

# STAFF REPORT

For Meeting of April 27, 2015

MAYOR AND MEMBERS OF THE CITY COUNCIL

Agenda Item #

NO. 2015-

**SUBJECT:**  
Animal Code

## **Subject**

An ordinance amending the "animal" section of the City Code to modernize language and reconcile it with existing practice.

## **Summary and Background**

Council recently had a lengthy discussion regarding animal issues in the City. The conversation reinforced the fact that it is in the public's interest to minimize the number of animals "running at large," because they can create a hazard and are also a burden on city resources and put a strain on the local animal shelter. Not only do dogs running at large have the potential to end up in the pound, but unaltered dogs have the potential to procreate and generate additional dogs which may end up in the pound and become a further drain on public resources.

One recommendation to solve the problem of locating owners of dogs and holding them accountable is through dog licensing. The proposed ordinance change will make the City's dog license a one-time requirement, rather than an annual requirement. The intention is to make the licensing process less onerous for the owner, and make it easier for the City to ultimately enforce.

The dog licensing changes would also raise the license fee for an unaltered (not spayed or neutered) dog from \$10 to \$25, but leave the fee for an altered dog the same at \$5.

Many of the proposed changes are purely updates to outdated language, and streamlining other portions such as splitting the Impoundment Procedures from the Dogs at Large Section to make it more readable. In the updated Impoundment section, language was added that requires the pound facility to be inspected by the City Manager, which is already current practice through the city's contract with Pet Rescue. Additionally, the current impoundment language says that any animal not claimed within 5 days "shall" be killed, unless deemed safe by the Chief of Police. The proposed change also brings this section in line with current practice by changing the wording to "may" be killed.

## **Fiscal Information**

In 2014 the city only issued 103 licenses for \$715 in revenue (average \$6.94 per license). Although this change will reduce repeat-licensees, this requirement is clearly currently ignored by the majority of dog owners. Increased one-time licensing, combined with an increase to the unaltered dog fee, should make the fiscal impact negligible.

## **Alternatives and Recommendation**

### **Alternatives**

**City of Hermiston**

1. Approve Ordinance No. 2229
2. Recommend other changes to the code.
3. Deny Ordinance No. 2229

Recommendation

Approve Ordinance No. 2229

Requested Action/Motion

Motion to approve Ordinance No. 2229

**Department Head-** Mark Morgan, Assistant City Manager



**City Attorney Review-** Gary Luisi, City Attorney



**City Manager Approval-** Byron Smith, City Manager

ORDINANCE NO. 2229

AN ORDINANCE AMENDING SECTIONS 90.16, 90.18, 90.19, 90.20, AND 90.21, AND ADDING NEW SECTION 90.22, TO CHAPTER 90 ANIMALS OF TITLE IX GENERAL REGULATIONS.

The City of Hermiston does ordain as follows:

(New matter is underlined and deleted matter has a ~~strike~~ through it.)

SECTION 1. Section 90.16 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

**90.16 DOGS RUNNING AT LARGE  ~~;IMPOUNDMENT PROCEDURES.~~**

(A) ~~It shall be unlawful~~ is a strict liability offense for a dog to ~~run~~ be at large ~~or to be a public nuisance~~, and the owner of the dog shall be guilty of a violation of this chapter if the dog is found to be in violation.

~~(B) All dogs taken up and impounded under this section shall be held in an adequate and sanitary pound. Any dog so impounded shall be held for at least five days from the date of the impounding before being destroyed or otherwise disposed of. After any dog is impounded, the owner will be notified, or, if the owner of the dog is unknown, written notice shall be posted for three days at three conspicuous places in the city describing the dog and the place and time of taking. If the owner appears and redeems the dog, he shall pay, in amounts as established by resolution of the City Council, an impoundment fee and in addition a sum for each day, or part thereof, the dog was impounded, this fee being the actual cost of boarding the animal at the pound. The boarding fee will not be assessed for the first day of impoundment if the dog is taken after 8:00 pm. If no owner appears and redeems the dog within five days from its impounding or five days from the date the owner was notified or notices were posted, or if the dog was impounded as a public nuisance for killing or seriously injuring a person, it shall be killed in a humane manner; except that if, in the opinion of the Chief of Police, the dog is not dangerous and can be safely kept, the Chief of Police may release the dog to any responsible person upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of a sum of money as established by resolution of the City Council, plus the cost of keeping during its impounding. The person shall thereafter be liable as owner of the dog.~~

~~(C) Notwithstanding the provisions of division (B) of this section, any dog impounded for biting a person shall be held for not less than ten days before redemption or destruction to determine if the dog is rabid.~~

SECTION 2. Section 90.18 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

**90.18 PUBLIC NUISANCES.**

(A) A dog is a public nuisance if it:

- (1) Bites or attempts to bite a person;
- (2) Chases vehicles or persons;
- (3) Attacks other dogs;
- (4) Damages or destroys property of persons other than the owner of the dog;
- (5) Scatters refuse;
- (6) Habitually trespasses on private property of persons other than the owner of the dog;
- (7) Disturbs any person by frequent or prolonged noises; or
- (8) Is a female in heat and ~~running~~ at large.

(B) It is a strict liability offense for a dog to be a public nuisance, and the owner of the dog shall be guilty of a violation of this chapter if the dog is found to be a public nuisance.

SECTION 3. Section 90.19 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

### **90.19 EXCEPTIONS AFFIRMATIVE DEFENSE.**

A dog shall not be considered a public nuisance for biting or attempting to bite a person if he it bites or attempts to bite a person wrongfully assaulting the dog or the dog's owner, or if he it bites or attempts to bite a person trespassing upon premises occupied by the dog's owner after being provoked by that person.

SECTION 4. Section 90.20 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

### **90.20 LICENSES AND RECORDS.**

(A) Every person owning or keeping any dog which has a set of permanent canine teeth ~~shall, not later than March 1 of each year or within 30 days after he becomes~~ becoming an owner or keeper of the dog, shall procure obtain from the Finance Director/Recorder a license for the dog by paying to the Finance Director/Recorder a license fee. The license fee shall be \$5.00 in an amount as established by resolution of the City Council for each dog, except that the fee shall not be greater than a lesser amount as established by resolution of the City Council for each spayed female or neutered male dog for which a veterinarian's certificate of operation for the spaying or neutering of the dog is presented to the Finance Director/Recorder. The license fee shall be \$25.00 for unaltered dogs. If the person fails to ~~procure~~ obtain the license within the time

provided by this section, an additional penalty in a sum established by resolution of the City Council for each dog shall be assessed.

(B) The Finance Director/Recorder shall at the time of issuing the license and as a part thereof supply the licensee, without charge, with a suitable tag having legibly stamped with dies across one side thereof, to wit: year license issued, license No. and to be imprinted with "City of Hermiston, OR." The tag shall be fastened by the licensee to a collar and kept on the dog at all times when not in the immediate possession of the licensee. The license fee shall be the only license or tax required for the ownership or keeping of a dog within the city.

(C) This section does not apply to dogs owned by dealers, breeders or exhibitors where they are kept in kennels exclusively for sale or exhibition purposes, or while the dogs are being transported by dealers, breeders or exhibitors to and from a dog show or fair. No license shall be required for the dogs kept for these purposes until they are sold or otherwise disposed of to another person.

(D) No license shall be required to be paid for any dog owned by a blind person who uses it as a guide. A license shall be issued for the dog upon filing with the Finance Director/Recorder an affidavit by the blind person showing the dog to come within this requirement.

(E) The Finance Director/Recorder shall keep a record of dog licenses in a special book for such purposes.

SECTION 5. Section 90.21 of Chapter 90 of the Hermiston Code of Ordinances is amended to read:

### **90.21 DESTRUCTION OF CERTAIN DOGS.**

(A) When a dog habitually runs at large and is so elusive, or when a dog kills or seriously injures a person or other animal, or when a dog shows obvious symptoms of being rabid, or if a dog cannot be impounded without grave risk, or if the dog is badly injured and suffering, the police officer may destroy the animal in the safest, most humane way available.

(B) When a dog has been found by the judge, in a judicial proceeding, to be of vicious temperament, the judge may order the ~~destruction of the animal~~ dog to be euthanized either by the owner or by the pound authorities should the dog have been impounded. Destruction will be performed in a humane manner and at the expense of the owner of the dog animal.

SECTION 6. Chapter 90 of the Hermiston Code of Ordinances is amended by adding a new section 90.22 to read:

### **90.22 IMPOUNDMENT PROCEDURES.**

(A) All dogs taken up and impounded under this section shall be held in an adequate and sanitary pound which has been inspected by the City Manager or the manager's designee. Any

dog so impounded shall be held for at least five days from the date of the impounding before being placed for adoption, euthanized, or otherwise disposed of.

(B) After any dog is impounded, the owner will be notified, or, if the owner of the dog is unknown, written notice shall be posted for three days on the City's website describing the dog and the place and time of taking. If the owner appears and redeems the dog, the owner he shall pay, in amounts as established by resolution of the City Council, an impoundment fee and in addition a sum for each day, or part thereof, the dog was impounded, this fee being the actual cost of boarding the animal at the pound. The boarding fee will not be assessed for the first day of impoundment if the dog is taken after 8:00 pm.

(C) If no owner appears and or the owner fails to redeem the dog within five days from its impounding or five days from the date the owner was notified or notices were posted, or if the dog was impounded as a public nuisance for biting or attempting to bite a person, it may be euthanized in a humane manner; except that if, in the opinion of the Chief of Police, the dog is not dangerous and can be safely kept, the Chief of Police may release the dog to any responsible person upon receiving assurance that the person will properly care for the dog and not allow it to become a nuisance, and upon payment of a sum of money as established by resolution of the City Council, plus the cost of keeping during its impounding. The person shall thereafter be liable as owner of the dog.

(D) Notwithstanding the provisions of subsections (A) and (C) of this section, any dog impounded for biting a person shall be held for not less than ten days before it is released or euthanized to determine if the dog is rabid.

SECTION 7. This ordinance shall take effect on the 30<sup>th</sup> day after its enactment.

PASSED by the Council this 27<sup>th</sup> day of April, 2015.

SIGNED by the Mayor this 27<sup>th</sup> day of April, 2015.

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MAYOR

ATTEST:

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ASSISTANT CITY RECORDER