

August 4, 1988

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

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 591

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. AMENDMENT

MCC 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, 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),] when on public property, or any public area, and

(2) is not restrained by a leash, tether or other physical control device not to exceed eight (8) feet in length and under the physical control of a capable person.

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

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

(F) "Euthanasia" means putting an animal to death 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)] (G) "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)] (H) "Exotic, wild or dangerous animal facility" means any site for the keeping of exotic, wild or dangerous animals.

[(J)] (I) "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 MCC 8.10.270.

[(K)] (J) "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)] (K) "Livestock facility" means any facility for the keeping of livestock.

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

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

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

[(Q)] (P) "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 MCC 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.]

(Q) A "Secure enclosure" shall be:

(1) a fully fenced pen, kennel or structure that shall remain locked with a padlock or combination lock. Such pen, kennel or structure must have secure sides, minimum of five feet high, and the director may require a secure top attached to the sides, and a secure bottom or floor attached to the sides of the structure or the sides must be embedded in the ground no less than one foot. The structure must be in compliance with the jurisdiction's building code; or

(2) a house or garage. When dogs are kept inside a house or garage as a secure enclosure, the house or garage shall have latched doors kept in good repair to prevent the accidental escape of the dog. A house, garage, patio, porch or any part of the house or structure is not a secure enclosure if the structure would allow the dog to exit the structure on its own volition.

(R) "Physical injury" means impairment of physical condition or substantial pain which is accompanied with scrapes, cuts, punctures or other evidence of physical injury.

(S) "Serious physical 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.] 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.

(T) "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.

(U) "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. "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.

(V) "Aggressively bites" means any dog bite that breaks the skin and is accompanied by an attack where the dog exhibits overt behavior that includes any combination of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging, multiple attacks, multiple lunges, or multiple bites.

(W) "Physical device or structure" means a tether, trolley system, other physical control device or any structure made of material sufficiently strong to adequately and humanely confine the dog in a manner that would prevent it from escaping the premises.

(X) "Liability insurance" means public liability insurance in a single incident amount of not less than \$50,000 for bodily injury to or death of any person or persons. The owner shall be required to provide the director with certification of insurance within 10 days of receiving notification of classification. Such policy shall provide that no cancellation of the policy will be made unless 10 days written notice is given to the Director by certified mail.

SECTION II. AMENDMENT

MCC 8.10.270 is amended to read as follows:

8.10.270 **Classification of levels of dangerousness.** A dog [shall] may be classified as potentially dangerous based upon specific behaviors exhibited by the dog. For purposes of MCC 8.10.265 through 8.10.285, behaviors establishing various levels of potentially 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 person or domestic animal.

(B) Level 2 behavior is established if a dog while at large, causes physical injury to any domestic animal. [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 MCC 8.10.010(B), aggressively bites or causes physical injury to any person.

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

(E) Level 5 behavior is established if:

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

(2) [a dog, while at large, kills any domestic animal; or] a dog is used as a weapon in the commission of a crime; or

[(3) a dog engages in or is found to have been trained to engage in exhibitions of fighting; or]

[(4)] (3) a dog [that has been] classified as a Level 4 potentially dangerous dog that repeats the behavior described in subsection (D) of this section after the owner receives notice of the Level 4 classification.

(F) Notwithstanding subsections (A) through (E) of this section, 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) of this section, if the director determines that the behavior was the result of the victim abusing or tormenting the dog or was directed towards a trespasser 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.]

SECTION III. AMENDMENT

MCC 8.10.275 is amended to read as follows:

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

(A) The direction shall have authority to determine whether any dog has engaged in the behaviors specified in MCC 8.10.270. This determination [shall] may 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, and other relevant evidence as determined by the director. 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 have the discretion to increase or decrease a classified dogs restrictions based upon relevant circumstances.

[(B)] (C) The director shall give the dog's owner written notice by certified mail or personal service of the dog's specified 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 (10) days of the date the notice was mailed to the owner by certified mail or the owner was personally served. Level 1 classifications are not appealable. The director shall establish a non-refundable appeal fee of not less than \$25.00 that must accompany the written request for appeal. Failure to meet all appeal requirements within ten (10) days shall result in the classification being final.

[(C)] (D) 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 shall be mailed written notice of the appeal hearing no less than seven (7) days prior to the hearing. The owner and any other persons having relevant evidence concerning the dog's behavior as specified in MCC 8.10.270 shall be allowed to present testimony and documentary evidence at the hearing. The Hearings Officer shall determine whether behavior specified in MCC 8.10.270 was exhibited by the dog in question. The Hearings Officer may reduce or increase the classification level. The Hearings Officer shall issue a written order containing findings of fact addressing the elements in MCC 8.10.270. In addition, the Hearings Officer shall have discretion ordering restrictions. The order shall state what, if any, level of classification has been applied and shall impose the applicable restriction under this code. The order shall be signed and dated by the Hearings Officer and shall be mailed to the last-known address of the owner and any person who gave testimony at the appeal hearing. The order shall be final on the date of mailing.

[(E)] (D) [Once the owner has received] Upon receipt of notice of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog pursuant to subsection [(B)] (C) of this section, the owner shall comply with the restrictions specified in the notice [until such time as] unless the director's decision [may be] is 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)] (E) If the director finds that a dog has engaged in Level 5 behavior, the dog shall be impounded pending the completion of [all] any appeals. In addition to the appeal fee set forth in MCC 8.10.275(C), the owner shall be required to post a deposit with the director in the amount of \$100.00, at the time an appeal is requested to apply towards the expenses of sheltering the dog during the appeal process. If the director's decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment, and the owner shall pay all fees incurred for the sheltering of the dog or forfeit the deposit. If the director's decision to classify the dog as a potentially dangerous dog is reversed, the deposit shall be refunded.

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

[(H)] (G) The imposition of regulations pursuant to this section shall not prevent the director from also issuing a citation pursuant to MCC 8.10.900.

SECTION IV. AMENDMENT

MCC 8.10.280 is amended to read as follows:

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

(A) [If the dog has engaged in] Dogs classified as Level 1 dogs [behavior, the dog] shall be restrained in accordance with MCC 8.10.010(B) by a physical device or structure, in a manner that prevents the dog from reaching any public sidewalk, or adjoining property and must be located so as not to interfere with the public's legal access to the owner's 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] Dogs classified as Level 2 dogs [behavior, the owner] shall [confine the dog] be confined 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. In addition, the director may require the owner to obtain and maintain proof of public liability insurance. In addition, the owner may be required to pass a responsible pet ownership test administered by the director.

(C) [If the dog has engaged in] Dogs classified as Level 3 or Level 4 dogs [behavior, the owner shall meet the requirements of Section (B) of this section, 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.] shall be confined 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, and the owner shall post warning signs, which are provided by the director, on the property where the dog is kept, in conformance with rules to be adopted by the director. In addition, the director may require the owner to obtain and maintain proof of public liability insurance. The owner shall 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. In addition, the director may require the owner to satisfactorily complete a pet ownership program.

[(D) If the dog has engaged in Level 4 behavior, the owner shall meet the requirements of subsections (B) and (C) of this section 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.]

(D) [(E) Any dog that has been found to have engaged in Level 5 behavior] Dogs classified as Level 5 dogs as described in MCC 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.

(E) All dogs classified as Level 5 potentially dangerous dogs shall be euthanized at any time not less than ten (10) days after the date of classification by the director. Notification to the director of any appeal to the Hearings Officer as provided for in MCC 8.10.275(B) or to any court of competent jurisdiction shall delay destruction of the dog until a date not less than ten (10) days after a final decision by the Hearings Officer or court.

(F) To insure correct identification, all dogs that have been classified as potentially dangerous [shall] may be marked with a permanent identifying mark, photographed, or fitted with a special tag or collar provided by the director. The director shall adopt rules specifying the [character, location and manner of this marking] type of required identification.

(G) In addition to the normal licensing fees established by MCC 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 of [license] classification of the potentially dangerous dog [expires], and shall be payable [at the time the license is renewed] within 30 days of notification by the director. Annual payment of this additional fee shall be payable within 30 days of notification by the director.

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

(I) Declassification of potentially dangerous dogs. Any owner of a classified potentially dangerous dog may apply to the director, in writing, to have the restrictions reduced or removed.

(1) The following conditions must be met:

(a) Level 1 or Level 2 dog has been classified for two years without further incident, or five years for Level 3 or Level 4 dogs; and

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

(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.

(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.

SECTION V. AMENDMENT

MCC 8.10.040 is amended to read as follows:

8.10.040 Shelter operation; impoundment, release and disposal.

(A) The director shall operate, maintain or provide for an adequate facility to receive, care for and safely confine any animal delivered to the director's custody under provisions of this chapter, which facility shall be accessible to the public during reasonable hours for the conduct of necessary business concerning impounded animals.

(B) Any animal may be impounded and held at the facility when it is the subject of a violation of this chapter, when an animal requires protective custody and care because of mistreatment or neglect by its owner or when otherwise ordered impounded by a court.

(C) An animal shall be considered impounded from the time the director or the director's designee takes physical custody of the animal.

(D) Impoundment is subject to the following holding period and notice requirements:

(1) A dog or cat bearing identification of ownership shall be held for 144 hours from time of impoundment. The director shall make reasonable effort within 24 hours of impoundment by phone to give notice of the impoundment to owner and, if unsuccessful, shall mail written notice [by certified mail] within 48 hours of impoundment to the last-known address of the owner advising of the impoundment, the date by which redemption must be made and the fees payable prior to redemption release.

(2) A dog for which no identification of ownership is known or reasonably determinable shall be held for 72 hours from time of impoundment before any disposition may be made of the animal.

(3) Animals held for periods prescribed under this section, or as otherwise required by ORS 433.340 or 433.390, and not redeemed by the owner, shall be subject to such means of disposal as the director considers most humane.

(4) Animals delivered for impoundment by a peace officer who removed the animal from possession of a person in custody of the peace officer shall be held for the period prescribed in paragraph (1) of this subsection. A receipt shall be given the peace officer, who shall deliver the receipt to the person in custody from whom the animal was taken. The receipt shall recite redemption requirements and shall serve as the notice required by this section.

(E) (1) Any impounded animal [, unless restrained by court order,] shall be released to the owner or the owner's authorized representative upon payment of impoundment, care, rabies, vaccination deposits, [registration and] license fees, and all fees and deposits related to potentially dangerous dog regulations with the addition of the following conditions:

(a) Any animal restrained by court order shall be released to the owner or the owner's authorized representative upon payment of all fees required in subsection (E) (1) of this section, and upon receipt of a written order of release from the court of competent jurisdiction.

(b) Any classified potentially dangerous dog shall be released to the owner or the owner's authorized representative upon payment of all fees required in subsection (E)(1) of this section, and upon verification of satisfactory compliance with the regulations required in MCC 8.10.270 to 8.10.280. Failure to be in satisfactory compliance with the potentially dangerous dog regulations within ten (10) days of impoundment shall result in the owner forfeiting all rights of ownership of the dog to the County.

(2) A dog or cat held for the prescribed period and not redeemed by its owner, and which is neither vicious nor in a dangerous condition of health, may be released for adoption subject to the provisions of MCC 8.10.045.

(3) The director shall dispose of animals held for the prescribed period without redemption or adoption only by means of euthanasia, provided, however, that, irrespective of any prescribed holding period, the director, upon advice of a licensed veterinarian, may dispose of any unhealthy or injured impounded animal by euthanasia.

(4) Any device attached to any animal upon impoundment shall be retained by the director should the animal be disposed of as provided in paragraph (3) of this subsection. Otherwise, the device shall accompany the animal when redeemed or adopted.

SECTION VI. AMENDMENT

The following section is added as MCC 8.10.950:

MCC 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.

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 22nd day of September, 1988, upon passage following its second reading.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By Gladys McCoy
Gladys McCoy, Chair

APPROVED AS TO FORM

LAURENCE KRESSEL, COUNTY COUNSEL
OF MULTNOMAH COUNTY, OREGON

John DuBay
DEPUTY COUNTY COUNSEL

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