

(Underlined sections are new or replacements; [bracketed] sections are deleted.).

BEFORE THE BOARD OF COMMISSIONERS

FOR THE COUNTY OF MULTNOMAH

ORDINANCE NO. 517

An Ordinance relating to the regulation of potentially dangerous dogs and amending chapter 8.10 of the Multnomah County Code.

Multnomah County ordains as follows:

SECTION I. FINDINGS.

- A. Recent dog attacks in and around Multnomah County in recent months demonstrate that current regulations pertaining to vicious animals have not effectively protected the public from the hazards posed by certain dogs.
- B. Current regulations apply only to animals that have been found to be 'vicious' as that term is defined by M.C.C. 8.10.010(M). These regulations are not adequate because:
 1. the term 'vicious' does not provide an administratively effective basis for enforcement of the animal control regulations; and
 2. waiting until a dog has proven itself to be vicious before subjecting that animal to restrictions exposes the public to potentially severe hazards.
- C. Dogs are responsible for almost all serious animal attacks in Multnomah County. There have been serious attacks by dogs of many breeds. In determining the potential dangerousness of a dog, the dog's upbringing and control by the owner are at least as important as the dog's breed.

- D. Dogs that cause serious injury to humans have usually exhibited behavioral problems prior to causing serious injuries. If these behavioral problems are reported to animal control authorities, precautions can be taken to limit a potentially dangerous dog's opportunity for causing serious injury.
- E. Dogs should be restricted no more than is reasonably necessary to protect the public. Gradually increasing the severity of restrictions according to the seriousness of the behavioral problems displayed by a dog serves two purposes:
1. owners of dogs with relatively minor behavioral problems are not burdened with unnecessary restrictions; and
 2. members of the public, especially neighbors, will be more likely to report inappropriate animal behavior if the public knows that relatively minor restrictions will be imposed for less serious behavior.
- F. To monitor effectively an individual dog's potential dangerousness, an animal should be clearly identified over a period of time. Problems have been encountered because dog owners often own more than one dog of the same breed. In these cases, animal control authorities have been unable to determine whether a dog involved in inappropriate behavior is the same dog that was involved in previous incidents. Since a series of minor incidents indicates a higher level of potential dangerousness than an isolated minor incident, dogs involved in inappropriate behaviors should be physically marked to assure positive identification. Also, marking of the animal is necessary to verify that the correct dog is being subjected to restrictions that have been imposed.

SECTION II. AMENDMENT.

M.C.C. 8.10.010 is amended to read as follows:

8.10.010 Definitions. As used in this chapter, unless the context requires otherwise:

(A) "Animal" means any dog, cat, exotic, wild or dangerous animal, or livestock.

(B) "Animal at large" means any animal, excluding cats, [not confined to the premises of its owner, unless restrained by a leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a person, whether or not the owner of the animal, or which enters upon land of another person without authorization of that person or a lawful occupant,] that:

(1) is not physically restrained, on private property (including motorized vehicles) with the permission of the property owner, in a manner that physically prevents the animal from leaving that property or reaching any public areas;

or, when not in compliance with subsection (1),

(2) is not restrained by a leash, tether or other physical control device not to exceed eight feet in length and under the physical control of a capable person.

(C) "Board" means the Multnomah County Board of County Commissioners.

(D) [(C)] "Dog facility" means any site, as identified by a mailing address, where more than three dogs of licensable age are kept, whether the animals are the property of the site owner or of other persons.

(E) [(D)] "Director" means the Director of the Department of Environmental Services of Multnomah County or the Director's designee.

(F) [(E)] "Euthanasia" means putting an animal to death [an animal] in a humane manner.

(G) "Exhibition of fighting" means a public or private display of combat between two or more animals in which the fighting, killing, maiming or injuring of animals is a significant feature. "Exhibition of fighting" does not include demonstrations of the hunting or tracking skills of an animal or the lawful use of animals for hunting, tracking or self-protection.

(H) [(F)] "Exotic, wild or dangerous animal" means any animal which is not commonly domesticated, or which is not native to North America, or which, irrespective of geographic origin, is of a wild or predatory nature, or any domesticated animal, which because of its size, vicious nature or other characteristics would constitute an unreasonable danger to human life or property if not kept, maintained or confined in a safe and secure manner.

(I) [(G)] "Exotic, wild or dangerous animal facility" means any site for the keeping of exotic, wild or dangerous animals.

(J) "Hearings Officer" means a person appointed by the Board to review the director's determination that a dog has engaged in any of the behaviors specified in M.C.C. 8.10.270.

(K) [(H)] "Livestock" means animals kept for husbandry, including but not limited to horses, mules, burros, asses, cattle, sheep, goats, swine and other hoofed, domesticated animals.

(L) [(I)] "Livestock facility" means any facility for the keeping of livestock.

(M) "Muzzle" means a device constructed of strong, soft material or a metal muzzle that complies with specifications to be adopted as administrative rules by the director. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but must prevent it from biting any person or animal.

(N) [(J)] "Owner" means any person or legal entity having a possessory property right in an animal or who harbors, cares for, exercises control over or knowingly permits any animal to remain on premises occupied by that person.

(O) [(K)] "Person" means any natural person, association, partnership, firm or corporation.

(P) [(L)] "Pet license" means a license for any owned dog or cat that is of licensable age.

(Q) "Potentially dangerous dog" means any animal that is a member of the canine family and has been found to have engaged in any of the behaviors specified in M.C.C. 8.10.270.

(R) "Secure enclosure" means a structure in which an animal is confined such that the animal does not have access to humans or to other animals. The director shall adopt administrative rules establishing specifications for secure enclosures.

(S) "Serious injury" means any physical injury determined by the director, in consultation with the County Health Officer or the County Health Officer's designee, to be at least as severe as an injury that requires the setting of a bone or the stitching of a wound.

(T) [(M)] "Sexually unproductive" means being incapable of reproduction by reason of age or physical condition, or incapable of being subjected to a medical procedure to be rendered unproductive and certified as such by a licensed veterinarian [as such].

(U) [(N)] "Vicious animal" means any animal, excluding dogs or cats, which bites any human being or other domestic animal or which demonstrates menacing behavior toward human beings or domestic animals. [, but] "Vicious animal" does not include an animal which bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

SECTION III. AMENDMENT.

M.C.C. Chapter 8.10 is amended by the addition of new Sections 8.10.265 through 8.10.285, which shall read as follows:

8.10.265 **Purpose.** The purpose of M.C.C. 8.10.270 through 8.10.285 is to establish a procedure whereby dogs that pose a reasonably significant threat of causing serious injury to humans, other animals or property are identified and subjected to precautionary restrictions before any such serious injury has occurred.

8.10.270 **Classification of levels of dangerousness.** A dog shall be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of M.C.C. 8.10.265 through 8.10.285, behaviors establishing various levels of potential dangerousness are as follows:

(A) Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal.

(B) Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

(C) Level 3 behavior is established if a dog, while confined in accordance with M.C.C. 8.10.010(B), aggressively bites any person.

(D) Level 4 behavior is established if a dog, while at large, aggressively bites or causes physical injury to any person or domestic animal.

(E) Level 5 behavior is established if:

- (1) a dog, whether or not confined, causes the serious injury or death of any person; or

- (2) a dog, while at large, kills any domestic animal; or
- (3) a dog engages in or is found to have been trained to engage in exhibitions of fighting; or
- (4) a dog that has been classified as a Level 4 potentially dangerous dog repeats the behavior described in Subsection (D) above after the owner receives notice of the Level 4 classification.

(F) Notwithstanding subsections (A) through (E) above, the director shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog has engaged in the behaviors specified in subsections (A) through (E) above, if the director determines that the behavior was a result of the victim abusing or tormenting the dog or other extenuating circumstances. In any case, no dog shall be classified as potentially dangerous if the behavior in question was directed against a trespasser inside any fully-enclosed building on private property if all exterior doors of the building were locked at the time the trespassing occurred.

8.10.275 Identification of potentially dangerous dogs; appeals; restrictions pending appeal.

(A) The director shall have authority to determine whether any dog has engaged in the behaviors specified in M.C.C. 8.10.270. This determination shall be based upon an investigation that includes observation of and testimony about the dog's behavior, including the dog's upbringing and the owner's control of the dog. These observations and testimony can be provided by ~~Multnomah County animal control officers or~~ by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony regarding the dog's behavior if necessary.

(B) The director shall give the dog's owner written notice by certified mail or personal service of the dog's specific behavior, of the dog's classification as a potentially dangerous dog and of the additional restrictions applicable to that dog by reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the director's decision to the Hearings Officer by filing a written request for a hearing with the director within ten days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

(C) The Hearings Officer shall hold a public hearing on any appeal from the director's decision to classify a dog as potentially dangerous. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in M.C.C. 8.10.270 shall be allowed to present testimony. The Hearings Officer shall determine whether behavior specified in M.C.C. 8.10.270 was exhibited by the dog in question. The Hearings Officer shall issue an order containing his or her determination, which shall be final unless the owner files a written request for a hearing before the Board with the director within ten days of the date the Hearings Officer's order was issued.

(D) When the Hearings Officer's order is appealed to the Board, the Board shall hold a public hearing and shall review the director's determination that a dog has engaged in any of the behaviors specified in M.C.C. 8.10.270. The Board shall consider all written material that was available to the director and the Hearings Officer, the Hearings Officer's order and any information offered by the owner or other persons having evidence concerning the issue of whether the dog engaged in any of the behaviors specified in M.C.C. 8.10.270. The Board shall issue an order containing its decision, which shall be final.

(E) Once the owner has received notice of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog pursuant to Subsection (B) above, the owner shall comply with the restrictions specified in the notice until such time as the director's decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this chapter for which a fine can be imposed. Additionally, the director shall have authority to impound the dog pending completion of all appeals.

(F) If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending the completion of all appeals. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment.

(G) The Board shall adopt procedural rules governing the conduct and scheduling of the appeals provided for in this section.

(H) The imposition of regulations pursuant to this section shall not prevent the director from also issuing a citation pursuant to M.C.C. 8.10.900.

8.10.280 Regulation of potentially dangerous dogs. In addition to the other requirements of M.C.C. Chapter 8.10, the owner of a potentially dangerous dog shall comply with the following additional regulations:

(A) If the dog has engaged in Level 1 behavior, the dog shall be restrained by a physical device or structure that prevents the dog from reaching any public sidewalk or adjoining property whenever that dog is outside the owner's home and not on a leash. The director shall adopt administrative rules establishing specifications for the required device or structure.

(B) If the dog has engaged in Level 2 behavior, the owner shall confine the dog within a secure enclosure whenever the dog is not on a leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property.

(C) If the dog has engaged in Level 3 behavior, the owner shall meet the requirements of Section (B) above and shall also post warning signs on the property where the dog is kept, in conformance with administrative rules to be adopted by the director.

(D) If the dog has engaged in Level 4 behavior, the owner shall meet the requirements of Sections (B) and (C) above and shall, additionally, not permit the dog to be off the owner's property unless the dog is muzzled and restrained by an adequate leash and under the control of a capable person.

(E) Any dog that has been found to have engaged in Level 5 behavior as described in M.C.C. 8.10.270 shall be euthanized. In addition, the director may suspend, for a period of time specified by the director, that dog owner's right to be the owner of any dog in Multnomah County, including dogs currently owned by that person.

(F) To insure correct identification, all dogs that have been classified as potentially dangerous shall be marked with a permanent identifying mark. The director shall adopt rules specifying the character, location and manner of this marking.

(G) In addition to the normal licensing fees established by M.C.C. 8.10.220(A)(1) and (2), there shall be an annual fee of \$15.00 for dogs that have been classified as potentially dangerous. This additional fee shall be imposed at the time license of the potentially dangerous dog expires, and shall be payable at the time the license is renewed.

8.10.285 **Reporting of Potentially Dangerous Dogs.** Any person who observes or has evidence of behavior as described in M.C.C. 8.10.270 shall forthwith notify the director.

SECTION IV. AMENDMENT.

M.C.C. 8.10.190 is amended as follows:

8.10.190 **Animal owner regulation.**

(A) For the purposes of this section, unless otherwise limited, the term "permit" shall include human conduct [in relation to an owned animal which] that is intentional, deliberate, careless, inadvertent or negligent in relation to an owned animal.

(B) It is unlawful for any person to:

(1) Permit an animal to become at large.

(2) Permit an animal to trespass upon property of another.

(3) Keep a vicious animal or a dog that has been found to have engaged in Level 5 behavior as described in M.C.C. 8.10.270.

(4) Fail to comply with requirements of this chapter which apply to the keeping of an animal or any facility where animals are kept.

(5) ~~Permit a dog in season (estrus) to be accessible to a male dog not in the~~ person's ownership except for intentional breeding purposes.

(6) Permit any animal unreasonably to cause annoyance, alarm or noise disturbance at any time of the day or night, by repeated barking, whining, screeching, howling, braying or other like sounds which may be heard beyond the boundary of the owner's property.

(7) Leave an animal unattended for more than 24 consecutive hours without adequate care.

(8) Deprive an animal of proper facilities or care, including but not limited to the items prescribed in paragraphs (1), (2), (3), (4), (6) and (7) of subsection (M) of M.C.C. 8.10.130. Proper shelter shall include a structure that does not leak, will provide protection from the weather and is maintained in a condition to protect the animals from injury.

(9) Physically mistreat any animal either by deliberate abuse or neglect to furnish adequate care, including medical attention.

(10) Permit any animal to leave the confines of any officially prescribed quarantine area.

(11) Fail to comply with the regulations applicable to potentially dangerous dogs.

(12) Permit any dog to engage in any of the behaviors described in M.C.C. 8.10.270.

SECTION V. AMENDMENT.

M.C.C. 8.10.930 is amended to read as follows:

8.10.930 Animal owner regulation violations. Any person convicted of violation of M.C.C. 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, 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.

SECTION VI. SAVINGS CLAUSE.

If any article, section, subsection, subdivision, phrase, clause, sentence, or word in this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the Ordinance, but shall be confined to the article, section, subsection, subdivision, clause, phrase, sentence, or word so held invalid or unconstitutional.

SECTION VII. ADOPTION.

This Ordinance, being necessary for the health, safety, and general welfare of the people of Multnomah County, shall take effect on the thirtieth (30th) day after its adoption, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 12th day of June, 1986, being the date of its second reading before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS

(SEAL)

BY Gretchen Kafoury
Gretchen Kafoury
Presiding Officer

AUTHENTICATED this 16th day of June, 1986.

BY Dennis Buchanan
Dennis Buchanan
County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

BY Peter Kastig
Peter Kastig
Assistant County Counsel

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