

DOGS AND LIVESTOCK

42.105 AUTHORITY.

Polk County has been declared a Dog Control District under ORS 609.010 to 609.190. [Ord. 87-12]

42.107 PURPOSE.

Polk County has determined that responsible dog ownership and a viable public information system (to include public information programs and adequate signage) are matters of significant importance. The Purpose of Chapter 42 is to establish a framework which supplements State law, to allow for the operation and enforcement of an effective dog control program. [Ord. 00-11]

42.110 LICENSES AND FEES.

(1) Every person owning, keeping, or acquiring a dog which has a set of permanent canine teeth or becomes six (6) months old, whichever occurs first, shall obtain a license for the dog and pay the fee prescribed by resolution of the Board.

(2) Each dog license shall be issued for a period of one (1) year, up to (3) three years, and shall be renewed not later than the expiration date of the current license. However, if the final day for renewal occurs on a weekend or on a legal holiday in Oregon under ORS 187.010, the license may be renewed on the next succeeding business day without penalty, liability, or loss of other rights. The license shall expire no later than the end of the month in which the rabies vaccination expires as listed on the rabies vaccination certificate. [Ord. 87-12; amended by Ord. 88-28, Ord. 96-5, Ord. 04-08, and Ord 06- 12]

(3) Kennel Facilities; Regulation. Chapter 42 does not regulate kennel facilities [Ord. 06-12].

42.115 PENALTIES

(1) Any person owning or keeping a dog required to be licensed under Section 42.110 who fails to obtain a license for the dog within thirty (30) days after such license or renewal is required, or who fails to obtain or renew a license within thirty (30) days after becoming the owner or keeper of such a dog, and/or establishing residency in Polk County, shall pay either of the following penalties in addition to a license fee:

- (a) For voluntary licensing: \$10.00
- (b) For non-voluntary licensing: \$50.00-plus

(2) For purposes of this section, "Non-Voluntary Licensing" means any licensing that occurs as a result of impoundment of an unlicensed dog, or issuance of a citation by Polk County or any other law enforcement agency for failure to obtain or renew a license. [Ord. 87-12; amended by Ord. 88-28 and Ord. 96-5; amended by Ord. 00-17]

(3) Mandatory micro-chipping and registration with Polk County and an approved national database shall be required under the following circumstances. The Dog Board shall from time to time designate a listing of approved national database organizations.

- (a) Issuance of a citation or summons by Polk County or any other law enforcement agency for violation of ORS 609.060 [Dog Running at Large] and/or ORS 609.095 to ORS 609.098 [Dog as a Public Nuisance—Potentially Dangerous Dog & Dangerous Dog] and/or ORS 167.320 to ORS 167.360 [Owners/Keepers cited for Animal Neglect and Abuse] and/or Polk County Ordinance Chapter 42 [Wolf-dog Hybrid] and Polk County Ordinance Chapter 43 [Maintaining Kennel Without License AKA Puppy Mill] and the dog(s) is/are not licensed.
- (b) Any dog(s) reported to have chased, menaced, or bitten person(s) and not currently licensed.
- (c) Any dog impounded by Polk County or any other law enforcement agency.
- (d) Any dog reported to be in violation of ORS 609.150 and is not currently licensed. [Ord. 06-12]

42.117 WHEN LICENSES NOT TO BE ISSUED.

A license shall not be issued or renewed for any dog if the owner or keeper of the dog currently is in default of payment of any obligations arising under this chapter, including fees, penalties, impoundment fees, or appeal deposits. [Ord. 91-11, Sec. 3]

42.118 ANIMAL SHELTER.

Polk County is hereby given authority to maintain its own animal shelter or to enter into a contract with a private contractor for the provision of animal shelter services. The County may delegate to the private contractor who is providing animal shelter services, the authority to sell, adopt, or humanely kill animals once the private contractor is no longer required by law or contract to hold the animal. Such sales or adoptions may be made without the specific approval of each adoption by the County Board of Commissioners, Hearings Officer or Dog Control Board and may be made without determination, by either Board or the Hearings Officer, that the animal is not dangerous and can be safely kept. [Ord. 93-8, Sec. 1]

42.120 IMPOUNDMENT COSTS.

(1) A person owning or keeping a dog that has been impounded by Polk County shall pay the expenses incurred by Polk County arising out of the impoundment. However, payment shall be not less than \$35 for the dog's first impoundment, and not less than \$55 for each subsequent impoundment, with \$15 increases for each additional violation.

(2) Payments required under Subsection (1) of this section shall include the current dog license fee under Section 42.110, and all penalties under Section 42.115, if not already current, and

all impoundment costs including, but not limited to, the costs of apprehension, transportation, boarding fees, medical costs, and all costs involved in disposition of the dog.

(3) Each application for issuance or renewal of a license shall require the person applying to agree in writing to pay impoundment costs required under this section. [Ord. 87-12; amended by Ord. 88-18]

42.122 EXCLUSIONS FROM "RUNNING AT LARGE."

County officials are not required, but may (based upon the particulars of the situation), impound dogs found to be "running at large." For purposes of this chapter, a dog is not considered to be "running at large" if it is under the supervision of a person and is being:

- (1) Used in order to hunt in a legal manner at a legal time;
- (2) Used to control or protect livestock;
- (3) Used in other related agricultural activities; or
- (4) Trained for any activity described in subsections (1) to (3) of this section. [Ord. 05-01; Ord. 91-11, Sec. 1]

42.123 LICENSING OF WOLF-DOG HYBRIDS.

Regulation and licensing of wolf-dog hybrids will fall under the jurisdiction of Polk County Dog Control. Licensing will apply to wolf-dog hybrids aged six (6) weeks or more, to be renewed annually. There is no three-year license for wolf hybrids. Failure to license as a wolf-dog hybrid will result in confiscation of animal.

- (1) Confinement.
 - (a) Animal shall not become a public safety or public nuisance problem.
 - (b) Animal shall not roam free at any time.
 - (c) Chaining or tethering is not an acceptable method of confinement.
 - (d) Enclosure must allow for freedom of postural movements.
 - (e) Enclosure must confine animal sufficiently to not allow escapes.
- (2) Control Outside of Enclosure.
 - (a) Animal must be kept in control on lead of no more than six (6) feet in length.

- (b) Animal must be in control of responsible adult.
 - (c) Animal must not be left unattended or tethered.
- (3) Shelter.
- (a) Shelter must protect the animal from the elements.
 - (b) Shelter must provide clean, dry, draft-free place to rest.
 - (c) Shelter must prevent any physical discomfort and impairment of health due to exposure.
- (4) Food and Water. Food and water must be provided sufficient in quantity and quality to maintain good health of the animal under all weather conditions.
- (5) Sanitation. Living area of the animal must be maintained free of a build up of fecal material, urine-soaked bedding, trash, debris, or any other foreign material.
- (6) Health Care. Licensee must identify veterinary practice dealing with licensed animal.
- (7) General Care. Animal must be maintained to prevent maltreatment, abuse, or neglect of any sort.
- (8) Identification. Animal must be identified by electronic microchip implant. Owner must provide implant number and certificate of registration in an approved national database to licensing authority, which will register the identification with Polk County. The owner's check shall be attached to the application and made out to Polk County. If the microchip number has already been registered with an approved national database, the County will verify the information before the issuance of the license.
- (9) Rabies Vaccination. Rabies vaccination shall remain at the discretion of the owner and veterinarian until rabies vaccine becomes labeled by USDA for use in wolf-dog hybrids, at which time it will become mandatory.
- (10) Penalty for escape of the licensed animal.
- (a) First Offense - \$100 fine in addition to impoundment fees.
 - (b) Second Offense - confiscation and euthanasia of the escaped animal.
- (11) Licensing fees.
- (a) License will be the same as the annual dog license fee.

- (b) Wolf-dog hybrids must be licensed at six (6) weeks of age. Three-year licenses do not apply.

(12) Bite of Humans. A licensed animal which bites a human will be dealt with under rules of the Oregon Health Division Acute and Communicable Diseases Program and as recommended by the Compendium of Animal Rabies Control. Wolf-dog hybrids are currently classified as a wild animal and treated as such.

(13) Period of Responsibility for Licensed Animal.

- (a) Maintain ownership and control for natural lifetime of animal, or
- (b) Notify licensing authority of any intended transfer of ownership of licensed animal so that animal can be re-licensed to new owner, or
- (c) Dispose of animal by humane euthanasia.
- (d) Animal may not be abandoned or released into the wild.

(14) Licensing Agreement. A signed agreement between the licensee and licensing authority must be executed for licensure to be valid. The agreement form will be provided by licensing authority. [Ord 97-5; amended Ord 06-12]

42.124 DOG CONTROL OFFICER - FUNCTION.

The Dog Control Officer shall be appointed by the Sheriff. The Dog Control Officer shall be responsible for in-field enforcement of all state and county laws relating to the control of dogs within Polk County. The Dog Control Officer shall issue warnings, citations, and violations as deemed necessary. No specific form of citation is required, instead the Dog Control Officer may utilize any legal process to initiate enforcement proceedings and, when necessary, to take custody of dogs. When appropriate, Sheriff's Office Deputies may be called in to issue criminal process. The Dog Control Officer shall attend all Dog Board hearing proceedings and all Hearings Officer hearing proceedings and prior to same shall prepare and submit a written staff report which shall summarize the known facts, list the witnesses, and recommend a course of action. [Ord. 00-11]

42.125 DOG CONTROL BOARD; MEMBERSHIP; MEETINGS.

(1) The Polk County Dog Control Board, authorized by ORS 609.030 and designated as the legislative board of supervisors and contested case forum for the district, is composed of five members appointed by the Board of Commissioners for terms specified in the appointment. At least two of the members must be connected directly or indirectly with the livestock industry.

(2) The Board of Commissioners annually shall select one of the full-time members to serve as Chair for a term of one (1) year.

(3) The Dog Control Board shall hold regular public meetings at such times and places as it considers necessary. Special meetings shall convene on call of the Chair.

(4) The Dog Control Board shall hold all necessary and requested contested case hearings upon appropriate notice on an “as needed” basis. [Ord. 00-17]

(5) Three members of the Dog Control Board constitute a quorum for doing business, and any decision of the Board must have the concurrence of at least three (3) members.

(6) Members of the Dog Control Board shall receive no compensation. [Ord. 87-12; amended by Ord. 90-3 and 91-5]

42.130 FUNCTIONS OF DOG CONTROL BOARD; RULES.

(1) The Dog Control Board shall annually review Chapter 42 to determine if it is in compliance with existing state law; shall review proposed and/or pending legislation at the state level; shall determine the need for possible amendments to Chapter 42; shall review in advance all staff reports concerning dog-related matters; shall conduct all necessary or requested contested case hearings and shall have jurisdiction (concurrently with the Hearings Officer) over all non-criminal dog-related violation matters (both PCCO Chapter 42 and ORS Chapter 609); shall have full authority to impose non-criminal sanctions (consistent with a Penalty Schedule approved by the Board of Commissioners and/or applicable state law) pursuant to state, county, and local laws; shall designate at least one member to attend dog-related appellate matters before the Hearings Officer in the capacity of an expert advisor to the Hearings Officer; shall review all dog-related contested case and appellate decisions of the Hearings Officer; shall send an annual written report to the Board of Commissioners updating the Board of Commissioners on any significant changes in state law and proposing amendments, if needed, to Chapter 42; shall maintain and implement a public information program; shall be available to conduct voluntary mediation sessions with all parties involved in dog-related contested case matters; and shall meet as needed with representatives from the livestock industry, the Humane Society, and County dog control staff on matters related to dog control. [Ord. 00-11; amended by Ord. 00-17; amended by Ord. 06-12]

(2) The Board of Commissioners shall adopt rules to carry out the duties of the Dog Control Board. [Ord. 87-12 amended by Ord. 90-3]

42.132 HEARINGS OFFICER - FUNCTION.

The Polk County Board of Commissioners shall appoint a duly qualified Hearings Officer (and shall, when possible, designate a duly qualified back-up Hearings Officer) to conduct all necessary or requested de novo appellate hearings and all contested case matters (including failure to license citations) referred by the Board of Commissioners, the Dog Board, or the Dog Control Officer. Before closing any appellate hearing, the Hearings Officer may receive and consider the recommendation of the Dog Board. The Hearings Officer shall also have appellate jurisdiction over all non-criminal dog-related violation matters (both PCCO Chapter 42 and ORS Chapter 609) unless the particular matter was previously heard as a contested case by the Hearings Officer. The Hearings Officer shall have full authority to approve, reject or impose non-criminal sanctions

(consistent with a Penalty Schedule approved by the Board of Commissioners) pursuant to state, county, and local laws. The Hearings Officer shall issue written decisions containing Findings and Conclusions. Written decision of the Hearings Officer shall be issued and mailed to the relevant parties (including the Dog Board) within ten (10) business days after the hearing. Decisions of the Hearings Officer may be appealed pursuant to section 42.140. [Ord. 00-11; amended by Ord. 06-12]

42.133 CONTESTED CASES - PROCESS.

(1) Contested cases are brought before (a) the Dog Board, (b) the Hearings Officer, or (c) the Circuit Court.

(2) The Dog Control Officer will indicate on the charging instrument where the matter will be heard should the person charged wish to contest the charge. The charging instrument will also include the following information:

- (a) Name of person charged
- (b) Charge(s)
- (c) Relevant date(s) and location(s)
- (c) Default Sanction(s)
- (d) Identification of contested case forum
- (e) Date and time for hearing of contested case
- (f) Statement that failure to either comply with the Default Sanction or appear at the contested case as scheduled will result in automatic imposition of Default Sanction and a monetary penalty of \$150.

(3) Contested Case Designation. To the extent possible, contested cases will be assigned for hearing as follows:

- (a) Dog Board: (1) non-criminal livestock matters; (2) non-criminal bites; (3) designation of, and sanctions imposed against “potentially dangerous dogs” and “dangerous dogs;”
- (b) Hearings Officer: (1) non-criminal licensing matters; (2) non-criminal barking matters (subject to decision of either the Dog Board or the Hearings Officer to refer the matter to community mediation);
- (c) Circuit Court: matters where a criminal sanction is sought. [Ord. 06-12]

42.134 APPLICATION FOR REVIEW.

(1) An aggrieved person may file an application for review of any order of the Dog Control Board not later than the 10th day after the order was signed, by filing a written copy of the application for review in the office of the Board of Commissioners. The application shall set out reasons why the order should be reviewed.

- (2) The application for review will not be accepted unless the aggrieved person:
- (a) Presents written proof that all kennel, licensing, medical, and identification costs have been paid in full and in the case of kennel costs, have been pre-paid for an additional twenty (20) days from the date the application for review is filed; and
 - (b) Pays to the Board of Commissioners, a non-refundable \$150 administrative appeal fee.

(3) The Hearings Officer will conduct all appellate reviews unless the particular matter was previously heard as a contested case by the Hearings Officer. [Ord. 00-17]

42.140 REVIEW BY CIRCUIT COURT.

(1) Following final decision by the Hearings Officer, an aggrieved person may file the appropriate appeal with the Circuit Court. To be timely, the appeal must be filed in proper form with the Circuit Court with written conformed proof of filing served on the Board of Commissioners by no later than the 14th day after the date of the Hearings Officer's written decision.

(2) Any person appealing the Hearings Officer's written decision shall post security in an amount determined by the Court (but in no case less than \$500), sufficient to ensure payment of kennel costs and/or internal county charges pending a decision by the Court. [Ord. 87-12; amended by Ord. 88-17; amended by Ord. 00-11; amended by Ord. 00-17]

LIVESTOCK

42.200 LIVESTOCK DISTRICT

The entire area of unincorporated Polk County and the entire area of all incorporated cities within Polk County are designated a "livestock district" as authorized by election of November 3, 1908, and ORS Chapter 607, and as formally recognized by Order of the Department of Agriculture, April 7, 1958.

42.201 DEFINITION: ADEQUATE FENCE

"Adequate fence" means as defined by ORS 607.007(1).

42.202 PROHIBITION OF LIVESTOCK AT LARGE.

No person owning or having the custody, possession or control of an animal of a class of livestock as defined in ORS Chapter 607 shall permit the animal to run at large or go

upon the land of another.

42.203 ADEQUATE FENCE

At any hearing to ascertain whether there has been a violation of section 42.202, due consideration shall be given to the adequacy or inadequacy of existing fencing.

42.205 SANCTION.

Violation of section 42.202 shall be punishable upon conviction by a fine of not more than \$500 for a non-continuing violation and a fine of not more than \$1000 for a continuing offense. These penalties shall be in addition to any other remedies provided by law to Polk County.

42.210 JURISDICTION.

The Circuit Court and the Polk County Dog Board have concurrent jurisdiction of actions for the prosecution of violation of section 42.202.

Cross Reference:

Commercial Kennels, Sections 43.095 to 43.125
Dog license fees, Res. 06-14
Rules of Dog Control Board, Res. 90-12

ORS Reference:

Rabies Control, ORS 433.340 to 433.390
Exotic animals and wildlife, ORS 609.205; ORS 496.004