

RESOLUTION NO. 1977

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

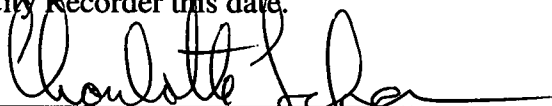
WHEREAS, the City finds it would be beneficial to grant consent to Clackamas County to administer the County's Dog Control and Licensing Ordinance within the City.

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.

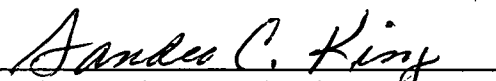
Section 2. This resolution is effective immediately upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 6th day of February, 2006, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, MAYOR

ATTEST:



Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Holt	Yes
Councilor Knapp	Yes
Councilor Ripple	Yes

Attachment:

Exhibit A, Clackamas County Title V. Animals, Summary 5.01 Dog Licensing and Services.

TITLE 5
ANIMALS
Summary

5.01 DOG LICENSING & SERVICES..... 1

TITLE 5

ANIMALS

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Chapter 5.01

5.01 DOG LICENSING & SERVICES

5.01.010 Enactment; Authority

The County is authorized by Oregon Revised Statutes (ORS) ORS 203.035 to regulate matters of County concern. The Board of County Commissioners finds that dog licensing and services within the County is a matter of County concern that impacts the health and safety of the people of Clackamas County. ORS 609.015 and ORS 153.030 recognize the authority of the County to enact and enforce regulations and procedures that vary from related state law provisions. The Board of County Commissioners adopts the following dog licensing and services regulations and procedures pursuant to ORS 203.035. Matters that concern crimes of abuse, neglect, or abandonment of dogs will be investigated and prosecuted under state law. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04]

5.01.020 Definitions; Exclusions; Fines and Fees

A. Definitions

Terms used but not defined shall have their plain meaning.

1. BITE, BITING, BITTEN means the breaking of the skin of a person or domestic animal by the teeth of a dog.
 2. CONTINUOUS ANNOYANCE means the activities of a dog that disturbs any person by frequent or prolonged noise that may be heard beyond the boundary of the dog owner's property.
 3. COMMERCIAL means the keeping of four or more dogs for the primary purpose of obtaining a profit in money from activities such as, but not limited to, breeding, raising, or sale of dogs.
 4. COSTS mean any monetary assessment, other than fines and fees ordered by a hearing officer including, but not limited to, costs for veterinarian care, restitution and expenses.
 5. DANGEROUS DOG means any dog that menaces, bites, injures or kills a person or domestic animal.
 6. DOG means the common dog (*Canis familiaris*) and any animal claimed by its owner to be a wolf-dog mix.
 7. DOG AT LARGE means a dog that is off or outside the dog owner's property and not under the immediate control of a person.
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8. DOG OWNER means the following, however any presumption of ownership raised in this section may be rebutted by proof to the contrary:
 - a. Any person in whose name a dog license has been issued;
 - b. Any person who has a possessory property right in a dog;
 - 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, shelters 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 for more than 30 days shall be presumed to be the owner.
 9. DOG SERVICES means Clackamas County Dog Services.
 10. DOG SERVICES OFFICER means a person employed by or contracting with Clackamas County who is authorized to investigate violations and issue citations as provided in this Chapter.
 11. DOMESTIC ANIMAL has the meaning provided in ORS 167.310.
 12. EUTHANASIA means the putting of a dog to death in any humane manner permitted under ORS 609.405.
 13. EXPENSES mean expenditures incurred by Dog Services during impoundment, keeping and disposition of a dog.
 14. HEARING OFFICER means any person appointed by the Board of County Commissioners to hear and determine violations of this Chapter.
 15. MANAGER means the Clackamas County Dog Services Manager or his/her designee.
 16. MENACE means lunging, growling, snarling, chasing, attacking, or other behavior by a dog that would cause a reasonable person to fear for the person's safety, the safety of another person or the safety of a domestic animal.
 17. 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 owner, includes, but is not limited to, the following requirements:
 - a. Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight.
 - b. Open or adequate access to water fit for drinking in sufficient quantity to satisfy the dog's needs. Access to snow or ice is not adequate access to potable water.
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- c. Other than a dog engaged in herding or protecting livestock, access to a barn, dog house or other enclosed structure sufficient to protect the dog from wind, rain, snow or sun and that has adequate bedding to protect against cold and dampness.
 - d. Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease.
 - e. Continuous access to an area:
 - i. With adequate space for exercise necessary for the health of the dog;
 - ii. With air temperature suitable for the dog; and
 - iii. Kept reasonably clean and free from excess waste or other contaminants that could affect the dog's health.
18. **MULTIPLE DWELLING** means any building or portion thereof that is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other in separate units.
19. **PEACE OFFICER** has the meaning provided in ORS 161.015.
20. **PHYSICAL INJURY** has the meaning provided in ORS 167.310.
21. **SECURE ENCLOSURE** means any of the following:
- a. A fully fenced pen, kennel or structure that is in compliance with applicable County codes, that will remain locked with a padlock or combination lock, and which has secure sides at least five feet high. The Manager may also require that the structure have a secure top and/or floor that are attached to the sides, or require that the sides be embedded in the ground no less than one foot; or
 - b. A house or garage that has latched doors kept in good repair to prevent the escape of the dog. A house, garage, patio, porch or any part of the house is not a secure enclosure if the structure would allow the dog to exit the structure of its own will; or
 - c. For a dangerous dog, a fully fenced pen, kennel or structure at least six feet in height that is either anchored beneath the ground or is in concrete and which prevents the dog from digging under it. The enclosure must be of a design that prevents entry of children or unauthorized persons and also prevents those persons from extending an arm or leg inside the enclosure. The enclosure must remain locked with a padlock or combination lock when occupied by the dog. A sign approved by the Manager must remain posted at all entry points of the dog owner's property that informs both children and adults that the dog is dangerous.
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- 22. VIOLATION means any violation of this Chapter for which a fine, condition or restriction or other punishment may be imposed.
 - 23. WOLF-HYBRID means an animal that is either the result of cross breeding a purebred wolf and a dog, or an existing wolf-hybrid with a dog, or any dog declared by its owner to be a wolf-hybrid. A wolf-hybrid will be considered a dog under this Chapter.

B. Exclusions:

This Chapter does not regulate veterinarians, kennel operators or pet shop owners who for a period of not more than 90 days maintain on their property dogs owned by other persons.

C. Fines and Fees:

All fines and fees associated with this Chapter shall be set by resolution of the Board of County Commissioners. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04]

5.01.030 Licensing; Vaccinations

A. License.

- 1. Individual Dog License.
 - a. Every dog owner shall license a dog within thirty (30) days of the animal obtaining the age of six months or within thirty (30) days of acquiring the dog, which ever occurs later.
 - b. A dog owner who has moved to Clackamas County and who does not have a current dog license from another Oregon city or county, shall obtain a dog license within thirty (30) days of moving into Clackamas County unless the dog has not yet reached six months of age. A dog with a current dog license from another city or county shall not require licensing under this Chapter until expiration of the current license, if within thirty (30) days of moving into Clackamas County the owner notifies Dog Services of the dog's description, license number and city or county of issuance, and Clackamas County address.

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2. Multiple Dog license.
 - a. Qualification; Application; Inspection. After approval of a qualifying Multiple Dog License Application and premises inspection to determine minimum care is available for all dogs, an owner may obtain a multiple dog license when the owner has four or more dogs. Dog owners who have obtained a multiple dog license prior to July 1, 2004 and are applying for a license renewal are not subject to inspection requirements.
 - b. License Type.
 - i. Non-commercial Multiple Dog License: An owner who does not keep dogs in the owner's possession for a commercial purpose may obtain a Non-commercial Multiple Dog License.
 - ii. Commercial Multiple Dog License: An owner who keeps dogs for a commercial purpose may obtain a Commercial Multiple Dog License.
 - c. Denial of a Multiple Dog License. An owner may appeal the denial of a multiple dog license to a Hearing Officer by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set forth in this Chapter for a hearing on a violation except that the burden of proof will be on the owner to prove that the denial was improper.
 - d. Land Use Approval. Issuance of a Multiple Dog License does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply.

B. Rabies Vaccination

An individual or multiple dog license will not be issued without evidence of one of the following for each dog to be licensed:

1. A rabies vaccination certificate issued by a licensed veterinarian that is valid for the license period; or,
2. A written statement signed by a licensed veterinarian stating that for medical reasons the rabies vaccination cannot be administered to the dog.

C. License Term; Renewal; Fine

1. A license will be valid for one, two or three years from the date of issuance at the option of the dog owner and requires a rabies vaccination certificate for the licensing period.

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2. Renewal of a license shall not be due until the last day of the month in which the license expires. If a person fails to renew a license prior to its expiration date, a fine may be assessed at the time the license is renewed.

D. Identification tags.

1. At the time an individual dog license is issued Dog Services will issue a free identification tag that is to be fastened to a collar or harness and kept on the dog at all times when the dog is not in the immediate possession of the owner.
2. When a multiple dog license is issued the owner may obtain identification tags upon payment of a fee.
3. If a dog license tag is lost, the owner may obtain a duplicate tag from Dog Services upon payment of a fee.

E. License Fees Exemptions.

1. No license fee will be required for the following:
 - a. Any dog that meets the definition of an "assistance animal" as defined in ORS 346.680, provided that the owner has filed a statement with Dog Services indicating that the dog owner is a, "physically impaired person" as defined in ORS 346.680;
 - b. Any dog in training to be an "assistance animal" as defined in ORS 346.680, in affiliation with a recognized organization for the training or placement of assistance animals, provided the trainer files a statement with Dog Services explaining the dog's status as an assistance animal;
2. The Manager may reduce license fees by up to 50% for up to two dogs per household for persons 65 or older, and persons deemed by the Manager to be under financial hardship. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04]

5.01.040 Control of Dogs

A. Number of Dogs Permitted on Premises.

1. Unless an exemption applies as provided in subsection 2 of this section, the number of dogs shall not exceed:
 - a. More than 5 dogs in a unit of a multiple dwelling;
 - b. More than 5 dogs on premises less than or equal to one acre;
 - c. More than 10 dogs on premises larger than one acre but smaller than five acres;

d. More than 25 dogs on premises 5 acres or larger.

2. Exemption.

This provision does not apply to:

- a. Dogs not required to be licensed by this Chapter;
- b. A litter of puppies together with a mother; until the litter reaches six months of age the mother and puppies will count as one dog;
- c. An owner who has a commercial multiple dog license;
- d. An owner that exceeds the number of dogs permitted, but has licensed all dogs on the premises prior to July 1, 2004;

B. Duties of Owners.

For the purposes of this Chapter a dog owner is ultimately responsible for the behavior of the dog regardless of whether the owner or another person allowed the dog to engage in the behavior that is the subject of the violation.

C. Violations.

- 1. It is unlawful to permit a dog to be a public nuisance. A dog is a public nuisance if it:
 - a. Menaces, bites, injures or kills a person or domestic animal. It is a defense to this section if the dog engages in such behavior as a result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property;
 - b. Is a dog at large. It is a defense to this section that the dog was a working dog wearing a locating device and temporarily separated from the person in control of the dog;
 - c. Chases a vehicle while off the dog owner's property;
 - d. Causes continuous annoyance;
 - e. Damages or destroys property of another person while off the dog owner's property;
 - f. Scatters garbage while off the dog owner's property;
 - g. Is a female in heat (estrus) and is a dog at large.

2. It is unlawful to fail to comply with the requirements of this Chapter that apply to keeping a dangerous dog.
3. It is unlawful to permit any dog to leave the confines of any prescribed quarantine area, and/or fail to comply with any other condition of quarantine.
4. It is unlawful to interfere with an identified Dog Services Officer or peace officer who is enforcing any provision of this Chapter by intentionally acting in any manner that prevents, or attempts to prevent a Dog Services Officer or peace officer from performing their lawful duties.
5. It is unlawful to knowingly provide false information to a Dog Services Officer or peace officer enforcing any provision of this Chapter.
6. It is unlawful to permit a dog to be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog, including but not limited to dangerous temperature, lack of food, water or attention.
7. It is unlawful to permit a dog to be unrestrained in an open portion of a vehicle.
8. It is unlawful to fail to redeem an impounded dog.
9. It is unlawful to fail to comply with any fine, fee, cost, expense, condition or restriction imposed by a Hearing Officer under this Chapter.
10. It is unlawful to fail to surrender a dog to Dog Services when required by this Chapter.
11. It is unlawful to fail to license a dog or renew a license as required by this Chapter.
12. It is unlawful for an owner to fail to immediately notify Dog Services when the owner's dog has bitten a person or domestic animal.
13. It is unlawful to exceed the number of dogs permitted on premises or in a unit of a multiple dwelling as set forth in this Chapter.

D. Lost Dogs; Duties of Finders.

Any person who finds and shelters a dog without knowing the dog owner's identity shall notify Dog Services within three days with a description of the dog. A finder may surrender the dog to Dog Services, or retain possession subject to surrender upon Dog Services' request. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04]

5.01.050 Biting Dogs; Dangerous Dogs**A. Reporting biting dogs.**

1. The owner of a dog that bites a person or domestic animal shall immediately notify Dog Services of the time and circumstances of the bite along with a description of the biting dog, its rabies inoculation status, the owner's name and address, and if known the name and address of the person who was bitten or the person that owns a bitten domestic animal.
2. Any person who is bitten, or owns a domestic animal bitten by a dog shall immediately notify Dog Services of the time and circumstances of the bite along with his/her name and address, a description of the biting dog, and if known the name and address of the dog owner.

B. Quarantine of biting dogs.

1. When a dog is suspected of having bitten a person or domestic animal the dog may be impounded. A dog suspected of biting a person will be quarantined at the owner's expense for a period of at least ten (10) days following the bite.
2. A dog may be quarantined at Dog Services, at the premises of a licensed veterinarian, or at the discretion of the Manager, at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraints.
3. When a dog is quarantined at the premises of the owner the dog shall not be permitted to leave the confines of a prescribed quarantine area whether the dog's release is willful or through a failure to exercise proper care or control.

C. Dangerous Dogs.

1. Classification of Dog as a Dangerous Dog.

A dog may be classified by the Hearing Officer as a dangerous dog when it has menaced, bitten, chased, injured or killed any person or domestic animal.

2. Notice of Classification; Hearing.

- a. Notice.

Prior to a dog being classified as dangerous, the owner shall have a right to a hearing before a Hearing Officer. The Manager shall send a Dangerous Dog Notice to the dog owner by certified mail or personal service; if sent by mail the date of mailing will be considered the date of service. The notice shall inform the owner of:

- i. A description of the alleged incident and specific behavior that supports classification of the dog as dangerous.
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- ii. The regulations that may be imposed following a dangerous dog classification, including the requirement of a dangerous dog certificate.
 - iii. An opportunity to request a hearing.
 - iv. Information that the dog owner must request a hearing within seven (7) days from the date of service by delivering a written request to Dog Services.
 - v. Information that if the dog owner does not make a timely request for hearing, the dog owner shall be deemed to have waived his/her right to a hearing. Thereafter, following proof of sufficient evidence that the dog is dangerous, the Hearing Officer may so classify the dog and impose regulations consistent with this Chapter.
- b. Hearing.
- i. Following a timely request for a hearing, the Manager will set the date and time of the hearing and notify the dog owner and Hearing Officer. The hearing shall follow the procedures set forth in this Chapter for a hearing on a violation.
 - ii. The Hearing Officer may refrain from classifying a dog as dangerous upon a finding that the behavior was the result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser, or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property.
 - iii. A hearing on classification of a dangerous dog may be consolidated with a hearing on any underlying violation for which the dog owner has been cited following a written request from the dog owner.

3. Regulation of Dangerous Dogs; Microchip Identification.

When a dog has been classified as dangerous, the dog shall be microchip identified at Dog Services at the expense of the owner, as provided in ORS 609.168. In addition, a Hearing Officer may impose the following regulations, and order that:

- a. The dog be kept in a secure enclosure;
- b. The dog owner obtain and maintain proof of public liability insurance;

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- c. The dog owner not permit the dog to be off the owner's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a competent person;
 - d. The owner successfully complete a pet ownership program approved by the Manager;
 - e. The dog successfully complete obedience training certified by the American Temperament Testing Society or other similar program approved by the Manager;
 - f. The dog be spayed or neutered;
 - g. Euthanasia be required when a dog has bitten or killed a person or domestic animal. Prior to entry of an order requiring euthanasia the Hearing Officer shall consider the factors set out in ORS 609.093 in making findings to support the decision. The Hearing Officer shall also consider the dog and dog owner's violation history to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred.
4. Certificate of Registration; Secure Enclosure; Notice to New Owner
- a. Certificate of Registration. Within seven (7) days after a dog has been classified as dangerous, the owner must license the dog, if not licensed, and obtain a dangerous dog certificate of registration to be renewed annually until the dog is declassified or dies. The Manager may only issue certificates of registration and renewals to persons who are at least 18 years of age and who present sufficient evidence of:
 - i. A rabies vaccination certificate which will remain in affect for at least one year from the date the certificate of registration is issued;
 - ii. A secure enclosure to confine the dangerous dog;
 - iii. A clearly visible warning sign, approved by the Manager, to be posted and remain at all entry points of the owner's property that informs both children and adults that the dog is dangerous;
 - iv. Microchip identification as provided in ORS 609.168; and,
 - v. Payment of an annual dangerous dog registration fee.
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- b. **Secure Enclosure.** The owner of a dog classified as dangerous shall confine the dog in a secure enclosure. The owner must immediately notify Dog Services when a dangerous dog is loose, or has bitten a person or domestic animal. A dangerous dog shall not be permitted to leave the confines of a secure enclosure unless the dog is muzzled and restrained by an adequate chain or leash and under control of a competent person.
 - c. **Notice to New Owner.** Prior to a dangerous dog being sold or given away the owner shall provide notice to the new owner that the dog has been classified as a dangerous dog and provide the Manager with the name, address and telephone number of the new owner whether or not the new owner resides in Clackamas County. The new owner must comply with all dangerous dog regulations imposed unless and until the dog is declassified or dies.

5. **Declassification of Dangerous Dog.**

- a. **Declassification.** Following an owner's written request, the Manager may declassify a dog as dangerous and terminate the regulations ordered at the time of classification, except for microchip identification and secure enclosure, if the classification was a result of the dog biting or killing a person or domestic animal, when the following conditions have been met:
 - i. For two years from the date of classification the dog has had no further incidents of behavior that would make it a dangerous dog;
 - ii. For two years from the date of classification there have been no violations of the regulations imposed;
 - iii. The dog owner has obtained a certificate of satisfactory completion of obedience training for the classified dog.
 - b. **Appeal of Declassification Denial.** A dog owner may appeal to a Hearing Officer the Manager's denial of a request to declassify a dangerous dog by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the Manager's written notice denying declassification.
 - i. The Manager's written denial shall include information on how the dog owner may appeal the denial.
 - ii. On appeal the Hearing Officer shall determine whether the dog meets the criteria for declassification and shall either uphold the Manager's denial or order declassification. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04]
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5.01.060 Impoundment; Disposition; Adoption**A. Impoundment.**

1. Any Dog Services Officer or peace officer may impound a dog that is in violation of this Chapter, or when a Dog Services Officer or peace officer reasonably believes a dog requires medical assistance or care, or when otherwise ordered by a court or Hearing Officer.
2. If a person refuses to allow a Dog Services Officer or peace officer to enter the premises to impound a dog as authorized by this Chapter, the Manager may request the assistance of the Clackamas County Sheriff to obtain and execute a warrant authorized under state law or this code for the search and seizure of property.
3. Any Dog Services Officer or peace officer is authorized to remove a dog from a motor vehicle and impound the dog when the officer reasonably believes it is confined in a manner that endangers its health or well-being, including but not limited to dangerous temperature, lack of food, water or attention. A written notice of impoundment will be left on or in the vehicle along with information on how the dog may be redeemed.
4. A dog shall be considered impounded from the time a Dog Services Officer or peace officer takes physical custody of it.
5. Any person may immediately apprehend and hold for impoundment any dog that has trespassed upon the property of that person or the property of another in violation of this Chapter, or has menaced, bitten, injured or killed a person, or domestic animal.

B. Impound Holding Periods.

Unless otherwise provided in this Chapter, dogs impounded will be held for the following minimum time periods, unless sooner reclaimed by their owner:

1. Unlicensed dogs and dogs whose owners are unknown shall be held for five consecutive days, not including the day of impoundment, Sundays and federal holidays.
2. Licensed dogs and dogs for which owners are known shall be held for five consecutive days, not including Sundays and federal holidays, from the date of notification of impoundment. If notification is by mail, the date of mailing shall be considered the date of notification.

C. Release of Impounded Dogs.

1. Unless otherwise ordered by the Hearing Officer a dog may not be released until final disposition of any violation alleging that the dog has menaced, bitten, injured, or killed a person or domestic animal. Otherwise an impounded dog may be released to its owner prior to final disposition of a violation after payment of the following applicable fees and charges:
 - a. Impound fee;
 - b. Daily board fee, to accrue the day following impoundment;
 - c. License fees;
 - d. Any fines, fees or costs imposed against the dog owner pursuant to this Chapter;
 - e. Expenses.
2. If a dog owner has been cited for a violation or multiple violations of this Chapter, and a Hearing Officer finds that no violation(s) occurred, then impoundment and board fees shall not be assessed until the first business day following issuance of that finding.

D. Failure to Reclaim.

1. If an owner fails to reclaim a dog as provided in this Chapter the dog will be deemed surrendered to the County without compensation paid to the owner.
2. An owner that fails to reclaim a dog will be civilly liable to the County for all penalties, fines, fees, costs and expenses authorized by this Chapter and which may be collected in the same manner as any other debt allowed by law.

E. Diseased or Injured Dog.

In the event any dog is impounded with symptoms of an infectious or contagious disease or injury, the Manager may hire a licensed veterinarian to treat the dog. The dog owner shall be liable to the County for the expenses of veterinarian care. In the event that a licensed veterinarian is of the opinion that the dog cannot be treated or that the dog poses a threat to public health or safety, the dog may be immediately euthanized without compensation paid to the owner.

F. Release for Adoption.

1. Fees. Adoption fees will be assessed.

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2. Standards. The Manager shall have the authority to develop and enforce adoption policies and procedures. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04].

5.01.070 Citation; Complaint; Hearing Process

A. Issuance of Citation.

1. Any Dog Services Officer or peace officer may issue and serve a dog owner with a Citation when there are reasonable grounds to believe the owner has committed an act in violation of this Chapter. The Citation shall serve as the County's Complaint in a hearing on a violation.
2. A Citation shall be served by personal service or by certified mail with return receipt requested, no later than six (6) months from the date the alleged violation occurred. When mailed the date of mailing shall be considered the date of service. The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.

B. Form of Citation.

1. The Citation shall include:
 - a. The name and address of the person cited;
 - b. The date(s) the alleged violation(s) occurred;
 - c. The number and title of the Chapter section(s) violated;
 - d. A description of the dog(s) involved;
 - e. The base fine, to be equal to the minimum fine, along with the maximum fine for each violation as authorized by this Chapter;
 - f. Whether appearance before a Hearing Officer is optional, or if mandatory the date, time and place at which the person is to appear;
 - g. The procedure for the person to follow to admit the violation and pay the base fine, or contest the citation and appear before a Hearing Officer;
 - h. A statement that if the person fails to pay the fine within the time allowed, or fails to appear before the Hearing Officer when required, then the person shall have waived his/her right to contest the Citation and the Hearing Officer may enter a judgment against the person for an amount up to the maximum fine, in addition to any fees, costs or expenses that may be imposed under this Chapter;
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- i. A statement that when appearance before a Hearing Officer is mandatory the person does not have the option of paying the fine in lieu of appearance.

C. Response to Citation

1. Unless an appearance before a Hearing Officer is mandatory, a dog owner who has received a Citation must respond to it by:
 - a. Prior to the appearance date returning a signed copy of the Citation to Dog Services indicating that the violation is admitted, along with a check or money order payable to Clackamas County for the total base fine amount. Admission and payment does not relieve the dog owner of the requirement to correct the violation; or
 - b. Prior to the appearance date, returning a signed copy of the Citation to Dog Services denying the violation and requesting a hearing. Dog Services will set a time and place for the hearing and notify the Hearing officer, and dog owner.
 2. Mandatory Appearance: Personal appearance before a Hearing Officer at the time and place indicated on the citation shall be mandatory:
 - a. When a dog owner has received a citation for the same violation three (3) times or more within a twelve (12) month period;
 - b. For violation of Failure to Surrender a Dog;
 - c. For violation of Interfering with a Dog Services Officer or Peace Officer;
 - d. For violation of Providing False Information to a Dog Services Officer or Peace Officer;
 - e. For violation of Failure to Comply with Conditions of Quarantine;
 - f. For violation of Failure to Comply with any Fine, Fee, Cost, Expense, Condition or Restriction authorized by this Chapter;
 - g. For violation of Dog as a Public Nuisance when:
 - i. A dog menaces, bites, injures or kills a person, or domestic animal;
 - ii. When a dog damages or destroys property of another person while off the dog owner's property.
 - h. For violation of Failure to Comply with the Requirements of Keeping a Dangerous Dog.
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3. **Failure to Respond to Citation:** If a person cited fails to respond to the Citation by not paying the base fine within the time allowed, or does not request a hearing within the time allowed, or fails to appear before the Hearing Officer when required, then the person shall be deemed to have waived his/her right to contest the Citation. The Hearing Officer may enter an order against the person for an amount up to the maximum fine, in addition to any applicable fees, costs or expenses, following proof of sufficient evidence that the person has committed the cited violation(s).

D. **Hearing Process.**

1. **Informal Disposition.** An informal disposition of any violation may be made before the Hearing Officer issues a final order.
2. **Burden of Proof.** The burden will be on the County to prove that the violation occurred by a preponderance of the evidence.
3. **Testimony of Witnesses and Parties.** The Hearing Officer shall have the authority to administer oaths or affirmations and take testimony of and question witnesses and parties. Parties may offer witness testimony on their own behalf.
4. **Cross Examination of Witnesses.** Parties may examine or cross-examine witnesses, and present evidence and argument on all issues involved in the proceeding.
5. **Evidence.** Reliable and relevant evidence shall be admitted subject to the rules of privilege recognized by law. The burden of presenting evidence to support a fact or position shall be on the offering party. The Hearing Officer may establish procedures for the presentation of evidence to ensure that the hearing record reflects a full and fair inquiry into the facts necessary to determine the matter alleged.
6. **Subpoenas.** The Hearing Officer may issue subpoenas to parties when such a request is supported by a showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties, peace officers or employees of the County, shall be paid the same witness fees and mileage as allowed in civil cases from the party requesting the subpoena to be paid at the time the subpoena is issued. The party requesting the subpoena will be responsible for its service in accordance with the Oregon Rules of Civil Procedure.
7. **Representation.** Parties may be represented by counsel at their own expense. In accordance with ORS 9.320, the County may be represented by any County employee or designated agent.
8. **Record.** A verbatim written or mechanical record shall be made of all hearings. The record may be transcribed at the request of a party upon payment in advance of the cost of transcription.

9. **Final Order.** At the conclusion of the hearing the Hearing Officer shall issue a Final Order based upon reliable, relevant and substantial evidence which shall be the County's final determination. A final order shall be effective on the date that it is issued unless otherwise provided by the Hearing Officer. The order may be oral or written, but in all cases must be recorded in the record of the proceeding. The Hearing Officer may impose fines, fees, costs, expenses, conditions or restrictions and any other impositions authorized by this Chapter. Fines, fees, costs, and expenses are due and payable on the effective date of the final order.
10. **Judicial Review.** Review of a Final Order of the Hearing Officer may be made by any party by writ of review as provided in ORS 34.010-34.100.
11. **Enforcement of Final Order.** The County may maintain civil proceedings in law or equity in a court of competent jurisdiction to enforce any provision of a Hearing Officer's Final Order. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04]

5.01.080 Penalties

A. Fines, Fees, Costs; Expenses.

1. Upon a finding that a dog owner has violated this Chapter, a Hearing Officer may impose fines, fees, costs and expenses, which shall become a debt owing to Clackamas County and may be collected in the same manner as any other debt allowed by law. If fines, fees, costs or expenses are not paid within sixty (60) days after payment is ordered, the County may file and record the final order for payment in the County Clerk Lien Record as authorized by ORS 30.460.
2. If the Hearing Officer finds that the alleged violation did not occur, the Hearing Officer may order that the County reimburse the dog owner for any fines, fees, costs and expenses previously paid by the owner for the alleged violation.

B. Conditions and Restrictions.

1. Upon a finding by the Hearing Officer that a dog owner has violated a provision of this Chapter, in addition to and not in lieu of any fine, fee, cost or expense, the Hearing Officer may impose reasonable conditions and restrictions, including but not limited to:
 - a. Suspending the owner's right to own or keep any dog in Clackamas County for a period not to exceed five (5) years;
 - b. Requiring an owner in violation of Continuous Annoyance to keep the dog inside the owner's residence during hours specified by the Hearing Officer, and/or keep an operating bark-collar on the dog at all times. The bark-collar must be of sufficient quality and design to ensure intervention of the dog's barking;

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- c. Requiring payment of all fines, fees, costs and expenses;
 - d. Requiring that an owner make restitution to any person who has suffered monetary loss as a result of a violation of this Chapter, including but not limited to expenses incurred for veterinarian care, burial and memorial expenses, repair or replacement of damaged property, or medical bills;
 - e. Requiring an owner to spay or neuter the dog;
 - f. Requiring an owner to remove the dog to a location where, in the opinion of the County, the dog does not present a threat to persons or domestic animals;
 - g. Requiring an owner to surrender the dog to the County;
 - h. After specific findings in accordance with ORS 609.093, requiring an owner surrender the dog to the County for euthanasia when a dog has bitten or killed a person or domestic animal;
 - i. Requiring that the owner comply with any other condition or restriction reasonably designed to abate any future violation of this Chapter;
 - j. Requiring that the owner obtain microchip identification for the dog as provided in ORS 609.168;
 - k. Requiring an owner to reduce the number of dogs on the owner's premises.
2. Any condition or restriction imposed by a Hearing Officer must be complied with immediately. The Manager may request that an owner provide proof of compliance. If proof is not provided on or before the time set by the Manager, or the Manager finds that the proof is insufficient to meet compliance, then a rebuttable presumption will exist that the owner has failed to comply and the Manager shall provide written notice to the owner of that determination. The Manager may issue a citation for Failure to Comply, and notify the Hearing Officer of the owner's non-compliance.
 3. An owner shall be responsible for all costs incurred in complying with any condition or restriction imposed.
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4. Upon a finding that an owner is in violation of Dog at Large, Continuous Annoyance, or Exceeding Number of Dogs on Premises provisions of this Chapter for the third time in a twelve (12) month period, the Hearing Officer may order that the owner surrender the dog to the County, without compensation paid to the owner. If the dog is placed with a new owner, the Manager may give placement preference to any person who had prior contact with the dog, including but not limited to the former owner's family members or friends who reside separately from the former owner and whom the Manager has determined will provide adequate care and follow any conditions or restrictions imposed by the Hearing Officer in order to maintain control of the dog. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04]

5.01.090 Authority of Dog Services Manager

The Dog Services Manager shall have the authority to:

- A. Collect fines, fees, costs and expenses.
- B. Reduce license fees by up to 50% for up to two dogs per household for persons 65 or older, and persons deemed by the Manager to be under financial hardship.
- C. Authorize an owner to keep a dog that has been impounded and quarantined, at the premises of the owner during the period of quarantine.
- D. Declassify a dog as dangerous in accordance with the provisions of this Chapter.
- E. Request the assistance of the Clackamas County Sheriff to obtain and execute a warrant authorized under state law or this code for the search and seizure of property.
- F. Require a dog owner to provide proof of compliance with a Hearing Officer's order within a time set by the Manager.
- G. Inspect premises of a dog owner to ensure that adequate care conditions exist before issuance of a multiple dog license.
- H. Develop and enforce policy, procedures, and standards to ensure the effective administration of this Chapter. [Added by Ord. 01-2004, 4/8/04]

5.01.100 Transition

- A. The procedural and substantive provisions of Chapter 5.01 as they existed prior to July 1, 2004 shall apply to violations of Chapter 5.01 that occurred prior to that date, the disposition of which are not complete by that date. The Dog Services Manager shall keep a copy of Chapter 5.01 as it existed on June 30, 2004 on file.

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- B. For the purposes of this Chapter on or after July 1, 2004, when consideration of prior or multiple violations is a factor, a violation of Chapter 5.01 that occurred prior to July 1, 2004 shall be considered a violation of this Chapter. [Added by Ord. 01-2004, 4/8/04]

5.01.110 Severability

If any clause, section or provision of this ordinance is declared unconstitutional or invalid for any reason or cause, the remaining portion of this ordinance shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein. [Added by Ord. 01-2004, 4/8/04]