

Ordinance No. 445

AN ORDINANCE FOR THE CONTROL OF DOGS AND OTHER ANIMALS IN THE CITY OF CRESWELL, REPEALING ORDINANCE NO. 210 AND AMENDMENTS THERETO, AND DECLARING AN EMERGENCY

Be it ordained by the Common Council of the City of Creswell:

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I. General Provisions

6.05.010 Short Title

This chapter shall be known as the "Animal Control Code".

6.05.020 Animal Control Code Supersedes State Law

The purpose of the Animal Control Code is to supersede to the greatest extent allowed by law the provisions of ORS Chapter 609 by providing Rules and Regulations governing the keeping, licensing, and control of dogs and other animals. These Code provisions do not supersede ORS 609.095 through 609.097 or 609.140.

6.05.030 City Powers and Duties

The powers and duties of the City shall be as follows:

- (1) To enforce those provisions of the Animal Control Code and those provisions of ORS Chapter 609 applicable to the City of Creswell pursuant to the Animal Control Code and to discharge the duties provided therein.
- (2) To maintain or contract for the maintenance of an animal shelter or other place for all animals which are subject to impoundment and may be kept and safely held and provided with proper and sufficient food and water.
- (3) To collect or provide for the collection of by contractually authorized private vendors, any costs, fees, and charges hereinafter provided for the licensing, impounding and keeping of any animal.
- (4) The Animal control officer shall have the authority to enforce all provisions of the Animal Control Code.

6.05.040 Definitions

As used herein, the following words and phrases, unless the context otherwise requires, shall mean:

- (1) "Animal" means any animal, bird, reptile, or other living creature, including dogs, cats, exotic, domestic, wild or dangerous animals and livestock.
- (2) "Animal Control Officer" means any person employed or appointed by the City of Creswell and empowered to enforce provisions of this chapter.
- (3) "Animal Control Code" means Creswell Code 6.05.010 through 6.05.990.
- (4) "Animal Owner" means:
 - a. Any person who is the licensed owner of a dog or other animal, or who has the right of property in a dog or other animal, or who, without regard to any ownership interest, keeps an animal, harbors an animal, or who has an animal in said person's care, possession, custody or control, or who knowingly permits an animal to remain on any premises occupied by said owner. Except for purposes of section 6.05.200, 6.05.210 and 6.05.520, animal owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of not less than 30 days animals owned by other persons.
 - b. Any person except a veterinarian or commercial kennel operator, who resides where an animal is kept, harbored or cared for, shall be presumed to be the owner of that animal. This presumption may be rebutted by proof that such person is not harboring the animal, that the animal is not in that person's care, possession, custody, or control, or that the person does not knowingly permit the animal to remain on any premises occupied by the person.
- (5) "City" means the City of Creswell, Oregon, a municipal corporation.
- (6) "Continuous Annoyance" means permitting any animal to cause annoyance, alarm or disturbance for more than 30 minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property.
- (7) "Commercial Breeding Kennel" means a place of business for the breeding and/or selling of dogs. The term is not intended to include an animal hospital or noncommercial kennel.

- (8) "Commercial Kennel" means a place of business where dogs are boarded. No more than two of the dogs shall be used for breeding. The term is not intended to include an animal hospital or noncommercial kennel.
- (9) "Delinquent" means a dog license will become delinquent, 30 days after the expiration date of said license.
- (10) "Dog-at-Large" means a dog inside the corporate limits of the city of Creswell, off the premises of the owner, and not under complete control by adequate leash. The definition includes, but is not limited to, any dog upon or capable of reaching, any public right-of-way, except if the dog is on a leash in full and complete compliance with the provision of this code. Excepted from this definition are dogs in obedience or field training exercises under the direct supervision of a handler in areas designated and posted by the City.
- (11) "Dog License" means license for any dog owned that is over six months of age or has permanent canine teeth, whichever occurs first. The dog must have been vaccinated against rabies by a licensed veterinarian.
- (12) "Euthanasia" means putting an animal to death in a humane manner by a licensed veterinarian or a certified euthanasia technician.
- (13) "Exotic Animals" means:
 - a. Any lion, tiger, leopard, cheetah, ocelot, cougar, or any wild large cat species, but not including the common domestic cat.
 - b. Any monkey, ape, gorilla, or other non-human primate.
 - c. Any wolf, except animals declared by their owner to be wolf-dog hybrids.
- (14) "Farm Animal" means poultry and fowl (domestic birds commonly raised for meat and eggs, such as chickens, ducks, geese, or turkeys), rabbits, and bees.
- (15) "Fowl" means any of the various birds of the order Galliformes; especially, the common, widely domesticated chicken.
- (16) "Livestock" includes but is not limited to cattle, sheep, horses, miniature horses, goats, pigmy goats, swine, pot-bellied pigs, llamas, ratite (such as ostrich, cassowary, emu, moa, etc.) or any furbearing animal bred and maintained commercially or otherwise within pens, cages and hutches. Livestock includes domesticated wild animals.
- (17) "Muzzle" means a device constructed of strong, soft material or metal, used to cover an animal's mouth. The muzzle must be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but must prevent it from biting any person or animal.
- (18) "Leash" means any humane device constructed of rope, leather strap, chain, or other sturdy material not exceeding sixteen (16) feet in length, being held in the hand of person capable of controlling the animal to which it is attached.
- (19) "Neutered" means the removal of the ovaries and uterus, ovariohysterectomy, in female dogs. The removal of the male gonads in male dogs. Any other method of neutering a dog which is certified and performed by a licensed veterinarian.
- (20) "Noncommercial Dog Kennel" means an establishment or premises where four or more dogs, over six months of age, are kept or maintained within or adjoining a private residence. Surplus offspring bred at such kennels to enhance or perpetuate any given breed, recognized by the American Kennel Club, may be sold at such kennels and shall not be considered a commercial activity for the purpose of this code. All animals kept or maintained in said kennel must be owned by the individual or family residing upon the lot on which the kennel is located. The term does not include an animal hospital.
- (21) "Person" means any natural person, association, partnership, firm, or corporation.
- (22) "Physical Injury" means impairment of physical condition or substantial pain.
- (23) "Police Service Dog" means a dog used in police work by a law enforcement agency as defined in ORS 181.010(1)(e) [2005 Ed.], whether or not the dog is being so used at the time in question. Unless specifically referred to therein, neither a police service dog nor its handler is subject to any of the restrictions or regulations contained in the Animal Control Code.
- (24) "Secure Enclosure" means an enclosure, not including the residence, in which an animal is confined such that the animal does not have access to humans or other animals. The enclosure will not be less than eight feet long, four feet wide, and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the enclosure must be covered.

- (25) "Serious Physical Injury" means physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
- (26) "Watchdog" means a dog confined at a business for the exclusive use of protecting people or property of said business.
- (27) "Wildlife" Pursuant to ORS 496.004, includes, but is not limited to, amphibians, antelope, beaver, black bear, bobcat, coyote, deer, elk, fish, marten, mink, moose, mountain goat, mountain sheep, muskrat, otter, raccoon, reptiles, red fox, silver gray squirrel, and gray fox.

II. Licenses, Fees and Regulations

6.05.100 Licenses and Other Fees and Charges

- (1) Dog license and other fees applicable to the Animal Control Code shall be charged in amounts provided by Resolution of the City Council. The fees are due and payable upon the issuance of the license, or when assessed for boarding, feeding, impoundment, euthanasia, or other fee permitted within this code.
- (2) No license fee shall be required for any dog owner who needs and uses the dog as a seeing eye dog, hearing ear dog, or similar aide. A license shall be issued for such dog upon proper proof of rabies vaccination and upon filing of an affidavit by the person showing such dog to come within this exemption. Such affidavit shall be filed with the City.
- (3) After application upon a form to be provided by the City, a permit may be issued to a licensed owner to use that dog as a watchdog. A fee for that permit shall be in addition to the individual license fee.
- (4) If a dog owner has been fined or his or her dog has been classified or registered in another state, county or city because the dog engaged in the behaviors which would have constituted a violation pursuant to Creswell Code 6.05.400 through 6.05.440, the owner shall notify the City of such classification, registration or fine at the time the owner licenses the dog. If the animal control officer determines that the dog has committed such behavior, the animal control officer may impound the dog, and may seek an order of the court that reasonable restrictions be placed on the dog, or that the dog be destroyed, upon a finding by the court that the restrictions or destruction would have been ordered had the behavior occurred in the City of Creswell.
- (5) A violation of Creswell 6.05.100 shall be a Class A violation.

6.05.110 Dog Licenses

- (1) Every owner of a dog which has a set of permanent canine teeth or has attained the age of six months, whichever event occurs first, shall immediately obtain a license for the dog. If the dog owner moves into the City of Creswell, the owner must obtain a license within 30 days of moving into the City.
- (2) Licenses shall be valid for one, two or three years from the date of issuance or until sale or gift of the dog, whichever occurs first.
- (3) No license shall be issued until a certification of vaccination for rabies, valid for the term of the license, is presented to the City or duly authorized issuer.
- (4) Dog owners shall renew the dog license before it becomes delinquent. A late fee will be charged if the license is renewed after it has become delinquent.
- (5) A license tag issued to the dog shall be attached securely to a collar or harness on the dog for which it is issued. If a license is lost, the owner shall obtain a duplicate license tag upon satisfactory proof of loss and payment of the required duplicate license fee.
- (6) A person who violates section 6.05.110 commits a Class B violation.

6.05.120 Kennel Licenses

- (1) No person shall operate a kennel, whether commercial, noncommercial, or breeding without the appropriate kennel license. Kennel licenses shall be valid for one year from the date of issuance.
- (2) Any person maintaining a noncommercial kennel license, who acquires dogs in addition to those listed on an approved noncommercial kennel license, shall:
 - a. Provide to the City, proof of compliance with all provisions of section 6.05.300, and

- b. Provide to the City, proof of rabies vaccination, and purchase a license tag at the duplicate license/tag fee established by resolution within 30 days of acquiring each additional animal.
- (3) No kennel license shall be issued under this section to anyone not in conformance with applicable zoning statutes and ordinances.
- (4) A person who purchases a kennel license does not have to license the individual dogs as long as they live at the kennel.
- (5) Any person maintaining a noncommercial kennel as defined in section 6.05.040 may be subject to inspection of the premises and facilities where the dogs are kept to ascertain that adequate facilities exist for the keeping and maintenance of the dogs.
- (6) Any person maintaining a commercial or breeding kennel as defined in section 6.05.040, shall obtain a commercial or breeding kennel license upon an inspection by the City of the facilities and premises where the dogs are to be kept to ascertain that adequate facilities exist for the keeping and maintenance of the dogs.
- (7) A Person who purchases a license for a commercial breeding kennel need not also obtain a commercial kennel or noncommercial kennel license, and a person who purchases a commercial kennel license need not obtain a noncommercial kennel license if they choose to operate such a kennel.
- (8) The following provisions shall govern revocation of licenses.
 - a. Three or more violations of section 6.05.120, including failure to pass inspections as provided in 6.05.120(4) and 6.05.120(5), within a period of 12 calendar months shall result in a revocation of licenses granted under this section.
 - b. Such revocation may occur after a hearing before the Municipal Judge and after the licensee has been mailed a notice of a time to appear at least five days in advance of the hearing. Such notice shall include a general statement of the reasons for commencing the revocation proceedings.
- (4) A violation of this section shall be a Class A violation.

III. Miscellaneous Regulations

6.05.200 Dogs at Large Prohibited

- (1) No dog owner shall permit a dog to be at large.
- (2) A dog owner is deemed to be negligent per se for the actions of a dog at large when the dog causes injury to a person or property.
- (3) A dog owner, whose dog runs at large, commits a Class D violation.

6.05.210 Continuous Annoyance and Barking Dogs

- (1) No animal owner shall permit any animal to cause continuous annoyance as defined in section 6.05.040.
- (2) A violation of section 6.05.210(1) is a Class C Violation.

6.05.220 Animal Waste Matter

- (1) It shall be unlawful for an animal owner, other than a cat owner, to allow an animal, except for seeing eye dogs, to deposit solid waste matter on any property other than that of the animal owner. It shall be a defense to this section if the animal owner immediately removes the solid waste.
- (2) A violation of section 6.05.220 is a Class D violation.

6.05.230 Dogs In Season (Estrus)

- (1) No person shall permit a dog in heat (estrus) to be accessible to male dogs not in the person's ownership, except for intentional breeding purposes.
- (2) Violation of section 6.05.230 is a Class C violation.

6.05.240 Selling, Trading, Bartering or Giving Away Animals in Certain Locations

- (1) No person shall sell, trade, barter, give or offer to give away any animal to another person in a City park, or property owned by the City of Creswell.
- (2) A violation of section 6.05.240 is a Class B violation.

6.05.250 Reporting of Gun Shot Wound

- (1) The owner of a dog that has received a gun shot wound shall immediately notify the City of such gun shot wound, and if known, the time and circumstances of the shooting and the name and address of the person who shot the dog.
- (2) Any person who shoots a dog shall immediately notify the City of the shooting, giving a description of the dog, the time and circumstances of the shooting and the name and address of the dog's owner, if known.
- (3) When a veterinarian or other person has information that a dog has been shot, such person shall immediately notify the City.
- (4) A violation of section 6.05.250 is a Class C violation.

IV. Number and Type of Animals Permitted

6.05.300 Number of Dogs Permitted

- (1) Except as permitted by section 6.05.120, a maximum number of three adult dogs and their offspring of any number up to the age of four months may be kept per residence.
- (2) The number of dogs permitted by a noncommercial kennel license shall be calculated as follows:
 - a. Three adult dogs for the first 5,000 square feet of property, and
 - b. One adult dog for each additional 1,000 square feet of property.
- (3) Violation of Creswell Code 6.05.300 is a Class C violation.

6.05.310 Lot Size and Numbers of Farm Animals Permitted – General

- (1) Except as otherwise permitted in section 6.05.320, the keeping farm animals outlined in sections 6.05.320 through 6.05.350 within the city limits shall be permitted on property zoned Low Density Residential or Industrial only.
- (2) All persons keeping farm animals shall reside on or be contiguous to the property on which the animals are kept.
- (3) The number of animals permitted on a given property shall not be calculated separately by type, e.g., two chickens and two rabbits would equal four animals.

6.05.320 Rabbits

- (1) The keeping of rabbits shall be limited to the following number of adult animals:

<u># of Animals</u>	<u>Minimum Lot Size</u>
1 - 5	5,000 square feet
10 - 15	10,000 square feet
16 or more	500 square feet or more for each animal

- (2) The number of permitted young shall be limited to three times the number of permitted adult animals.
- (3) Rabbits are permitted in property designated medium density residential, including multi family housing structures including a duplex, single family attached or cottage cluster dwellings, or manufactured home park as limited by section 6.05.320(1).
- (4) Rabbits are not permitted on any property which is designated residential commercial, or commercial as outlined in the Creswell Development Code.
- (5) The keeping of rabbits within the Industrial Land Use District is limited to uses as outlined and permitted by the Creswell Development Code in addition to all provisions of the Animal Control Code.
- (6) Violation of Creswell Code 6.05.320 is a Class C violation

6.05.330 Fowl and Poultry

- (1) The keeping of fowl and poultry shall be limited to the following number of adult animals:

<u># of Animals</u>	<u>Minimum Lot Size</u>
1 - 3	5,000 square feet
4 - 6	10,000 square feet
7 or more	1,000 square feet or more for each animal

- (2) The number of permitted young shall be limited to three times the number of permitted adult animals.
- (3) Roosters over the age of six months are not permitted.
- (4) Fowl and Poultry are not permitted in any multi family housing structure including a duplex, single family attached dwellings, cottage cluster dwellings, or manufactured home parks.
- (5) The keeping of Fowl and Poultry within the Industrial Land Use District is limited to uses as outlined and permitted by the Creswell Development Code in addition to all provisions of the Animal Control Code.
- (6) Violation of section 6.05.330 is a Class C violation.

6.05.330 Bees

- (1) The keeping of bees shall be limited to the following:

<u># of Hives</u>	<u>Minimum Lot Size</u>
1	10,000 square feet
2 or more	2,500 square feet or more for each hive

- (2) Every person keeping five (5) or more beehives shall be in compliance with ORS 602.010 through 602.190 [2005 ED].
- (3) Beehives are not permitted in any multi family housing structure including a duplex, single family attached, cottage cluster dwellings, or manufactured home parks.
- (4) The keeping of Beehives within the Industrial Land Use District is limited to uses as outlined and permitted by the Creswell Development Code in addition to all provisions of the Animal Control Code.
- (5) Violation of section 6.05.340 is a Class C violation

6.05.350 Wildlife, Exotic Animals, and Livestock

- (1) No person shall keep any wildlife that is located within the city limits.
- (2) No person shall keep any exotic animal which is located within the city limits.
- (3) The provisions of subsection (1) and subsection (2) shall not apply to wildlife and exotic animals in a humane environment under trained supervision for which a permit has been issued for a carnival, circus, or special event.
- (4) Except as permitted by the Creswell Development Code, no person shall keep any livestock that is located within the city limits.
- (5) Violation of section 6.05.350 is a Class C violation.

V. Dangerous Animals and Quarantine

6.05.400 Dangerous Behavior

It is the intent of the city to promote a safe coexistence between pet owners and citizens and to apply sanctions only in those instances where there is a need to protect public safety. The purpose of this section is to establish a procedure whereby dogs and other animals that pose a reasonably significant threat of causing serious injury to humans, domestic animals, or property are identified and subjected to reasonable restrictions. For the purpose of this section, "animal" means dogs, domestic animals, and farm animals, not including cats.

- (1) Level 1 dangerous behavior is established if an animal at large, without provocation, is found to: menace, display threatening, or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or livestock.
- (2) Level 2 dangerous behavior is established if an animal at large, without provocation, is found to: menace, display threatening, or aggressive behavior or otherwise threaten or endanger the safety of any person.
- (3) Level 3 dangerous behavior is established if, without provocation, an animal is found to:
 - a. while at large, bite or cause physical injury to any domestic animal which is not livestock;
 - b. bite any person;
 - c. while at large, kill any domestic animal; or
 - d. while at large, bite or cause physical injury to livestock; or

- e. whether or not confined, causes the serious injury or death of any person.
- (4) Notwithstanding section 6.05.400(1) through (3) above, the Animal control officer shall have discretionary authority to refrain from prosecuting a violation, even if the animal has engaged in the behaviors specified in section 6.05.400(1) through (3) above, if the Animal control officer determines that the behavior was a result of the victim abusing or tormenting the animal or other extenuating circumstances.
- (5) No violation shall be found under section 6.05.400(1) through (3) if:
 - a. the behavior in question was directed against a trespasser on the property of a business which owns a licensed watchdog, providing the owner has complied with section 6.05.440 below, or
 - b. the behavior in question was directed against a trespasser that has illegally entered any residence.

6.05.410 Dangerous Behavior Restrictions

For the purpose of this section, "animal" means dogs, domestic animals, and farm animals, not including cats. In addition to the other requirements of this Animal Control Code, the owner of an animal that has committed dangerous behavior as described in section 6.05.400 may be ordered by the court to comply with the following additional restrictions in addition to any other restrictions the court deems reasonable under the circumstances, if the animal is found to have engaged in:

- (1) Level 1 dangerous behavior pursuant to section 6.05.400(1), the animal shall be restricted by a physical device or structure that prevents the animal from reaching any public right-of-way or adjoining property. Whenever the animal is off the owner's property, the animal shall be on a leash not to exceed six (6) feet in length and under control of a capable person over the age of 18.
- (2) Level 2 dangerous behavior pursuant to section 6.05.400(2), or, if the animal has engaged in Level 3 dangerous behavior pursuant to section 6.05.400(3) (a) the owner shall meet the requirements of section 6.05.410(1) and shall confine the animal within a secure enclosure or inside the home. The animal owner and shall also post warning signs on the property where the animal is kept.
- (3) Level 3 dangerous behavior pursuant to section 6.05.400(3)(b), the owner shall meet the requirements of section 6.05.410(1) and (2) above and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash, not to exceed six (6) feet in length, and under the control of a capable person over the age of 18.
- (4) Level 3 dangerous behavior pursuant to section 6.05.400(3) (c) through (d) may be euthanized.
- (5) Any animal that has been found to have engaged in Level 3 dangerous behavior pursuant to section 6.05.400(3) (e) shall be euthanized. In addition, the Municipal Judge has the authority to suspend, for a period of time, the dog owner's right to be the owner of any dog in the City of Creswell, including dogs currently owned by that person.
- (6) To ensure correct identification, all dogs that have engaged in dangerous behavior described in section 6.05.400 and 6.05.410 shall be required to wear an identifying collar and ID tag, to be issued by the City, in addition to any other license fees and other requirements.
- (7) In addition to the normal licensing fees established in section 6.05.100 through 6.05.120 above, there shall be an additional licensing and supervision fee for dogs that have been determined to have engaged in dangerous behavior pursuant to section 6.05.400 and or 6.05.410 in amounts provided by Resolution of the City Council. This additional fee shall first be payable at the time that determination is made, and renewals are due upon the anniversary of the determination.
- (8) A person who fails to comply with the provisions of section 6.05.410 commits a Class A violation.

6.05.420 Reporting of Biting Dogs

- (1) The owner of a dog which bites a human shall immediately notify the City of such bite, the time and circumstances of such bite, and the name and address of the person bitten, if known.

- (2) Any person who is bitten by a dog shall forthwith notify the City of such bite giving a description of the dog, the time and circumstances of the bite and the name and address of the owner, if known.
- (3) When a doctor, veterinarian, hospital employee, or other person has information that a person has been bitten by a dog, such person shall notify forthwith the City.
- (4) A violation of Creswell 6.05.420 is a Class A violation.

6.05.430 Quarantine of Biting or Rabid Dogs

- (1) When either the City, the Department of Health and Human Services or the Department of Public Safety of Lane County has grounds to suspect that a dog is infected with the disease of rabies, there shall be delivered to the owner of the dog a written notice thereof. The owner shall thereupon be required to quarantine his or her dog for 10 days. The biting of any person by the dog shall constitute grounds for suspecting their dog to be so infected. The delivery of the notice to a member of the owner's family 15 years or older at the premises where the dog is kept or at the owner's usual place of abode, shall be delivery of notice to the owner.
- (2) Any dog required to be quarantined shall be confined as follows.
 - a. On the owner's premises in such a manner as to prevent it from being in contact with any other animal or person; or
 - b. At the owner's expense at a veterinary hospital, the City's kennel or a kennel approved by either the Department of Health and Human Services or the City.
 - c. If an owner fails to quarantine the dog as provided for in this section, the City may seize the dog at the owner's expense and place it in a veterinary hospital, the City's kennel, or a kennel approved by either the Department of Health and Human Services or the City.
- (3) Any animal that has been bitten by a dog proved to be rabid shall be destroyed.
- (4) If a dog exhibits symptoms of rabies while it is under quarantine, the Director of the Department of Health and Human Services may order in writing that it be destroyed and its head be submitted as directed to the Oregon State Public Health Laboratory.

6.05.440 Uses of a Watchdog

- (1) Any watchdog shall be licensed according to section 6.05.100(3).
- (2) Any business using a watchdog must conspicuously post the premises to warn the public of the watchdog.
- (3) The dog must not be allowed access to the public that is on the property during business hours. If the dog is used outside of a building, the property must be fenced in a way to prohibit the dog access to any public right-of-way.
- (4) A violation of 6.05.440 is a Class C violation.

VI. Animal Welfare, Animal Abuse and Neglect

6.05.500 Care of Stray Animals

- (1) All persons must turn over to the City of Creswell stray animals within 24 hours after the person exercises control over the animal or must notify the City of Creswell of the description of the animal and the address where the animal is being kept. For purposes of this section, "animals" does not include feral or domestic house cats.
- (2) A violation of section 6.05.500 constitutes a Class B violation.

6.05.510 Sick or Injured Animals

- (1) Any sick or injured animal found by a peace officer or animal control officer off the premises of its owner shall be delivered to its owner if it is feasible to do so. Any such animal for which the owner is either unknown or cannot be reached after reasonable attempts to do so may be impounded.
- (2) The Animal control officer shall determine whether the animal is so severely injured or incurably crippled that the humane thing to do would be to destroy the animal. If the Animal control officer reasonably believes the animal should be destroyed, the animal may be destroyed immediately. If the Animal control officer reasonably believes that the animal should not be destroyed and that treatment is necessary, the animal may be

delivered by the City to a veterinarian for medical treatment. If the veterinarian determines that treatment should be given, such treatment may be given, provided, however, the animal may be destroyed if not claimed by its owner within 72 hours after being delivered to the veterinarian.

- (3) Arrangements for fees, selection of veterinarians, liability of veterinarians, etc., shall be determined by separate contracts between the City and individual veterinarians.
- (4) The owner of the animal shall be liable to the veterinarian and to the City for all expenses which are incurred for the care of said animal.

6.05.520 Animal Abandonment

- (1) A person commits the offense of animal abandonment if the person leaves an animal as defined by section 6.05.040(1) not including wild animals, at a location without providing for the animal's continued care. It is no defense to section 6.05.520(1) that the defendant abandoned the animal at or near an animal shelter, veterinary clinic or other place of shelter if the defendant did not make reasonable arrangements for the care of the animal.
- (2) A violation of section 6.05.520 is a Class A violation.

6.05.530 Animal Abuse

- (1) A person who, except as otherwise authorized by law, causes physical injury to an animal commits a Class B violation.
- (2) A person who, except as otherwise authorized by law,
 - a. Causes serious physical injury to an animal; or
 - b. Cruelly causes the death of an animal, commits a Class A violation.
- (3) Any practice of good animal husbandry is not a violation of Creswell Code 4.120.

6.05.540 Animal Neglect

- (1) As used in this section, "minimum care" means care sufficient to preserve the health and well-being of an animal 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 potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.
 - c. In case of pet or domestic animals, access to a barn, dog house or other enclosed structure sufficient to protect the animal from wind, rain, snow or sun and which 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. Pets or domestic animals shall not be confined to an area without adequate space for exercise necessary for the health of the animal or which does not allow access to a dry place for the animal to rest. The air temperature in a confinement area must be suitable for the animal involved. Confinement areas must be suitable for the animal involved. Confinement areas must be kept reasonably clean and free from excess waste or other contaminants which could affect the animal's health.
- (2) **Animal Neglect II** A person who fails to provide minimum care for an animal in such person's custody or control commits a Class B violation.
- (3) **Animal Neglect I** A person who fails to provide minimum care for an animal in such person's custody or control and such failure results in serious physical injury or death to the animal, commits a Class A violation.

VII. Impoundment of Dogs

6.05.600 Impoundment of Dogs

- (1) Any peace officer or animal control officer may impound a dog if reasonable grounds exist to believe a violation, pursuant to section 6.05.700 has occurred, and the officer may hold said dog until the violation hearing is over, any fine is paid, and any reasonable restrictions are either in place or agreed to.

- (2) If the fine assessed is not paid within five business days after the order, the dog may be disposed of as provided for in section 6.05.610 below.
- (3) Any person whose property has been trespassed upon by any dog in violation of this chapter or who observes a dog trespassing upon the property of another, or who observes a dog killing, chasing or injuring livestock, may immediately apprehend that dog and hold the dog until delivery to an animal control officer, or any peace officer. Any person who so impounds a dog must immediately notify the City of Creswell of such impoundment and must turn the dog over to a police officer or to the City of Creswell. Failure to notify the City of Creswell within 24 hours of having impounded a dog is a Class C violation.
- (4) If an animal control officer or a peace officer has probable cause to believe that a dog has behaved in violation of either ORS 609.095 or the Animal Control Code, then the officer may impound the dog. If the officer has probable cause to believe that the dog has committed behavior that violates section 6.05.400(3) (a) through (e), then the officer shall impound the dog. The dog shall remain impounded until a hearing is held, or until the dog is to be disposed of pursuant to section 6.05.610.
- (5) If an animal control officer or a peace officer has probable cause to believe that any animal which is in an unoccupied motor vehicle may be in danger of dying, then they may enter the motor vehicle and impound the animal and leave a notice in the vehicle where the animal may be reclaimed.
- (6) Violation of a restriction agreement set forth under section 6.05.600(1) shall be a Class A violation.

6.05.610 Impounding Regulations and Disposition of Impounded Dogs

- (1) The City of Creswell shall keep any dog impounded for a period of time hereinafter specified. A daily record of such dogs shall be kept at the place of impoundment and shall be made available to the public. The City of Creswell shall dispose of such dogs in accordance with the following provisions:
 - a. An unlicensed dog, or a dog, the owner of which is unknown, which has not been redeemed within 72 hours after impoundment, may be transported to an animal control authority or destroyed.
 - b. A licensed dog, or a dog, the owner of which is known, which has not been redeemed within 120 hours of notification of the owner by telephone contact, or by mailing or by posting at the owner's dwelling the impoundment notice, may be transported to an animal control authority or destroyed.
- (2) Except as provided in section 6.05.610(1), the City of Creswell shall notify the owner by telephone or by the mailing of an impoundment notice within 24 hours after the impoundment that the dog will be destroyed within 120 hours after such notification. The impoundment notice shall advise the owner of the place where the dog is kept, the procedures required for redemption of the dog, the fees for the impoundment, daily care, and redemption and the consequences of failure to redeem the dog.
- (3) Dogs impounded pending a hearing on whether their acts amounted to a violation of section 6.05.400, shall be destroyed if any of the following occurs:
 - a. If the owner of the dog is unknown after 72 hours from the time of impoundment, or
 - b. If there has been a hearing in which the court so determines.
- (4) If an order is entered by the court for a dog to be destroyed, the Animal control officer may request that the execution of the order be stayed, providing that the dog owner and the attorney representing the City present an agreement for approval, signed by both parties and providing for:
 - a. Restitution to be paid to the person injured, if applicable, including damages resulting from the injury to or destruction of livestock; and
 - b. Reasonable restrictions that will help to ensure the chance that the dog does not engage in such conduct again, which may include but are not limited to, requirements that the owner build a secure enclosure for the dog before it is released, fence his or her yard or have the dog live elsewhere in a secure setting, and agree not to own any other dog on the property where the owner resides; and,
 - c. That if the dog is found in violation of the reasonable restrictions that have been imposed, that it may be immediately impounded by an animal control officer, a peace officer or any other person and destroyed by the City without a further

hearing, unless the dog owner requests a hearing in writing to the City within 24 hours after the dog owner is notified that the dog is impounded. If the owner cannot be personally notified that the dog has been impounded, the dog may be destroyed 120 hours after a notice of impound is mailed to the owner's last known address, unless the owner requests a hearing before then. The hearing will be limited to a determination as to whether the agreement has been violated.

- (5) Notwithstanding the previous subsections, any animal given to the City by the owner for disposition may be destroyed immediately or, in the alternative, adopted by any person. The owner shall pay required fees for destroying and/or handling the animal(s). For purposes of this section, an owner is a person who has had the animal in his or her care, possession, custody or control for six weeks or more.
- (6) Notwithstanding the previous subsections, abandoned or unwanted litters of animals aged two months or less may be destroyed immediately or, in the alternative, adopted by any person. This subsection does not apply to litters impounded following a search of premises.
- (7) Notwithstanding the previous subsections, sick or injured animals may be destroyed immediately pursuant to the provisions of section 6.05.510.

6.05.620 Redemption

- (1) Redemption of an impounded dog shall be made by exhibiting satisfactory proof of ownership and by paying the following required fees and charges:
 - a. Impoundment fee;
 - b. Daily care fee;
 - c. License and rabies vaccination fees, if required; and
 - d. Medical care fees, if required.
- (2) No impoundment charge shall be made for a dog released after determination by the court that no violation has occurred.
- (3) No live dog shall be provided by the City for surgical or medical demonstration or research.
- (4) Except as otherwise provided, if after 96 hours an impounded dog is not redeemed the City is authorized and empowered to dispose of the dog as authorized by contract with Lane County Animal Regulation Authority or by any humane method permitted under state law.
- (5) If a person who is the owner of an animal fails to reclaim it from the City within five (5) days after notification that the animal is ready to be released, then that person commits a Class A violation.

6.05.630 Failure to Surrender Dog

Any person who fails to surrender a dog to a person identifiable as an animal control officer or a peace officer upon their demand, so that the dog can be impounded as provided for by this Animal Control Code, commits a Class A violation.

VIII. Enforcement

6.05.700 Violation, Nuisance

- (1) In the event that any peace officer or animal control officer has reasonable grounds to believe that a violation of ORS 609.095 or of this Animal Control Code has been committed, such officer may sign, issue, and serve upon an animal owner an Oregon Uniform Citation and Complaint.
- (2) The Complaint shall be filed within six months of the date of the alleged violation.
- (3) Any such violation found is hereby declared to be a public nuisance and may be subject to reasonable restrictions, or destruction of the dog or animal, in cases of Class A behavior violation pursuant to section 6.05.400 and or 6.05.410.

6.05.710 Entry Onto Private Land

Any animal control officer or any peace officer shall have the privilege of entering onto private land in the course of the officer's duties in enforcing the provisions of the Animal Control Code,

but such officer shall not enter into any building or dwelling without legal authorization or the permission of the owner or occupant of the premises.

6.05.720 Resisting an Animal Control Officer or Peace Officer

- (1) "Resists" as used in this section 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.
- (2) If a person intentionally resists someone known by him or her to be a peace officer, or an animal control officer, who is impounding a dog, inspecting or attempting to inspect a residence or kennel as provided for by this chapter, that person commits a Class A violation.

IX. Other

This section is reserved for expansion.

X. Emergency Clause.

Whereas the peace, health, and safety of the people of the City of Creswell is involved, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage by the Council and its approval by the Mayor. Passed by the Common Council and approved by the Mayor this 9th day of July, 2007.



Ron Petitti, Mayor

Attest:



Roberta Tharp, City Recorder