

ORDINANCE NO. 3382

AN ORDINANCE PROVIDING FOR THE LICENSING AND CONTROL OF DOGS WITHIN THE CITY OF PENDLETON; PROVIDING PENALTIES; REPEALING ORDINANCES NO. 2791, 2811, SECTION 20 OF 3088, AND SECTION 22 OF 3156; AND DECLARING AN EFFECTIVE DATE AFTER JUNE 30, 1987. (As amended by Ordinance No. 3404 and Ordinance No. 3626.)

CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. Ordinances No. 2791, 2811, Section 20 of Ordinance No. 3088, and Section 22 of Ordinance No. 3156, are hereby repealed.

SECTION 2. Police Power. This Ordinance is adopted as an exercise of the police power of City of Pendleton and shall be known and may be cited as "THE DOG CONTROL ORDINANCE."

SECTION 3. Definitions. As used in this Ordinance:

"Board Fee" means the daily charge imposed by the City made for maintenance of the dog during its impoundment.

"Council" means the City Council of City of Pendleton.

"Dog" means any animal of the canine species.

"Dog Control Officer" means any person designated by the Police Chief to enforce this Ordinance.

"Domestic animal" includes, but is not limited to, any cat, cow, dog, goat, hog, horse, rabbit, sheep, other livestock, other household pet, or other like animal.

"Guide dog" means any dog specifically trained for and in actual use as an aide to a blind person.

"Impoundment fee" means the charge made for placing a dog in the animal shelter.

"Leash" means a cord, chain, strap or other flexible material, not over eight (8) feet in length, of sufficient strength to control the dog.

"License" means the license required by this Ordinance and Chapter 609, Oregon Revised Statutes.

"Manager" means the City Manager of City of Pendleton.

"Neutered dog" means a male dog incapable of producing young.

"On a leash" means having a leash, securely attached to the dog and held by the person in charge of the dog.

"Owner or Keeper" means the head of the household where the dog is kept.

"Police Chief" means the person appointed by the City Manager as head of the Police Force.

"Pound" means the animal shelter designated by the Police Chief.

"Recorder" means the City Recorder of City of Pendleton.

"Running at large" means a dog that is not on a leash or in the vehicle of its owner or keeper which is off the premises of its owner or keeper.

"Spayed dog" means a female dog incapable of producing young. (Amended by Ordinance No. 3626 June 20, 2000)

SECTION 4. License Required. All dogs in the City of Pendleton shall be licensed unless specifically exempt under this Ordinance. It shall be the duty of each owner or keeper of a dog to obtain a license(s) for their dog(s). The initial licensing of a dog shall be accomplished within thirty (30) days of the date of acquiring a dog by a City resident or moving a dog into the City. Licenses shall be renewed annually on or before the first day of each year. No license shall be required of a dog less than six (6) months old.

SECTION 5. Exemptions from licenses.

A. Dogs owned by dealers, breeders or exhibitors which are kept in kennels exclusively for sale or exhibition are not required to be licensed.

B. Guide dogs when owned and kept as an aid to a blind person are exempt from the provisions of this Ordinance.

C. Any dog under the supervision of its owner or manager which is actively engaged in the herding or control of livestock is exempt from the provisions of this Ordinance while engaged in such activity.

- D. Dogs less than six (6) months old.

SECTION 6. Rabies Inoculation Required. An applicant for a dog license must present a current certificate of rabies inoculation to the Recorder before the Recorder may issue a license for the dog. If a dog is too young to receive a rabies shot, the recorder may issue a license conditioned upon the Recorders receipt of a valid rabies inoculation as soon as mandated and in no case more than 6 months from licensing.

SECTION 7. Dog Control Officer. All Pendleton Police Officers and any person designated by the Chief of Police shall have the power to enforce the terms of this ordinance. The Dog Control Officer or any Police Officer shall have full authority to make arrests or issue citations as needed to effectively enforce this Ordinance.

SECTION 8. Dogs Running at Large Prohibited.

- A. No dog shall run at large within the corporate limits of the City of Pendleton.
- B. It is unlawful for any person to permit a dog to run at large. Proof that a dog, is off the premises of its owner or keeper is prima facie evidence of a violation of this section, unless the dog is on a leash or in a vehicle.
- C. Dogs running at large may be taken by the Dog Control Officer or any Police Officer and impounded in the animal shelter.
- D. The dog control officer or any Pendleton Police Officer may lawfully kill any vicious or mad dog running at large.

SECTION 9. Notice to Owner. The Police Department shall make diligent inquiry as to the ownership of any dog impounded and notify such owner or keeper 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 days if the dog is without a license or identification tag and for at least five days if it has a license or identification tag. A reasonable effort shall be made to notify the owner of a dog before the dog is removed from impoundment. If the dog is unlicensed the owner shall also purchase a license and pay the applicable penalty for failure to have a license.

SECTION 10. Impounded Dogs Released to Third Party.

- A. Dogs which are abandoned by their owners or whose owners are unknown may be released to any person who is willing to pay the impoundment fee, the board bill of the animal shelter and procure the necessary dog license.
- B. For the purpose of this Ordinance a dog is presumed to be abandoned by its owner who has taken no affirmative action to redeem the dog for a period of five (5) days from the date of notice of impoundment.

SECTION 11. Unclaimed Dogs Shall be Destroyed. Any impounded dog that is not redeemed by its owner or released under the provisions of Section 10 above within five (5) days of the date of impoundment shall be destroyed in a humane manner.

SECTION 12. Fees.

- A. All rates, fees, or other charges shall be subject to the approval of the City Council and established by Resolution of the City Council.
- B. The City Manager may provide for lesser fees or fines for certain senior citizens under certain circumstances according to State law.
- C. The City Manager may provide for lesser fees or fines to promote the adoption of abandoned dogs; to promote the earlier registration and licensing of dogs; and to allow for special promotions by non-profit civic groups. Examples of such groups would include the Girl Scouts, the Boy Scouts, and the Humane Society.

SECTION 13. Purpose. The purpose of this Ordinance is 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. (Section 13, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 14. 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 Ordinance behaviors establishing various levels of potentially dangerousness are as follows:

A. 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.

B. 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.

C. Level 3 behavior is established if a dog, while confined, aggressively bites any person.

D. Level 4 behavior is established if a dog, while at large, aggressively bites or causes physical injury to any person or domestic animal.

E. Level 5 behavior is established if:

(1) a dog, whether or not confined, causes the serious injury or death of any person; or

(2) a dog, while at large, kills any domestic animal; or

(3) a dog engages in or is found to have been trained to engage in exhibitions of fighting; or

(4) a dog that has been classified as a Level 4 potentially dangerous dog repeats the behavior described in subsection D of this section after the owner receives notice of the Level 4 classification.

F. Notwithstanding subsections A through E 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 A through E 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. (Section 14, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 15. Identification of Potentially Dangerous Dogs; Appeals; Restrictions

Pending Appeal.

A. The Police Chief shall have authority to determine whether any dog has engaged in the behaviors specified in this Ordinance. 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 Pendleton Police Officers, the Codes Enforcement Officer, other employees of the City of Pendleton, 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.

B. 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 Manager 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.

C. The City Manager 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 Manager shall determine whether behavior specified in this Ordinance was exhibited by the dog in question. The City manager shall issue an order containing the City Manager's determination, which shall be final unless the owner files a written request for a hearing before the City Council with the City Manager within ten (10) days of the date the City Manager's order was issued.

D. When the City Manager'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 Ordinance. The City Council shall consider all written material that was available to the Police Chief and the City Manager, the City Manager'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 Ordinance. The City Council shall issue an order containing its decision, which shall be final.

E. 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 Ordinance, the owner shall comply with the restrictions specified in the notice until such time as the Police Chief's, and City Manager'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 Ordinance for which a fine can be imposed. Additionally, the Police Chief shall have the authority to impound the dog pending completion of all appeals.

F. 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. (Section 15, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 16. 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:

A. 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.

B. 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.

C. If the dog has engaged in Level 3 behavior, the owner shall meet the requirements of Section B 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.

D. If the dog has engaged in Level 4 behavior, the owner shall meet the requirements of Sections B and C 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.

E. 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 Pendleton, including dogs currently owned by that person.

F. 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.

G. 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. (Section 16, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 17. Reporting of Potentially Dangerous Dogs. Any person who observes or has evidence of behavior as described herein shall forthwith notify the Police Chief. (Section 17, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 18. Violation and Penalties.

A. A violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.

B. Every full day during which an activity continues to be conducted in violation of this Ordinance 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 Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a fee due under this Ordinance and to enforce collection of the judgment by execution.

2. The City may seek an injunction to prohibit a person from violating this Ordinance.

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 disbursement. These fees are recoverable at all levels of trial and appeal.

4. Whenever a fee required by this Ordinance is not paid when due, the City Recorder shall add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the

fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee. (Section 18, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 19. Severability. The sections of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections. (Section 19, as amended by Ordinance No. 3404, passed November 17, 1987.)

SECTION 20. Effective Date. This Ordinance shall become effective after June 30, 1987. (Section 20, as amended by Ordinance No. 3404, passed November 17, 1987.)

PASSED and approved June 3, 1987.

[SEE ALSO RESOLUTION NO. 1493 (13-9) DOG CONTROL FEES]