

RESOLUTION NO. 1730

A RESOLUTION OF THE CITY OF WILSONVILLE CONSENTING TO CLACKAMAS COUNTY'S ADMINISTRATION OF THE CLACKAMAS COUNTY'S DOG CONTROL AND LICENSING ORDINANCE WITHIN THE WILSONVILLE CITY LIMITS.

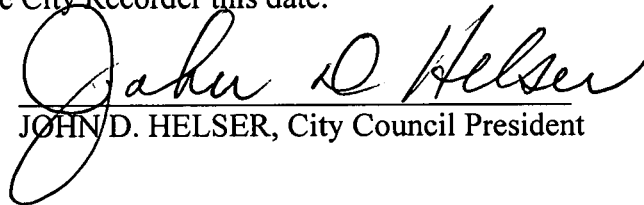
WHEREAS, ORA 203.040 requires consent be given by the City of Wilsonville in order for a county ordinance to apply within the City; and

WHEREAS, the City finds it would be beneficial to grant consent to Clackamas County to administer the County's Dog Control and Licensing Ordinance within the City.

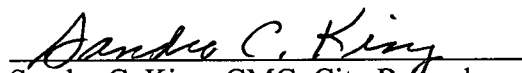
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. The City Council of Wilsonville hereby grants consent to Clackamas County to administer the County's dog control and licensing ordinance, Clackamas County Code Chapter 5.01, attached hereto as Exhibit A, and incorporated as if fully set forth herein, within the City of Wilsonville.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 17th day of Sept. 2001, and filed with the Wilsonville City Recorder this date.


JOHN D. HELSER, City Council President

ATTEST:


Sandra C. King, CMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan -- Excused	
Council President Helser	Yes
Councilor Kirk	Yes
Councilor Barton	Yes
Councilor Holt	Yes

TITLE 5

ANIMALS

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Chapter 5.01

5.01 DOG LICENSING & CONTROL

5.01.010 Purpose

The purpose of this chapter is to consolidate provisions of state law and county ordinances into one comprehensive chapter which will provide for more streamlined and efficient access to formal dog control enforcement proceedings and, thereby, more effective enforcement service to the public.

5.01.020 Definitions

- A. ANIMAL HEALTH TECHNICIAN means any employee of Dog Control working in the job classification of Animal Health Technician.
- B. BITE, BITING, BITTEN means the breaking of the skin by the teeth of an animal.
- C. BUSINESS DAY means any day in which both the Dog Control office and shelter are open for the conduct of their normal business.
- D. CERTIFIED EUTHANASIA TECHNICIAN means any person certified as such pursuant to OAR 875-20-000 *et seq.*
- E. DOG means the common dog (*Canis familiaris*) and any animal claimed by its owner to be a wolf/dog mix.
- F. DOG CONTROL means the Clackamas County Dog Control agency.
- G. DOG CONTROL OFFICER means a person employed by Dog Control as a Dog Control Officer, Field Supervisor or Manager.
- H. DOG OWNER means:
 - 1. The following rebuttable presumptions shall apply:
 - a. Any person in whose name a dog license has been issued shall be presumed to be an owner;
 - b. Any person who has a right of property in a dog shall be presumed to be the owner;
 - c. In a family situation the adult head(s) of household shall be jointly and severally presumed to be the owner(s);
 - d. Any person who, without regard to any ownership interest, harbors a dog, or who has a dog in that person's care, possession, custody or control, or who knowingly permits a dog to remain on property occupied by that person, shall be presumed to be the owner.
 - 2. Any presumption of ownership raised in this section may be rebutted by proof that such person has no property right to the dog, that the person is not harboring the dog; that the dog is not in that person's care, possession, custody or control; and, that the person does not knowingly permit the dog to remain on any premises occupied by the person.

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3. Veterinarians, kennel operators and pet shop owners who maintain on their property dogs owned by other persons for a period of not more than 90 days, shall not be deemed to be dog owners of those dogs.
- I. EUTHANASIA means the putting of an animal to death, in any humane manner permitted under state law.
 - J. HEARINGS OFFICER means any person appointed by the Board of County Commissioners pursuant to Section 5.01.030 I of this chapter.
 - K. LIVESTOCK means any farm animal, other than a dog or cat, including but not limited to:
 1. Horses, mules, asses, burros, cattle, sheep, goats, llamas, alpacas, swine, ratites, psittacines; and
 2. Fur bearing animals and fowl which are kept in fully enclosed pens, cages or hutches.
 - L. MANAGER means a person employed by Dog Control as a Dog Control Manager or Field Supervisor.
 - M. MINIMUM CARE means care sufficient to preserve the health and well-being of a dog and, except for emergencies or circumstances beyond the reasonable control of the person having custody or control of the dog, includes, but is not limited to, the following requirements:
 1. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
 2. Open or adequate access to potable water in sufficient quantity to satisfy the dog's needs;
 3. Access to a dog house or other enclosed structure sufficient to protect the dog from wind, rain, snow or sun, and which has adequate bedding to protect against cold and dampness;
 4. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease;
 5. Dogs shall not be confined to an area without adequate space for exercise necessary for the health of the dog or which does not provide access to a dry place for the dog to rest. The air temperature in the confinement area must be suitable for the dog involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the dog's health.
 - N. PEACE OFFICER means any person so designated by ORS 161.015.
 - O. PERSON CITED means any person to whom a Citation and Complaint has been issued pursuant to this chapter.
 - P. PHYSICAL INJURY means impairment of physical condition or substantial pain.
 - Q. RESIST means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
 - R. SHELTER means any shelter maintained by Clackamas County Dog Control.
 - S. VIOLATION means any violation of this chapter.

5.01.030 Citation & Complaint; Hearing Process

- A. Issuance of Citation and Complaint.
 1. Any Dog Control Officer or peace officer investigating a violation of this chapter may issue and serve upon a person a Citation and Complaint alleging such violation.
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The Citation and Complaint shall serve as the county's pleading in any hearing involving an alleged violation of this chapter.

2. A Citation and Complaint shall be served by personal service or by certified mail with return receipt requested. The Citation and Complaint must be issued no later than six (6) months from the date upon which the violation is alleged to have occurred.
- B. Form of Citation and Complaint.
1. The Citation and Complaint shall include:
 - a. The name and address of the person cited;
 - b. The date(s) upon which the violation(s) are alleged to have occurred;
 - c. The number and title of the chapter section(s) allegedly violated;
 - d. A description of the dog(s) involved;
 - e. The appearance deposit amount, which shall be in an amount equal to the minimum fine for each said violation as set forth in Section 5.01.080 of this chapter;
 - f. Whether appearance is mandatory or optional;
 - g. The maximum fine authorized by this chapter;
 - h. The date, time and place at which the person is to appear; and
 - i. A form for admitting or denying the violation as provided by Section 5.01.030 C 1.
 2. Any appearance deposit amount set pursuant to subsection 1 may be modified by the hearings officer for good cause shown.
- C. Answer:
1. Any person who has received a Citation and Complaint pursuant to this chapter shall answer it by:
 - a. Appearing personally at the time and place specified therein; or
 - b. Prior to the specified appearance date, delivering to Dog Control, by mail or otherwise, a signed copy of the Citation and Complaint indicating that the violation is admitted, accompanied by a check or money order, payable to Dog Control, for the appearance deposit amount; or
 - c. Prior to the specified appearance date, delivering to Dog Control, by mail or otherwise, a signed copy of the Citation and Complaint indicating that the violation is denied and requesting a hearing, accompanied by a check or money order, payable to Dog Control, for the appearance deposit amount. Upon receipt of the answer Dog Control shall forward the answer to the Hearings Officer who shall set a time and place for hearing.
 2. If the violation is admitted, an explanation of mitigating circumstances may be attached to the answer.
 3. Notwithstanding subsection 1 of this section, if the person is alleged to have violated any of the following provisions, personal appearance at the time and place specified is mandatory:
 - a. Failure to Procure Dog License, as described in Subsection 5.01.040 A of this Chapter.
 - b. Animal Abuse, as described in Subsection 5.01.050 A of this Chapter.
 - c. Animal Neglect, as described in Subsection 5.01.050 B of this Chapter.
 - d. Animal Abandonment, as described in Subsection 5.01.050 C of this Chapter.
 - e. Failure to Surrender Dog, as described in Subsection 5.01.050 G of this Chapter.
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- f. Resisting a Dog Control Officer or Peace Officer, as described in Subsection 5.01.050 H of this Chapter.
 - g. Providing False Information to a Dog Control Officer or Peace Officer, as described in Subsection 5.01.050 I of this Chapter.
 - h. Failure to Comply With Conditions of Quarantine, as described in Subsection 5.01.070 B of this Chapter.
 - i. Failure to Comply with Conditions and Restrictions, as described in Subsection 5.01.080 C of this Chapter.
4. Notwithstanding Subsections 1 and 3 of this section, a person cited under Section 5.01.040 solely for the offense of failing to procure a dog license, may answer the Citation and Complaint by presenting to Dog Control within 14 days following issuance of the citation, proof that the dog(s) have been licensed. Upon payment to Dog Control of an administrative fine of \$10 per dog the Citation and Complaint shall be voided.
- D. Appearance.
1. If a person appearing personally in response to a Citation and Complaint admits the violation, the Hearings Officer, after hearing any relevant statement by the parties, shall enter an order and make such disposition as provided in Section 5.01.030 E.
 2. If a person appearing personally in response to a Citation and Complaint denies the violation, the hearings officer shall set a date and time for hearing and shall also set an appearance deposit amount to be posted by the person.
 3. If the person has denied the violation pursuant to Section 5.01.030 C 1 c, the Hearings Officer shall notify the person by first class mail of the date and time for hearing.
- E. Hearing.
1. The county must prove that the violation occurred by a preponderance of the evidence. The Hearings Officer has the authority to administer oaths and take the testimony of witnesses. The hearing shall be limited to relevant and admissible evidence. The Hearings Officer may prescribe procedures for the conduct of such hearings in conformity with applicable state statutes.
 2. Upon the request of the county or the person cited, the hearings officer may issue subpoenas in accordance with the Oregon Rules of Civil Procedure. If the person cited desires that subpoenas be issued, the person cited shall so request in writing at any time before five days prior to the scheduled hearing. Said five day period may be waived by the Hearings Officer for good cause shown. The request shall be accompanied by a \$15 deposit per witness. Subject to the same five day limitation, the county may request the hearings officer to issue subpoenas. Witnesses appearing pursuant to subpoena shall be allowed the same fees and mileage as allowed in civil cases. If the actual amount of fees and mileage is less than the amount of the deposit, the balance shall be refunded or applied against any fine or fee imposed at hearing. If the person cited is found not to have violated this chapter, the subpoena deposit shall be refunded. If a penalty is assessed the person cited shall also be ordered to pay any witness fees which exceed the amount deposited.
 3. Any Dog Control Officer, or counsel appearing on behalf of Dog Control, shall have the right to cross-examine witnesses who testify and to submit evidence.
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4. The person cited or his/her attorney shall have the right to cross-examine witnesses who testify and to submit evidence on his or her behalf, but cannot be compelled to do so.
 5. After due consideration of the evidence and arguments, the Hearings Officer shall determine whether the violation alleged has been established. If the violation has been established, or an answer admitting the violation has been received, the Hearings Officer shall order the person cited to pay a fine as provided in Section 5.01.080 of this chapter and any additional witness fees permitted by subsection 2 of this section, and may impose any other conditions and restrictions permitted by this chapter. The decision and order may be oral and issued at the conclusion of the hearing, but in all cases must be recorded in the record of the hearing.
- F. Representation by Counsel. The county may be represented by an attorney at any hearing. When the county elects to seek the penalty of euthanasia it shall be represented by an attorney. Any person cited may be represented by an attorney at any hearing, provided that written notice that the cited person intends to be represented by an attorney is received by Dog Control not less than five days preceding the hearing date. If the County requests a continuance because the person cited failed to provide five days notice under this section, the Hearings Officer may reset the hearing.
 - G. Failure to Appear. If a person fails to answer a Citation and Complaint, or fails to appear at any hearing authorized by this chapter, such failure shall be considered a waiver of the person's right to contest the citation and the citation will become a final judgment against the person, whereupon the Hearings Officer shall make such disposition as provided in Section 5.01.030 E 5.
 - H. Judicial Review. Review of the final order of the Hearings Officer, under any provision of this chapter, by any aggrieved party, including the county, shall be by writ of review as provided in ORS 34.010-34.100.
 - I. Forum for Adjudication. Unless the Board of County Commissioners by Order designates a court as the forum with jurisdiction over the adjudication of alleged violations of this chapter, all personal appearances and hearings pursuant to this chapter shall be conducted before a Hearings Officer to be appointed by the Board of County Commissioners. If the Board designates a court as the forum for adjudication, the citation & complaint forms and procedures required by this chapter shall apply unless the court or state law directs otherwise. If a court is designated by the Board, review of a decision of the court shall occur as provided by state law. If a court is designated by the Board, within this chapter the term "Hearing Officer" shall be construed to be a reference to the designated court, unless the context clearly requires a different construction.

5.01.040 Licensing

- A. Dog license required. Every dog owner of a dog which has a set of permanent canine teeth or has attained the age of six months, whichever occurs first, shall immediately obtain a dog license, provided, however, that:
 1. Any dog owner who newly acquires a dog subject to licensing shall obtain a dog license within thirty (30) days of acquiring the dog;
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2. Any dog owner moving to Clackamas County shall obtain a dog license, for a dog subject to licensing, within thirty (30) days of moving into the county.
- B. Dog license types.
1. At the option of the dog owner, a Multiple Dog Discount License may be issued if the dog owner meets certain criteria. This license shall apply to all of the dog owner's dogs which meet the criteria. Issuance of a multiple dog discount license does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions which may apply. The criteria for a multiple dog discount license are as follows:
 - a. The dogs must be kept exclusively for sale, lease, exhibition, breeding, racing or hunting;
 - b. The dogs must not be permitted to run at large; and
 - c. The dog owner must have three or more adult dogs that meet the criteria.
 2. Dogs not licensed under a Multiple Dog Discount License shall be licensed individually.
- C. Rabies vaccination required. No dog license shall be issued without evidence of one of the following:
1. A rabies vaccination certificate for the dog(s), issued by a licensed veterinarian, valid for at least ten months after the date the dog license is issued; or,
 2. A written notice, signed by a licensed veterinarian, attesting that the dog(s) cannot be administered a rabies inoculation due to medical reasons.
- D. License fee. A fee shall be charged for a dog license in such amount as the county governing body orders.
- E. License term; failure to renew.
1. The license shall be valid for one year from the date of purchase, but renewal of the license shall not be due until the last day of the same month one year from the date of purchase.
 2. If a person fails to renew a license prior to its expiration date, a \$10 per dog administrative fine shall be assessed at the time the license is renewed.
- F. Identification tags.
1. At the time an individual dog license is issued, or upon the dog owner's request when a Multiple Dog Discount License is issued, Dog Control shall supply the dog owner with a suitable identification tag at no additional charge. The dog owner shall fasten the tag to a collar or harness and keep it on the dog at all times when the dog is not in the immediate possession of the dog owner.
 2. If a dog license tag is lost, the dog owner shall obtain a duplicate license tag upon payment of a fee.
- G. Exemptions - Notwithstanding Section 5.01.040 D, no license fee shall be required for:
1. Any dog whose owner needs and uses the dog as a seeing eye dog or hearing ear dog, provided the owner tenders to Dog Control an affidavit attesting that the owner is afflicted by blindness or deafness which requires such use of the dog;
 2. Any "assistance animal", as defined by ORS 346.680, provided the owner tenders to Dog Control a written statement from a health care professional confirming the dog owner's medical need for such dog;
 3. Any dog in training to be a seeing-eye dog, hearing-ear dog or assistance animal, in affiliation with a recognized organization for the training or placement of
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- such dogs, provided the trainer tenders to Dog Control an affidavit attesting to such status of the dog;
4. The transfer of another Oregon county's or city's valid dog license to a Clackamas County dog license; or,
 5. Boarding kennels which keep dogs temporarily in the course of their business.
- H. Records. Dog Control shall keep a record of dog licenses.
- I. Dog license fund. All funds derived under Sections 5.01.030 C 4, 5.01.040 D, 5.01.040 E 2, 5.01.060 B 2, 5.01.060 C 1, and 5.01.080 B and fines received for violation of Sections 5.01.040 A, 5.01.050 D, 5.01.050 E, and 5.01.050 F shall be turned over to the county treasurer, who shall keep them in a fund to be known as the Dog License Fund, to be expended as provided by law. At the end of a fiscal year any amount of money in the fund determined by the county governing body to be in excess of the requirements of the dog licensing fund may be placed in the general fund of the county.

5.01.050 Control of Dogs

- A. Animal abuse. A person commits the violation of animal abuse if, except as otherwise permitted by law, the person causes physical injury to, or cruelly causes the death of, a dog. As used in this section, "cruelly" does not include death by euthanasia.
- B. Animal neglect. A person commits the violation of animal neglect if, except as otherwise provided by law, the person fails to provide minimum care for a dog in such person's custody or control. It is no defense to this section that the dog did not sustain physical injury by reason of the failure to provide minimum care.
- C. Animal abandonment. A person commits the violation of animal abandonment if the person leaves a dog at a location without providing for said dog's continued care. It is no defense to this section that the person abandoned the dog at or near an animal shelter, veterinary clinic or other place of shelter if the person did not make reasonable arrangements for the care of the dog.
- D. Dog at large. A dog owner commits the violation of dog at large by failing to prevent a dog from going off the dog owner's property unless it is under the immediate control of a person; or, when a dog commits any act defined as a public nuisance while off the dog owner's property. A working dog wearing a locating device which is temporarily separated from its owner shall be considered under the immediate control of a person for purposes of this section.
- E. Continuous annoyance. A dog owner commits the violation of continuous annoyance by failing to prevent any dog from causing annoyance, alarm or disturbance for more than 15 minutes at any time of day or night by repeated barking, whining or like sounds which can be heard beyond the boundary of the dog owner's property.
- F. Dog as public nuisance. A dog owner commits the violation of dog as public nuisance if the dog does any of the following:
1. Bites a person; however, a dog shall not be considered a public nuisance if the dog bites a person wrongfully assaulting the dog or the dog's owner, or if the dog bites a person trespassing upon premises occupied by the dog's owner after being provoked by that person;
 2. While off the dog owner's property, chases persons, vehicles, or any dog or cat owned by another person;

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3. While off the dog owner's property, damages or destroys property of persons other than the dog owner;
 4. While off the dog owner's property, scatters garbage;
 5. Goes upon the property of another without consent;
 6. Is a female in heat (estrus) and is accessible to male dogs not owned by the dog owner, except for intentional breeding purposes; or
 7. While off the dog owner's property, injures or kills a pet or domestic animal as defined in ORS 167.310(4).
- G. Failure to surrender dog. A person commits the violation of failure to surrender dog if the person fails to surrender any dog to an identifiable Dog Control Officer or peace officer who demands surrender in order to impound the dog as provided for by this chapter.
- H. Resisting a Dog Control Officer or peace officer. A person commits the violation of resisting a Dog Control Officer or peace officer if the person resists someone known by him or her to be a Dog Control Officer or peace officer who is enforcing any provision of this chapter.
- I. Providing false information to Dog Control Officer or peace officer. A person commits the violation of providing false information to Dog Control Officer or peace officer if the person knowingly gives false information to someone he or she knows to be a Dog Control Officer or peace officer who is enforcing any provision of this chapter.
- J. Dogs which kill, wound, injure or chase livestock. Any determination whether a dog has killed, wounded, injured or chased livestock shall be made by the Hearings Officer. The hearing shall be conducted in accordance with the provisions of Oregon law as set forth in ORS 609.140 to 609.190, except that the County may choose to be represented at the hearing by any employee of the County, including attorneys as well as individuals who are not attorneys. Persons representing the County shall be permitted to present arguments, examine or cross-examine witnesses, present rebuttal evidence and give advice during the hearing.

5.01.060 Impoundment; Disposition; Adoption

- A. Impound.
1. Any peace officer or Dog Control Officer may impound a dog which is in violation of this chapter.
 2. Any Dog Control Officer may impound a dog if the dog owner has not posted an appearance deposit as required by this chapter or paid a fine as ordered by a Hearings Officer for a violation of this chapter. For any dog so seized the disposition of said dog shall be in the same manner as for licensed dogs under the provisions of this chapter.
 3. Any person may immediately apprehend and hold for delivery to a peace officer or Dog Control Officer any dog which has:
 - a. Trespassed upon the property of said person in violation of this chapter; or
 - b. Bitten any person; or
 - c. Chased, injured or killed livestock other than that of the dog owner.
 4. Any person who apprehends a dog pursuant to subsection 3 of this section may either release the dog to its owner, or immediately notify Dog Control of such
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impoundment and relinquish control of said dog to Dog Control upon the demand of a peace officer or Dog Control Officer.

5. If a peace officer or Dog Control Officer has reasonable grounds to believe that a dog which is confined in an unoccupied motor vehicle may be in imminent danger of dying by virtue of said confinement, said officer may enter the motor vehicle, impound the dog and leave a notice in the vehicle advising where the dog may be reclaimed.

6. A dog shall be considered impounded from the time a Dog Control Officer, peace officer or Dog Control shelter employee takes physical custody of it.

B. Impound holding periods.

1. Unless otherwise provided in this chapter, dogs impounded at the shelter pursuant to this chapter shall be held for the following minimum time periods:

- a. Unlicensed dogs and dogs whose dog owners are unknown shall be held for three full business days not including the day of impoundment;
- b. Licensed dogs and dogs for which the dog owners are known shall be held for five full business days not including the day of impoundment.

2. Notwithstanding any other provision of this section:

- a. Any dog or cat surrendered to Dog Control by its owner for disposition may, after payment by the owner of an owner surrender fee, be immediately adopted, placed in foster care or subjected to euthanasia at the discretion of the Manager or any Animal Health Technician. For purposes of this subsection only, an owner is a person who has had the dog or cat in the person's care, possession, custody or control for 30 days or more.
- b. Abandoned or unwanted litters of puppies aged two months or less may immediately be adopted, placed in foster care or subjected to euthanasia.
- c. Any dog which has been ordered by a court or hearings officer to be released to the dog owner may be adopted, placed in foster care or subjected to euthanasia if the dog owner has not redeemed it by the close of the third business day after the owner has received notice of said order.
- d. A dog delivered to the shelter for impoundment by a peace officer who removed the dog from the possession of a person in custody of the peace officer shall be held for the period described in subsection 1 b of this section.

C. Redemption of impounded dogs.

1. A dog owner may redeem an impounded dog upon payment of the following fees and charges:

- a. Impound fee;
 - b. Daily board fee, if any, beginning the day following impoundment;
 - c. For any unlicensed dog, a license fee and a \$10 administrative fine if the dog owner is able to produce the required proof of rabies inoculation at time of redemption; or, in the alternative, a rabies deposit fee in an amount equal to a fertile dog license fee plus a \$10 administrative fine, which shall be applied toward the license and \$10 administrative fine if the dog owner presents to Dog Control the required proof of rabies inoculation within ten days following redemption. If the owner establishes that the dog was licensed and inoculated when it was impounded, any license fee or rabies deposit fee collected shall be returned.
 - d. Any unpaid appearance deposit, penalty, fine or fee previously imposed against the dog owner pursuant to this chapter; and
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- e. Medical care fees, if any.
 - 2. If the dog owner has been cited and a hearings officer finds that no violation of this chapter has occurred, impoundment and board fees shall not be assessed for the period from initial impoundment through the first business day following issuance of said finding;
 - 3. Impound, board, owner surrender, adoption fees and refundable deposits shall be in an amount as established by order of the Board of County Commissioners.
- D. Failure to reclaim dog.
- 1. No dog owner, to whom notice of impoundment has been given, shall fail to reclaim his or her dog which has been impounded at the shelter and is available for release.
 - 2. Any dog owner failing to comply with this section shall be civilly liable to Dog Control for all fees accrued in connection with the impoundment, keeping and disposition of said dog.
- E. Disposition of dogs and cats. Following expiration of any required holding period set forth in Section 5.01.060 B, any dog impounded at the shelter which has been unclaimed by its owner, and any owner-surrendered dog or cat, may be adopted, placed in foster care or subjected to euthanasia at the discretion of the Manager or any Animal Health Technician.
- F. Adoption.
- 1. Any dog or cat which is otherwise available for adoption pursuant to this chapter may be offered for adoption, for a fee, at the discretion of the Manager or an Animal Health Technician.
 - 2. The Manager or an Animal Health Technician may deny any adoption application which would be contrary to Dog Control's established adoption guidelines.
 - 3. Any person adopting a fertile dog or cat shall, at the time of adoption and in addition to any adoption and license fees, pay a \$40 deposit per dog or cat which shall be refundable upon presentation to Dog Control of proof that said dog or cat has been rendered sexually unproductive within the following time periods:
 - a. Within 30 days of adoption if the dog or cat is six months of age or older when adopted; or
 - b. Within 30 days of adoption or before the animal becomes six months of age, whichever period is longer, if the dog or cat is less than six months of age when adopted.
 - 4. Any person who fails to render an adopted dog or cat sexually unproductive within the time period specified in subsection 3 of this section shall forfeit any deposit paid pursuant to subsection 3 of this section.

5.01.070 Biting Dogs

- A. Reporting biting dogs.
- 1. The dog owner of a dog which bites a person shall immediately notify Dog Control of such bite, the time and circumstances of such bite, a description of the biting dog, its rabies inoculation status, the name and address of the owner and, if known, the name and address of the person bitten.
 - 2. Any person who is bitten by a dog shall notify Dog Control of such bite, the time and circumstances of such bite, a description of the biting dog, the name and address of the person bitten and, if known, the name and address of the dog owner.
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- B. Quarantine of biting dogs.
1. When the Director of the Clackamas County Public Health Division, the Manager or any Dog Control Officer has grounds to suspect that a dog is infected with rabies the dog shall be quarantined at the dog owner's expense for a period of at least ten days following the bite, as provided by state law.
 2. The biting of any person by a dog shall constitute adequate grounds for suspecting the dog to be so infected.
 3. Any quarantine pursuant to this section shall occur within an enclosure or with restraints deemed adequate by the Director of the Clackamas County Public Health Division or the Manager, which shall be located at the Dog Control shelter, the offices of a licensed veterinarian or, at the discretion of the Director of the Clackamas County Public Health Division or the Manager, upon premises of the dog owner. Quarantine upon premises of the dog owner may be denied if the bite was to the head or neck, the dog has previously bitten a person, the enclosure or restraints are deemed inadequate, or for any other good cause shown.
 4. No dog owner, whose dog has been quarantined upon premises of the dog owner pursuant to this section, shall fail to keep said dog quarantined within the designated enclosure or restraints during the period of quarantine. Any dog which has not been kept in quarantine as directed may be immediately impounded by any Dog Control Officer or peace officer.

5.01.080 Penalties

A. Fines.

1. Upon a finding by the hearings officer that a person has violated a provision of this chapter, a fine shall be imposed in the following amount:
 - a. For violation of Sections 5.01.050 D, E, or F, not less than \$40 nor more than \$250 for a first offense. For a second violation committed within 12 months of the date the first violation was committed, not less than \$100 nor more than \$500. For a third or subsequent violation committed within 12 months of the date the first violation was committed, the fine shall be not less than \$250 nor more than \$500.
 - b. For violation of Sections 5.01.040 A, 5.01.050 B, 5.01.050 C, 5.01.050 I, 5.01.060 D, or 5.01.070 B.4, not less than \$50 nor more than \$250, except that a continuing violation of Section 5.01.050 B shall have a maximum fine of \$1,000.
 - c. For violation of Sections 5.01.050 A, 5.01.050 G, 5.01.050 H, or 5.01.080 C 3, not less than \$100 nor more than \$500.
 - d. For violation of any other section of this Chapter, a fine of not more than \$25.
 2. Except as provided in Section 5.01.040 I, all fines recovered under subsection 1 of this section shall be first used to defray costs of the hearings process, the balance then to be deposited to the county general fund.
- B. License deposit. In addition to, and not in lieu of, any other fine, condition or restriction which may be imposed, the hearings officer, upon a finding that a person has violated a provision of this chapter, shall assess a \$35 license deposit per dog for any dog which was the subject of the violation and remains unlicensed at the time of sentencing. The deposit shall be payable to Dog Control and shall be refundable upon
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the person's obtaining of a dog license for the dog and payment of a \$10 per dog administrative fine within seven days of sentencing.

C. Additional conditions and restrictions.

1. Upon a finding by the hearings officer that a person has violated a provision of this chapter, in addition to and not in lieu of any fine, the hearings officer may impose reasonable conditions and restrictions, including but not limited to:
 - a. Suspending, for a period specified by the hearings officer and not to exceed five years, the dog owner's right to own or keep any dog in Clackamas County;
 - b. Requiring a dog owner found in violation of Section 5.01.050 E to keep the dog inside the dog owner's residence during hours specified by the hearings officer, and/or keep a barking shock collar, in good operating order, on the dog at all times;
 - c. Requiring payment to Dog Control of all fees pursuant to Section 5.01.060 C 1 incurred in any impoundment, keeping and disposition of a dog;
 - d. Requiring the person to make restitution to any person who has suffered economic loss in connection with a violation of this chapter;
 - e. Requiring that the person render sexually unproductive any dog which was the subject of the violation;
 - f. Requiring that the person comply with any other condition or restriction reasonably designed to abate any future violation.
 2. The person shall pay the costs of complying with conditions and restrictions imposed under subsection 1 of this section.
 3. No person shall fail to comply with reasonable conditions and restrictions imposed under subsection 1 of this section. If the person fails to provide acceptable proof of compliance to Dog Control on or before the 10th day after issuance of the order imposing the conditions and restrictions, there is a rebuttable presumption that the person has failed to comply. If Dog Control finds the proof submitted by the person unacceptable, Dog Control shall send notice of that finding to the person no later than five days after the proof is received.
 4. Upon a finding that a person is in violation of Sections 5.01.050 A, 5.01.050 B or 5.01.050 C, or a finding that a person is for the third or subsequent time in a 12 month period in violation of Sections 5.01.050 D or 5.01.050 E, the hearings officer may order the person's rights in the dog to be forfeited and given over to Dog Control.
 5. Upon a finding that a person is in violation of Section 5.01.050 F by virtue of the person's dog having bitten a person, or by menacing or chasing a person when not on the premises of the dog owner, the hearings officer may order the dog owner's rights in the dog to be forfeited and given over to Dog Control for the purpose of subjecting the dog to euthanasia. If euthanasia is not ordered, the hearings officer shall order the dog owner to render the dog sexually unproductive at the expense of the dog owner and may impose any conditions and restrictions permitted by subsection 1 of this section. In determining whether a dog shall be subjected to euthanasia, the hearings officer shall consider the following factors:
 - a. If a bite, the circumstances and severity of the bite, including whether the dog was provoked by the person bitten;
 - b. Whether the dog owner has a history of maintaining dogs that are a public nuisance;
 - c. The impact of dog owner actions on the behavior of the dog;
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- d. The ability and inclination of the dog owner to prevent the dog from further biting, menacing or chasing persons;
 - e. Whether the dog has unjustifiably chased or menaced a person on a prior or subsequent occasion; and
 - f. Any other factors that the hearings officer may deem relevant.
- The hearings officer is not required to treat any single factor as controlling.

D. Debt to County. The following constitute a debt owing to Clackamas County and may be collected in the same manner as any other debt as allowed by law:

- 1. Any fine ordered pursuant to this chapter.
 - 2. Any payment ordered to Dog Control pursuant to Section 5.01.080 C 1 e and 5.01.080 C 1 d
 - 3. Any fee due and payable to Dog Control pursuant to this or any other chapter or order enacted by the Clackamas County Board of Commissioners.
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