITLE:

This Chapter shall be known and may be cited as the DOG CONTROL ORDINANCE. (Ord. 553, 9-12-88)

5-3-2: DEFINITIONS:

As used in this Chapter, the following words shall have the meaning ascribed to them in this Section:

AFFIRMATIVE DEFENSE: The defendant has the burden of proving the defense by a preponderance of the evidence.

ALLOW: To neglect to restrain, or permit.

ATTEMPTS TO BITE: The overt actions of a dog which constitute a substantial step towards the actual biting of one or more persons.

CITY: The City of Umatilla, Oregon, a municipal corporation.

COURT: A court of law having jurisdiction of charter and ordinance violations of the City.

DOG: Any animal of the canine species.

GUIDE DOG: Any dog specifically trained for and in actual use as an aide to a blind person.

IMPOUNDMENT FEE: The charge made for placing a dog in the animal shelter.

INVITEE: A person who comes upon the premises at the occupant's invitation, express or implied, upon business which concerns the occupant, or who comes upon the premises after the occupant, expressly or impliedly, had led such person to believe that the premises were intended to be used by the visitor. For the purpose of this chapter, "invitee" shall also include a licensee (a person who comes upon the premises for his/her own purposes with the express or implied consent of the occupant) such as postal carriers, meter readers, firefighters and police officers.

LEASH: A cord, chain, strap or other flexible material, not over eight feet (8') in length, of sufficient strength to control the dog.

LICENSE: The license required by this Chapter and chapter 609, Oregon Revised Statutes.

NEUTERED DOG: A male dog incapable of producing young.

ON A LEASH: Having a leash, securely attached to the dog and held by the person in charge of the dog.

OWN or OWNING: Having a right of property in a dog, caring for or acting as the custodian for a dog, or knowingly permitting a dog to remain on or about premises occupied by that person.

OWNER: Any person having a right of property in a dog or who harbors a dog or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on or about the "owner's" premises.

PERSON: A human being and, where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or governmental instrumentality.

RUNNING AT LARGE: Any dog shall be considered running at large when it is off or outside of the premises belonging to the owner or keeper of such dog, or not under the control of its owner or keeper by means of a leash, or contained in or on any vehicle.

SPAYED: A female dog incapable of producing young. (Ord. 553, 9-12-88)

UNLICENSED: Any dog not on the property of its owner and not wearing a current dog license as provided for in this Chapter. (Ord. Ord. 585, 7-1-91)

5-3-3: PERSONAL PROPERTY:

Dogs are hereby declared to be personal property. (Ord. 553, 9-12-88)

5-3-4: LICENSE REQUIRED; TAGS:

- A. License Required: Every person owning or keeping any dog in the City which has a set of permanent canine teeth or is six (6) months old, whichever comes first, and who intends to take the dog off of his/her property, shall not later than March 1 of each year or within ten (10) days after bringing or keeping any such dog within the City, shall procure from the City a license for the dog by paying to the City a license fee. At the time of licensing, the applicant shall furnish information for such dog to include the breed, coloring, sex and name. A dog license shall entitle such person to take the licensed dog off the owner's premises until the first day of March next succeeding the date of said license. (Ord. 585, 7-1-91)
- B. Tags: The City shall, at time of issuing a license, supply the licensee, at no additional charge, with a suitable identification tag, which shall be fastened by the licensee to a collar and worn about the neck of the dog at all times. The tag will be of durable substance upon which appears the name of the City, the year for which the license is valid and the number of such license.
- C. Violation: Any dog owner failing to comply with a provision of this Section shall be guilty of a violation. (Ord. 553, 9-12-88)

5-3-5: FEES:

- A. Set by Resolution³²: All rates, fees³³, or other charges provided for by this Chapter shall be subject to the approval of the City Council and may be established by resolution of the City Council.

- B. Exemption from Fees: Any dog used primarily as a guide for a blind or deaf person shall be licensed at no cost to the owner. (Ord. 553, 9-12-88)

5-3-6: RABIES INOCULATION:

An applicant for a dog license must present a current certificate of rabies inoculation to the City before the City may issue a license for the dog. If a dog is too young to receive a rabies shot, the City may issue a license conditioned upon the City's receipt of a valid rabies inoculation as soon as mandated and in no case more than six (6) months from licensing. (Ord. 553, 9-12-88)

5-3-7: DOGS RUNNING AT LARGE:

Every person owning a dog shall ensure that such dog does not run at large in the City. Any person owning a dog running at large in the City shall be guilty of a violation of this Section34. (Ord. 553, 9-12-88)

5-3-8: NUISANCES:

- A. A dog is a public nuisance if it:
1. Bites or attempts to bite one or more persons;
 2. Chases a vehicle or person;
 3. Damages or destroys property of a person other than the owner of the dog;
 4. Scatters garbage;
 5. Trespasses on private property of person(s) other than the owner of the dog;
 6. Disturbs any person by frequent or prolonged noises; or
 7. Is a female in heat and running at large.
- B. Violation: The owner of a dog shall be guilty of a violation if the dog is a public nuisance under subsection A of this Section.
- C. Defenses: In a prosecution under Section 5-3-8, "Nuisances", it is an affirmative defense that:
1. The dog's owner did not allow the dog to be a public nuisance;
 2. The dog bites or attempts to bite a person wrongfully provoking or assaulting the dog's owner; or
 3. The dog bites a person or attempts to bite a person trespassing upon premises occupied by the dog's owner. (Ord. 553, 9-12-88)

5-3-9: IMPOUNDMENT PROCEDURES:

- A. Impoundment; Citation: When any dog is running at large, is unlicensed, or is a public nuisance as described by Section 5-3-8 of this Chapter, the dog may be impounded or the owner may be cited to court or both.
- B. Notice of Impoundment; Redemption; Disposal:
 - 1. Notice of Impoundment; Redemption: Reasonable inquiry shall be made as to the ownership of any dog impounded and such owner or keeper will be notified that the dog is impounded, the location of the animal shelter, the amount of the impoundment fee, and that the dog will be destroyed as provided herein. Unless claimed by the owner, a dog shall be impounded for at least three (3) days, if the dog is without a license or identification tag and for at least five (5) days if it has a license or identification tag. If the dog is unlicensed, the owner shall also purchase a license and pay the applicable penalty for failure to have a license. A reasonable effort shall be made to notify the owner of a dog before the dog is removed from impoundment.
 - 2. Disposal: If the owner does not redeem the dog within the allotted time, it may be disposed of in a humane manner prescribed by the impounding facility for the City. Any Impounded dog may be released to a responsible person upon assurance that the person will properly care for the dog and not allow it to be a nuisance, and upon payment of the fees and costs provided in this Section, and upon agreeing to provide a suitable home. The person thereafter shall be liable as owner of the dog as provided by ordinance. Provided, however, a dog impounded for being a public nuisance under subsection 5-3-8A1 shall not be released to its owner or other person except by order of the court.
- C. Confinement of Biting Dog: Notwithstanding the provisions of subsection B of this Section, any dog impounded for biting a person shall be held for not less than ten (10) days before its redemption or its destruction to determine if the dog is rabid.
- D. Fee Reduction: The City Council may provide by resolution for lesser fees or fines under this Section for senior citizens. (Ord. 553, 9-12-88)

5-3-10: KILLING CERTAIN DOGS:

A dog which is displaying obvious or classic symptoms of being rabid or so vicious that it cannot be impounded without risk to human safety and/or life, or that is so seriously injured that its suffering warrants its destruction, may be summarily killed by any police officer of the City. (Ord. 553, 9-12-88)

5-3-11: DANGEROUS DOGS:

The following provisions of this Chapter are to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, other animals or property are identified and subjected to precautionary restrictions before any such serious injury has occurred.

- A. Reporting Potentially Dangerous Dogs: Any person who observes or has evidence of behavior described herein shall forthwith notify the Police Chief.

- B. Classification of Levels of Dangerousness: A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of this Chapter behaviors establishing various levels of potentially dangerousness are as follows:
1. Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal.
 2. Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person or if dog on the owner's premises is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any invitee.
 3. Level 3 behavior is established if a dog, while confined, aggressively bites any person.
 4. Level 4 behavior is established if a dog, while at large, aggressively bites or causes physical injury to any person or domestic animal.
 5. Level 5 behavior is established if:
 - a. A dog, whether or not confined, causes the serious injury or death of any person;
 - b. A dog, while at large, kills any domestic animal;
 - c. A dog engages in or is found to have been trained to engage in exhibitions of fighting; or
 - d. A dog that has been classified as a Level 4 potentially dangerous dog repeats the behavior described in subsection B4 of this Section after the owner receives notice of the Level 4 classification.
 6. Notwithstanding subsections B1 through B5 of this Section, the Police Chief shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog has engaged in the behaviors specified in subsections B1 through B5 of this Section, if the Police Chief determines that the behavior was the result of the victim abusing or tormenting the dog or other extenuating circumstances. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser inside any fully enclosed building on private property if all exterior doors of the building were locked at the time the trespass occurred, nor if the behavior in question was directed against any person inside any motor vehicle interior (not including the open bed of a vehicle or truck) who entered the vehicle without permission of the owner or driver of the vehicle.
- C. Identification; Appeals; Restrictions Pending Appeal:
1. The Police Chief shall have authority to determine whether any dog has engaged in the behaviors specified in this Chapter. This determination shall be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's control of the dog. These observations and testimony can be provided by Umatilla Police Officers, other employees of the City,

or by other witnesses who personally observed the behavior. Each witness shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

2. The Police Chief shall give the dog's owner written notice, by certified mail or personal service, of the dog's specified behavior, of the dog's classification as a potentially dangerous dog and of the additional restrictions applicable to that dog by reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the Police Chief's decision to the City Administrator by filing a written request for a hearing with the Police Chief within ten (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served.
 3. The City Administrator shall hold a public hearing on any appeal from the Police Chief's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior shall be allowed to present testimony. The City Administrator shall determine whether behavior specified in this Chapter was exhibited by the dog in question. The City Administrator shall issue an order containing the City Administrator's determination, which shall be final unless the owner files a written request for a hearing before the City Council with the City Administrator within ten (10) days of the date the City Administrator's order was issued.
 4. When the City Administrator's order is appealed to the City Council, the City Council shall hold a public hearing and shall review the Police Chief's determination that a dog has engaged in any of the behaviors specified in this Chapter. The City Council shall consider all written material that was available to the Police Chief and the City Administrator, the City Administrator's order and all information offered by the owner or other persons having evidence concerning the issue of whether the dog engaged in any of the behaviors specified in this Chapter. The City Council shall issue an order continuing its decision, which shall be final.
 5. Once the owner has received notice of the dog's classification as a Level 1, 2, 3 or 4 potentially dangerous dog pursuant to this Chapter, the owner shall comply with the restrictions specified in the notice until such time as the Police Chief's and City Administrator's decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this Chapter for which a fine can be imposed. Additionally, the Police Chief shall have the authority to impound the dog pending completion of all appeals.
 6. To insure correct identification, all dogs that have been classified as potentially dangerous shall be marked with a permanent identifying mark. The Police Chief shall adopt rules specifying the character, location and manner of this marking.
- D. Regulation of Potentially Dangerous Dogs: In addition to the other requirements of City ordinances, the owner of a potentially dangerous dog shall comply with the following regulations:

1. If the dog has engaged in Level 1 behavior, the dog shall be restrained by a physical device or structure that prevents the dog from reaching any public sidewalk or adjoining property whenever that dog is outside the owner's home and not on a leash. The Police Chief shall adopt administrative rules establishing specifications for the required device or structure.
2. If the dog has engaged in Level 2 behavior, the owner shall confine the dog within a secure enclosure whenever the dog is not on a leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property.
3. If the dog has engaged in Level 3 behavior, the owner shall meet the requirements of subsection D2 of this Section, and shall also post warning signs on the property where the dog is kept, in conformance with administrative rules to be adopted by the Police Chief.
4. If the dog has engaged in Level 4 behavior, the owner shall meet the requirements of subsections D2 and D3 of this Section and shall, additionally, not permit the dog to be off the owner's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.
5. Any dog that has been found to have engaged in Level 5 behavior shall be euthanized. In addition, the Police Chief may suspend, for a period of time specified by the Police Chief that dog owner's right to be the owner of any dog in Umatilla, including dogs currently owned by that person.
6. In addition to the normal licensing fees, there shall be an annual fee of three (3) times the normal fee for dogs that have been classified as potentially dangerous. This additional fee shall be imposed at the time the license of the potentially dangerous dog expires, and shall be payable at the time the license is renewed. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a person engaged in criminal behavior at the time of the attack.
7. Any dog owner failing to comply with a provision of this Section shall be guilty of a violation. (Ord. 553, 9-12-88)

5-3-12: PARENT RESPONSIBILITY:

It shall be no defense of any violation of this Chapter when the true or registered owner of a dog is of such minor age as to prohibit appearing to answer such charge(s) in court, and upon such occurrence, the parent or guardian of such minor owner shall be required to appear instead and assume the full responsibility of the actions of their minor owner. (Ord. 553, 9-12-88)

5-3-13: PENALTIES:

- A. Violation of Section 5-3-8, "Nuisances", is punishable by the imposition of a Class B civil fine, but the fine shall not be less than twenty five dollars (\$25.00) for the first violation and not less than fifty dollars (\$50.00) for each additional violation occurring within six (6) months of a violation of Section 5-3-8. In addition to any fines, if a dog has been found to be a public nuisance under Section 5-3-8 of this Chapter, the court may order such disposition of the dog as the court considers necessary for the safety or health of the public. Violation of Section 5-3-4, "License Required; Tags", is punishable by the imposition of a Class B civil fine. Violation of Section 5-3-7, "Dogs Running at Large", is punishable by the imposition of a Class C civil fine. Violation of subsection 5-3-11C, "Identification of Potentially Dangerous Dogs", or subsection 5-3-11D, "Regulation of Potentially Dangerous Dogs", is punishable by the imposition of a Class A civil fine³⁵. (Ord. 553, 9-12-88; 1993 Code)
- B. Every full day during which an activity continues to be conducted in violation of this Chapter shall be considered a separate offense.
- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.
- D. Additional Remedies:
1. In addition to the penalties provided in this Chapter, the City may sue in a court of competent jurisdiction to obtain a judgment by execution.
 2. The City may seek an injunction to prohibit a person from violating this Chapter.
 3. In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal.
 4. Whenever a fee required by this Chapter is not paid when due, the City Recorder shall add a penalty to the fee of an amount equal to ten percent (10%) of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of the fee and accumulated penalties shall not exceed one hundred percent (100%) of the original fee. (Ord. 553,