

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 732

An ordinance relating to animal control, creating a Notice of Infraction procedure, expanded Hearing and Appeal process, and penalties for violations of animal control regulations and amending Chapter 8.10 of the Multnomah County Code

(Underlined) sections are new or replacements; ~~{bracketed}~~ sections are deleted.)

Multnomah County ordains as follows:

SECTION I. AMENDMENT

MCC 8.10.010(I) and (M) are amended to read as follows:

(I) "Hearings Officer" means a person appointed by the ~~chair~~ ~~{Board to review the Director's determination that a dog has engaged in any of the behavior specified in MCC 8.10.270}~~ to hear appeals decisions of the Director concerning violations of this chapter, or license denial or revocation under MCC 8.10.100 - 8.10.145.

(M) "Owner" means any person or legal entity having a possessory right in the animal. ~~{or legal entity who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by that person.}~~

SECTION II. AMENDMENT

The following definitions are added to MCC 8.10.010:

(Y) "Keeper" means any person or legal entity who harbors, cares for, exercises control over, or knowingly permits any animal to remain on premises occupied by that person.

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(Z) "Minimum care" has the meaning as provided in  
ORS 167.310(2) (1991).

SECTION III. AMENDMENT.

MCC 8.10.010 through 8.10.910 is amended to read as follows:

The phrase "owner or keeper" is hereby substituted for the  
word "owner" wherever the latter word is used throughout this  
chapter excepting MCC 8.10.010(M). County Counsel is directed to  
make the substitution in the codification of this ordinance.

SECTION IV. AMENDMENT.

The following section is added to MCC 8.10:

8.10.035 Notice of Infraction

(A) Whenever a County animal control officer has reasonable  
grounds to believe that an animal or facility is in violation of  
this chapter, that officer shall be authorized to issue the owner  
or keeper notice of civil infraction containing the following  
information:

(1) The name and address, if known, of the owner or  
person in violation of this chapter and description of the animal,  
if applicable; and

(2) The Code section allegedly violated plus a brief  
descriptive statement of the nature of the violation; and

(3) A statement of the amount due as a civil fine for  
the infraction and notice that the animal is to be impounded if  
impoundment is authorized hereunder.

(4) A statement explaining all fines are due within 30  
days of service of the notice;

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1       (5) A statement advising that if any civil fine is not  
2 timely paid, the failure to comply may lead to enhancement of the  
3 original fine or additional fines;

4       (6) A statement that the determination of violation is  
5 final unless appealed by filing a written notice of appeal  
6 including a \$25 fee with the Director of animal control department  
7 within twenty (20) days of the date of the notice of infraction was  
8 served.

9       (7) A statement that an admission of infraction would be on  
10 record and could lead to the enhancement of fine on any subsequent  
11 infraction issued under this chapter as provided under MCC  
12 8.10.900(B).

13       SECTION V.       AMENDMENT

14       The following section is added to MCC 8.10:

15       8.10.036 Service.

16       The Notice Of Infraction shall be served on the owner or  
17 keeper of the animal or facility in violation of this chapter by  
18 personal service or by certified mail with return receipt  
19 requested.

20       SECTION VI.       AMENDMENT

21       The following section is added to MCC 8.10:

22       8.10.037 Dismissal of Pet License Violations.

23       Notices of infraction issued for violations of the pet  
24 licensing requirement as set forth in 8.10.060 through 8.10.080  
25 shall be dismissed by the Director upon reasonable proof that the  
26 required pet license(s) have been obtained within ten (10) days of

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service of the notice(s) of infraction.

SECTION VII. AMENDMENT

The following section is added to MCC 8.10:

8.10.038 (A) Admission of Infraction, Conditions. Any party who is issued a notice of infraction for any offense listed under MCC 8.10.900 (A) may, in lieu of requesting a hearing, admit the infraction and submit the fine as stated on the notice of infraction to the Animal Control Division. The party may attach a written explanation of mitigating circumstances with the payment of the fine.

(B) Any written explanations submitted under subsection (A) shall be reviewed by the Hearings Officer. The Hearings Officer shall have discretion to reduce the submitted find and refund any portion not retained based on the written explanation.

SECTION VII. AMENDMENT

MCC 8.10.050 is amended to read as follows:

~~{8.10.050 State laws incorporated by reference.}~~

~~In addition to provisions of this chapter regulating animals, the following statutes shall apply in Multnomah County and shall be enforced by the Director in the same manner as though set forth fully in this chapter, and by this reference, they are incorporated within this chapter.~~

~~(A) ORS 433.340 to 433.390, relating to rabies control, provided, however, that the term "administrator of the health division" used therein shall mean the director of the department of environmental services for Multnomah~~

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County.

~~(B) The following sections of ORS chapter 609, relating to dogs, and no others:~~

~~609.020 Dogs as personal property;~~

~~609.095 When dog is public nuisance; public nuisance prohibited; complaint;~~

~~609.097 Exception to dog as public nuisance;~~

~~609.140 Right of action by owner of damaged livestock;~~

~~609.150 Right to kill dog that kills or injures livestock;~~

~~609.155 Impounding dog that kills or injures livestock; testing dog; killing dog; release;~~

~~609.157 Disputable presumption that dog kills or injures livestock; and~~

~~609.160 Keeping dog with knowledge that it has injured livestock.}~~

8.10.050 Relationship to Certain State Statutes

(A) Pursuant to ORS 609.015(1), this chapter supersedes enforcement in Multnomah County of the following state statutes: ORS 609.010(2), 609.030, 609.040, 609.060, 609.090, 609.092, 609.095, 609.097, 609.100, 609.110, 609.150, 609.155, 609.160, 609.170, 609.180, 609.190.

(B) Enforcement of ORS 433.340-433.390 shall be the responsibility of the Director and the County Health Officer. Provided such enforcement

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1 procedures shall comply with the state law and are  
2 not subject to the enforcement provisions of this  
3 chapter.

4  
5 SECTION IX. AMENDMENT

6 The following section is added to MCC 8.10:

7 8.10.054 Appeals, Fee.

8 (A) Any party served a notice of infraction or Director's  
9 decision under MCC 8.10.275 or 8.10.290 may appeal the infraction  
10 or Director's decision by submitting a notice of appeal in writing  
11 along with the \$25 hearing fee to the Animal Control Division  
12 within twenty (20) days of the date the notice of infraction or  
13 Director's decision was served on the party.

14 (B) Any party whose application for a facility license was  
15 denied or issued subject to conditions may appeal the license  
16 denial or conditional approval by submitting a notice of appeal in  
17 writing along with the \$25 hearing fee to the Animal Control  
18 Division within twenty (20) days of the date the denial or  
19 conditional approval was mailed to the applicant by certified mail.

20 (C) Any party whose facility license has been revoked may  
21 appeal that revocation as provided in subsection (B).

22 SECTION X. AMENDMENT

23 The following section is added to MCC 8.10:

24 8.10.055 Hearings, Procedure.

25 (A) The board shall adopt procedural rules governing the  
26 conduct and scheduling of the appeal hearings under this chapter.

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1     (B) Upon the receipt of a timely appeal, Animal Control  
2     Division shall set the matter for hearing on the next available  
3     date scheduled for Animal Control Appeals Hearings.

4     (C) Any party appealing a notice of infraction or license/  
5     denial revocation or Director's decision under this Chapter shall  
6     be given a written notice of the hearing date no less than ten (10)  
7     days prior to the scheduled hearing.

8     (D) The hearings officer shall hold a public hearing on any  
9     timely appeal from a notice of infraction, Director's decision, or  
10    the denial/revocation of a facility license. The party who brought  
11    the appeal or any other person having relevant evidence concerning  
12    the nature of the infraction or license denial/revocation shall be  
13    allowed to present testimony and documentary evidence at the  
14    hearing. The hearings officer may consider mitigating or  
15    extenuating circumstances presented on behalf of a party.

16    (E) If the hearing is held to address a notice of infraction  
17    or Director's decision issued under MCC 8.10.275 or 8.10.290, the  
18    hearings officer shall determine whether the infraction contained  
19    in the notice did occur.

20    (F) If the hearing is held to address a facility license  
21    denial or revocation, the hearings officer shall determine whether  
22    the license was rightfully denied or revoked as provided under MCC  
23    8.10.120.

24    (G) The hearings officer shall issue a written decision  
25    containing findings of fact addressing the allegations contained in  
26    the notice of infraction, the Director's decision, or the license

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denial revocation under MCC 8.10.100 - 8.10.145. The decision shall clearly state the hearings officer's conclusion and the reasoning based on the findings of fact. The decision shall be signed and dated by the Hearings Officer and shall be served by personal service or certified mail to the last known address of the party who filed the appeal. The decision shall be final on the date of mailing.

(H) In all appeals under this Chapter the Hearings Officer shall have discretion ordering conditions, restrictions and penalties.

(I) Failure of a party to file an appeal as provided in this section or unexcused failure of a party to appear at a duly scheduled hearing shall constitute a waiver by the party of any further appeal under this Chapter. Upon the entry of a waiver in the record, the last decision issued by the Animal Control Division shall become final.

# SECTION XI.

The following section is added to MCC 8.10:

## 8.10.056 Stay of Enforcement, Exceptions.

(A) Enforcement of any notice of infraction or decision of the Director shall be stayed during the pendency of an appeal, except:

1. Restrictions or conditions placed on animal owner or keeper by the Director under MCC 8.10.265 through 8.10.280 or MCC 8.10.290; or

2. The impoundment of an animal as required under this

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Chapter or because it was necessary for the protection of the animal under MCC 8.10.040.

(B) Notwithstanding paragraph (A) of this subsection, in any case wherein the subject animal has been impounded and is to be euthanized pursuant to a hearings officer's decision, a party seeking a Writ of Review under ORS 34.010 to 34.100 of that decision, may obtain a stay of the destruction of the animal pending the resolution of the Writ of Review proceeding only as provided in this paragraph. The party shall submit a written notice to the Director within fifteen (15) days of the date of the Hearings Officer's decision of the party's intent to file a Writ of Review. The written notice shall be submitted with a deposit as required under MCC 8.10.057(B), if applicable.

(C) In any case subject to paragraph (B), the written notice to the Director shall stay the destruction of the animal until a date not less than fifteen (15) days after final judgment by the court or the party's rights have expired under ORS 34.030.

## SECTION XII. AMENDMENT

The following section is added to MCC 8.10

### 8.10.057 Impoundment of Animals Pending Appeals, Fees.

(A) In any appeal wherein the subject animal has been impounded pending appeal of Director's decision to the hearings officer, the owner or keeper of the animal shall be required to post a deposit with the Director in the amount of \$100 at the time an appeal is requested to apply towards the expense of sheltering the animal during the appeal process.

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(B) If an animal not previously impounded under this Chapter is subsequently ordered to be impounded by a Hearings Officer and the owner or keeper appeals the Hearings Officer's decision by Writ of review to the Circuit Court, the owner or keeper of the animal shall be required to post a deposit with the Director in the amount of \$100 at the time the notice of intent to file the Writ of Review is submitted under MCC 8.10.056(B) to apply towards the expense of sheltering the animal during the pendency of the Writ of Review proceeding.

(C) In either situation described above in a subsection (A) or (B), if the finding of a violation is upheld on appeal, the animal's owner or keeper shall be liable for the cost of the animal's impoundment and shall pay all fees incurred for sheltering and caring for the animal, or forfeit any amount remaining of the original deposit. If the Animal Control Division's finding is reversed on appeal the deposit shall be refunded.

### SECTION XIII. AMENDMENT

MCC 8.10.120 is amended to read as follows:

8.10.120 Denial and revocation of licenses; ~~{appeals.}~~

(A) A license required by MCC 8.10.100 to 8.10.140 may be denied or revoked for any of the following reasons:

(1) Failure to comply substantially with any provision of this chapter.

(2) Conviction of the owner or any person subject to the owner's direction or control for the infraction of any provision of this chapter or other applicable state or federal law, rule, order

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1 or regulation pertaining to any activity relating to animals

2 (3) Furnishing false information on an application  
3 a license under this chapter.

4 (B) The Director shall refund 50 percent of any fee paid upon  
5 denial of a license, provided, however, no refund shall be made  
6 upon revocation.

7 (C) If the Director denies an application for a license  
8 ~~denied,~~ or approve~~d,~~ subject to conditions, the determination is  
9 final unless the applicant ~~{may}~~ appeals the denial or conditional  
10 approval. ~~{to the Board of County Commissioners by filing a written~~  
11 ~~request including the \$25 appeal fee, within 15 days of the date~~  
12 ~~denial or conditional approval was mailed to the applicant by~~  
13 ~~certified mail.}~~

14 (D) The Director shall investigate any complaint concerning  
15 licensed facilities and, upon determination that a license should  
16 be revoked, shall serve written notice upon the licensee of that  
17 determination by certified mail. ~~{and schedule a hearing at which~~  
18 ~~the licensee may appear and be heard. The hearing shall be public,~~  
19 ~~and notice of the hearing shall be mailed to the licensee by~~  
20 ~~certified mail no later than 10 days before the date of the~~  
21 ~~hearing.}~~ The Director's determination shall become final unless  
22 appealed.

23 (E) ~~{If the Director confirms the revocation, the holder of~~  
24 ~~a revoked license may appeal the revocation to the Board of County~~  
25 ~~Commissioners by filing a written request to the Director within 15~~  
26 ~~days after notice of the Director's determination of revocation was~~

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mailed by certified mail.} Failure to file a timely request shall terminate any appeal right, and the Director's decision revoking the license shall not be reviewable otherwise

~~{(F) A hearing upon an appeal under subsection (C) or (E) of this section shall be conducted by the Board of County Commissioners within 30 days of the request, with notice to be mailed to the applicant by certified mail no later than 10 days prior to the hearing, provided, however, that the board may refer the matter to a hearings officer for the purpose of taking evidence, making findings of fact and law and making recommendations to the board, which shall act on any recommendations within the time fixed in this subsection.}~~

~~{(G) A decision of the Board of County Commissioners resulting from any appeal under this section shall be reviewable only as provided in ORS Chapter 34 and not otherwise.} [Ord. 156 s V-3 {1977}]~~

#### SECTION XIV. AMENDMENT.

MCC 8.10.190 (B)(7), (B)(9), (B)(11), and (B)(12) are amended to read as follows:

8.10.190(B)(7) Leave an animal unattended for more than 24 consecutive hours without ~~{adequate}~~ minimum care.

8.10.190(B)(9) Physically mistreat any animal either by deliberate abuse or neglect to furnish ~~{adequate}~~ minimum care, including medical care.

~~{8.10.190(B)(11) Fail to comply with the regulations applicable to potentially dangerous dogs.}~~

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1 8.10.190(B)(11) Permit any dog to engage in any of the  
2 behaviors described in MCC 8.10.270(A) or (B).

3 8.10.190(B)(12) Permit any dog to engage in any of the  
4 behaviors described in MCC 8.10.270(C) through 8.10.270(E);

5 SECTION XV

6 MCC 8.10.191: Failure to Comply; Enforcement

7 (A) The failure to comply with any conditions or restrictions  
8 lawfully imposed pursuant to a notice of infraction or  
9 Director's decision not otherwise stayed under MCC  
10 8.10.056 is a violation of this chapter. Failure to pay  
11 the civil fine shall be a infraction under this section.  
12 A notice of infraction issued under this section for  
13 failure to comply shall be of the same classification as  
14 the original infraction. The first notice of infraction  
15 issued under this section shall not be construed as a  
16 second offense under MCC 8.10.900(B).

17 (B) Except as provided in MCC 8.10.191(C), all enforcement  
18 actions under this section shall be brought before  
19 Hearings Officers.

20 (C) Any enforcement action for failure to comply wherein the  
21 circumstances of the failure to comply by the party in  
22 violation are determined by the Director to:

- 23 1) Be a substantial risk to public safety; or  
24 2) Be a substantial risk to the care and  
25 treatment of the subject animal(s); or  
26 3) Be a failure to pay past-due fines on three or

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1 more infractions within a 12-month period;  
2 shall be brought in the State Court as provided under ORS  
3 203.810 and ORS 30.315.  
4

5 SECTION XVI. AMENDMENT.

6 MCC 8.10.275 is amended to read as follows:

7 8.10.275 Potentially dangerous dogs; appeals; restrictions  
8 pending appeal.

9 (A) The Director shall have authority to determine whether  
10 any dog has engaged in the behaviors specified. in MCC 8.10.270.  
11 This determination may be based upon an investigation that includes  
12 observation of and testimony about the dog's behavior, including  
13 the dog's upbringing and the owner's control of the dog, and other  
14 relevant evidence as determined by the Director. These  
15 observations and testimony can be provided by Multnomah County  
16 animal control officers or by other witnesses who personally  
17 observed the behavior. They shall sign a written statement  
18 attesting to the observed behavior and agree to provide testimony  
19 regarding the dog's behavior of necessary.

20 (B) The Director shall have the discretion to increase or  
21 decrease a classified dogs restrictions based upon relevant  
22 circumstances.

23 (C) The Director shall give the dog's owner written notice by  
24 certified mail or personal service of the dog's specified behavior,  
25 of the dog's classification as a potentially dangerous dog, of the  
26 fine imposed, and of the restrictions applicable to that dog by

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1 reason of its classification. If the owner denies that the  
2 behavior in question occurred, the owner may appeal the Director's  
3 decision to the Hearings Officer by filing a written request for a  
4 hearing with the Director [~~within ten (10) days of the notice was~~  
5 ~~mailed to the owner by certified mail or the owner was personally~~  
6 ~~served. Level 1 classifications are not appealable. The Director~~  
7 ~~shall establish a non-refundable appeal fee of not less than \$25~~  
8 ~~that must accompany the written request for appeal. Failure to~~  
9 ~~meet all appeal requirements within ten (10) days shall result in~~  
10 ~~the classification being final.] as provided under MCC 8.10.054.~~

11 ~~{(D) [The Hearings Officer shall hold a public hearing on any~~  
12 ~~appeal from the Director's decision to classify a dog as~~  
13 ~~potentially dangerous. The owner shall be mailed written notice of~~  
14 ~~the appeal hearing no less than seven (7) days prior to the~~  
15 ~~hearing. The owner and any other persons having relevant evidence~~  
16 ~~concerning the dog's behavior as specified in MCC 8.10.270 shall be~~  
17 ~~allowed to present testimony and documentary evidence at the~~  
18 ~~hearing. The Hearings Officer shall determine whether behavior~~  
19 ~~specified in MCC 8.10.270 was exhibited by the dog in question.~~  
20 ~~The Hearings Officer may reduce or increase the classification~~  
21 ~~level. The Hearings Officer shall have discretion ordering~~  
22 ~~restrictions. The order shall state what, if any, level of~~  
23 ~~classification has been applied and shall impose the applicable~~  
24 ~~restrictions under this code. The order shall be signed and dated~~  
25 ~~by the Hearings Officer and shall be mailed to the last known~~  
26 ~~address of the owner and any person who gave testimony at the~~

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1 ~~appeal hearing. The order shall be final on the date of mailing.~~

2       ~~{(E)}~~ (D) Upon receipt of notice of the dog's classification  
3 as a Level 1, 2, 3, or 4 potentially dangerous dog pursuant to  
4 subsection (C) of this section, the owner shall comply with the  
5 restrictions specified in the notice unless ~~{as the Director's~~  
6 ~~decision is}~~ reversed on appeal. Failure to comply with the  
7 specified restrictions shall be a violation of this chapter for  
8 which a fine can be imposed. Additionally, the Director shall have  
9 authority to impound the dog pending completion of all appeals.

10       ~~{(F)}~~ (D) If ~~{the Director}~~ the Director's decision or the  
11 Hearings Officer's decision finds that a dog has engaged in Level  
12 5 behavior, the dog shall be impounded pending the completion of  
13 any appeals. ~~{In addition to the appeal fee set forth in MCC~~  
14 ~~8.10.275(C) the owner shall be required to post a deposit with the~~  
15 ~~Director in the amount of \$100, at the time an appeal is requested~~  
16 ~~to apply towards the expenses of sheltering the dog during the~~  
17 ~~appeal process. If the Director's decision is upheld on appeal,~~  
18 ~~the dog's owner shall be liable for the cost of the dog's~~  
19 ~~impoundment, and the owner shall pay all fees incurred for the~~  
20 ~~sheltering of the dog or forfeit the deposit. If the Director's~~  
21 ~~decision to classify the dog as a potentially dangerous dog is~~  
22 ~~reversed, the deposit shall be refunded.}~~

23       ~~{(G)}~~ The Board shall adopt procedural rules governing the  
24 scheduling of the appeals provided for in this section.

25       ~~{(H)}~~ The imposition of regulations pursuant to this section  
26 shall be prevent the Director from also issuing a citation pursuant

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1 ~~to MCC 8.10.900.] [Ord 517 s 3 (1986); Ord 550 s 2 (1987); Ord~~  
2 ~~591 s 3 (1988)]~~

3 SECTION XVII. AMENDMENT

4 MCC 8.10.280 is amended to read as follows:

5 8.10.280 Regulation of potentially dangerous dogs. In addition to  
6 the other requirements of MCC Chapter 8.10, the owner or keeper of  
7 a potentially dangerous dog shall comply with the following:

8 (A) Dogs classified as Level 1 dogs shall be restrained in  
9 accordance with MCC 8.10.010(B) by a physical device or structure,  
10 in a manner that prevents the dog from reaching any public  
11 sidewalk, or adjoining property and must be located so as not to  
12 interfere with the public's legal access to the owner's property,  
13 whenever that dog is outside the owner's home and not on a leash.

14 (B) Dogs classified as Level 2 dogs shall be confined within  
15 a secure enclosure whenever the dog is not on a leash or inside the  
16 home of the owner. The secure enclosure must be located so as not  
17 to interfere with the public's legal access to the owner's  
18 property. In addition, the Director may require the owner to  
19 obtain and maintain proof of public liability insurance. In  
20 addition, the owner may be required to pass a responsible pet  
21 ownership test administered by the Director

22 (C) Dogs classified as Level 3 or Level 4 dogs shall be  
23 confined within a secure enclosure whenever the dog is not on a  
24 leash or inside the home of the owner. The secure enclosure must  
25 be located so as not to interfere with the public's legal access to  
26 the owner's property, and the owner shall post warning signs, which

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1 are provided by the Director, on the property where the dog is  
2 dept, in conformance with rules to be adopted by the Director. In  
3 addition, the Director may require the owner to obtain and maintain  
4 proof of public liability insurance. the owner shall not permit  
5 the dog to be off the owner's property unless the dog is muzzled  
6 and restrained by and adequate leash and under the control of a  
7 capable person. In addition, the Director may require the owner to  
8 satisfactorily complete a pet ownership program

9 (D) Dogs classified as Level 5 dogs as described in  
10 MCC 8.10.270 shall be euthanized. In addition, the Director may  
11 suspend, for a period of time specified by the Director, that dog  
12 owner's right to be the owner of any dog in Multnomah County,  
13 including dogs currently owned by that person.

14 (E) All dogs classified as Level 5 potentially dangerous dogs  
15 shall be euthanized at any time not less than [~~ten-(10)~~] twenty  
16 (20) days after the date of classification [~~by the Director~~].  
17 Notification to the Director of any appeal to the Hearings Officer  
18 as provided for in MCC [~~8.10.275(B)~~] 8.10.054(A) or to any court of  
19 competent jurisdiction shall delay destruction of the dog until a  
20 date not less than [~~ten-(10)~~] fifteen (15) days after a final  
21 decision by the Hearings Officer or final judgment by the court

22 (F) To insure correct identification, all dogs that have been  
23 classified as potentially dangerous may be marked with a permanent  
24 identifying mark, photographed, or fitted with a special tag or  
25 collar provided by the Director. The Director shall adopt rules  
26 specifying the type of required identification.

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1 (G) In addition to the normal licensing fees established by  
2 MCC 8.10.220(A)(1) and 2), there shall be an annual fee of \$15 for  
3 dogs that have been classified as potentially dangerous. This  
4 additional fee shall be imposed at the time of classification of  
5 the potentially dangerous dog, and shall be payable within 30 days  
6 of notification by the Director. Annual payment of this additional  
7 fee shall be payable within 30 days of notification by the  
8 Director

9 (H) The owner of a potentially dangerous dog shall not permit  
10 the warning sign to be removed from the secure enclosure, and shall  
11 not permit the special tag or collar from being removed from the  
12 classified dog. The owner of a potentially dangerous dog shall not  
13 permit the dog to be moved to a new address or change owners  
14 without providing the Director with ten (10) days prior written  
15 notification.

16 (I) Declassification of potentially dangerous dogs. Any  
17 owner of a classified potentially dangerous dog may apply to the  
18 Director or the hearings officer, in writing, to have the  
19 restrictions reduced or removed

20 (1) The following conditions must be met:

21 (a) Level 1 or Level 2 dog has been classified for  
22 ~~{two}~~ one years without further incident, or ~~{five}~~ two years for  
23 Level 3 or Level 4 dogs; and

24 (b) The owner provides the Director with written  
25 certification of satisfactory completion of obedience training for  
26 the dog classified; and

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(c) There have been no violations of the specified regulations; and

(d) In addition, the Director may require the dog owner to provide written verification that the classified dog has been spayed or neutered.

(e) Any reclassification request submitted under this subsection must include \$25 review fee.

(2) When the owner of a potentially dangerous dog meets all of the conditions in this subsection, the restrictions for Level 1 and Level 2 classified dogs may be removed. Restrictions for Level 3 and Level 4 dogs may be removed, with the exception of the secure enclosure. ~~{Ord 517 s 3 (1986); Ord 591 s 4 (1988)}~~

#### SECTION XVIII. AMENDMENT

The following section is added to MCC 8.10:

MCC 8.10.290 Restrictions In Cases Other Than Potentially Dangerous Dogs, Directors' Authority, Notice:

(A) The Director shall have authority to determine whether any infraction of this chapter warrants other restrictions and conditions be imposed on the party in violation as provided in MCC 8.10.900(c), in addition to the civil fine.

(B) This determination may be based upon an investigation that includes observation of and testimony about the circumstances and the nature of the infraction, including the animal's behavior, the owner's control of the animal, the care and treatment of the animal, and other relevant evidence as determined by the Director. These observations and testimony can be provided by Multnomah

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County Animal Control officers or by other witnesses who personally observed the circumstances. They shall sign a written statement attesting to the observed circumstances and agree to provide testimony, if necessary.

(C) The Director shall give the party in violation written notice by certified mail or personal service of the Director's decision imposing a fine and any conditions or restrictions under this section and MCC 8.10.900(c). The notice shall contain a brief explanation why the additional conditions and restrictions were imposed. If the party wishes to challenge the Director's decision, the party may appeal, as provided under MCC 8.10.054.

#### SECTION XIX. AMENDMENT

MCC 8.10.900 is amended to read as follows:

8.10.900 Penalties, generally. ~~{Offenses committed in violation of provisions of this chapter shall be prosecuted in the manner provided in ORS 203.810. conviction of a violation of any provision of this chapter not specifically listed in MCC 8.10.900 to 8.10.940, shall be subject to a fine not to exceed}~~

(A) Violations of the provisions of this chapter shall be classified as provided below.

(1) Class A infractions. Violations of the following sections or subsections shall be Class A infractions:

(a) MCC 8.10.030

(b) MCC 8.10.180

(c) MCC 8.10.190 (B)(3)

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1                   (d) MCC 8.10.190 (B)(8)

2                   (e) MCC 8.10.190 (B)(9)

3                   (f) MCC 8.10.190 (B)(10)

4                   (g) MCC 8.10.190 (B)(12)

5                   (h) MCC 8.10.200

6                   (2) Class B Infractions: Violations of the following  
7 sections or subsections of this chapter shall be Class B  
8 infractions:

9                   (a) 8.10.150

10                   (b) 8.10.155

11                   (c) 8.10.190(B)(4)

12                   (d) 8.10.190(B)(5)

13                   (e) 8.10.190(B)(6)

14                   (f) 8.10.190(B)(7)

15                   (g) 8.10.190(B)(11)

16                   (3) Class C Infractions. Infractions of the following  
17 sections or subsections of this chapter shall be Class C  
18 infractions:

19                   (a) 8.10.070

20                   (b) 8.10.170

21                   (c) 8.10.190(B)(1)

22                   (d) 8.10.190(B)(2)

23                   (e) 8.10.210

24                   (4) Any other violation of this chapter not listed in  
25 this subsection shall be a Class A infraction.

26                   (B) Fines:

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1       (1) Class A Infraction. A fine for Class A infraction  
2 shall be no less than \$100 nor more than \$500 for a first offense.  
3 The fine for a second Class A infraction committed within 12 months  
4 from the date that the first offense was committed shall be no less  
5 then \$200, nor more than \$500. The fine for a third Class A  
6 infraction committed within 12 months from the date that the first  
7 offense was committed, the fine shall be not less than \$500.

8       (2) Class B Infraction. A fine for Class B infraction  
9 shall be no less than \$50 nor more than \$250 for a first offense.  
10 If the violator committed either a Class A or B infraction within  
11 the 12 month period immediately prior to the date of the second  
12 infraction, the fine shall be no less than \$100 nor more than \$250.  
13 If the violator has committed two or more Class A or B infractions  
14 within the twelve month period immediately prior to the date of the  
15 most recent notice of infraction for a Class B infraction, the fine  
16 shall be \$250.

17       (3) Class C Infractions: A fine for a Class C  
18 infraction shall be no less than \$25 nor greater than \$150 for a  
19 first offense. If the violator has committed a class A, B, or C  
20 infraction within the 12 month period immediately prior to the date  
21 of the second infraction, the fine shall be no less than \$50 nor  
22 more than \$150. If the violator has committed two or more Class A,  
23 B, or C infractions within the 12-month period immediately prior to  
24 the date of the most recent notice of infraction for a Class C  
25 infraction, the fine shall be \$150.

26       (C) Additional Conditions and Restrictions. In addition to

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the monetary civil penalties imposed for infractions of this chapter, and the regulations applicable under MCC 8.10.280, the Director and the Hearings Officer shall have authority to order additional restrictions and conditions upon the party in violation, including but not limited to:

(1) Require the violator to satisfactorily complete an obedience program approved by the Director or Hearings Officer at owner's expense;

(2) Require the violator to attend a responsible pet ownership program adopted and/or approved by the Director or Hearings Officer, at the violator's expense;

(3) Require the owner or keeper of an animal that unreasonably causes annoyance, as described in 8.10.190 (B)(6), to keep the animal inside the owner or keeper's residence between the hours of 10:00 p.m. and 7:00 a.m.;

(4) Any other condition(s) that would reasonably abate the infraction;

(5) Require the owner or keeper to have the animal surgically sterilized within a time period determined by the Director or Hearings Officer.

(D) Late Payment Penalties. If a civil penalty is unpaid after 30 days, the fine then due shall be increased by 25% of the original amount; if the civil penalty is not paid after 60 days, the fine then due shall be increased by 50% of the original amount.

(E) At the discretion of the Director, any civil penalty(ies)

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not paid within thirty (30) days from the date of issuance of the notice of infraction may be assigned to a collections agency for collection.

(F) Ten percent (10%) of the fines and penalties collected under this chapter shall be placed in a separate fund for the purpose of providing training for animal control personnel.

# SECTION XX. AMENDMENT

MCC 8.10.910 is amended to read as follows:

8.10.910 Facilities: operation without license or in violation of license standards.

(A) ~~{Any person convicted of operating}~~ The operation of a facility without a license for which licensing is required under MCC 8.10.100 to 8.10.145 shall be ~~{subject to a fine not to exceed \$500}~~ a Class A infraction, and, in addition, the ~~{court}~~ Director or hearings officer may order removal of all animals housed in the facility which exceed the number allowed under this chapter and require them to be removed from the County or to be impounded subject to ~~{subsection (D) of MCC 8.10.040.}~~ MCC 8.10.040(D).

8.10.910(B)

~~{Any person holding a facility license issued under MCC 8.10.100 to 8.10.145 who is convicted of violation of any provision of this chapter applicable to that license or the care of animals housed in the facility, shall, in addition to the revocation proceedings provided in MCC 8.10.100 to 8.10.145, be subject to a fine not to exceed \$500, and in addition, the court may order removal of any or all animals from the facility for impoundment}~~

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subject to subsection (D) of MCC 8.10.140, Ord. 156 s. VIII-2  
 1977)} The operation of a facility by a person holding a facility  
 license under MCC 8.10.100 to 8.10.145, in violation of any  
 provision of this chapter applicable to that license or to the care  
 of the animals housed in the facility, shall be a Class A  
 infraction; and in addition the Director or hearings officer may  
 order removal of any or all animals from the facility for  
 impoundment subject to MCC 8.10.040(D).

#### SECTION XXI AMENDMENT

Sections MCC 8 .0 9.0 through MCC .0 950 are repealed

~~{8.10.920 Poisonous feed penalty. Any person convicted of  
 violation of MCC 8.10.180, shall be subject to imprisonment for not  
 more than one year and a fine not to exceed \$1,000 or both. Ord.  
 156 s. VIII-3 (1977)}~~

~~{8.10.930 Animal owner regulation violations. Any person  
 convicted of violation of MCC 8.10.190, shall be subject to a fine  
 not to exceed \$500, and the court in its discretion may also order  
 destruction of the animals involved, subject to subsection (D) of  
 MCC 8.10.040 or surgical sterilization of any animal or appropriate  
 procedure to render an animal mute. Additionally, appropriate  
 procedure to render an animal mute. Additionally, the court in its  
 discretion may suspend, for a period of time specified by the  
 court, that person's right to be the owner of any dog in Multnomah  
 County, including dogs currently owned by that person. Ord. 156 s.  
 VII-4 (1977); Ord. 417 s. 5 (1986)}~~

~~{8.10.940 Penalty for keeping gamecocks, animal fights and~~

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~~fight training.]~~

~~{(A) Any person convicted of violation of MCC 8.10.200, shall be subject to a fine not to exceed \$500, and the court may order impoundment of any animal caused to be engaged in the prohibited conduct, which animal may be disposed of by the Director.}~~

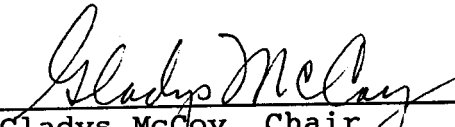
~~{(B) Any person previously convicted under this section shall be subject to punishment by imprisonment for a term of not more than one year and a fine not to exceed \$1,000 or both. Ord. 156 s. VIII-5 (1977).}~~


~~{8.10.950 Penalty for violation of potentially dangerous dog requirements.}~~

~~{In addition to the provisions of MCC 8.10.930, any person convicted of violating MCC 8.10.190 (B) (11) and (12) shall be subject to a minimum fine of \$100 for the first offense, and a minimum fine of \$500 for any subsequent offense. Minimum fines shall not be suspendable by the court. Ord. 591 s. 6 (1988).}~~

ADOPTED this 3rd day of September, 1992, being the date of its second reading before the Board of County Commissioners of Multnomah County, Oregon.



  
Gladys McCoy, Chair  
Multnomah County, Oregon

By   
Matthew O. Ryan, Assistant County Counsel  
For Multnomah County, Oregon

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MULTNOMAH COUNTY COUNSEL  
1120 S.W. Fifth Avenue, Suite 1530  
P.O. Box 849  
Portland, Oregon 97207-0849  
(503) 248-3138