

Title 6

ANIMALS

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Chapter 6.10**ANIMAL CONTROL**

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6.10.010 Short title.

This chapter may be cited as the “Philomath animal control ordinance.” [Ord. 574 § 1, 1989.]

6.10.020 Definitions.

“Animal” means livestock, horses, rabbits, ferrets, chickens, pigeons, or any other animal, rodent, reptile, bird or fowl, domesticated or otherwise, except a dog or cat, which does not physically live within the dwelling of the person in charge of the animal.

“Domestic animal” means any dog or cat, or other animal, rodent, bird, fish or reptile allowed to inhabit the dwelling of the person in charge of the domestic animal.

“Keeping an animal” means to hold, keep, maintain, harbor, or provide shelter or habitat for any creature defined as an animal or domestic animal by this chapter.

“Keeper of an animal” means any person who owns, or is in control of, or keeps an animal or a domestic animal.

“Person” means a natural person, firm, partnership, association or corporation.

“Police officers” includes officers of the Philomath police department and any animal control officer duly appointed by the city of Philomath or by Benton County, Oregon. [Ord. 574 § 2, 1989.]

6.10.030 Applicability of county animal control ordinance.

It is the intention of this chapter to consent to the application of the animal control ordinances of Benton County, Oregon, within the city limits of Philomath in order that Benton County officials may exercise animal control within the limits of the city of Philomath. [Ord. 574 § 3, 1989.]

6.10.040 Adoption of state statutes.

A. Each and every misdemeanor and violation made an offense against the state of Oregon under the provisions in ORS Chapters 133, 156, 166, 167 and 475, as constituted on January 1, 1989, are adopted by reference and made a part of this chapter, and designated an offense against the city of Philomath. The provisions of ORS Chapter 161 are also hereby adopted by reference and made a part of this chapter.

B. A person who violates any of those provisions enumerated in subsection (A) of this section within the jurisdiction of the city of Philomath is in violation of this chapter and shall be charged with the offense of violating this section of the Philomath animal control ordinance and reference shall be made in the charging instrument to that particular section of the ORS which has been violated. In the event that any other section of this chapter creates a specific misdemeanor or violation in conflict with the misdemeanor or violation offense herein incorporated by reference, the provisions of the specific ordinance misdemeanor or ordinance violation shall govern. [Ord. 574 § 4, 1989.]

6.10.050 Dogs at large prohibited.

A. It shall be unlawful for any person to permit or allow any dog owned by that person or under that person’s control to be out of doors upon any street, alley or sidewalk or upon any premises other than the premises of the owner or person in control of the dog unless the dog is under a leash not exceeding 10 feet in length.

B. Scoop Law. No person shall allow a dog owned by or under the person’s control to defecate on property other than the owner’s without immediately thereafter picking up and disposing of the excrement.

C. Violation of subsections (A) or (B) of this section shall be punishable as a violation, with a fine for the first offense of not more than \$35.00,

and for a second conviction a fine of not less than \$40.00 and not more than \$80.00, and for the third and subsequent convictions a fine of not less than \$80.00. [Ord. 656, 1997; Ord. 574 § 5, 1989.]

6.10.060 Keeping a noisy animal.

A. No keeper of an animal or a domestic animal shall allow such animal to make or cause a noise which, because of its loudness and frequency, causes annoyance or alarm to another person, or disturbs the comfort and repose of a person in the vicinity.

B. Violation of this section shall be punishable as a violation, with a fine for the first offense to be not more than \$35.00, and upon a second conviction with a fine not less than \$40.00 and not more than \$80.00, and upon a third or subsequent conviction with a fine of not less than \$80.00. [Ord. 574 § 6, 1989.]

6.10.070 Riding animals in the city.

A. No person shall ride, lead or tether, and no owner shall permit the riding, leading, or tethering of any horse, mule or other animal within the city except along a designated bridle path, upon city streets or upon private property with the consent of the owner.

B. The owner or rider of an animal lawfully ridden in the city shall be responsible for removing any manure deposited by such animal on any public way.

C. The rider of any animal on a public way shall yield the right-of-way to vehicles and pedestrians. [Ord. 574 § 7, 1989.]

6.10.080 Restrictions on keeping animals and fowl.

A. It shall be unlawful for any person to keep any animal, except a domestic animal, in this city or to permit the same to be kept upon premises owned, occupied or controlled by said person except under conditions prescribed by this section.

B. Any person desiring to keep any such animal shall submit to the city manager an application for a permit, accompanied by written evidence that three-fourths of the adjoining property owners or residents within a 200-foot radius from the site where the applicant proposes to keep said animals do consent to the keeping of such animals. The city manager shall cause a record to be made of its

approval or disapproval of such permit, and provide a copy thereof to the applicant and to the police department.

C. No stable, barn, shed, coop, hutch, pen, or shelter in which any animal is kept shall be located within 30 feet of a city street or sidewalk. Such structures, with their pens and yards, shall be kept clean and sanitary.

D. Any and all animals and domestic animals kept in this city shall be protected by proper and adequate shelter from exposure to the elements.

E. The manure and offal shall be removed by hauling beyond the city limits, unless used for fertilizer, in which case it shall be spread upon the ground evenly and turned under at once. Manure must be removed with sufficient frequency to prevent offensive odors.

F. Diseased animals or diseased domestic animals shall be securely confined on the premises of their keeper and shall not be allowed to approach within 50 feet of any street, sidewalk or place of habitat of other animals or domestic animals.

G. Any person permitted to keep an animal or domestic animal within the city shall be fully responsible for any injury, harm or discomfort to any person or property caused by such animal whether while confined within its habitat or at large outside its confines. Failure of the keeper of such animal to make restitution for any injury or harm or to abate any discomfort caused by such animal shall be considered to maintain a nuisance and may be dealt with as set forth in PMC 6.10.130(A). [Ord. 574 § 8, 1989.]

6.10.090 Animals at large.

A. Except for house cats, no keeper of any animal or domestic animal shall permit such animal to be at large.

B. Any animal at large may be taken into custody by the city. Animals taken into custody due to a violation of any section of this chapter may be held by the city or lodged at a facility designated by the city, or returned to the owner or person responsible for the animal.

C. Any animal taken into custody which is in need of medical attention shall be delivered to the nearest veterinary clinic or, if delivery is not practical, a veterinarian may be called to the location of the animal by a police officer.

D. The keeper of any animal taken into custody or given medical attention at the request of a police officer shall be responsible for all costs incurred as a result of such custody and care. In the event that the city has paid veterinary bills for medical care given an animal, the municipal court judge may order the animal keeper to reimburse the city for such expenses in addition to any fine or other fees imposed.

E. The escape of any animal from the confines permitted by the city manager three times in any 12-month period shall cause said animal and their shelter and yard to be a nuisance and offensive to the area and shall be dealt with as set forth in PMC 6.10.130.

F. The keeper of any animal which escapes from its confines shall reimburse the city for actual costs incurred by city personnel in the capture and boarding of such animal.

G. An animal impoundment fee schedule shall be established and periodically revised by the city council. [Ord. 574 § 9, 1989.]

6.10.100 Dangerous animals.

A. Any animal or domestic animal which attempts to attack or attacks or harms any person or other animal is hereby declared a dangerous animal and a public nuisance. For purposes of this section, "animal" refers to both animals and domestic animals.

It is the intent of the city to promote a safe coexistence between pet owners and citizens and to apply sanctions only in those instances where there is a need to protect public safety.

B. Classification of Levels of Dangerousness. An animal shall be classified as dangerous based upon specific behaviors exhibited by the animal. Behaviors establishing various levels of dangerousness are as follows:

1. Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any animal.

2. Level 2 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.

3. Level 3 behavior is established if an animal, while confined, aggressively bites any person.

4. Level 4 behavior is established if an animal, while at large, aggressively bites or causes physical injury to any person or animal.

5. Level 5 behavior is established if:

a. An animal, whether or not confined, causes the serious injury or death of any person;

b. An animal, while at large, kills any animal;

c. An animal engages in or is found to have been trained to engage in exhibitions of fighting; or

d. An animal that has been classified as a Level 4 dangerous animal repeats the behavior described in subsection (B)(4) of this section after the owner receives notice of Level 4 classification.

6. Notwithstanding subsections (B)(1) through (B)(5) of this section, the chief of police or the chief's designee shall have discretionary authority to refrain from classifying an animal as potentially dangerous, even if the animal has engaged in the behaviors specified in subsections (B)(1) through (B)(5) of this section, if the chief of police or the designee determines that the behavior was the result of abusing or tormenting the animal or other extenuating circumstances. In any case, no animal shall be classified as 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.

C. Identification of Dangerous Animals – Appeals – Restrictions Pending Appeal.

1. The chief of police or the chief's designee shall have authority to determine whether any animal has engaged in the behaviors specified in subsection (B) of this section. This determination shall be based upon an investigation that includes observation of and testimony about the animal's behavior. These observations and testimony can be provided by the county animal control officer 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 animal's behavior if necessary.

2. The chief of police or the chief's designee shall give the animal's owner written notice by certified mail or personal service of the animal's classification as a dangerous animal and of the additional restrictions applicable to that animal by

reason of its classification. If the owner denies that the behavior in question occurred, the owner may appeal the decision to the municipal judge by filing a written request for a hearing with the chief of police within 10 days of the date the notice was mailed to the owner by certified mail or the owner was personally served.

3. The municipal judge shall hold a public hearing on any appeal from the chief of police's decision to classify an animal as potentially dangerous. The owner and any other persons having relevant evidence concerning the animal's behavior as specified in subsection (B) of this section shall be allowed to present testimony. The municipal judge shall determine whether the animal exhibited the behavior, specified in subsection (B) of this section, in question. The municipal judge shall issue an order containing his or her determination, which shall be final.

4. Once the owner has received notice of the animal's classification as a Level 1, 2, 3, or 4 dangerous animal pursuant to subsection (C)(2) of this section, the owner shall comply with the restrictions specified in the notice until such time as the chief of police or the chief's designee'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 chief of police or the designee shall have authority to impound the animal pending completion of all appeals.

5. If the chief of police or the designee finds that an animal has engaged in Level 5 behavior, the animal shall be impounded pending the completion of an appeal. If the chief of police or his/her designee's decision is upheld on appeal, the animal's owner shall be liable for the cost of the animal's impoundment.

D. Regulation of Dangerous Animals. The owner of a dangerous animal shall comply with the following regulations:

1. If the animal has been classified as a Level 1 dangerous animal, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash.

2. If the animal has been classified as a Level 2 dangerous animal, the owner shall confine the

animal within a secure enclosure whenever the animal is not on a leash or inside the home of the owner.

3. If the animal has been classified as a Level 3 dangerous animal, the owner shall meet the requirements of subsection (D)(2) of this section, and shall also post warning signs on the property where the animal is kept.

4. If the animal has been classified as a Level 4 dangerous animal, the owner shall meet the requirements of subsections (D)(2) and (D)(3) of this section and shall, additionally, not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of a capable person.

5. Any animal that has been classified as a Level 5 dangerous animal may be euthanized. In addition, the municipal court judge may suspend, for a period of up to five years, that animal owner's right to be the owner of any animal within the city limits, including animals currently owned by that person.

E. Banning of Dangerous Animals. At the discretion of the chief of police, an animal that has been classified as a Level 3 or 4 dangerous animal may be prohibited from entering or residing within the city limits except to be transported in a secure vehicle while passing through the city.

In addition, the chief of police is empowered to ban a Level 3 or 4 animal from the city limits for a specified period of time or permanently; however, the animal's owner shall have the right of appeal, specified in subsection (C) of this section, of any decision under this section.

F. Selling of Dangerous Animals. No person shall sell or otherwise transfer to another ownership of a dangerous animal within the city limits. No person shall secrete or harbor a dangerous animal for another while the owner of that animal exercises the right of appeal. [Ord. 698 § 1, 2001; Ord. 574 § 10, 1989.]

6.10.110 Feral dogs and cats.

Police officers are hereby authorized to capture dogs and cats which have apparently been abandoned or lost and deliver them to the Humane Society shelter for disposition. [Ord. 574 § 11, 1989.]

6.10.120 Trapping within the city.

A. The city manager is hereby authorized to issue permits to licensed trappers to rid the city of animals when such animals constitute a hazard or substantial inconvenience to any resident of the city or cause or threaten to cause substantial damage to property.

B. Domestic animals may be trapped using noninjurious methods in those cases where such animals are found off the premises of the keeper or the identity of the keeper is indeterminable. [Ord. 574 § 12, 1989.]

6.10.130 Penalty.

A. Any person violating any provision of this chapter which has no specific penalty clause shall, upon conviction, be deemed guilty of a violation and punished by a fine of not less than \$20.00 nor more than \$250.00.

B. Any person convicted of a violation of PMC 6.10.080 and 6.10.090 shall be punished as set forth in subsection (A) of this section and in addition thereto, at the discretion of the court, may be allowed up to 15 days to abate such an offense. Any such offense contained after 15 days shall be considered a separate violation.

C. In addition to the penalties set forth in this chapter, the keeper of any animal impounded while in violation of any section of this chapter may be required to pay impoundment fees to the city or the Humane Society, dependent upon the storage location of the animal. [Ord. 574 § 13, 1989.]

Chapter 6.11**WILDLIFE CONTROL**

Sections:

- 6.11.010 Short title.
- 6.11.020 Definitions.
- 6.11.030 Feeding of wildlife prohibited.
- 6.11.040 Abatement.
- 6.11.050 Penalties.
- 6.11.060 Severability.

6.11.010 Short title.

This chapter may be cited as the “Philomath wildlife control ordinance.” [Ord. 751 § 1, 2008.]

6.11.020 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

“City” means the city of Philomath.

“Songbird” means any of a large number of bird species in which the vocal organ is developed in such a way as to provide various sound notes commonly known as bird song.

“Waterfowl” means any bird that frequents the water or lives around rivers, lakes, etc., including, but not limited to, ducks, geese, swans, and herons.

“Wildlife” shall include any animal which is not normally domesticated including, but not limited to, bears, coyotes, deer, feral cats, foxes, ground-hogs, opossums, raccoons, skunks, turkeys, and waterfowl. [Ord. 751 § 1, 2008.]

6.11.030 Feeding of wildlife prohibited.

Feeding of wildlife within the city limits of Philomath is declared a public nuisance and is prohibited at all times. Feeding of wildlife includes any manner by which a person allows food or other attractants to be placed on their property with the intent of attracting and/or feeding wildlife. Nothing contained in this chapter shall prohibit the feeding of songbirds; provided, that bird seed shall be contained in receptacles which are reasonably designed to avoid access by wildlife. [Ord. 751 § 1, 2008.]

6.11.040 Abatement.

In the event that any part of the city is experiencing the presence of wildlife populations that threaten the health and welfare or endanger the

property of Philomath citizens, the city shall take those steps authorized by the appropriate regulatory agency to disperse or otherwise control the offending wildlife. Should the city manager determine that feeders for songbirds are attracting wildlife, the city shall require that those persons remove feeders until such time that the wildlife disperse. Failure to remove feeders within 24 hours from notification shall constitute a separate violation of this chapter. [Ord. 751 § 1, 2008.]

6.11.050 Penalties.

Any person violating any provision of this chapter shall be liable to a fine not less than \$50.00 or more than \$250.00 for each offense. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues. [Ord. 751 § 1, 2008.]

6.11.060 Severability.

Every section of this chapter or subsection or separate part thereof shall be considered a separate provision to the intent that if any portion shall be declared unconstitutional, it shall not affect the remaining parts of this chapter. [Ord. 751 § 1, 2008.]